

THE U.S. ELECTION ASSISTANCE COMMISSION



State Requirements and the U.S. Election Assistance Commission Voting System Testing and Certification Program

September 4, 2020

Category Descriptions for State Voting System Certification Processes:

- 1) **Baseline HAVA Requirements:** State statutes and/or regulations do not explicitly state that voting systems must be tested to federal standards or be certified by a federal agency or federally accredited laboratory. However, voting systems must, at a minimum, meet standards for voting equipment set forth by the 2002 Help America Vote Act (HAVA).
- 2) **Requires Testing to Federal Standards:** State statutes and/or regulations require that voting systems are tested to federal voting system standards. They may include references to federal standards drafted by administrative bodies such as the Federal Election Commission (FEC), which formerly set federal voting standards, but HAVA transferred this authority to the EAC, the only government agency which formally adopts federal standards for voting systems.
- 3) **Requires Testing by a Federally Accredited Laboratory:** State statutes and/or regulations require that voting systems are tested by a federally or nationally accredited laboratory to federal standards. Older statutes may refer to Independent Testing Authorities (ITAs), but such test labs are now known as Voting System Test Laboratories (VSTLs) under the EAC's testing and certification program.
- 4) **Requires Federal Certification:** State statutes and/or regulations require that voting systems are certified by the appropriate federal agency responsible for testing and certification of compliance with federal voting system guidelines. Post-HAVA, the EAC is the only federal agency with this authority to test and certify voting systems, but older, unrevised statutes may not specify this.

***Some states may fall into multiple categories as a result of flexible statutory language that allows for one or more pathways to voting system certification.

Categories of State, Territory, and District of Columbia Participation in Federal Voting System Standards:

	1. Baseline HAVA Requirements	2. Requires Testing to Federal Standards	3. Requires Testing by a Federally Accredited Laboratory	4. Requires Federal Certification
<u>Alabama</u>		X	X	
<u>Alaska</u>	X			
<u>American Samoa</u>	X			
<u>Arizona</u>			X	
<u>Arkansas</u>			X	X
<u>California</u>	X			
<u>Colorado</u>		X		
<u>Connecticut</u>		X		
<u>Delaware</u>				X
<u>District of Columbia</u>		X		X
<u>Florida</u>	X			
<u>Georgia</u>				X
<u>Guam</u>	X			
<u>Hawaii</u>	X			
<u>Idaho</u>		X	X	
<u>Illinois</u>		X	X	
<u>Indiana</u>		X	X	
<u>Iowa</u>		X	X	
<u>Kansas</u>		X		
<u>Kentucky</u>		X		
<u>Louisiana</u>			X	
<u>Maine</u>	X			
<u>Maryland</u>		X	X	
<u>Massachusetts</u>		X	X	
<u>Michigan</u>			X	
<u>Minnesota</u>			X	X
<u>Mississippi</u>	X			
<u>Missouri</u>		X	X	
<u>Montana</u>	X			
<u>Nebraska</u>	X			
<u>Nevada</u>		X	X	
<u>New Hampshire</u>	X			
<u>New Jersey</u>	X			
<u>New Mexico</u>			X	
<u>New York</u>		X		
<u>North Carolina</u>			X	X

	1. Baseline HAVA Requirements	2. Requires Testing to Federal Standards	3. Requires Testing by a Federally Accredited Laboratory	4. Requires Federal Certification
<u>North Dakota</u>			X	
<u>Ohio</u>				X
<u>Oklahoma</u>	X			
<u>Oregon</u>			X	X
<u>Pennsylvania</u>			X	
<u>Puerto Rico</u>	X			
<u>Rhode Island</u>			X	X
<u>South Carolina</u>		X	X	
<u>South Dakota</u>			X	
<u>Tennessee</u>	X			
<u>Texas</u>				X
<u>Utah</u>			X	X
<u>Vermont</u>	X			
<u>Virginia</u>		X		
<u>Washington</u>			X	
<u>West Virginia</u>		X		
<u>Wisconsin</u>		X	X	
<u>Wyoming</u>				X

ALABAMA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** Alabama requires that its voting systems are tested and certified by an authorized ITA (independent testing authority), meeting the performance and test standards issued by the FEC.

Applicable Statute(s): “The vote counting system shall be certified after a satisfactory evaluation and testing has been performed to determine that the equipment meets the requirements of this article and performance and test standards for electronic voting systems issued by the Federal Election Commission.” Ala. Code § 17-7-23 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Alabama Electronic Voting Committee selects an independent test authority, or successor entity to verify that the state requirements of and the standards issued by the FEC have been met. The committee can employ no more than three additional individuals to assist in the examination process who are experts in any or all of the following fields: (1) data processing, (2) mechanical engineering, and/or (3) public administration. These individuals can be either state or non-state employees, and are also required to provide a written report of their examination to the committee. The committee may only approve the electronic vote counting systems (EVCS) that are certified by the authorized independent testing authority, or successor entity, as meeting the performance and test standards for EVCS. After certification, the Secretary of State makes and maintains a report on the system, sending a copy of the report to all governing bodies of state counties. Any change/improvement in the EVCS will be certified by the committee prior to the adoption of any change or improvement by any county. Ala. Code § 17-7-23 (2019)

ALASKA

State Participation: **Baseline HAVA requirements.** AK does not require that all EAC standards are used for the certification of its voting systems. However, the director may consider whether the FEC has certified a voting machine.

Applicable Statute(s): “The director may approve a voting machine or vote tally system for use in an election in the state upon consideration of factors relevant to the administration of state elections, including whether the Federal Election Commission has certified the voting machine or vote tally system to be in compliance with the voting system standards approved by the Federal Election Commission as required by 42 U.S.C. 15481(a)(5) (Help America Vote Act of 2002). The director may only approve a voting machine or vote tally system if the machine or system satisfies the requirements of AS 15.15.032 (c).” Alaska Stat. § 15.20.910 (2019)

“Software for voting by use of electronically generated ballots shall be tested and certified under AS 14.20.900.” AK Stat. § 15.15.032 (2019)

Applicable Regulation(s): “Before an election, the Accu-Vote counting program must be tested as follows: (1) the state ballot counting review board is responsible for performing and certifying the initial logic and accuracy test of the Accu-Vote counting program and memory cards; (2) the regional Accu-Vote review board or Accu-Vote coordinator is responsible for performing a second logic and accuracy test of the Accu-Vote counting program memory cards and preparing the memory cards for election use; (3) before the opening of the polls on election day at locations where there is an Accu-Vote precinct tabulator, the election board is responsible for certifying that the precinct tabulator prints a zero totals report; (4) before counting absentee or questioned ballots, the regional Accu-Vote review board will verify that a zero totals report is printed before each memory card is used; if the same memory card is used in a subsequent count, the board will print a totals report before resuming count, and verify that it matches the totals report from the subsequent count.” 6 Alaska Admin. Code 25.045 (2019)

State Certification Process: The Lieutenant Governor appoints a Director of Elections who adopts regulations for the certification of voting systems. The state ballot counting review board tests the voting systems to certify their accuracy in accordance with these regulations. Alaska Stat. § 15.20.900 (2019)

AMERICAN SAMOA

State Participation: **Baseline HAVA requirements.** There is no mention of the federal or state process in the American Samoa Code Annotated (A.S.C.A.). The American Samoa Bar Association hosts the A.S.C.A., including all pertinent election provisions, online [here](#).

Applicable Statute(s): N/A

Applicable Regulation(s): N/A

State Certification Process: N/A

ARIZONA

State Participation: **Requires testing by a federally accredited laboratory.** AZ requires that its voting systems are HAVA-compliant and approved by a laboratory that is accredited pursuant to HAVA.

Applicable Statute(s): “Machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the Help America Vote Act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the Help America Vote Act of 2002.” Ariz. Rev. Stat. § 16-442(B) (2019)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State appoints a committee of three people that test different voting systems. This Equipment Certification Advisory Committee must consist of a member of an engineering college, a member of the State Bar of Arizona, and one person familiar with voting processes of state; no more than two shall be of the same political party and at least one should have a minimum of five years of experience with electronic voting systems. The Committee members investigate voting systems and submit their recommendations to the Secretary of State, who makes the final decision on which voting system(s) to adopt and can revoke a certification if necessary. The Secretary of State may also approve an “emergency” certification restricted to six months, after which it is decertified. Ariz. Rev. Stat. § 16-442(A), (C), (D) and (G) (2019)

ARKANSAS

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** AR also requires that its voting systems are HAVA-compliant.

Applicable Statute(s): “No make of voting machine shall be approved for use unless it is so constructed that: (21) It shall be: (A) Qualified by an authorized federal agency or national testing and standards laboratory which is acceptable to the Secretary of State; (B) Approved by the State Board of Election Commissioners; and (C) Selected by the Secretary of State.” AR Code § 7-5-504 (2018)

“No marking device or electronic vote tabulating device shall be approved unless it fulfills the requirements of this section and the federal Help America Vote Act of 2002.” AR Code § 7-5-606(E) (2018)

Other relevant statutes: AR Code § 7-5-503, AR Code § 7-5-512, AR Code § 7-5-515, AR Code § 7-5-517, AR Code § 7-5-604, and AR Code § 7-5-611 (2018)

Applicable Regulation(s): N/A

State Certification Process: Voting systems are approved by the State Board of Election Commissioners. Written applications are accepted by the board from persons/companies requesting an opportunity to present their voting systems for use in Arkansas. The board will then examine the voting system and then file a report with the office of the Secretary of State stating the accuracy, efficiency, and capability of the proposed voting system, ensuring it complies with the requirements of AR Code § 7-5-504 (2018). The board will include any reason for rejecting the voting system in this report. After the approval of the voting system, the board will not need to approve the voting system again unless the voting system is modified, per AR Code § 7-5-606(b)-(d) (2018). See AR Code Title 7, Chapter 5 for more information on the preparation and testing of machines for election and ballot styles by county boards of election commissioners, as well as examination of the machines by representatives of candidates.

CALIFORNIA

State Participation: **Baseline HAVA requirements.** Refers to EAC standards, but the Secretary of State is ultimately responsible for adopting voting system standards. Testing standards must meet or exceed the federal voluntary standards by the EAC.

Applicable Statute(s): “It is the intent of the Legislature that: (a) All voting systems be certified or conditionally approved by the Secretary of State, independent of voluntary federal qualification or certification, before they are used in future elections to ensure that the voting systems have the ability to meet accuracy, accessibility, and security standards. (b) The Secretary of State adopt and publish testing standards that meet or exceed federal voluntary standards set by the United States Election Assistance Commission or its successor agency.” Cal. Elec. Code § 19006 (2019)

“The Secretary of State shall adopt standards that meet or exceed federal voluntary voting system guidelines set forth by the United States Election Assistance Commission or its successor agency. Until state standards are adopted, the Voluntary Voting System Guidelines Draft Version 1.1, as submitted to the United States Election Assistance Commission on August 31, 2012, shall be used as state standards to the extent that they do not conflict with this code.” Cal. Elec. Code § 19101(a) (2019)

Applicable Regulation(s): “In deciding whether to certify, decertify, or withhold certification of a voting system, voting system procedures, or part of a voting system under Division 19 of the Elections Code, the Secretary of State shall apply the standards entitled ‘California Voting System Standards (October 2014),’ which are hereby incorporated by reference.” 2 CCR § 20700(a) (2020)

State Certification Process: The Secretary of State accepts applications from persons and/or companies owning or having an interest in the sale or acquisition of a voting system for certification in CA. Cal. Elec. Code § 19210 (2019). Certification includes testing and examination of the applicant’s system by either a state-approved testing agency or expert technicians providing a report on the accuracy and efficiency of the voting system. The Secretary of State holds a 30-day public review period so interested parties can express their opinions on the voting system. Within 14 days prior to the public review, the Secretary of State will transmit a written notice to each county official, to anyone the Secretary of State believes will be interested in the public review, and to those who requests, in writing, notice. Cal. Elec. Code § 19210-19211 (2019)

COLORADO

State Participation: **Requires testing to federal standards.** CO requires that its voting systems meet the EAC voting system standards. The systems can be tested by a federally accredited laboratory or by the agency of another state, and must be certified by the Secretary of State.

Applicable Statute(s): “All voting systems and voting equipment offered for sale on or after May 28, 2004, shall meet the voting systems standards that were promulgated in 2002 by the federal election commission.” CO Rev. Stat. § 1-5-601.5 (2018)

“(3)(a) If the electronic and electromechanical voting systems tested pursuant to this section satisfy the requirements of this part 6, the secretary of state shall certify such systems and approve the purchase, installation, and use of such systems by political subdivisions and establish standards for certification. (4) In undertaking the certification required by this section, the secretary of state may request a federally accredited laboratory to undertake the testing of an electronic or electromechanical voting system or may use and rely upon the testing of an electronic or electromechanical voting system already performed by another state...” CO Rev. Stat. § 1-5-608.5 (2018)

Applicable Regulation(s): “All voting systems must meet the requirements of the 2002 Voting System Standards. All voting system software, hardware, and firmware must also meet all requirements of federal law that address accessibility for voters including The Help America Vote Act, The Americans with Disabilities Act, and The Federal Rehabilitation Act.” 8 Colo. Code Regs. § 1505-1:21 (2019)

State Certification Process: There are several phases to the certification process of a voting system in Colorado, including submission of a complete application, a documentation review, a public demonstration of the system, and functional testing. The Secretary of State ultimately reviews the test results and determines whether the voting system meets the requirements for certification. Within 30 days of his or her decision, the Secretary of State posts the certification test report for the voting system of its website, and will also send a notice of certification and copy of the report to the voting system provider that submitted the system for certification. The Secretary of State notifies governing bodies of political subdivisions of the state of the certification, and election officials which plan to use this system will apply to the Secretary of State for approval of the installation of the system. 8 Colo. Code Regs. § 1505-1:21 (2019), CO Rev. Stat. § 1-5-617 (2018)

CONNECTICUT

- State Participation:* **Requires testing to federal standards.** CT requires that its voting systems are tested to the most current FEC or EAC standards, but the Secretary of State makes the final determination in the certification process.
- Applicable Statute(s):* “[T]he Secretary of State may approve a voting tabulator which requires the elector in the polls to place the elector's ballot into the recording device and which meets the voluntary performance and test standards for voting systems adopted by (1) the Federal Election Commission on January 25, 1990, as amended from time to time, or (2) the Election Assistance Commission pursuant to the Help America Vote Act of 2002, P.L. 107-252, 42 USC 15481-85, as amended from time to time, whichever standards are most current at the time of the Secretary of the State’s approval”. Conn. Gen. Stat. Ann. § 9-242 (2019)
- Applicable Regulation(s):* The Secretary of State can only approve voting systems which may have been certified by an independent test authority, accredited by the National Association of State Election Directors as meeting the voluntary performance and test standards for voting systems adopted by the Federal Election Commission on January 25, 1990 (amended from time to time) and which meet the standards specified in Sections 9-241-1 and 9-242 of these regulations and the requirements of the Connecticut constitution and the general statutes. These include standards for direct recording electronic voting machines, Marksense and punchcard voting machines, and Marksense voting tabulators. Conn. Agencies Regs. § 9-241-1 through § 9-242-1 (2020)
- State Certification Process:* The Secretary of State accepts applications to examine and certify voting systems and then determines whether the voting system: (1) meet the requirements of section 9-242, (2) can be used at elections, primaries and referenda, and (3) comply with applicable standards for electronic voting tabulators. The Secretary of State may enter into an agreement with The University of Connecticut or a member of the Connecticut State University System to perform or assist in certification of voting equipment, developing voting system standards, research and analysis of data formats for ballot programming and election-related electronic data, and the development of any other standards to protect the integrity of voting equipment. Conn. Gen. Stat. § 9-241 (2019)

DELAWARE

- State Participation:* **Requires federal certification.** DE requires that its voting systems are certified by either the EAC of NASED as meeting either the FEC or EAC's voluntary voting systems standards or guidelines.
- Applicable Statute(s):* "A voting device or system purchased by the State must be certified by the United States Election Assistance Commission, or designated federal authority, as meeting or exceeding the voluntary voting system standards or guidelines as promulgated by the United States Election Assistance Commission, or designated federal authority, before delivery to and acceptance by the State." 15 DE Code § 5001A(c) (2019)
- Applicable Regulation(s):* N/A
- State Certification Process:* All voting systems must first be certified by the United States Election Assistance Commission or designated federal authority prior to delivery to Delaware. Before an electronic voting system is acquired or used in the state, the owner or manufacturer of the voting device must give an adequate guarantee in writing. They must also post a bond accompanied by satisfactory surety with the State Election Commissioner guaranteeing and securing that the voting device complies with the requirements of 15 DE Code § 5001A and will correctly and accurately record every vote cast, guaranteeing the device against defects for a period of 5 years from the date of acquisition or rental. 15 DE Code § 5001A and 15 DE Code § 5002A (2019)

DISTRICT OF COLUMBIA

- State Participation:* **Requires testing to federal standards / Requires federal certification.** DC requires that its voting systems must be tested to meet voting system standards set forth in the Help America Vote Act of 2002, or be federally certified.
- Applicable Statute(s):* “Each voting system used in an election in the District occurring after January 1, 2012, shall: (A) meet or exceed the voting system standards set forth in the Help America Vote Act of 2002, approved October 29, 2002, or be federally certified.” DC Code § 1-1001.09(k)(1) (2019)
- Applicable Regulation(s):* All voting systems used in the District of Columbia shall meet or exceed the voluntary voting system standards set in HAVA, and/or be federally certified. D.C. Mun. Regs. tit. 3 § 800 (2020)
- State Certification Process:* The Board of Elections adopts voting system standards provided that they do not conflict with the 2002 Help America Vote Act. It reviews the standards on a biennial basis and purchases voting system equipment under a competitive-bidding procedure. DC Code § 1-1001.09 (2019)

FLORIDA

State Participation: **Baseline HAVA requirements.** The Division of Elections under the FL Department of State adopts voting system standards. The Bureau of Voting Systems Certification in this division provides technical support.

Applicable Statute(s): “The Department of State shall adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems. Such rules shall contain standards for: (a) Functional requirements; (b) Performance levels; (c) Physical and design characteristics; (d) Documentation requirements; and (e) Evaluation criteria.” FL Stat. § 101.015 (2019)

“There is created a Bureau of Voting Systems Certification within the Division of Elections of the Department of State which shall provide technical support to the supervisors of elections and which is responsible for voting systems standards and certification.” FL Stat. § 101.017 (2019)

Applicable Regulation(s): The Department of State, Division of Elections, establishes minimum standards for certification and provisional approval for voting systems. Voting system equipment will be certified in accordance with requirements contained in Florida Voting Systems Standards, Form DS DE-101, eff. 1/12/05. FL Admin. Code § 1S-5.001 (2020)

State Certification Process: The Department of State adopts rules that establish minimum security standards for voting systems. The Division of Elections of the Department of State continuously reviews certification standards for voting systems and ensures that they are available for selection by boards of county commissioners, while also determining the will of the public with regard to the systems. Within the Division of Elections, there is a Bureau of Voting Systems Certification which is mainly responsible for system certification and for providing technical support to election supervisors. The Supervisor of Elections for each county establishes written procedures to assure accuracy and security in voting systems. These procedures are reviewed in each odd-numbered year by the Department of State. Any revisions to these procedures are submitted by the Supervisor of Elections in each county to the Department of State at least 45 days before early voting begins in an election in which the revisions are to take effect. FL Stat. § 101.015 and FL Stat. § 101.017 (2019)

GEORGIA

State Participation: **Requires federal certification.** GA requires that voting systems receive Qualification Certificates from the EAC before vendors submit them for further evaluation for use in Georgia. Voting machines must also be certified by the Secretary of State.

Applicable Statute(s): The Secretary of State examines/reexamines voting machines to be used in Georgia. Any vendor, or ten or more electors in the state, may request the Secretary of State to examine a machine. Any vendor that fails to certify a voting machine prior to completing a sale is subject to a penalty of \$100,000. GA Code § 21-2-324 (2018)

Applicable Regulation(s): “Prior to submitting a voting system for certification by the State of Georgia, the proposed voting system's hardware, firmware, and software must have been issued Qualification Certificates from the EAC. These EAC Qualification Certificates must indicate that the proposed voting system has successfully completed the EAC Qualification testing administered by EAC approved ITAs. If for any reason, this level of testing is not available, the Qualification tests shall be conducted by an agency designated by the Secretary of State. In either event, the Qualification tests shall comply with the specifications of the *Voting Systems Standards* published by the EAC.” Ga. Comp. R. & Regs. 590-8-1-.01 (2020)

State Certification Process: After the voting system has passed EAC Qualification testing, the vendor of the voting system submits a letter to the Office of the Secretary of State requesting certification for the voting system along with a technical data package to the certification agent. An evaluation proposal is created by the certification agent after a preliminary view of the Technical Data Package and sent to the vendor. Any additional EAC ITA testing identified in the evaluation proposal is arranged by the vendor and the certification agent will perform all other tests identified in the evaluation proposal. The certification agent submits a report of their findings to the Secretary of State. Based on these findings the Secretary of State will make a final determination on whether to certify the voting system. The Secretary of State also judges whether any modifications to previously-certified voting systems will require additional testing. Ga. Comp. R. & Regs. 590-8-1-.01 (2020)

GUAM

State Participation: **Baseline HAVA requirements.** Guam’s laws do not explicitly mention the role of federal agencies in certifying voting equipment. The Guam Election Commission approves vote tabulating devices.

Applicable Statute(s): “A vote tabulating device is a mechanical, electronic or electromechanical machine approved by the Commission to count cast ballots in an election on Guam.” 3 GCA § 1118 (2012)

Applicable Regulation(s): N/A

State Certification Process: N/A

HAWAII

State Participation: **Baseline HAVA requirements.** The Chief Election Officer adopts voting systems for use in HI elections.

Applicable Statute(s): “The chief election officer may adopt, experiment with, or abandon any voting system authorized under this chapter or to be authorized by the legislature. These systems shall include, but not be limited to voting machines, paper ballots, and electronic voting systems. All voting systems approved by the chief election officer under this chapter are authorized for use in all elections for voting, registering, and counting votes cast at the election.” HI Rev Stat. § 16-1 (2019)

“All voting systems adopted under this chapter by the chief election officer of the legislature shall satisfy the following requirements: (1) It shall secure to the voter secrecy in the act of voting; (2) It shall provide for voting for all candidates of as many political parties as may make nominations, nonpartisans, and for or against as many questions as are submitted; (3) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions.” HI Rev Stat. § 16-2 (2019)

Applicable Regulation(s): “Prior to election day, the chief election officer, county clerk, or designees shall test the electronic voting system in compliance with HAR § 3-176-5. If, as a result of the initial testing, the chief election officer determines additional inspection, auditing or testing is required, the chief election officer shall notify the official observers so that they can witness the additional inspection, auditing or testing needed to ensure that the voting system is reported properly.” HAR § 3-172-96 (2017)

State Certification Process: The chief election officer determines whether a voting system may be used in state elections. Under the chief election officer’s discretion, voting systems may also be used experimentally in one or more precincts without a formal adoption. During examinations of voting systems, the chief elections officer must verify that the voting systems are safe, secure, and accurate. HI Rev. Stat. § 16-1 and HI Rev. Stat. § 16-2 (2019)

IDAHO

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** ID requires that its voting systems meet FEC voting system standards and be tested by an independent testing authority designated by the secretary of state prior to final state certification by the secretary of state.

Applicable Statute(s): “The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. Any voting machine or vote tally system shall be certified by the secretary of state for use in Idaho. Except for functions or capabilities unique to this state, voting machines and vote tally systems shall be tested and the results certified by an independent testing authority designated by the secretary of state prior to certification.” ID Code § 34-2409 (2019)

Applicable Regulation(s): N/A

State Certification Process: Once the voting system has been tested according to FEC and NIST standards, the voting system provider can submit the voting system to the Secretary of State for certification. The Secretary of State will examine the voting system to determine whether all state requirements have been met and file a report on whether to certify the voting system within thirty days after the system was examined. The Secretary of State will appoint no more than three experts in one or more of the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of voting systems. Idaho Code Ann. § 34-2409 (2017)

ILLINOIS

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** IL requires that its voting systems are tested to FEC or EAC standards by an approved independent testing authority.

Applicable Statute(s): “The State Board of Elections shall approve all Direct Recording Electronic Voting Systems that fulfill the functional requirements provided by Section 24C-11 of this Code, the mandatory requirements of the federal voting system standards pertaining to Direct Recording Electronic Voting Systems promulgated by the Federal Election Commission or the Election Assistance Commission, the testing requirements of an approved independent testing authority and the rules of the State Board of Elections.” 10 ILCS 5/Art. 24C-16 (2019)

Applicable Regulation(s): N/A

State Certification Process: The State Board of Elections accepts applications to approve voting systems. The Board staff prepares and performs a test of the proposed voting systems. The Board staff prepares and performs a test of the proposed voting system; this test is conducted under the simulation of election day conditions. After a review of the proposed voting system, the Board Staff writes a report to the Board which is followed by a hearing to consider the staff’s report. If the Board determines that the proposed voting system is safe, accurate, and efficient, it will approve the use of the system on an interim basis not to exceed two years. After the interim period, the applicant may submit an application requesting final approval of the proposed voting system. Upon receiving the final application, the Board will make a determination based upon the staff’s findings, information submitted by the applicant, and the performance of the system during the interim approval period. *See* 10 ILCS 5/Art. 24A-16 (2019) and Ill. Admin. Code tit. 26, § 204.40-100 (2017)

INDIANA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** IN requires that its voting systems meet federal standards adopted by either the FEC or EAC, and electronic voting systems should also be tested by a federally-accredited laboratory.

Applicable Statute(s): “To be approved by the commission for use in Indiana, a voting system must meet one of the following: (1) The Voting System Standards adopted by the Federal Election Commission on April 30, 2002; (2) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005; (3) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission, as amended on March 31, 2015. Also, a county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2017, if the voting system: (1) was: (A) approved by the commission for use in elections in Indiana before October 1, 2017; and (B) purchased or leased by the county before October 1, 2017; and (2) otherwise complies with the applicable provisions of HAVA and this article.” IN Code § 3-11-15-13.3 (2019)

“The tests required under this section must be performed by an independent laboratory accredited under 52 U.S.C. 20971. However, if the commission determines that it is impossible or impractical to have an independent laboratory conduct tests on an electronic voting system, the commission may direct that the tests be conducted by any other entity approved by the commission.” IN Code § 3-11-7.5-4 (2019)

Applicable Regulation(s): N/A

State Certification Process: Any person seeking approval of an electronic voting system may submit an application in the form prescribed by the election division of Indiana. IN Code § 3-11-7.5-2 (2019) The Commission can approve a voting system only after the vendor ensures that the voting system is HAVA compliant and adheres to state requirements. IN Code § 3-11-7.5-3 (2019)

IOWA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** IA requires that all voting systems be certified by an independent testing authority accredited by the EAC to determine that the systems satisfy the 2002 Voting System Standards adopted by the FEC.

Applicable Statute(s): “The rules shall provide that all optical scan voting systems approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, § 222.” IA Code. § 52.5 (2019)

Applicable Regulation(s): “All electronic voting systems and machines approved for use by the Board of Examiners after April 9, 2003 shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.” IAC r. 721-22.2(52) (2017)

“‘Accredited independent test authority’ also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.” IAC r. 721-22.1(52) (2017)

State Certification Process: A voting system vendor may request that the state commissioner call upon a board of examiners to test the system. Within seven days of receiving a request for examination and test, the state commissioner notifies the board of examiners of the request in writing and set a time and place for the said examination. With the advice and assistance of the examiners, the state commissioner adopts rules governing the examination of the system. It is the state commissioner’s discretion whether or not to employ a competent person or persons to assist and advise the examiners in their evaluation of the equipment. Following the examination, the examiners reports to the state commissioner describing the examination of the system, including the system’s accuracy, efficiency, and security. If the report states that the system can be used, then it may be adopted for use in elections. Before its actual use, the state commissioner and examiners shall make rules for tallying votes using that particular voting system. IA Code § 52.5 (2019)

KANSAS

- State Participation:* **Requires testing to federal standards.** KS requires that its voting systems are approved by the Secretary of State and that they are in compliance with voting system standards required by HAVA.
- Applicable Statute(s):* “The secretary of state shall examine and approve the kinds or makes of electronic or electromechanical voting systems, including operating systems, firmware and software, and no kind or make of such system shall be used at any election unless and until it receives certification by the secretary of state and a statement thereof is filed in the office of the secretary of state.” KS Stat § 25-4404 (2018)
- “Electronic or electromechanical voting systems approved by the secretary of state shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.” KS Stat. § 25-4406(k) (2018)
- Applicable Regulation(s):* N/A
- State Certification Process:* The Secretary of State accepts written requests from persons or corporations wishing to have their voting system examined. The requester must provide the Secretary of State with a certified check for \$250.00 to be used to defray a portion of the costs of the examination and the actual voting system to be examined. The Secretary of State may employ a person to assist in the examination process and require the requester to furnish a person to explain and demonstrate that the voting system complies with state and federal laws. After the Secretary of State has approved the voting system, he or she shall make a certificate of approval with a description of the machine. Once a certificate has been issued for a particulate model or make, any other voting system that matches this description can be used in subsequent elections as long as there are no substantial changes made to the make or model described in the certificate of approval. The Secretary of State may require a review of any approved electronic or electromechanical voting system. If review is sought by the Secretary of State, he or she will give written notice to the person or corporation which sought approval of the system and to each county election officer and county of commissioners of counties known to have used voting system under review. KS Stat. § 25-4405 (2018)

KENTUCKY

State Participation: **Requires testing to federal standards.** KY requires that voting systems are tested by an independent testing authority approved by the State Board of Elections, demonstrating that the voting systems meet federal standards.

Applicable Statute(s): “Any person or corporation owning, manufacturing or selling any electronic voting system, may request the State Board of Elections to examine the system. Before requesting an examination or reexamination, any person, persons, or corporation shall pay to the State Treasurer an examination fee of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections. The report shall demonstrate that the system meets all Federal Election Commission voting system standards. The State Board of Elections may, at any time, reexamine any system already approved. The State Board of Elections shall approve or disapprove any voting system within sixty (60) days after the date of its initial submission.” KY Rev Stat § 117.379 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State accepts requests from persons/corporations wishing to have their voting system examined. Prior to this request, the requestor must pay the State Treasurer an examination fee of \$500.00 and submit a report from an independent testing authority verifying that the voting system meets all of the FEC requirements. The State Board of Elections appoints three examiners to examine the voting systems: an expert in computer science or electronic voting systems, an individual who is knowledgeable in KY law and election procedures, and a present or former county clerk. These examiners then submit one written report on the voting system to the State Board of Elections. The State Board of Elections will approve or disapprove voting system within 60 days of its initial submission. KY Rev Stat § 117.379 (2019)

LOUISIANA

- State Participation:* **Requires testing by a federally accredited laboratory.** LA requires that voting systems are certified by a test laboratory accredited by the U.S. Election Assistance Commission.
- Applicable Statute(s):* “[A]ny electronic voting machine procured or used in the state must have been certified according to the voluntary voting system guidelines developed and maintained by the United States Election Assistance Commission by a voting system test laboratory accredited by the United States Election Assistance Commission. This certificate, together with any relevant reports, drawings, and photographs, shall be a public record.” LA Rev Stat § 18:1361 (2018)
- Applicable Regulation(s):* N/A
- State Certification Process:* The Secretary of State accepts requests to examine voting systems and may employ experts in order to assist in the examination process. If a voting system is acceptable to the Secretary of State regarding durability, accurate, efficiency, and capacity, it will be certified. The Secretary of State may examine any make of voting machine that has been certified by a test laboratory accredited by the Election Assistance Commission in accordance with its voluntary voting system guidelines. A certificate of approval made by the Secretary of State shall be signed by any and all of the experts involved in the examination. LA Rev Stat § 18:1361 (2018)

MAINE

State Participation: **Baseline HAVA requirements.** The Secretary of State and the Attorney General adopt the regulations for certification of voting systems in ME.

Applicable Statute(s): “The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 813 and electronic tabulating systems under section 844. The Secretary of State may adopt rules requiring independent testing of voting machines and electronic tabulating systems in use or proposed for use in the State and indicating which voting machines and electronic tabulating systems are approved for use by municipalities.” 21-A ME Rev Stat § 809 (2019)

“The Secretary of State may make reasonable rules governing the use of voting machines in accordance with the Maine Administrative Procedure Act.” 21-A ME Rev Stat § 813 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State adopts rules regarding the independent testing of voting systems and determines which voting systems to approve. Voting systems approved by the Secretary of State can be used in any municipality in a state election. 21-A ME Rev Stat § 809 (2019)

MARYLAND

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** MD requires that all voting systems be certified by an independent testing authority accredited by the EAC to determine that the systems satisfy standards adopted by the EAC.

Applicable Statute(s): “The State Board may not certify a voting system unless the State Board determines that... the voting system has been: (i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission.” MD Elec Law Code § 9-102(d) (2018)

Applicable Regulation(s): “Prior to using the voting system selected and certified for voting in polling places and the voting system selected and certified for absentee voting: A. The model or version of the voting system, including all parts and components, shall have successfully completed: (1) Qualification testing by an independent testing laboratory, as required by Election Law Article, § 9-102(d)(2), Annotated Code of Maryland; (2) Certification evaluation and testing by the State Board, as specified in COMAR 33.09.03 and 33.09.04; and (3) Acceptance testing by the State Board, as specified in COMAR 33.09.05.” MD Code Regs. 33.09.01.03 (2017)

State Certification Process: The State Board shall adopt regulations for the review, certification, and decertification of voting systems. MD Elec Law Code § 9-102(b) (2018) A State Administrator appoints either a specialist or a member of the State Administrator’s staff to coordinate the evaluation process. MD Code Regs. 33.09.01.05 (2017) The State Board may not certify a voting system unless the voting system was examined by an EAC-approved independent testing laboratory, and also meets the standards for electronic voting systems established by the FEC and EAC. MD Elec Law Code § 9-102(d) (2018)

MASSACHUSETTS

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** MA requires that voting systems are certified by an independent testing authorities according to federal voting system standards, and then examined by the state secretary.

Applicable Statute(s): “The state secretary shall examine all types of voting equipment including ballot boxes, counting apparatus, and voting machines and determine whether such equipment complies with the minimum requirements for such equipment imposed by law and whether the use of such equipment would further the efficient administration of elections.” MA Gen L ch 54 § 32 (2019)

Applicable Regulation(s): “The state secretary shall decide whether to approve all types of voting equipment according to the following schedule...(3) No electronic voting system and no direct electronic voting machine may be approved after January 1, 1992 that does not meet the voting system standards adopted by the Federal Election Commission on February 5, 1990, as they may be amended from time to time, and that has not been tested by an independent test authority to confirm compliance.” 950 CMR 50 (2017)

State Certification Process: Any person owning or interested in voting equipment may submit it to the Secretary of State for examination. The Secretary may employ not more than three individuals who are experts in one or more of the fields of: (1) data processing, (2) mechanical engineering, and (3) public administration. Within thirty days of the examination and approval of the voting system the Secretary of State shall file his or her final report on the voting system including a written or printed description and a drawing or photograph of the voting system.

MICHIGAN

State Participation: **Requires testing by a federally accredited laboratory.** MI requires that voting systems are certified by an independent testing authority accredited by NASED and the board of state canvassers.

Applicable Statute(s): “An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers... and unless it meets 1 of the following conditions: (a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers. (b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.” MI Comp L § 168.795a (2019)

Applicable Regulation(s): N/A

State Certification Process: The vendor or representative seeking approval of an electronic voting system shall do the following: (a) deposit a nonrefundable application fee of \$1,500.00 for a new voting system and a nonrefundable fee of \$500.00 for an upgrade to an existing system to the Secretary of State; (b) file with the Secretary of State a list of all states in which the voting system has been approved for use; and (c) file with the Secretary of State copies of all contracts and agreements used in connection with the sale of the voting system. The Board of State Canvassers conducts a field test involving Michigan electors and election officials in simulated election day conditions. The Board of State Canvassers shall approve the voting system if it meets all of the state requirements. MI Comp L § 168.795a (2019)

MINNESOTA

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** MN requires its voting systems to be certified by an independent testing authority accredited by the Election Assistance Commission, or a federal agency, and approved by the Secretary of State.

Applicable Statute(s): “In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority accredited by the Election Assistance Commission or appropriate federal agency responsible for testing and certification of compliance with the federal voting systems guidelines at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Election Assistance Commission or other previously referenced agency.” MN Stat § 206.57 (2019)

Applicable Regulation(s): “If, from the reports of the demonstration and testing, the secretary of state determines that the system complies with chapters 8220 and 8230 and Minnesota Statutes and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. This certification may include stipulations or special procedures for use of the system.” Minn. R. 8220.0700 (2017)

State Certification Process: A vendor of an electronic voting system may apply to the Secretary of State to examine and issue a report as to the voting system’s compliance with the requirements of law. Either the Secretary of State or a designee shall examine the voting system and file a report on it to the Office of the Secretary of State. The examination must include the ballot programming; electronic ballot marking; vote counting; and vote accumulation functions of each voting system. If the report of the Secretary of State or the Secretary’s designee conclude that the examined voting system complies with requirements of sections 206.55 to 206.90 and can be used safely, the system shall be approved by the Secretary of State, and may be adopted and purchased for use at elections in this state. If any modifications to the voting systems are made, the vendor must notify the secretary of state. MN Stat § 206.57 (2019)

MISSISSIPPI

State Participation: **Baseline HAVA requirements.** MS statute refers to Federal Agencies or Standards, but does not fall into categories.

Applicable Statute(s): Applicable statutes have been repealed for amendment.

Applicable Regulation(s): N/A

State Certification Process: The board of supervisors of each county and the governing authorities of each municipality can purchase or rent voting system units that meet specific requirements in the statutes. Such a system can be used in all or part of the precincts within the municipality's boundaries. MS Code § 23-15-531.1 (2018)

MISSOURI

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** MO requires that voting systems are certified by independent testing authorities according to the voting system standards adopted by a federal election authority, and ultimately approved by the secretary of state.

Applicable Statute(s): “No electronic voting system shall be approved unless it: (10) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.” MO Rev Stat. § 115.225 (2019)

Applicable Regulation(s): “As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall have completed and submitted to the secretary of state...and shall have received certification from an independent testing authority approved by the secretary of state.” MO Code Regs. 15 CSR 30-10.020 (2020)

State Certification Process: The Secretary of State accepts applications from voting system manufacturers. Prior to approval from the Secretary of State, each manufacturer must receive certification from an independent testing authority approved by the Secretary of State. Voting manufacturers must file two affidavits stating that (1) the voting machine complies with all state rules and (2) if any changes are made in the system the ability to comply with state rules will not be affected. An electronic voting system may be used if it has been approved by the Secretary of State and complies with state law. MO. Rev. Stat. § 115.225 (2019) and MO Code Regs. 15 CSR 30-10.020 (2020)

MONTANA

- State Participation:* **Baseline HAVA requirements.** The Secretary of State determines the regulations of the certification of voting systems in MT.
- Applicable Statute(s):* “The secretary of state may prescribe rules for the submission of voting systems for examination and additional requirements for approval of voting systems.” MT Code § 13-17-107 (2019)
- Applicable Regulation(s):* “The secretary of state is empowered under 13-17-101, MCA, to approve voting machines and devices.” Mont. Admin. R. 44.3.1701 (2017)
- State Certification Process:* The Secretary of State accepts requests to examine voting systems and enlists qualified technicians to assist in the examination process. After inspecting the voting system, the Secretary of State files a report within thirty days of the examination that approves or disapproves of the system. The Secretary of State must approve the voting system ninety days prior to the election in which it will be used. MT Code § 13-17-101 (2019) and MT Code § 13-17-102 (2019)

NEBRASKA

State Participation: **Baseline HAVA requirements.** The Secretary of State determines the rules and regulations for certification of voting systems, notwithstanding any other provisions in the state Election Act.

Applicable Statute(s): “Any new voting or counting system shall be approved by the Secretary of State prior to use by an election commissioner or county clerk.” NE Code § 32-1041 (2018)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State must approve any new voting system before it is used in an election. Notwithstanding the Election Act, the Secretary of State may make rules and regulations to establish procedures that ensure the election is conducted in a fair manner on the newly approved voting system. Election commissioners or county clerks using vote counting devices to count ballots should also provide for three independent tests to be conducted before actual counting, including computerized programs installed for them. They must submit a written plan to the Secretary of State, 25 days before an election, which outlines the procedures that will be followed on election day regarding the vote counting devices. NE Code § 32-1041 (2018) and NE Code § 32-1049 (2018)

NEVADA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** NV requires that all voting systems be certified by the Voting System Certification and Laboratory Accreditation Program of the U.S. Election Assistance Commission, meeting standards established by the EAC, and are approved by the Secretary of State.

Applicable Statute(s): “No mechanical voting system or mechanical recording device may be purchased or leased in or used in any election of this State unless the system or device is approved by the Secretary of State.” NV Rev Stat § 293B.1045 (2019)

“No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems established by the United States Election Assistance Commission.” NV Rev Stat § 293B.063 (2019)

Applicable Regulation(s): “Before each election cycle for federal office, in accordance with procedures established by the Secretary of State, each county clerk shall certify that: (a) The software used to tabulate ballots; and (b) The operating systems, including, without limitation, software and firmware, installed on each mechanical recording device, have been certified by the Voting System Certification and Laboratory Accreditation Program of the Election Assistance Commission established pursuant to 42 U.S.C. § 15321.” NAC 293B.110 (2017)

State Certification Process: The Secretary of State accepts applications from any person who owns or has interest in a mechanical voting system. The Secretary of State will approve or disapprove the voting system within 120 days after the application is submitted. An examiner will be approved by the Secretary of State to examine mechanical voting system. Any cost for the independent examination of a mechanical voting system must be paid by the person who submits the application. The Secretary of State will approve a mechanical voting system if: (1) a report is made stating that the system or device can be used safely in this State; and (2) The Secretary of State determines after independently examining the system that it can be used safely in this State. Per NV Rev Stat § 293B.150 and NV Rev Stat § 293B.140 (2019), county/city clerks shall also appoint three persons (not more than two of the same political party) to serve as an accuracy certification board to test voting devices within two weeks before the first day of early voting.

NEW HAMPSHIRE

State Participation: **Baseline HAVA requirements.** The Ballot Law Commission determines the rules for the certification of voting systems in NH.

Applicable Statute(s): “The ballot law commission shall act as a board to examine voting machines and devices for computerized casting and counting of ballots. The commission shall, whenever requested, examine any voting machine or device which may be capable of meeting the requirements for elections held in this state. The commission shall approve such voting machine or device in its discretion, and no voting machine or device shall be used in any election in this state unless it reads the voter’s choice on a paper ballot and is of a type so approved by the ballot law commission. Any voting machine or device that is altered must be re-approved before it is used in any election in this state. For the purposes of this section, a machine shall be considered altered if any mechanical or electronic part, hardware, software, or programming has been altered.” NH Rev Stat § 656:41 (2019)

“Consistent with the rules of the ballot law commission the secretary of state shall include protocols for the testing of electronic ballot counting devices in the election manual authorized by RSA 652:22. Each device shall be tested after installation and prior to each election.” NH Rev Stat § 656:42 (2019)

Applicable Regulation(s): “Any person desiring to have the ballot law commission approve the use of a voting machine or other device not previously approved may submit a written application for approval to the commission. The request shall include the name of the manufacturer, model number and other information to identify the device. The commission shall approve the request following a public hearing if the commission finds that adequate safeguards have been provided to ensure the integrity of election results and the machine or device complies with these rules and the election laws of the State of New Hampshire.” N.H. CODE R. Bal. 608.01 (2017)

State Certification Process: The Ballot Commission accepts all applications from persons seeking to use a voting system in New Hampshire elections. The commission will approve the application if it finds that 1) adequate safeguards have been provided to ensure fairness and accuracy in elections; and 2) the voting system complies with state law. N.H. CODE R. Bal. 608.01 (2017)

NEW JERSEY

State Participation: **Baseline HAVA requirements.** The Secretary of State determines the regulations for the certification of voting systems in New Jersey.

Applicable Statute(s): “The Secretary of State within a period of thirty days shall examine the machine and shall make and file in the office of the Secretary of State his report of the examination, which report shall state whether in his opinion the kind of machine so examined can be safely used by the voters at elections under the conditions prescribed in this subtitle. If the report states the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided.” NJ Rev Stat § 19:48-2 (2018)

“No voting device shall be used in an election in this State unless in combination with automatic tabulating equipment used to count and tabulate ballots it meets the requirements in section 3 of this act, and has been approved by the Secretary of State, or other person, agency or board charged with the examination and approval of voting machines. When such device has been approved, any improvement or change which does not impair its accuracy, efficiency, or ability to meet such requirements shall not require a reexamination or reapproval thereof.” NJ Rev Stat § 19:53A-4 (2018)

Applicable Regulation(s): “In accordance with N.J.S.A. 19:31-35, any electronic poll book that is to be used in New Jersey shall be submitted to the Secretary of State for review and testing.” N.J.A.C. 15:10-7.4 (2020)

State Certification Process: The Secretary of State has thirty days to examine and issue a report either approving or denying a voting system. The Secretary of State appoints three persons to examine voting systems; one expert in patent law and two mechanical experts. The experts are required to submit a report on the voting system which is attached to the report made by the Secretary of State. The voting system is approved for use at elections, if the final report released by the Secretary of State declares that the voting system is safe for use by voters and is compliant with state requirements. NJ Rev Stat § 19:48-2 (2018)

NEW MEXICO

State Participation: **Requires testing by a federally accredited laboratory.** NM Statute requires that all voting systems are to be tested by an independent authority and comply with the most recent voluntary voting system guidelines (VVSG) adopted by the EAC. The secretary of state provides for this testing and evaluation.

Applicable Statute(s): “The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted by the United States election assistance commission.” NM Stat § 1-9-14 (2019)

Applicable Regulation(s): “[D]irects the Secretary of State to study, examine, and approve all voting machines used in elections for public office in New Mexico.” N.M. Code R. § 1.10.20.3 (2020)

State Certification Process: Any person who wishes to have their voting system examined and tested for certification may apply on or before June 1 of any odd-numbered year to the Secretary of State. Upon receipt of such application, the Secretary of State will examine the voting system to ensure that it complies with all the requirements in the Election Code and the most up to date VVSG adopted by the EAC. Upon completion of all tests and examinations, the Secretary of State will make a written report of all the findings and file that report in the office of the Secretary of State and post them on the Secretary of State’s website. There will be a 21 day period, following the filing of the written report, where the Secretary of State will accept public comments. Voting systems should be reviewed for recertification by the secretary of state in the year before a presidential election; anything that does not comply with the most recent voluntary voting system guidelines adopted by the EAC should be decertified. A voting system certification committee reviews test reports and findings of the secretary of state on the certification, recertification, and decertification of voting systems in NM. NM Stat § 1-9-14, NM Stat § 1-9-7.4, and NM Stat § 1-9-7.5 (2019)

NEW YORK

State Participation: **Requires testing to federal standards.** NY requires approval of voting systems by the state board of elections provided that they meet the requirements of the EAC's 2005 Voluntary Voting System Guidelines.

Applicable Statute(s): “Any person or corporation owning or being interested in any voting machine or system may apply to have the state board of elections examine such machine or system ... Such examination shall include a determination as to whether the machine or system meets the requirements of section 7-202 of this title and a thorough review and testing of any electronic or computerized features of the machine or system. Such report shall state an opinion as whether the kind of machine or system so examined can safely and properly be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act.” NY Elec L § 7-201 (2019)

Applicable Regulation(s): “All voting systems used in New York State shall be used in a manner consistent with Election Law, these regulations and the United States Election Assistance Commission's 2005 Voluntary Voting System Guidelines and any conditions specified in the State Board's certification of the voting system for use in New York Elections.” 9 CRR-NY 6210.5 (2019)

State Certification Process: Voting system vendors can apply for an examination by the NY state board of elections and pay a fee equal to the cost of the examination. The state board of elections initiates the examination and there must be a report of the examination filed in the office of the state board, which determines whether the machine or system meets the requirements of Section 7-202 of state election law and can be safely used by voters and local boards of elections while meeting the requirements of the federal Help America Vote Act and the U.S. EAC's 2005 Voluntary Voting System Guidelines. If the report states that it can be used, the board determines the system approved, and it will then be examined by examiners or testing labs selected by the state board, and its approval can be rescinded or it can be reexamined at any time the state board of elections chooses. The state board of elections tests every voting or ballot counting machine approved after September 1, 1986 and every ballot counting machine. Annually, the board of election of each county in which any voting systems are in use will test each machine in a manner prescribed by the state board of elections and in keeping with NY Elec L § 7-206 (2019). See NY Elec L § 7-201, NY Elec L § 7-206, and 9 CRR-NY 6210.5 (2019)

NORTH CAROLINA

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** North Carolina requires that its voting systems are compliant with Section 301 of HAVA and certified by an independent testing authority approved by NASED or a federal agency.

Applicable Statute(s): “Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements: (2) That the voting system comply with all federal requirements for voting systems. (8)(b) The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting System. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002. (11) Compliance with section 301 of the Help America Vote Act of 2002.” NC Gen Stat § 163-165.7 (2019)

Applicable Regulation(s): “Any voting system used in any election in North Carolina shall be constructed to...meet current Federal voting System Standards or other applicable Federal Standards.” 08 NCAC 04.0301 (2020)

“Before approving a voting system for use in North Carolina, the State Board of Elections shall ... obtain a copy of [an] independent testing authority certification as authorized by the National Association of State Election Directors or Federal Agency.” 08 NCAC 04.0302 (2020)

State Certification Process: In order to complete the approval process the State Board of Elections obtains a financial statement from the vendor along with contact information for the manufacturer, requests staff to evaluate the voting system, witnesses a demonstration of the voting system, receives a copy of Independent Testing Authority certification as authorized by NASED or Federal Agency, ensures that a copy of the voting systems source code is held in escrow, discusses propriety information in closed session in accordance with the open meetings requirements of North Carolina law, guarantees voting system compliance with state requirements and attains a copy of the manufacturer’s instructions, maintenance manual and a list of all jurisdictions using the voting system. NC Gen Stat § 163-165.7 (2019)

NORTH DAKOTA

State Participation: **Requires testing by a federally accredited laboratory.** ND requires that its voting systems are tested by an EAC accredited independent testing authority and approved by the secretary of state.

Applicable Statute(s): “The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying electronic counting machines authorized in section 16.1-06-10.1 and electronic voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of an electronic voting system or electronic counting machine for use and procurement in the state.” ND Cent. Code § 16.1-06-26 (2019)

Applicable Regulation(s): “Prior to procurement and subsequent use in this state, a company supplying electronic voting systems shall give written notice to the secretary of state and provide a demonstration certifying that its system complies with applicable laws and is certified by a voting system test laboratory accredited by the EAC. If the secretary of state approves the voting system, the secretary of state shall issue a certificate of approval. Any substantive changes or modifications in electronic voting systems may be certified by the secretary of state with or without the demonstration described in this section for initial approval provided that the modified system has been certified by a voting system test laboratory accredited by the EAC.” ND Admin. Code 72-06-01-02 (2020)

State Certification Process: A company supplying electronic voting systems will give written notice to the Secretary of State and provide a demonstration certifying that the voting systems comply with applicable laws and is certified by an independent testing authority accredited by the EAC as fulfilling the requirements of the EAC voluntary voting system guidelines. If the Secretary of State approves the voting system, the Secretary of State shall issue a certificate of approval. ND Admin. Code 72-06-01-02 (2020)

OHIO

State Participation: **Requires federal certification.** OH requires that its voting systems are tested by a federally accredited testing authority that is compliant with EAC standards.

Applicable Statute(s): “The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, tabulating equipment, and electronic pollbooks to be used under Title XXXV of the Revised Code ... Except as otherwise provided in divisions (H)(4)(b) and (c) of this section, any voting machine, marking device, or automatic tabulating equipment used in this state shall meet, as a condition of continued certification and use, the voting system standards adopted by the federal election commission in 2002 or the voluntary voting system guidelines most recently adopted by the federal election assistance commission. A voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, also shall have the most recent federal certification number issued by the election assistance commission.” Ohio Rev. Code § 3506.05 (2019)

Applicable Regulation(s): “No voting machine shall be approved by the board of voting machine examiners or certified by the secretary of state, or be purchased, rented, or otherwise acquired, or used, except when specifically allowed for experimental use, unless it fulfills the following requirements: (15) The equipment has been certified by an independent testing authority as meeting or exceeding the minimum requirements of the election assistance commission voting system standards.” Ohio Admin. Code 111:3-9-08 (C) (2020)

State Certification Process: The Secretary of State accepts applications to certify voting systems. The applicant must submit all applicable hardware, all current related procedural manuals, a current description of all related support arrangements for the equipment, an application fee, a detailed explanation of the construction and method of operation of the equipment, a full statement of the equipment’s advantages, and a list of applicable patents and copyrights on the equipment to the board of voting machine examiners for examination and testing. The board of voting machine examiners prepares and files a report to the Secretary of State recommending whether or not the equipment and related materials can be used safely by the voters. The Secretary of State makes the final determination as to whether the equipment is certified. Ohio Admin. Code 111:3-9-08(C) and Ohio Rev. Code § 3506.05 (2020)

OKLAHOMA

- State Participation:* **Baseline HAVA requirements.** There are no federal requirements in Oklahoma regarding standards for adopting and implementing voting systems. The Secretary of State Election Board determines the regulations for the certification of voting systems.
- Applicable Statute(s):* “A. The Secretary of the State Election Board is hereby authorized beginning July 1, 1989, to purchase equipment for and implement a unitary, unified, integrated system of election administration for the State of Oklahoma that includes an electronic data processing system for maintenance of voter registration records, certification of election results and other election-related applications, and the installation of electronic, optical scanning voting devices compatible with the same system in every precinct polling place. B. The Secretary of the State Election Board is authorized to adopt procedures consistent, insofar as practicable, with existing law for implementation of the system. C. Except as provided in subsection A, no electronic data processing applications shall be implemented by a county election board, nor shall voting devices be purchased by a county, except for those electronic data processing applications and voting devices already in use or for which a contract had been signed by no later than March 31, 1986.” 26 OK Stat. § 26-21-101 (2019)
- Applicable Regulation(s):* N/A
- State Certification Process:* The Secretary of State Election Board purchases voting systems and adopts the procedures to implement the purchased voting systems. 26 OK Stat. § 26-21-101 (2019)

OREGON

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** Oregon requires that its voting systems must be certified by the EAC or be examined by a federally accredited voting system testing laboratory (VSTL).

Applicable Statute(s): “(1)The Secretary of State shall publicly examine all makes of voting machines or vote tally systems submitted to the secretary and determine whether the machines or systems comply with the requirements of ORS 246.560. (4) Any voting machine or vote tally system approved by the secretary may be used for conducting elections. A machine or system rejected by the secretary may not be used at any election. If a machine or system is changed after the machine or system has been approved by the secretary, the secretary is not required to reexamine or reapprove the machine or system if the secretary determines that the change does not impair the accuracy, efficiency or capacity of the machine or system.” OR Rev Stat. § 246.550 (2019)

Applicable Regulation(s): “All voting systems submitted for certification pursuant to ORS 246.550 must be certified by the Elections Assistance Commission (EAC) or be examined by a federally accredited voting systems testing laboratory (VSTL).” Or. Admin. R. 165-007-0350 (2020)

State Certification Process: Voting machines are submitted to the Secretary of State for examination. The Secretary of State can enlist the help of no more than three individuals to assist in the examination process who are experts in one or more of the fields; data processing, mechanical engineering, and public administration. After completing the examination, the Secretary State shall approve or reject the voting machine or tally system no later than thirty days after the examination. The Secretary of State may also revoke approval. Any voting machine approved by the Secretary of State may be used in elections; a machine or system rejected by the Secretary of State may not be used in elections. OR Rev Stat. § 246.550 (2019)

PENNSYLVANIA

State Participation: **Requires testing by a federally accredited laboratory.** Pennsylvania requires that its voting systems are approved by a federally recognized independent testing laboratory and meet federal voting system standards.

Applicable Statute(s): “Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any electronic voting system, may request the Secretary of the Commonwealth to examine such system if the voting system has been examined and approved by a federally recognized independent testing authority and if it meets any voting system performance and test standards established by the Federal Government.” 25 PA Stat § 3031.5 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State examines voting systems, upon request, once the voting systems have received approval by a federally recognized independent testing authority. The person(s) requesting the examination of the voting system are responsible for the cost of the examination. After the examination, the Secretary of State issues a report stating whether or not the voting systems are safe and compliant with state and federal requirements. If the voting systems are deemed safe and compliant by the Secretary of State then the systems may be adopted and approved for use in elections by each county through a majority vote of its qualified electors. The Secretary of the Commonwealth may, at any time, reexamine or decertify a voting system. 25 Pa. Stat. Code §§ 3031.2-5 (2019)

PUERTO RICO

- State Participation:* **Baseline HAVA requirements.** Puerto Rico requires that its voting systems are evaluated by the State Election Commission based on the most advanced electronic developments available.
- Applicable Statute(s):* “The Commission shall evaluate voting and canvassing systems for adoption in Puerto Rico based on the most advanced electronic and technological developments available, and file its recommendations to this effect with the Office of the Secretary of each Legislative House not later than the year following each election. All voting or canvassing systems that are tested or implemented shall make evident to the voter that his/her vote has been registered, and that the measures to perform a manual recount, if necessary, have been adopted.” P.R. Laws tit. 16, § 4025 (2019)
- Applicable Regulation(s):* N/A
- State Certification Process:* The Commonwealth Commission determines through a resolution which voting systems to be used at the polls, and they should be based on “the most advanced electronic and technological developments available.” Once the Commission approves the voting system has been approved, the political parties, independent candidates or participating organizations are notified through their Representatives. The Commonwealth Commission then holds public hearings so citizens can state their views on the proposed voting systems, and the resolution will be posed in both Spanish and English and in every Permanent Registration Board and every City Hall and Internal Revenue Collection Office. P.R. Laws tit. 16, § 4025 (2019)

RHODE ISLAND

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** RI requires that its voting systems are compliant with federal standards and administered by the designated federal agency (EAC) or independent testing authority.

Applicable Statute(s): “The vendor of the precinct-count system shall provide written proof of compliance with federal standards then in place and administered by the designated federal agency or organization from an independent testing company and this written proof must be on file with the office of the secretary of state and the state board of elections” RI Gen L § 17-19-3 (2019)

Applicable Regulation(s): N/A

State Certification Process: Any vendor seeking for voting system approval must submit a written proof of compliance with federal standards administered by the designated federal agency or an independent testing company. The written proof must be on file with the office of the Secretary of State and the State Board of Elections. The Secretary of State and the State Board of Elections submit voting system specifications to the Department of Administration (DOA). The DOA consults these specifications in the development of a request for proposal and a full service contract to obtain electronic voting equipment. The DOA then seeks bids from vendors for the options of purchasing, leasing to own and renting optical scan precinct count voting systems that meet the state and federal requirements and for the full services of the vendor. RI Gen L § 17-19-3 (2019)

SOUTH CAROLINA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** South Carolina requires that its voting systems are certified by an FEC accredited testing laboratory as meeting or exceeding the requirements of federal voting system standards.

Applicable Statute(s): “Before any kind of voting system, including an electronic voting system, is used at an election, it must be approved by the State Election Commission, which shall examine the voting system and make and file in the commission's office a report, attested to by the signature of the commission's executive director, stating whether, in the commission's opinion, the kind of voting system examined may be accurately and efficiently used by electors at elections, as provided by law. A voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of federal voting system standards.” SC Code § 7-13-1620 (2019)

Applicable Regulation(s): N/A

State Certification Process: The State Election Commission accepts requests by vendors seeking for voting system approval. The State Election Commission examines voting systems and writes a report stating whether the kind of voting system examined may be accurately and efficiently used at elections. A person or company who requests an examination of a voting system shall pay a nonrefundable examination fee, file with the State Election Commission a list of all states or jurisdictions in which that voting system has been approved for use, file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system, conduct a field test under the supervision of the State Election Commission and any County Election Commission, place all source codes for the system in escrow at his/her expense with the authority approved by the Election Assistance Commission, and shall report to the Director of the State Election Commission any violations issued against the voting system that have occurred prior to or during the time the vendor seeks approval of the voting system. SC Code § 7-13-1620 (2019)

SOUTH DAKOTA

State Participation: **Requires testing by a federally accredited laboratory.** SD requires that its voting systems are tested according to 2002 EAC voting system standards, certified by an EAC-accredited laboratory, and approved by the State Board of Elections.

Applicable Statute(s): “Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an approved system shall be approved by the State Board of Elections prior to distribution and use.” SD Codified L § 12-17B-2 (2019)

Applicable Regulation(s): “Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating, direct recording electronic, or electronic ballot marking systems shall give written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17B-2 and § 5:02:09:02.01, 5:02:09:02.02, or 5:02:09:02.03 and is certified as fulfilling the requirements of the Election Assistance Commission 2002 voting system standards by an independent test authority accredited by the Election Assistance Commission. If the State Board of Elections approves the system, it shall issue a certificate of approval.” S.D. Admin. R. 5:02:09:02 (2020)

State Certification Process: The Board may only approve voting system that is certified by an EAC authorized testing authority, as fulfilling the requirements of the EAC 2002 Voting System Standards. Any changes in an approved electronic voting system are certified by the State Board of Elections provided that the modified system is certified as satisfying EAC standards by an EAC accredited independent authority. Any governing body can use an approved system in all or some of the precincts within its jurisdiction or in combination with other types of voting systems approved by the State Board of elections. S.D. Admin. R. 5:02:09:02 and SD Codified L § 12-17B-3 (2019)

TENNESSEE

State Participation: **Baseline HAVA requirements.** TN requires that its voting systems are approved by the State Coordinator of Elections and State Election Commission.

Applicable Statute(s): “The state coordinator of elections and the state election commission shall approve any voting machine before a county election commission purchases such machine.” TN Code § 2-9-117 (2018)

Applicable Regulation(s): “No county election commission or county governing body shall purchase any electronic voting device not certified by the Coordinator of Elections with the approval of the State Election Commission.” Tenn. Comp. R. & Regs. 1360-2-13.09 (2020)

State Certification Process: The Coordinator of Elections and the State Election Commission accept and either approve or deny applications for the certification of voting systems. Until approval is given, no county election commission and/or county governing body can purchase that voting system. At least every 8 years after 2002, the state coordinator of election and the State Election Commission reexamine voting machines to ensure they still meet the criteria for certification. If a machine is not certified, the relevant county election commission has two years to purchase and implement new machines that are certified. Tenn. Comp. R. & Regs. 1360-2-13.06 (2020); see also TN Code § 2-9-117 (2018)

TEXAS

State Participation: **Requires federal certification.** TX requires that its voting systems meet the current FEC standards as well as state requirements.

Applicable Statute(s): “A voting system may not be used in an election unless the system: (3) operates safely, efficiently, and accurately and complies with the error rate standards of the voting system standards adopted by the Federal Election Commission...” TX Elec Code § 122.01 (2019)

Applicable Regulation(s): “For any voting machine ... to be certified for use in Texas elections, the system shall have been certified, if applicable, by means of a qualified testing by a Nationally Recognized Test Laboratory (NTRL) and shall meet or exceed the minimum requirements set forth in the Performance and Test Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document developed and promulgated by the FEC.” 1 TX Admin. Code § 81.61 (2019)

State Certification Process: The Secretary of State accepts applications to examine and certify voting systems and appoints four people to examine the voting system. While the Attorney General appoints two people as examiners. Each examiner inspects the voting system and submits a report to the Secretary of State. The Secretary of State will conduct a public hearing to provide interested persons an opportunity to express their views for or against the approval of the voting system. Following the public hearing, the Secretary of State shall prepare a written report stating why the voting system was approved or denied. 1 TX Admin. Code § 81.61 (2019)

Note: Texas requires EAC certification as a baseline and conducts an additional examination. The statute doesn't clearly state that but this is information that the Texas SOS has provided.

UTAH

<i>State Participation:</i>	Requires testing by a federally accredited laboratory/Requires federal certification. UT requires that its electronic voting systems are certified by the EAC or a laboratory that has been accredited by the EAC.
<i>Applicable Statute(s):</i>	“The lieutenant governor may comply with the requirements of Subsection (2)(a) by certifying voting equipment that has been certified by: (i) the United States Election Assistance Commission; or (ii) a laboratory that has been accredited by the United States Election Assistance Commission to test voting equipment.” <u>UT Code § 20A-5-802</u> (2018)
<i>Applicable Regulation(s):</i>	N/A
<i>State Certification Process:</i>	Before selecting or purchasing new voting systems, the Lieutenant Governor will appoint a Voting Equipment Selection Committee, whose members have experience in election procedures, security, and relevant technology. The Lieutenant Governor will select a chair from the committee membership, and the committee will evaluate new voting systems proposed for purchase by the state and provide information to assist the Lieutenant Governor with the selection of new voting systems. The Lieutenant Governor may designate individuals, including committee members, to inspect and review proprietary software as part of an evaluation of new voting systems. Before making a purchase, he or she will also provide for a period of public review of new voting systems under consideration for adoption by the state. <u>UT Code § 20A-5-803</u> (2018)

VERMONT

- State Participation:* **Baseline HAVA requirements.** The Secretary of State determines the regulations for the certification of voting systems in VT.
- Applicable Statute(s):* “The secretary of state shall adopt rules governing the use and the selection of any voting machine in the state.” 17 V.S.A. § 2493 (2019)
- Applicable Regulation(s):* “Prior certification of a vote tabulator by the Secretary of State shall be required before entry into any contract with a vote tabulator vendor. Selection of vote tabulators for the state of Vermont shall follow the standard procurement process for all state contracts ... The Secretary of State shall require that all vote tabulators certified for use in the state be independently tested using security testing protocols that are generally accepted at the time of application for certification.” CVR 04-010-001 (2020)
- State Certification Process:* Municipalities can vote to use electronic systems in subsequent elections. If this vote takes place within six months of the next general or primary election the voting systems rented or purchased by the legislative body must be approved by the Secretary of State. The municipality is responsible for all expenses acquired due to the rental or purchase of voting systems and the Secretary of State provides the ballots. If the Secretary of State determines that any vote tabulators have been rendered inoperable, he or she can suspend their use and require the hand count of votes. 17 V.S.A. § 2491-2493 (2019)

VIRGINIA

State Participation: **Requires testing to federal standards.** VA requires that its electronic voting systems meet federal requirements and are approved by the State Board of Elections.

Applicable Statute(s): “After its examination of the equipment, ballots, and other materials submitted by the vendors, the Board shall prepare and file in its office a report of its finding as to...(viii) whether the system meets federal requirements; and (x) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.” VA Code § 24.2-629 (2019)

Applicable Regulation(s): N/A

State Certification Process: The State Board of Election accepts vendor applications for the examination and approval of voting systems. The vendor may be required to pay a reasonable application fee for the testing and certification of new and upgraded voting equipment. The Board prepares a report stating whether the voting systems meet the state and federal requirements and can be used at elections, and also receives a report by an independent electronics or engineering consultant as to whether the machine is accurate, accessible, and safe. The Board may also require that a voting system is tested in an actual election in one or several counties. If the voting systems meet these requirements, then the Board will approve the voting systems for use at elections. VA Code § 24.2-629 (2019)

WASHINGTON

- State Participation:* **Requires testing by a federally accredited laboratory.** WA requires that its voting systems are tested and certified by an EAC accredited independent testing authority, so long as its functions are in keeping with the unique requirements of the state.
- Applicable Statute(s):* “No voting device shall be approved by the secretary of state unless it: (5) Except for functions or capabilities unique to this state, has been tested and certified by an independent testing authority designated by the United States election assistance commission.” WA Rev Code § 29A.12.080 (2018)
- Applicable Regulation(s):* “All voting systems, voting devices, and vote tallying systems must meet applicable federal standards and be certified and approved by the secretary of state before they can be used in Washington state pursuant to RCW 29A.12.020.” WAC 434-335-010 (2020)
- “No voting device or its component software may be certified by the secretary of state unless it... (f) has been tested and approved by the appropriate independent testing authority approved by the United States election assistance commission...” WAC 434-335-0400(1) (2020)
- State Certification Process:* The Secretary of State accepts applications for voting system certification and will inspect, evaluate, and publicly test all voting systems that are submitted for review. The Secretary of State determines whether or not the voting system meets all of the state, federal and safety requirements. This report is submitted by the Secretary of State to the county auditor of each county within thirty days of the completion of the examination. WA Rev Code § 29A.12.020 (2018)

WEST VIRGINIA

State Participation: **Requires testing to federal standards.** The State Election Commission approves voting systems in WV. But the Commission appoints two qualified computer experts to report on whether a voting system complied with state requirements and requirements set forth by a federal agency for certification.

Applicable Statute(s): “Any person or corporation owning or interested in any electronic voting system may apply to the State Election Commission so that the system may be examined and a report be made on its accuracy, efficiency, capacity and safety ... No electronic voting system may be used at any election unless it has been approved under this section or its former provisions and by the appropriate agency of the federal government whose purpose is to review and issue a certificate of approval.” WV Code § 3-4A-8 (2019)

Applicable Regulation(s): “Any county commission that makes the choice after January 1, 2006 to replace its punch card or lever voting system is eligible to apply for funds from this loan program for the purpose of replacing its voting system with a HAVA-compliant system; Provided that the maximum aggregate amount of loan proceeds available to any such county shall be reduced by the amount of federal funding that was forfeited and returned to the federal government as a result of such county’s failure to replace its punch card or lever system by January 1, 2006.” WV Code R. § 153-10-10 (2017)

State Certification Process: The State Election Commission accepts applications to examine voting systems and appoints two computer experts (who are not members of the same political party) to prepare a report on the accuracy, efficiency, capacity and safety of the voting systems. The report must determine whether or not the voting systems comply with the state requirements and are safe to be used by voters, and comply with the requirements set forth by the “appropriate agency of the federal government” which reviews and certified voting equipment. If the voting machines meet these requirements, they can be approved by the State Election Commission. At the local level, an electronic voting system may also be approved by a majority of the members of the county commission voting to adopt it at a public meeting. See WV Code § 3-4A-8 and WV Code § 3-4A-3 (2019)

WISCONSIN

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** The Elections Commission must ultimately approve a voting system, but it must be also be approved by an independent testing authority accredited by NASED verifying that the voting systems meet all of the recommended FEC standards.

Applicable Statute(s): “No ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is certified by the commission. The commission may revoke its certification of any ballot, device, equipment, or materials at any time for cause. The commission may certify any such voting device, automatic tabulating equipment, or related equipment or materials regardless of whether any such item is approved by the federal election assistance commission...” WI Stat § 5.91 (2019)

Applicable Regulation(s): “An application for approval of an electronic voting system shall be accompanied by all of the following ... [r]eports from an independent testing authority accredited by the national association of state election directors (NASED) demonstrating that the voting system conforms to all the standards recommended by the federal elections commission.” Wis. Admin. Code GAB § 7.01 (2020)

State Certification Process: The Board of Election Commissioners accepts applications for the approval of electronic voting systems. Once the application is completed, the vendor must set up the voting system for three mock elections using; (1) offices, (2) referenda questions and (3) candidates. A panel of local election officials can assist the Board in the review of the voting system. The Board conducts the test using a mock election for the partisan primary, general election, and nonpartisan election. The Board may also require that the voting system be used in an actual election as a condition of the approval. Wis. Admin. Code GAB § 7.01-7.02 (2020)

WYOMING

State Participation: **Requires federal certification.** WY requires that its voting systems are tested and certified by an EAC accredited independent testing authority, and have an EAC certification number.

Applicable Statute(s): “Every electronic voting system adopted for use in Wyoming shall....Be certified by the secretary of state.” WY Stat § 22-11-103 (2019)

Applicable Regulation(s): “Before any equipment or software is sold or upgraded, the vendor shall certify in writing to the Wyoming Secretary of State that the equipment or software: (i) Meets Federal Voting Systems Performance and Test Standards. The vendor shall include a report from an accredited Independent Testing Authority (ITA), together with the Election Assistance Commission (EAC) certification number, certifying that the system is in compliance with federal standards.” 002-040-012 WY Code R. § 4 (2020)

State Certification Process: The Secretary of State establishes rules for the certification of voting systems. These rules cannot prevent the county clerks from following the recommendations of vendors regarding routine maintenance and management of voting systems, as long as these recommendations do not violate the requirements of the Election Code and/or these rules. Before any equipment or software is sold or upgraded, the vendor must certify to the Secretary of State that it has been federally certified and tested/used/certified in at least two states for federal elections. The Secretary of State may deny or withdraw the certification of equipment for a number of reasons, in which case he or she must provide a written notice or emergency order immediately rescinding certification. The Secretary of State must also be notified of any changes, upgrades, or purchases of new equipment. WY Stat § 22-11-103 (2019) and 002-040-012 WY Code R. § 4 (2020)