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Dear Reader:

The United States Election Assistance Commission's (EAC) 2008 biennial Election Administration and Voting Survey included a Statutory Overview survey. This survey gathered qualitative information on State definitions, laws, processes, and procedures relating to the administration of election in the 50 States, the District of Columbia, and four territories. The Statutory Overview was designed to help the EAC and its stakeholders better understand and analyze the quantitative data collected through the Election Administration and Voting Survey; this information served as the basis for the attached summary report.

The Statutory Overview report was created by the Research Triangle Institute (RTI), the contractor also responsible for the 2008 Election Administration and Voting Survey. Each of the States and territories were given an opportunity to review the information contained in the report and revisions to the draft report were made based on feedback received from the States.

While the analyses contained in RTI's report do not necessarily represent the views of EAC, we encourage the reader to review, in particular, the various compendium tables contained in the report and to directly contact a State with questions regarding this information.

This report provides the reader with a good understanding of the variations in how States administer elections and how State statute determines how an election is administered.

Sincerely,

Thomas R. Wilkey
Executive Director
U.S. Election Assistance Commission

Executive Summary

In 2008, the United States Election Assistance Commission (EAC) for the first time sponsored a Statutory Overview survey as part of the data collection for the EAC's biennial Election Administration and Voting Survey. The Statutory Overview was an attempt to gather qualitative information on State definitions, laws, processes, and procedures relating to the administration of elections the 50 States, the District of Columbia, and four territories. The Statutory Overview was designed to help the EAC understand and analyze the quantitative data collected through the survey, and provide the basis for the current summary report.

The Statutory Overview found both significant agreement and significant variation among the States on key terms. Terms such as "blank ballot," "absentee voting," and "early voting" lacked common agreement. In most other cases, States appear to be operating with common understandings of what they mean by the use of specific terms. Other terms defied categorization altogether: for example, while the Statutory Overview offered definitions of types of voter registration systems ("top-down," "bottom-up," and hybrid), in practice it is clear that most State systems are functionally hybrid, suggesting that common categorizations are oversimplifications.

Among the other key findings in this report:

- States match their voter registration databases with a variety of other databases to assess the accuracy of their voter rolls.
- States are only just beginning to use the Internet to allow voters to register, although most States use it in a more limited way to facilitate registration or to check registrations.
- States are almost evenly split on whether they allow no-excuse absentee voting, or require an excuse (such as being out of town on Election Day).
- The use of provisional ballots is triggered by different sets of causes, and States vary in whether they count provisional ballots cast in a different precinct.
- Half of the States responding require some form of ID, although only two said they required photo ID of all voters.
- About half of the States have laws requiring post-election audits or allowing local officials to audit their elections.

Complete responses from the States are available at the website of the EAC, www.eac.gov.

Introduction

The 2008 Election Administration and Voting Survey was distributed to all 50 States, the District of Columbia, and four territories prior to the November 2008 election. Unlike the 2004 and 2006 Surveys, this version asked not only for statistical data, but also included a qualitative “Statutory Overview” section that asked about State election laws. The questions in this section of the Survey focused mostly on State statutory requirements, but also included questions regarding State election practices that are not necessarily defined by law. Therefore, while the Statutory Overview is primarily a review of State statutes, it also includes some information regarding administrative practices that are not dictated by any written law.

Forty-five States responded to the Statutory Overview in time for inclusion in the analysis, in addition to the District of Columbia and the territories of American Samoa, Puerto Rico, and the U.S. Virgin Islands. Responses from Maine and Tennessee did not arrive in time for inclusion in this report, but are available on the EAC website. The States of Georgia, New Mexico, and New Jersey, and the territory of Guam, did not respond to the survey.¹ States that responded to the Statutory Overview were provided an early draft of this report and the opportunity to correct or amend their responses, and make other suggestions on the content of the study.

The methodology for organizing and summarizing the results is as follows. First, the responses for all States and territories were entered into a Microsoft Excel spreadsheet so that they could be sorted easily and compared with one another. Second, trained legal analysts examined the responses and divided the responses for each question into categories that fairly represented the different approaches that States take in each area. Third, the analysts examined each response and decided how to label each one. In some cases, it was difficult to capture the diversity of approaches without some simplification, and other times ambiguities in the responses made it difficult to decide which label to apply, but care was taken to present the data in a way that is both simple and accurate.² The end result is a report that includes and explains a number of charts that list the various approaches to election law questions across the 49 jurisdictions that responded to the Statutory Overview.

The report below is divided into nine parts:

1. definitions that States have given to various common election law terms;

¹ The States’ complete responses are available at the website of the U.S. EAC, www.eac.gov.

² In the process of coding and categorizing, the EAC recognizes that some precision may be lost. In many cases, the state laws summarized in this report are more complex than can be presented here. For a complete understanding of a particular state’s laws and policies, the State’s full response and the statutes of that state should be consulted.

2. State laws governing voter registration databases, including “matching” and list maintenance procedures;
3. disenfranchisement of felons;
4. State laws governing mail-in and in-person early voting and the methods that are used to count and report the counts of mail-in and in-person early voting ballots;
5. provisional voting;
6. voter identification;
7. post-election audits;
8. polling place operations, including laws governing poll worker training and observers at the polls; and
9. a short analysis of other data collected, including prevention and record-keeping of residual votes (under- and over-votes) and procedures for reviewing complaints of violations of the Federal Help America Vote Act (HAVA).

1: Definitions

Questions A1a–A1j of the Statutory Overview survey asked States³ to identify the definitions they use for various common election law terms. As summarized below, respondents were for the most part uniform or near-uniform in their use of these terms. Even where there were slight differences among States on a particular term, it was usually apparent that they were attempting to express the same idea.

There were, however, significant definitional differences with respect to the terms “blank ballot,” “absentee voting,” and “early voting.” Researchers and other members of the election administration community would be well advised to take note of these differences, to ensure that they are accurately describing both existing practices and proposed reforms.

In the summary that follows, the most commonly provided definition of each term comes first, followed by the next most common, and so on. Where multiple definitions of a particular term were given, each definition is followed by a number in parentheses that indicates the number of States and territories that offered that definition. Because some States provided more than one definition, and because some States did not give definitions for some terms, the numbers do not necessarily add up to the total number of responding States.

Over-vote (A1a): Most responding States defined an over-vote as a vote for more candidates than is permitted, or voting both for and against a ballot measure. The one exception

³ For purposes of simplicity, the term “States” is used to refer to both States and territories.

is American Samoa, which defined an over-vote as having more paper ballots than voters listed in the precinct poll book (a concept sometimes referred to in other States as “excess ballots”). Most States indicated that the term is explicitly defined in State statutes or administrative regulations, but some indicated that the term has no “official” definition. Indiana, Kansas, and Louisiana did not provide a definition per se, but quoted laws that referred to an over-vote in the manner defined above. Mississippi, Missouri, North Carolina, South Dakota, Vermont, Virgin Islands, and Washington did not provide any definition.⁴

Under-vote (A1b): All but three responding States defined an under-vote to mean one of two things: [1] a ballot on which fewer than the maximum number of allowed votes were cast in a race or there has not been a vote for a ballot measure (26 States); or [2] failing to vote at all in a particular race or question (16 States). Ohio reported using both definitions. The only exceptions are Rhode Island (a failure to “connect the tail and the head of the arrow [on the ballot] of the candidate”), Vermont (a “blank”), and American Samoa (having fewer paper ballots than voters listed in the precinct poll book). Arizona, Indiana, Kansas, Kentucky, Mississippi, Missouri, Nebraska, North Carolina, South Dakota, Washington, West Virginia, and Wisconsin did not provide any definition, generally because the term is not used or defined by statute. Montana, for example, has changed its law to eliminate a specific definition.

Blank ballot (A1c): States’ definitions of a “blank ballot” included the following: [1] a ballot deposited into the ballot box or otherwise voted that evidences a total failure to make any legally sufficient mark at all for any office or question (21 States); [2] a ballot that does not contain any marks that the applicable voting technology is capable of reading, while possibly containing some legally sufficient marks upon manual examination (5 States); [3] a ballot deposited into the ballot box or otherwise voted that evidences failure to make any legally sufficient mark at all for a *particular race or question* (3 States); [4] an unused ballot (2 States); [5] a special emergency write-in absentee ballot that is used only in a Federal election when for whatever reason regular absentee ballots have not been printed in time for mailing (1 State). The differences in States’ responses indicate there is no consensus definition of the term “blank ballot.” Arizona did not respond to this question, and Indiana, Nebraska, North Carolina, Oregon, and Washington stated this term has no meaning under State law or practice.

Void/spoiled ballot (A1d): Most responding States defined a void or spoiled ballot as [1] a ballot that a voter has accidentally damaged or marked in a way that does not satisfy the voter, in which case the voter may request a replacement (30 States). Other States define the term as [2] a ballot that is torn, bent, soiled, defaced, marked in a way that causes it to be unreadable, or otherwise uncountable (9 States); [3] a ballot that, while undamaged and containing marks sufficiently clear to count as votes, suffers from facial defects that make it uncountable under State law (e.g., marks that allow identification of the voter, failure of poll workers to place their initials on the ballot in States that require this, evidence of tampering) (3 States); [4] an unused ballot (5 States); [5] any over-voted ballot (5 States). Puerto Rico defines spoiled ballot in three different ways. Arizona did not respond to this question, while Washington and North Carolina indicated the term has no meaning under State law.

⁴ This may have been a failure to respond to the question, or could note the lack of any statutory definition: Missouri, for example, reported that over-vote and under-vote are not defined in State law.

Provisional/challenged ballot (A1e): Most responding States defined a provisional or challenged ballot as [1] a ballot issued to a voter in various situations when it is not clear the voter is entitled to a regular ballot (e.g., name not in poll book, no ID, voter is challenged, etc.) (30 States). An alternative definition is [2] a ballot provided to a voter whose right to vote remains to be verified within a fixed period of time (6 States). Other terms are used to express these ideas in other States, including a “questioned ballot” (Alaska), “affidavit ballot” (New York), or “special ballot” (DC). In Massachusetts, New Hampshire, and Wisconsin, a provisional ballot is not the same thing as a challenged ballot, which is a sort of ballot that is issued in the polling place exclusively after a challenge to a voter’s eligibility (note that New Hampshire does not have regular provisional ballots). In Oregon, a challenged ballot is not issued to a voter, but rather a regular ballot that is held for further research because there is a question as to the voter’s eligibility. Idaho and Minnesota do not have provisional balloting systems and indicated that the term “provisional/challenged ballot” has no meaning in their States.

Absentee and early voting (A1f–g): With the increased use of early voting and the myriad ways voters now can cast their ballots via absentee voting, these terms have become two of the least clearly defined terms in elections. There is significant overlap in practice in how the terms are used.

States defined the term “absentee” to mean [1] A ballot issued at a voter’s request when the voter meets certain qualifications (14 States); [2] a person who meets the qualifications to cast an absentee ballot (9 States); and [3] an alternative method for casting a ballot outside the traditional polling place (4 States). The Statutory Overview asked States to define the term “absentee” by itself, rather than specifying “absentee voting” or “absentee ballots,” and it appears that States did not have a uniform understanding of what was being asked. Thus, some variations in the responses may reflect respondents’ interpretation of the question more than they reflect actual differences in how they define absentee voting. Arizona, California, Colorado, Kansas, Nebraska, Rhode Island, Texas, and Vermont do not use the term “absentee.”

States defined “early voting” to refer to no-excuse, in-person voting during a set time period prior to an election. Among the States employing this definition were Alaska, American Samoa, Arizona (refers to both mail-in and in-person early voting), Arkansas, Colorado, Florida, Illinois, Louisiana, Nebraska, Nevada, North Dakota, Texas, Utah, Vermont, and West Virginia. States that do not permit or do not use the term “early voting” include Alabama, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virgin Islands, Virginia, Washington, Washington, DC, Wisconsin, and Wyoming. However, note that some of these States do permit “early voting” under the definition supplied above (“no-excuse, in-person voting during a set time period prior to an election”).⁵

Table 1 shows the terms that different States use to describe the underlying concepts of mail-in absentee voting and in-person early voting. Note that the table shows that many States did not indicate a phrase for the latter concept because they indicated that “early voting” does not occur in their States.

⁵ See the section on nonprecinct voting below for further information.

The States’ responses indicate that there are differences in how the terms *absentee* and *early voting* are used. Absentee voting originated as a way of allowing people such as soldiers to vote by mail when away from home on Election Day. In recent years, a number of States have adopted in-person early voting, and many of them have not adopted new terminology to distinguish this from traditional mail-in absentee voting. Ohio and some other States, for example, use the term “absentee voting” to describe both in-person and mail-in voting that occurs before Election Day. Kansas refers to both processes as “advance voting.” California uses the term “vote by mail” both for mail-in ballots and ballots cast at in-person satellite offices of local elections officials.

At the same time, there is significant variation across States in the terms they use to refer to mail-in voting that occurs before Election Day. In Colorado, a mail-in ballot is called just that: a mail-in ballot. However, Nebraska refers to mail-in voting as “early voting,” and Texas refers to it as “early voting by mail.” Rhode Island calls a mail-in ballot “voting by mail ballot,” while other States use the term “absentee ballot” to mean the same thing.

No-excuse, in-person early voting is likewise described using different terms. Illinois refers to it simply as “early voting,” but Idaho, Indiana, Iowa, Ohio, South Dakota, Vermont, Wisconsin, Wyoming, and other States refer to it as “absentee voting.” North Carolina refers to it as “one-stop absentee voting,” and Kansas refers to it as “in-person advance voting.”

Table 1: Absentee and Early Voting Terminology

	Term for mail-in voting	Term for in-person early voting
Alabama	Absentee	Absentee*
Alaska	Absentee	Early voting and in-person voting
American Samoa	Absentee	Early voting
Arizona	Early voting	Early voting
Arkansas	Absentee	Early voting
California	Vote-by-mail	Vote-by-mail
Colorado	Mail-in	Early voting
Connecticut	Absentee	N/A
Delaware	Absentee	Absentee*
DC	Absentee	N/A
Florida	Absentee	Early voting
Hawaii	Absentee	Absentee
Idaho	Absentee	Absentee
Illinois	Absentee	Early voting
Indiana	Absentee	Absentee
Iowa	Absentee	Absentee
Kansas	Advance voting	In-person advance voting
Kentucky	Absentee	N/A
Louisiana	Absentee by mail	Early voting
Maryland	Absentee	Absentee*
Massachusetts	Absentee	N/A
Michigan	Absentee	N/A
Minnesota	Absentee	N/A
Mississippi	Absentee	N/A

Missouri	Absentee	N/A
Montana	Absentee	Absentee
Nebraska	Early voting	Early voting
Nevada	Absentee	Early voting
New Hampshire	Absentee	Absentee
New York	Absentee	N/A
North Carolina	Absentee	One-stop absentee voting
North Dakota	Absentee	Early voting
Ohio	Absentee	Absentee
Oklahoma	Absentee	In-person absentee
Oregon	Absentee	N/A
Pennsylvania	Absentee	N/A
Puerto Rico	Absentee	N/A
Rhode Island	Vote by mail	N/A
South Carolina	Absentee	Absentee*
South Dakota	Absentee	In-person absentee
Texas	Early voting by mail	Early voting
Utah	Absentee	Early voting
Vermont	Early or absentee voting	Early or absentee voting
Virgin Islands	Absentee	N/A
Virginia	Absentee	Absentee*
Washington	Absentee	N/A
West Virginia	Absentee	Early voting
Wisconsin	Absentee	Absentee
Wyoming	Absentee	N/A

* Indicates a form of in-person early voting that requires an excuse.

Active and inactive voters (A1h-i): States defined “active voter” to mean a voter “in good standing” in the registration database (i.e., a voter who has not been listed as inactive because of questions over registration and/or eligibility and who has not been targeted for NVRA list maintenance/removal). This definition is uniform across all States that provided a definition. States defined the term “inactive voter” to mean a voter who has been marked “inactive” in the registration database—for example, one who has not voted in the last 4 years, who has failed to respond to address confirmation postcards, or who has been deemed inactive for other reasons under State law. Although States have different processes for putting voters on the inactive list, use of these terms seems to be reasonably uniform. An exception is Texas, which defined an inactive voter as a voter whose registration has been canceled. Idaho, Michigan, and New Hampshire do not use the active/inactive distinction in their registration databases. North Dakota does use the active/inactive distinction in its voter history database, but it does not have voter registration.

2: Voter Registration

The Statutory Overview included seven questions relating to voter registration and voter registration databases (VRDs), some of which were compound questions. The most important responses are distilled into four columns in Table 2. The columns show the following information: [1] whether the VRD in each State is top-down, bottom-up, or hybrid; [2] for bottom-up and hybrid systems, how often the information contained in local databases is reconciled with information retained at the statewide level; [3] the types of information about

voters that each State's VRD is able to check against outside databases; [4] events in each State that cause officials to tag the voter as inactive in the VRD; and [5] events in each State that cause officials to remove the voter's registration from the VRD altogether. The following is a brief overview of the States' responses in each of these areas.

Top-down/bottom-up (B1). Question B1⁶ asked whether each State had a top-down or bottom-up VRD. The question defined a top-down system as one in which the data is hosted on State hardware, and a bottom-up system as one in which the data is hosted on local hardware. Under these definitions, 34 of 49 States indicated a top-down system, 8 indicated a bottom-up system, and 7 indicated some sort of hybrid. However, some States expressed confusion regarding the meaning of the question. Michigan, for example, responded: "As the definition provided above relates the terms 'bottom-up' and 'top-down' to both the system and the data, it is difficult to respond to the question. Clarification is needed." Other States, while not explicitly calling for clarification, gave answers that suggested they did not all understand the question in a consistent way. Unfortunately, it is difficult to judge the degree of confusion present because most States simply stated "top-down" or "bottom-up" without further explanation.

These terms are simply not sufficient to describe a VRD system without oversimplifying because, in practice, it appears that many State databases are hybrids. This is because there are at least three characteristics of a VRD system that may be deemed "top-down" or "bottom-up": [1] entry of the actual voter registration records, which may be done by local officials or by the State (as in Alaska); [2] physical custody of the hardware, which may reside either with local officials or the State, and most typically a combination of both; and [3] control over the software programs that are installed to administer the VRD. The software in Michigan, for example, is "top-down" in the sense that the software is developed and maintained by State officials. The State also maintains a central database where the VRD resides. However, local officials also maintain local hardware that contains the registration records for their jurisdictions. Locals enter voter registration records into these local systems running State software, which later transmits that data to the central State VRD that is a compilation of all the local VRDs in the State.

Top-down systems. States that seem to have a true top-down system under any definition include Alaska, Colorado, Delaware, Idaho, Indiana, Louisiana, Missouri, Montana, New Hampshire, Vermont, and the Virgin Islands. These are States where the VRD is hosted at the State level and officials enter information directly into the State's system. Typically local officials perform this task, although in Alaska State employees do it exclusively. There is no local database, and therefore no need to reconcile a local database with the State database. Aside from the States listed above, many of the States that indicated there is no need to reconcile local data with State data probably have a top-down system under this definition. On the other hand, Arkansas indicated that there is a need in its jurisdictions to reconcile data at the State and local levels, indicative of bottom-up or hybrid systems. Nevertheless, Arkansas stated it has a top-down system.

⁶ Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

Bottom-up and hybrid systems. States that indicated a bottom-up system include California, Florida, Illinois, Nevada, New York, Ohio, Rhode Island, and South Dakota. Like top-down States, these States typically host the State VRD in a State facility, but it is nothing more than a compilation of data that is hosted in a series of local databases. When a new registration form comes in, local officials typically enter it into their local databases, not directly into the State database. However, after the information is entered, the local database will automatically update the State VRD with the new information on a periodic basis. Arizona, Mississippi, Oklahoma, Puerto Rico, Texas, Washington, and Wisconsin indicated that they have hybrid systems, but it is not clear that this means something substantially different than the bottom-up systems described above.

Database matches (B4). HAVA requires State officials to enter into agreements to “match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration” (42 U.S.C. § 15483). It also requires an agreement to use databases maintained by the Federal Social Security Administration (SSA) to verify registration applications. *Id.* States have integrated the SSA data into their own motor vehicles databases, and the SSA match is performed by matching the voter registration applications against that database.

Column 4 of Table 2 shows that many States did not indicate whether they perform motor vehicle or SSA matches at all. This could be because of an omission or because States are not performing these matches. States that did not indicate whether they perform either motor vehicle or SSA matches include American Samoa, DC, South Dakota, Virgin Islands, and West Virginia. There are also a number of States that indicated they perform a motor vehicle match but did not indicate whether they perform an SSA match.

Other matching systems. In addition to matching against motor vehicle and SSA data, some States match voter information against other government records. Examples include records of deaths, felony convictions, or adjudications of mental incompetence. Some States also have the ability to track changes of address by matching the VRD against address changes in the motor vehicle database, or by matching the VRD against itself to identify duplicates. A few States indicated that they have the ability to track moves out of State, citizenship status, or changes of name. It is important to note that States may have other ways of tracking such information besides a database. For example, States that disenfranchise felons may use paper-based systems for tracking voters with felony convictions.

Triggers—active to inactive (B2). Question B2 asked States to describe their process for moving voters from the active to the inactive list. The National Voter Registration Act (NVRA) authorizes States to remove voters from the rolls under certain limited circumstances. In some circumstances, the voter may be labeled as “inactive” in the VRD before he or she is removed. The “inactive” label usually does not have any immediate consequences from the voter’s perspective, although some States have special ID requirements for inactive voters, and voters should be permitted to go on voting as usual unless they are eventually removed. Idaho, Michigan, and Ohio indicated that they do not use the active/inactive distinction in their VRDs,

at least as understood in the survey. The rest of the States indicated two main ways in which voters may be labeled inactive.

[1] *Nonvoting*. Seventeen of 49 responding States indicated that they label voters inactive for failure to vote.⁷ This often occurs only after failure to vote over any 4-year time period that includes two Federal elections, but in some jurisdictions, like DC, it occurs after each Federal election. After this time has passed, officials send the voter a postcard that asks the voter to confirm that he or she continues to reside at the address on file. If this postcard is not returned by the voter, or is returned by the Post Office as undeliverable, then the voter is labeled inactive in the database. In Alaska for example, voters are labeled as inactive after they fail to vote for 4 years, but are not yet removed. Procedures in other responding States vary widely.

[2] *Other postcard mailings*. Officials sometimes send postcards asking voters to confirm that they continue to reside at the address on file. If the voter does not respond or the notice is returned undeliverable, the voter is labeled as inactive in the database. Nonvoting is not necessarily required for these postcard mailings to be sent out. In fact, many States send out these types of postcards to all voters, or to targeted segments suspected of having changed addresses, on a periodic basis (typically after Federal general elections, but not always). The 28 States that indicated they use this type of mailing are indicated in column 5 of Table 2 with the notations “undeliv.” or “nonresponse.” The first notation indicates that officials send a nonforwardable postcard and make the voter inactive if it is returned undeliverable; the second notation indicates that officials send a forwardable postcard and make the voter inactive if the voter does not respond by completing it and returning it.⁸ The numbers after each notation indicate the periodicity of the postcard mailings (the number of years that pass between each periodic mailing), if known. The period ranges from 1 to 4 years. The notation NCOA indicates that a postcard is sent if the U.S. Post Office’s National Change of Address service indicates the voter has moved. Idaho, Michigan, and Ohio indicated that they do not use the active/inactive distinction in their VRDs. Most States indicated that the same “inactive” procedures that apply generally also apply to UOCAVA⁹ voters, and only Louisiana, Montana, Oklahoma, and Texas affirmatively indicated that different procedures apply.

Triggers—removal (B3). Under the NVRA, voters may be totally removed from a VRD only because of death, change of address outside the jurisdiction, criminal conviction or mental incapacity, or at the request of the voter. In addition, the NVRA permits voters to be removed for nonvoting if a prescribed procedure is followed. Specifically, the State may send mailings to voters asking them to confirm that they continue to live at their current address and, if the voters do not do so, the State may remove them from the VRD if they fail to vote in two consecutive Federal elections after receipt of the notice (in the interval, voters are typically listed as “inactive” in the VRD). Twenty-six of the 49 States that responded to the survey indicated that they currently remove voters based on such a program. Column 6 of Table 2 shows which States

⁷ Note that this process precedes, but is totally separate from, a similar 4-year process that is used to actually remove voters from the voter registration database. The way it typically occurs, the voter fails to vote for 4 years and is then sent a postcard and labeled inactive. If the voter fails to vote for an additional 4 years, the voter is sent a postcard and removed from the database altogether.

⁸ Nonforwardable postcards are used to check addresses, because the Postal Service will not forward the cards to a new address. Forwardable postcards allow voters who have moved to respond.

⁹ Uniformed and Overseas Citizens Absentee Voting Act, the federal law passed in 1986.

use this type of program, and also indicates States that operate other programs to remove registrations based on death, felony conviction, adjudication of mental incompetence, registration in another jurisdiction, other indicators of change of address (noted as “COA” in the table), or other factors. Almost all States indicated removal at the request of the voter, so that information was not included in the table. Comparison of columns 3 and 6 indicates whether States are using databases of deaths, felony convictions, or other records to conduct these removal programs, or whether they use some other type of method. Wisconsin and Wyoming indicated that they never fully remove voters from their VRDs, but instead merely mark them as inactive. Most States indicated that the same VRD removal procedures that apply generally also apply to UOCAVA voters, and only Louisiana, Montana, Oklahoma, and Texas affirmatively indicated that different procedures apply.

Other removal triggers. A few States indicated additional removal triggers, generally removal as a consequence of a successful challenge to voter eligibility or other administrative determination that the voter is not qualified. It is possible that other States have similar procedures that they did not mention.

Table 2: Voter Registration¹⁰

¹⁰ The following abbreviations and acronyms are used in this table: DL (drivers license); SS (Social Security); NCOA (National Change-of-Address); COA (Change-of-address); undeliv (undeliverable); N/A (not applicable);

	Bottom-up/top down	How often reconciliation occurs (for bottom-up and hybrid States)	Database matches***	Triggers—active to inactive*	Triggers—removal*
Alabama	Top-down	N/A	death, DL#, SS#, felons	Nonvoting, undeliv.	Death, nonvoting (4), reg. elsewhere, felony, incomp.
Alaska	Top-down	N/A	DL#, SS#	undeliv. (1)	Nonvoting (4)
American Samoa	Top-down	N/A	None	Nonvoting	Death, reg. elsewhere
Arizona	Hybrid	Real time	death, DL#, incompetence, felons	Undeliv., NCOA	Death, nonvoting , COA outside county, felony, incomp.
Arkansas	Top-down	5 days	death, DL#, SS#, felons	Undeliv. (2), NCOA	Death, nonvoting, reg. elsewhere, COA outside county, felony, incomp., not qualified
California	Bottom-up	Daily	death, DL#, SS#, felons, change of address	Undeliv. (2), NCOA	Death, reg. elsewhere, COA outside county, felony, incomp.
Colorado	Top-down	N/A	death, DL#, SS#, felons	Nonvoting, undeliv.(1)	Death, nonvoting (4), reg. elsewhere, COA, felony*****
Connecticut	Top-down	N/A	death, DL#, SS#, felons	Undeliv.	Death, nonvoting, felony
Delaware	Top-down	N/A	DL#	No info	Death, reg. elsewhere, COA, felony, incomp.
DC	Top-down	N/A	None	Nonvoting, undeliv. (2)	Nonvoting
Florida	Bottom-up	Real time	DL#, SS#, felons	Undeliv.	Death, reg. elsewhere, felony, incomp., not qualified
Hawaii	Top-down	N/A	DL#	No info	Nonvoting
Idaho	Top-down	N/A	DL#, SS#	N/A	Death, nonvoting, reg. elsewhere, COA, felony, challenge
Illinois	Bottom-up	24 hours	DL#, SS#	Undeliv.	Nonvoting (4)
Indiana	Top-down	N/A	death, DL#, SS#, felons	Nonvoting, undeliv., NCOA	Death, nonvoting COA outside county, felony
Iowa	Top-down	N/A	DL#, death, felons	Nonvoting, undeliv. (1), NCOA	Death, registered elsewhere, COA outside county, felony, incomp., voter request, challenge, nonvoting
Kansas	Top-down	N/A	death, DL#, SS#, felons, change of address	Nonvoting, undeliv. , NCOA	Death, reg. elsewhere, COA, felony
Kentucky	Top-down	N/A	DL#, change of address	Nonvoting, undeliv., NCOA	Death, nonvoting, felony, incomp.

Louisiana	Top-down	N/A	death, DL#, SS#, felons	NCOA, other	Nonvoting (2), death, voluntary, COA*****
Maryland	Top-down	N/A	death, DL#	NCOA, nonresponse to confirmation card	Death, COA, felony, not qualified
Massachusetts	Top-down	Real time	death, DL#, SS#	Nonresponse to confirmation card (1)	Nonvoting
Michigan	Top-down	Daily	DL#	N/A	Death, COA
Minnesota	Top-down	N/A	DL#, SS#	Nonvoting	No info
Mississippi	Hybrid	Real time	DL#	No info	No info
Missouri	Top-down	N/A	DL#, SS#, death, felons	Nonresponse to confirmation card	Death, nonvoting (4), COA outside jurisdiction, incompetency
Montana	Top-down (listed as hybrid)	Real time	death, DL#, SS#, felons	Nonvoting, undeliv., NCOA	Death, nonvoting, reg. elsewhere, felony, incomp., not qualified
Nebraska	Top-down	N/A	death, DL#, SS#, felons	Undeliv., other	Nonvoting, COA outside jurisdiction, death, felony, nonresponse
Nevada	Bottom-up	Daily	Death, DL#, SS#	Undeliv., other	Death, felony, incomp. (records not removed but designated cancelled)
New Hampshire	Top-down	N/A	Death, DL#, SS#, felons	N/A	Death, nonvoting (10), COA outside State, felony
New York	Bottom-up	Near-real time	DL#, SS#	Undeliv., NCOA	Not qualified
North Carolina	Top-down	N/A	DL#, SS#	No info	No info
North Dakota**	Top-down	N/A	death, DL#, name change	Nonvoting	No info
Ohio	Bottom-up	Varies by county	DL#, SS#	N/A	Death, nonvoting, COA outside county, felony incarceration, challenge
Oklahoma	Hybrid	Daily	death, DL#, SS#, moves out of State	Nonvoting, undeliv. (2)	Death, nonvoting, reg. elsewhere, felony, incomp.
Oregon	Top-down	N/A	DL#, SS#	Nonvoting, undeliv.*****	Death, nonvoting, COA/registration outside of State, request of voter,
Pennsylvania	Top-down	N/A	DL#, change of address, change of name	No info	Death, nonvoting, COA
Puerto Rico	Hybrid	Near-real time	DL#	Nonvoting (4)	Challenge, other
Rhode Island	Bottom-up	Daily	DL#	No info	Nonvoting
South Carolina	Top-down	Daily	DL#	Undeliv., felons, death	Death, nonvoting, COA, felony
South Dakota	Bottom-up	Daily	death, felony	Nonvoting, undeliv. (2), NCOA	Death, reg. elsewhere, felony, incomp.

Texas	Hybrid	Daily	DL#, SSN4	Undeliv. (2)	Death, nonvoting, reg. elsewhere, COA, felony
Utah	Top-down	Real time	DL#, SS#	Undeliv.****	Death, nonvoting, COA
Vermont	Top-down	N/A	DL#, SS#	No info	Death, reg. elsewhere, COA
Virgin Islands	Top-down	N/A	Unclear	No info	Nonvoting
Virginia	Top-down	N/A	death, SS#, incompetent, felony, citizenship	Nonvoting, undeliv., change of registration	Death, felony, incomp., citizenship
Washington	Hybrid	Near real-time	DL#, SS#	No info	Death, nonvoting, COA outside State, felony, incomp.
West Virginia	Top-down	N/A	Unclear	Nonvoting, undeliv. (1), NCOA	Death, nonvoting, felony, incomp., challenge
Wisconsin	Hybrid	Real-time	death, DL#, SS#, felony	Undeliv. (4), registration out of State, death, voter fraud conviction, incompetence	N/A*****
Wyoming	Top-down	N/A	death, DL#, felony	Nonvoting	N/A*****

*The numbers in parentheses after the words “undeliv.” or “nonvoting” indicate the number of years that pass between periodic uses of these two processes. For example, “undeliv. (2)” indicates that the State sends out nonforwardable postcards every 2 years to determine who has moved. By the same token, “nonvoting (4)” indicates that an inactive voter will be removed from the statewide voter registration database if he or she fails to vote for 4 years after being labeled as inactive. Where no number is given, the number of years was not specified.

**Note that North Dakota does not have a voter registration system (it is not possible to register to vote). However, the State does keep a central database of voters that would be considered top-down. Voters can be tagged as inactive and even removed from this database, but that is just for record-keeping purposes and has no effect on a person’s ability to vote.

***Note that matching programs are listed only where the State affirmatively indicated that it has the subject type of program in place. It is possible that some States have additional matching programs that they omitted. It is possible that most States that indicated they are matching DL#s but did not indicate SS# matching are nevertheless indeed matching SS#s either through State departments of motor vehicles or directly through the Federal SSA.

****Unlike many States, these do not send out nonforwardable postcards on a periodic basis to determine whether voters have moved. Instead, these States send postcards out only when records indicate the voter has moved or changed his or her registration to another address.

*****Colorado, Louisiana, Wisconsin, and Wyoming reported that they do not remove voters from their database, but only move them to “inactive/cancelled” status.

National Change of Address Service (B5). Twenty-six States indicated they use the National Change of Address (NCOA) service available from the U.S. Post Office to help identify voters who have moved.¹¹ A few States indicated that they review the NCOA data for accuracy before determining whether a voter has moved, but generally States did not go into the details of how they use the NCOA data after receiving them. Many States reported that they label a voter as inactive in the statewide voter registration database when NCOA indicates a change of

¹¹ They are Arizona, California, Connecticut, Delaware, DC, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Virginia, Vermont, Washington, and West Virginia.

address, although many others did not specify the consequence of such an indication (see section titled “Triggers—active to inactive,” above). Seven States (Arizona, Kansas, Massachusetts, Mississippi, Texas, Vermont, and Washington) indicated that some counties in the State use NCOA, but others do not. All but a few States failed to give data regarding their degree of satisfaction with the NCOA service. Of the States that gave data, the general complaints were that the service is too expensive (Arkansas); it misidentifies voters as having moved when voters have changed their address for U.S. mail purposes but have not changed their actual residence (California); it misidentifies whole families as having moved when in actuality only one family member has moved (California and Pennsylvania); the NCOA data are sometimes older than the data in the registration file (Iowa); and it misidentifies voters as having moved in places where voters leave the State on a seasonal basis (Montana). Delaware, Nebraska, South Dakota, and Virgin Islands indicated general satisfaction with the service, while Louisiana and Vermont indicated general dissatisfaction.

Internet-facilitated voter registration (B7). The Statutory Overview responses indicate that most States’ use of the Internet to facilitate voter registration is very limited. However, all States make printable voter registration applications available online except for North Dakota, which does not register voters. Only Arizona and Washington actually allow voters to complete the entire registration process online, although Kansas indicated its system for doing this should be online by December 2008. Maryland, Michigan, Mississippi, Missouri, Montana, Oregon, Washington, and West Virginia indicated that voters may check their voter registration status online, as is the case in many other States, if not most. Missouri, Texas, and Montana allow voters to find their polling place online, and Texas allows voters to change their name and address and check registration status.

3: Felon Disenfranchisement

Question B6 of the Election Administration and Voting Survey questionnaire asked States to report their laws regarding disenfranchisement of felons, and the results are summarized in Table 3 below. Forty-seven of the 49 responding States disenfranchise felons in some manner, with the exceptions being Vermont and Puerto Rico. The rest of the data are summarized below and in columns 2–4 of the table.

Character of disenfranchising offense (B6). Forty of the 49 States that responded to the survey indicated that any felony is sufficient to trigger disenfranchisement. However, a few States require disenfranchisement only for certain felonies. For example, Alabama and Alaska disenfranchise only those who are convicted of felonies of “moral turpitude,” and Mississippi disenfranchises individuals who commit one of 21 enumerated crimes. The responses from Kentucky, Michigan, and the Virgin Islands indicate that these jurisdictions sometimes disenfranchise those convicted not only of felonies, but also of misdemeanors.

Disenfranchisement period (B6). Many States—24 of the 49 States that responded to the survey—disenfranchise felons until the unconditional discharge of their sentences, including parole. The second most common approach, taken by seven States, is to disenfranchise felons only for the period that they are in actual physical confinement. Other States indicated that

restoration of rights occurs only after a waiting period following discharge (Nebraska and the Virgin Islands), or that the rights of felons are never restored short of an official pardon (Kentucky, Mississippi, and Virginia).

Restoration process (B6). As summarized in Table 3, 17 States indicated that felons who have regained their eligibility to vote do not need to take any action to vote again except to reregister. Another 10 States indicated the restoration process is “automatic,” although it is not clear whether the voter must reregister in some of these States. In another 10 States, listed as “non-automatic,” a person who has regained eligibility may register but officials must make an affirmative determination of eligibility. Other States require voters to present discharge papers to reregister.

Table 3: Felon Disenfranchisement

	Character of offense	Disenfranchisement period	Restoration process
Alabama	Felony of moral turpitude	No info	Non-automatic
Alaska	Felony of moral turpitude	Until unconditional discharge	Must reregister
American Samoa	Unclear	Unclear	Unclear
Arizona	Any felony	Until unconditional discharge	Automatic after first offense only
Arkansas	Any felony	Until unconditional discharge	Non-automatic
California	Any felony	Until unconditional discharge	Must reregister
Colorado	Any felony	Until unconditional discharge	Must reregister
Connecticut	Any felony	Until unconditional discharge (including fines)	Must reregister
Delaware	Any felony	Depends*	Must reregister
DC	Any felony	No info	No info
Florida	Any felony	No info	Non-automatic
Hawaii	Any felony	Until unconditional discharge	Must reregister
Idaho	Any felony	Until unconditional discharge	Automatic
Illinois	Any felony	No info	No info
Indiana	Any felony	During confinement only	Must reregister
Iowa	Any felony	Until unconditional discharge	Must reregister
Kansas	Any felony	Until unconditional discharge	Non-automatic
Kentucky	Any felony, treason, elections crimes, high misdemeanors, others	Only after executive pardon	After pardon only
Louisiana	Any felony	Until unconditional discharge	Suspended until no longer under order of imprisonment**
Maryland	Any felony	Until unconditional discharge	Must reregister
Massachusetts	Any felony	During confinement	No info
Michigan	Any crime that results in confinement	During confinement only	Automatic
Minnesota	Any felony	Until unconditional discharge	Automatic
Mississippi	21 enumerated crimes	Until executive or legislative pardon	After pardon only
Missouri	Any felony	Until unconditional discharge	Automatic***
Montana	Any felony	During confinement only	Must reregister
Nebraska	Any felony	Until 2 years after unconditional discharge	Must reregister
Nevada	Any felony	Until unconditional discharge	Must reregister**
New Hampshire	Any felony	During confinement only	Must reregister****

New York	Any felony	Until unconditional discharge	Must reregister
North Carolina	Any felony	Until unconditional discharge	Must reregister
North Dakota	Any felony	During confinement only	Automatic
Ohio	Any felony	During confinement only	Must reregister
Oklahoma	Any felony	Until unconditional discharge	Must reregister
Oregon	Any felony	During confinement only	Automatic
Pennsylvania	Any felony	During confinement only	Must reregister
Puerto Rico	N/A	N/A	N/A
Rhode Island	Any felony	During confinement only	Must reregister
South Carolina	Any felony or elections crime	Upon unconditional discharge	Must reregister
South Dakota	Felony of imprisonment	Upon unconditional discharge	Must reregister
Texas	Any felony	Upon unconditional discharge	Must reregister
Utah	Any felony	During confinement only	Automatic
Vermont	N/A	N/A	N/A
Virgin Islands	Any felony or crime of moral turpitude	Until 1 year after unconditional discharge	Must reregister**
Virginia	Any felony	Until pardoned	After pardon only
Washington	Any felony	Until unconditional discharge	Non-automatic
West Virginia	Any felony	Until unconditional discharge	Must reregister
Wisconsin	Any felony	Until unconditional discharge	Must reregister
Wyoming	Any felony	No info	No info

*In Delaware, persons convicted of enumerated “disqualifying” felonies are permanently disenfranchised. Other disenfranchised persons may reregister after officials review their files and determine they have unconditionally discharged their sentences, paid all fines, and have not been convicted of a felony in the past 5 years.

**In these States, to restore their rights, felons who have unconditionally discharged their sentences may reregister just like any other citizen, but they may be asked to show their discharge papers at the time of registration.

***In Missouri, voting is not allowed after conviction of a felony or misdemeanor connected with the right of suffrage.

****In New Hampshire, felons who are no longer confined to jail or prison may reregister, but may be asked to show discharge papers. Voting rights can never be restored for people convicted of certain election crimes.

4: Non-Precinct Voting

Questions C1 through C4 focused on non-precinct voting, including in-person early ballots and mail-in ballots. The results are summarized below and in Table 4.

Mail-in voting (C2). Twenty-five States indicated that they require an “excuse” (such as expecting to be out of town) to request a mail-in ballot. Twenty-three States indicated they do not require an excuse, but allow any person to cast a mail-in ballot who so desires.

In-person early voting (C3). Twenty-six States indicated they allow in-person early voting (defined as casting a no-excuse, in-person ballot prior to Election Day). Some of these States referred to the practice as early voting, while others referred to it as in-person early voting or by some other term. Six States indicated they permit in-person early voting under their absentee voting laws, but only with an excuse. The rest of the States indicated they do not have early voting of any kind. It is possible that some of these States have early voting in the form of in-person absentee voting for people with a sufficient excuse, but did not consider this to be “early voting.”

Early/mail-in counting location (C1a). Eight States indicated that they count all early and mail-in ballots in the precincts themselves, while 21 States indicated central count for all these ballots. The remainder of the States indicated one of three things: 1) that mail-ins are counted with one method and in-person ballots the other, 2) that it depends on the type of technology used, or 3) that the question varies based on local practice.

It is possible that not all jurisdictions understood these questions (C1b, C1c, and C3) in the same way. The questions asked whether ballots were “counted” or “tabulated” centrally or in precincts, seeming to use these terms interchangeably. It is possible that some jurisdictions understood “counting” to mean the process of actually inserting a ballot into an optical scanner, while others understood it to mean compiling results of multiple machines off memory cards and aggregating the results.

Redirection of central count ballots (C1b). Question C1b of the survey asked whether jurisdictions divide centrally counted ballots down to the precinct level for accounting purposes, rather than just counting them at the jurisdictional level. Twenty jurisdictions that do at least some central counting indicated that they do indeed track information at the precinct level, while 10 indicated they do not. The rest of the States either do not count ballots centrally, leave the decision to “redirect” up to each local jurisdiction, or did not answer the question satisfactorily.

Counting UOCAVA ballots (C1d). The survey asked States to indicate how they *count* and *report* UOCAVA ballots. While States did answer this question, they generally did so in an abbreviated way, and did not give distinct answers to the two parts of the question (counting versus reporting). The result is that most States indicated they count UOCAVA ballots the “same” as other types of ballots (generally the same as absentee ballots), but there is no indication of what exactly this means. One interpretation is that if absentees are *counted* centrally, then UOCAVA ballots are, too. Another interpretation is that if absentee ballots are accounted for in a separate column when precinct, county, and statewide results are *reported*, then that column represents not only regular absentee ballots, but also UOCAVA ballots (the totals are merged). Another interpretation is that if absentee ballots are accounted for in a separate column, then UOCAVA ballots are reported in another separate column and *not* merged with regular absentees. The States’ responses are summarized in the final column of Table 4.

All vote-by-mail (C4). Question C4 of the survey asked respondents to describe whether any all vote-by-mail (AVBM) elections are conducted in their States. Only 12 States indicated that sometimes AVBM elections are permitted to occur, and the rest indicated AVBM is not allowed or at least not practiced anywhere in the State. Oregon conducts all elections by mail, and Washington conducts all of them by mail except in King (Seattle) and Pierce (Tacoma) counties.¹² States that sometimes conduct AVBM elections are Arizona, California, Colorado, Hawaii, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, and Utah. While most States that sometimes conduct AVBM elections did not give any further details as to their procedures for doing so, a few did. For example, Colorado indicated that AVBM elections can only be conducted in off-year (non-Federal) elections, although counties can designate specific precincts to be vote-by-mail in any election. Kansas and Missouri

¹² Since Washington responded to the Statutory Overview, King County has adopted all vote-by-mail elections.

indicated AVBM can only be used in issue-only elections. Idaho, Minnesota, and Nebraska indicated that AVBM is used only in very small municipalities or on a precinct-by-precinct basis for very small precincts.

Table 4: Non-Precinct Voting

	Mail-in voting—excuse required?	In-person early voting	Early/mail-in counting location	Central ballots redirected?	UOCAVA reporting methods	Term for mail-in voting	Term for in-person early voting
Alabama	Yes	Only w/excuse	Precinct	N/A	Same as absentees	Absentee	Absentee*****
Alaska	No	Yes	Central	No	Same as absentees	Absentee	Early voting and in person voting
American Samoa	Yes	Only w/excuse	Central	Yes	Depends on race	Absentee	Early voting*****
Arizona	No	Local officials decide	Central	Yes	Same as early votes	Early voting	Early voting
Arkansas	Yes	Yes	Central	Yes	Same as absentees	Absentee	Early voting
California	No	Yes	Central*	Yes	?	Vote-by-mail	Vote-by-mail
Colorado	No	Yes	Depends**	Yes	Same as absentees/not reported separately	Mail-in	Early voting
Connecticut	Yes	No	Precinct	N/A	Reported separately by precinct	Absentee	N/A
Delaware	Yes	Only w/excuse	Central	Yes	“The same”	Absentee	Absentee*****
DC	Yes	No	Central	Yes	?	Absentee	N/A
Florida	No	Yes	Precinct/central	Yes	Central count/not reported separately	Absentee	Early voting
Hawaii	No	Yes	Precinct/central	No	Same as absentees	Absentee	Absentee
Idaho	No	Yes	Depends***	Yes	Same as absentees	Absentee	Absentee
Illinois	Yes	Yes	Depends****	Yes	Central count	Absentee	Early voting
Indiana	Yes*****	Yes	Local officials decide	Yes	Same as other ballots/reported separately	Absentee	Absentee
Iowa	No	Yes	Central	Yes	Same as absentees/not reported separately	Absentee	Absentee
Kansas	No	Yes	Central	Local officials decide	Not reported separately	Advance voting	In-person advance voting
Kentucky	Yes	No	Central	?	Same as	Absentee	N/A

					absentees		
Louisiana	Yes	Yes	Central	Yes	Same as absentees	Absentee by mail	Early voting
Maryland	Yes	Only w/excuse	Central	No	Same as absentees	Absentee	Absentee*****
Massachusetts	Yes	No	Precinct	N/A	Same as absentees	Absentee	N/A
Michigan	Yes	No	Local officials decide	N/A	Same as absentees	Absentee	N/A
Minnesota	Yes	No	Local officials decide (mostly precinct)	Yes	Precinct count	Absentee	N/A
Mississippi	No info	No	Central	Yes	Same as absentees	Absentee	N/A
Missouri	Yes	No	Central	Local officials decide	Same as absentees	Absentee	In-person absentee*****
Montana	No	Yes	Local officials decide	No	Same as absentees/not reported separately	Absentee	Absentee
Nebraska	No	Yes	Central	No	Reported separately	Early voting	Early voting
Nevada	No	Yes	Central	No	Same as absentees	Absentee	Early voting
New Hampshire	Yes	No	Precinct	No	Same as absentees	Absentee	N/A
New York	Yes	No	Local officials decide	Yes	Same as absentees	Absentee	N/A
North Carolina	No	Yes	Precinct/central	?	Same as absentees	Absentee	One-stop absentee voting
North Dakota	No	Yes	County officials decide	Yes	Same as absentees	Absentee	Early voting
Ohio	No	Yes	Central	Varies by county	Same as absentees	Absentee	Absentee
Oklahoma	No	Yes	Central	No, except for provisionals	Same as absentees	Absentee	In-person absentee
Oregon	No	No	Central	Local officials decide how to report	Counted the same as other ballots	Vote by mail	N/A
Pennsylvania	Yes	No	Depends***	Yes	Same as absentees, unless late	Absentee	N/A
Puerto Rico	Yes	No	Depends	?	Same as absentees	Absentee	N/A
Rhode Island	Yes	No	Precinct	N/A	?	Vote by mail	N/A
South Carolina	Yes	No	Central	No	Same as absentees	Absentee	N/A
South Dakota	No	Yes	Central	Yes	Same as absentees	Absentee	In-person absentee
Texas	Yes	Yes	Depends*****	Yes	Same as early voting	Early voting by	Early voting

						mail	
Utah	No	Yes	Local officials decide	Yes	Same as absentees/reported separately	Absentee	Early voting
Vermont	No	Yes	Precinct	Yes (only applies to vote-by-phone ballots)	Same as absentees/not reported separately	Early or absentee voting	Early or absentee voting
Virgin Islands	Yes	No	Central	No	Same as other ballots	Absentee	N/A
Virginia	Yes	Only w/excuse	Local officials decide	No	Same as absentees	Absentee	Absentee voting*****
Washington	No	No	Central	?	Same as absentees/reported separately where possible	Absentee	N/A
West Virginia	Yes	Yes	Depends***	Yes	Same as absentees	Absentee	Early voting
Wisconsin	No	Yes	Depends***	?	Same as absentees/reported separately	Absentee	Absentee
Wyoming	No	No	Precinct	N/A	Same as absentees	Absentee	N/A

(Note: a “?” in a table entry means that the State’s response was either unclear or missing, or could not otherwise be succinctly summarized.)

*Five California counties tabulate early voting ballots at the satellite early voting location.

**Early and absentee ballots are counted centrally, while ballots cast at Election Day vote centers may be counted in precincts, at the option of local officials. Provisional ballots are counted centrally. In Colorado, for Federal elections, early and mail-in ballot results are reported at the precinct level, while UOCAVA ballots are counted as part of the larger mail-in ballot results.

***Whether early and mail-in votes are counted centrally or in precincts depends on the type of voting system used in the jurisdiction.

****Vote center ballots cast on Election Day are counted in the precinct. Early and mail-in votes are counted centrally.

*****An excuse is required to cast a mail-in ballot, but not an in-person absentee.

*****Texas indicated that in local elections, “sometimes” early voting ballots are counted in the precinct, but in Federal elections early voting by mail ballots are always counted at a central location.

*****Denotes a type of in-person early voting that can occur only with an excuse.

5: Provisional Voting

Triggers for provisional voting (C5). Table 5 identifies whether States require voters to cast a provisional rather than a regular ballot in various situations. The most common is when the voter’s name is not in the poll book, followed closely by when the voter fails to present sufficient ID. It was not feasible to capture in tabular form every possible reason that a voter might have to cast a provisional ballot because there are too many. In fact, many States did not indicate that they require provisional voting in situations where it is very likely that they actually do (e.g., voter’s name not in poll book, successful polling place challenge to eligibility, court-ordered extension of polling hours). For this reason, the chart only indicates the situations in which jurisdictions have affirmatively indicated that they require provisional voting, and otherwise

leaves the cell blank to indicate that the State did not provide information on this point.¹³ This may be an area for further study. States with an asterisk next to their names indicated additional reasons a voter may be required to cast a provisional ballot, most typically in the case of a primary election where a voter attempts to vote for candidates of a party of which he or she is not currently a member.

It is noteworthy that the States that identify in the most detail the potential reasons for provisional voting—Florida and Ohio—are traditional “battleground” States where election procedures are scrutinized and lawsuits often filed. It may be that a history of conflict motivates legislatures and other players to create provisional voting laws that are more detailed to reduce ambiguity and the possibility for conflict.

Standards for counting provisional ballots (C6). Question C6 asked States to indicate whether they count provisional ballots cast in the wrong precinct. Twenty-six States indicated that they categorically do not count provisional ballots cast in the wrong precinct. Eleven States indicated they count provisional ballots cast in the wrong precinct as long as they are cast in the correct county, parish, municipality, or other relevant district. Presumably this means the only votes that will count will be the ones for which the voter was eligible to vote, but 6 of these 10 States did not mention this issue in their responses. Seven States indicated that they will count at least part of provisional ballots cast in the wrong precinct as long as they are cast somewhere in the State (meaning they will count some races but not others). Colorado and New York have unique rules on the wrong precinct issue, and Idaho, Minnesota, New Hampshire, North Dakota, and Wisconsin indicated they either do not issue provisional ballots at all or do not issue them to voters in the wrong precinct. Future questionnaires may benefit from asking more specific questions regarding the provisional counting process.

Table 5: Provisional Voting

	Triggers that require provisional voting								Counted if cast in wrong precinct?
	Not in poll book	Inactive voter	COA	Name change	Chngd	No ID	Poll extend. ¹⁴	Rqst. Abs	
Alabama	X				X	X		X	County-based
Alaska	X	X	X	X	X	X			Partial
American Samoa*	X								No
Arizona	X		Only w/in same county	X					County-based
Arkansas	X				X	X		X	No
California	X		Only w/in same county				X	X	Partial

¹³ For example, Iowa reported that provisional ballots are required under certain conditions if a voter is not able to provide additional ID or find another registered voter in the precinct to vouch for their identity and residency.

¹⁴ Under HAVA, 42 USC 15482(c), provisional ballots are required to be issued during extended polling place hours. Some state statutes also require provisional ballots during this time.

Colorado	X					X		X	Depends**
Connecticut	X				X		X		No
Delaware									No
DC									No
Florida*	X		X	X	X	X		X	No
Hawaii	X								No
Idaho	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Illinois	X				X	X		X	No
Indiana						X		X	No
Iowa					X		X		No
Kansas*	X		X		X	X		X	Partial
Kentucky	X					X		X	No
Louisiana	X								Parish-based/partial
Maryland*	X		X		X	X	X	X	District-based/partial
Massachusetts*	X					X		X	Muni-based/partial
Michigan*	X					X			No
Minnesota	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mississippi*	X								No
Missouri	X								No
Montana*	X				X	X			No
Nebraska	X		X if outside precinct			X	X	X	No
Nevada	X					X	X	X	No
New Hampshire	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
New York*	X		X			X			Counted in split precincts only*****
North Carolina	X								Partial
North Dakota									N/A****
Ohio*	X	N/A	X	X	X	X		X	No
Oklahoma*	X					X			No
Oregon	X					X	N/A	N/A	Partial
Pennsylvania	X				X	X		X	County-based/partial
Puerto Rico	X								Partial
Rhode Island	X				X				Fed. votes only
South Carolina					X				No
South Dakota	X				X				No
Texas	X					X		X	No
Utah	X				X	X			Depends*****
Vermont*									No
Virgin Islands*	X								?
Virginia	X					X		X	No
Washington*	X					X		X	Partial
West Virginia*	X								No
Wisconsin	N/A					X			N/A*****
Wyoming	X				X				No

(Note: N/A=“not applicable.”)

*These States indicated additional reasons that one might be required to cast a provisional ballot.

**Colorado has detailed rules concerning whether provisional votes cast in the wrong precinct will be counted. See Colorado Revised Statutes §§ 1-8.5-107, 1-8.5-108, 1-8.5-109.

***In Louisiana, votes cast in the wrong precinct but in the correct parish will be counted for those races in which the voter was eligible. However, no votes cast outside the correct parish will be counted.

****North Dakota does not have voter registration.

*****Utah will count a provisional ballot cast by a voter in a precinct other than the precinct of registration if the voter provides ID showing residence in the new precinct. Otherwise, the ballot will not count.

*****Wisconsin will not issue provisional ballots to voters who appear in the wrong polling place.

*****A split precinct is a combined polling place that serves voters of more than one precinct.

6: Voter Identification

The survey asked about identification requirements for four categories of voting activities: [1] registration, [2] in-person voting, [3] mail-in voting, and [4] UOCAVA voting. Table 6 illustrates(?) the responses to these four questions, showing considerable variation on whether ID is required and what forms of ID are accepted.

All States but one indicated that they require ID of first-time voters who register by mail, pursuant to HAVA.¹⁵ Voters are exempt from this requirement, however, if their registration information can be matched against information maintained by the State department of motor vehicles or the Federal Social Security Administration. Because this requirement is uniform, the table ignores this issue to focus on more general ID requirements applicable to all voters. This means that, when a cell in the table indicates that no ID is required, what it really means is that no ID is required beyond the minimum required of all States by HAVA.

Registration ID (D2a). Nineteen States indicated that they require ID of individuals registering to vote. The other States either do not require ID at this time or did not provide sufficient information. Note that 11 of the 19 States do not require an actual ID document, but will accept simple provision of a driver's license number, Social Security number, or other identification number. In fact, it is likely that many additional States require provision of these numbers, but they did not mention it because they did not interpret the question to call for it. None of the jurisdictions require photo ID for registration, although the Virgin Islands requires official documents such as driver's license, birth certificates, or naturalization certificates.

One important question that remains unanswered is what these States mean when they indicate that these various forms of ID are "required." The term suggests that those who do not supply sufficient ID will not be registered, but that is not necessarily the case. In New York, for example, although ID is "required" for registration, the registrant has the option of presenting ID later, at the time of voting. This is similar to the system under HAVA, which gives voters this option, except that New York requires all registrants to provide ID, not just first-time mail-in registrants. Alaska has a similar system, and it is likely that other States will register voters even though they do not present the "required" ID at the time of registration.

¹⁵ Oregon officials believe they are exempt from this requirement of HAVA because of their all vote-by-mail voting system. See "Drop sites bulge with ballots," *Oregonian*, Nov. 2, 2004.

In-person ID (D2b). Twenty-four of the 49 responding States indicated that they require some form of ID beyond mere provision of signature or oral self-identification at the time of voting. Only two of these jurisdictions—Florida and Indiana—said that they require photo ID of all voters (Louisiana, Michigan, and South Dakota have a photo ID requirement that is waived upon signing an affidavit of eligibility). Puerto Rico indicated it requires presentation of an Electoral Identification Card prior to all in-person voting.

The remaining 18 States require some form of non-photo voter identification. One of the most common ID requirements is similar to that of HAVA, requiring voters to show one of the following: current and valid photo identification, current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. HAVA requires one of these forms of ID at the time of voting from unverified first-time mail-in registrants, but many States that require ID of *all* voters use a similar list. The notation “standard HAVA ID” is included to describe these States (although in some cases the State requirement predates the passage of the Federal law).

As with registration ID, an important and unanswered question is what States really mean when they claim that ID is “required” at the time of voting—in other words, what are the consequences of failure to present acceptable ID? For example, Ohio “requires” standard HAVA ID at the time of voting from all voters for them to cast a regular ballot. However, the voter can still cast a provisional ballot without ID, and under Ohio law it will be counted without any further follow-up from the voter as long as the driver’s license number or SSN-4 contained on the provisional ballot paperwork matches with that on file. This stands in stark contrast to systems in many States, where provisional ballots cast by voters without ID will not be counted unless the voter returns with ID within a time period specified by law.

Another question is whether and to what extent States have ID rules that apply only in special circumstances. New York indicated that it generally does not require ID, but does require documentary ID of voters who have been marked as inactive in the VRD. Massachusetts indicated a similar system, and also indicated that it requires ID of those who claim at the time of registration to have been issued neither a driver’s license number nor Social Security number. It is possible that such wrinkles exist in other States, but were not mentioned.

Mail-in voting ID (D2c). The overwhelming majority of jurisdictions do not require any ID beyond a signature to cast a mail-in ballot. Alabama and Arkansas require documentary ID. Virginia also asks for documentary ID, although voters can get out of this requirement by signing a sworn affidavit. Missouri and Oklahoma require mail-in ballots to be notarized. South Dakota gives voters the option of notarization or presentation of documentary ID. Wisconsin requires the signature of a witness who observed casting of the ballot. Louisiana requires the signature of two witnesses who observed the casting of the ballot (one under the Special Handicap Program). The rest of the States only require ID of small segments of mail-in voters or allow provision of non-documentary ID such as driver’s license or the last four digits of the Social Security number.¹⁶

¹⁶ This section refers only to the ID required for voting; some states, such as Oregon, do not require ID for voting but do require it to register to vote.

UOCAVA ID (D2d). The forms of ID required of overseas and uniformed services voters are listed in column 5. Only a few States—Alaska, Maryland, Minnesota, Ohio, Utah, Vermont, Virginia, and Wisconsin—require any forms of ID at all. Where ID is required, it is typically required only for certain groups (e.g., first-time voters). In Ohio, ID is not required for those registering or requesting a ballot using the Federal post card application, although those registering or requesting a ballot by other means must comply with the State’s ID requirements. UOCAVA voters must complete and return an absentee ballot envelope, which requires ID information.

One variation that emerged is whether States apply HAVA’s ID requirement for unverified first-time mail-in registrants to UOCAVA voters. Nevada interprets UOCAVA voters who register to vote by mail to be exempt from this requirement. On the other hand, Maryland, Vermont, West Virginia, and Wyoming specifically indicated that they do require HAVA ID of first-time UOCAVA voters. It is not clear whether other States do the same, but simply did not mention it in their response.

Table 6: Voter Identification¹⁷

	Registration ID	In-person ID	Mail-in voting ID	UOCAVA ID
Alabama	None	Standard HAVA ID or copy required of all voters (not just first-timers)	Standard HAVA ID or copy required of all voters (not just first-timers)	None
Alaska	*State ID/DL, passport, milit. ID, hunt/fish, birth cert., current and valid photo ID	Standard HAVA ID or copy, voter registration card, birth cert., passport, hunt/fish	Witness, DL#, DOB, SSN, SSN4, voter#,	None
American Samoa	govt. ID w/ photo, birth cert., SS#, passport with SS#	govt. ID w/ photo, birth cert., SS#, passport with SS#, voter registration card	Signature only	Signature only
Arizona	State ID#/DL#, birth cert. (copy), passport (copy), naturaliz. doc or doc#, tribal ID or ID card #, others	State ID/DL, photo tribal ID or two of the following: utility bill, bank statement, vehicle registration, Indian census card, property tax statement, nonphoto tribal ID, vehicle ins. card, recorder's certificate, nonphoto gov't ID, registration card	None	None
Arkansas	None	Standard HAVA ID required of all voters (not just first-timers) or oral confirmation of name, address and DOB	Standard HAVA ID or copy required of all voters (not just first-timers)	Signature only
California	None	Provision of name and address	Signature only	Signature only
Colorado	State ID#/DL# or SSN4, unless neither of these have been issued	Standard HAVA ID, State ID, passport, gov't employee ID w/photo, pilot's license, milit. ID w/ photo,	Signature only	Signature only

¹⁷ The following acronyms are used in this table: ID (identification); DL (driver's license); DOB (date of birth); EDR (election-day registration); SSN4 (last four digits of Social Security number); SS# (Social Security number). The ID requirements listed in this table are beyond those required by HAVA, which are assumed to be followed by all the states.

		medicare/aid card, birth cert., naturaliz. cert., student ID w/photo		
Connecticut	None	Social security card, pre-printed ID w/ name and one of the following: address, signature, or photo. Sworn affidavit also accepted.	None	None
Delaware	State ID/DL, work ID w/ photo & address, "U.S. postal material"	Some ID required (unspecified). Sworn affidavit also accepted.	Signature only	Signature only
DC	None	None	None	None
Florida	Matching DL# or SSN4, unless neither of these have been issued	State ID/DL, passport, credit card, military ID, student ID, retirement center ID, neighborhood association ID, public assistance ID. All forms require signature or supplementary ID w/ signature.	Signature only	Signature only
Hawaii	None	Standard HAVA ID required of all voters (not just first-timers)	Signature only	None
Idaho	None	None	Signature only	Signature only
Illinois	None	?	Signature only	Signature only
Indiana	None	Unexpired US or Indiana photo ID with name	Signature only	Signature only
Iowa	None, except for late registration and EDR	None, except inactive voters, pending voters and EDR voters. Inactive voters must show standard HAVA ID.	Signature only	Signature only
Kansas	None	None	Signature only	Signature only
Kentucky	No info	DL, social security card, credit card, photo ID. ID also provided by personal acquaintance with poll worker.	Signature only	Signature only

Louisiana	None	State ID/DL, other photo ID w/address and signature. Sworn affidavit also accepted.	Two witness signatures (except Special Handicap Program -- one signature)	Signature & witnesses
Maryland	None	Oral provision of name, address and DOB.	None	None (except for unverified first-time mail-in registrants, who must comply with HAVA's ID requirements)
Massachusetts	?	Generally only required of inactive voters and unverified first-time mail-in registrants (including those with neither DL or SS#)	Generally only required of inactive voters and unverified first-time mail-in registrants (including those with neither DL or SS#)	None
Michigan	None	State ID/DL, gov't ID, passport, military photo ID, student ID w/photo, tribal ID w/photo. Sworn affidavit also accepted.	None	None
Minnesota	None, except for EDR	None, except for EDR voters	None, except for EDR voters	Passport #, State ID#/DL#
Mississippi	None	None	None	None
Missouri	Birth cert., tribal document, other proof of citizenship, DL or personal ID	ID issued by Missouri, US gov't, Missouri postsecondary ID, standard HAVA ID, State ID/DL from another State. Personal acquaintance of 2 poll workers also sufficient w/affidavit.	Notarization of ballot required (with unspecified exceptions)	None
Montana	State ID/DL; if none, SSN4; if neither, photo ID or HAVA ID	Standard HAVA ID (required for all voters, not just first-timers)	Signature only	Signature only
Nebraska	None	None	None	None
Nevada	State ID/DL, SSN4, standard HAVA ID	None	Signature only	Signature only. Nevada exempts from HAVA's ID provisions unverified first-time mail-in registrants who vote

				under UOCAVA.
New Hampshire	Many forms accepted. Approved photo ID preferred.	None	Signature only	Signature only
New York	**State ID/DL, SSN4, all standard HAVA ID forms accepted	Signature comparison sufficient unless poll book marked "ID required"	None	None
North Carolina	None	None	None	None
North Dakota	N/A (State does not register voters)	ID with address and DOB (including State ID/DL and tribal ID). Personal acquaintance w/poll worker or sworn affidavit also acceptable.	Signature only	Signature only
Ohio	DL#, SSN4, or a copy of any standard HAVA ID form	Standard HAVA ID, military ID	DL#, SSN4, standard HAVA ID or copy, military ID	DOB and DL#, SSN4, standard HAVA ID or copy, military ID
Oklahoma	None	None	Notarization of ballot generally required	Signature only
Oregon	DL#, SSN4; if none, signature	Signature comparison only	Signature only	Signature only
Pennsylvania	DL#, SSN4	Standard HAVA ID (required of all voters, not just first-timers) or voter registration confirmation. These forms of photo ID also acceptable: Passport, military ID, student ID, military ID.	None	None
Puerto Rico	Only for mail-in registrants	Electoral Identification Card	None (except for unverified first-time mail-in registrants, who must comply with HAVA's ID requirements)	Same as regular absentee
Rhode Island	None	None	None	None
South Carolina	SSN only	State ID/DL, voter registration card	None	None
South Dakota	DL#, SSN4	State ID/DL, Federal photo ID, passport, tribal photo ID, student	Notarization of signature or copy of voter registration card	None

		photo ID. Sworn affidavit also acceptable.		
Texas	State ID#/DL# or SSN-4, unless neither of these have been issued	Standard HAVA ID, any photo ID, birth cert., citizenship cert., passport, others	None	None
Utah	Many forms accepted	Many forms accepted	None, unless voter did not show ID at time of registration. Many forms accepted.	Same as regular absentee
Vermont	None	None	None	None (except for unverified first-time mail-in registrants, who must comply with HAVA's ID requirements)
Virginia	None	Voter registration card, social security card, State ID/DL, employee photo ID.	Voter registration card, social security card, State ID/DL, employee photo ID. Sworn affidavit also acceptable.	Same as regular absentee
Virgin Islands	Passport, birth cert., naturaliz. cert., baptismal cert., military discharge form	None	Sworn affidavit	Signature only
Washington	State ID#/DL# or SSN4. If neither of these has been issued, standard HAVA ID or tribal ID required**	Standard HAVA ID, student photo ID, tribal photo ID, voter ID card.	Only required if ID not presented at point of registration. State ID#/DL# or SSN4 acceptable. If neither of these has been issued, standard HAVA ID or tribal ID required	Signature only
West Virginia	None	None	None	None (except for unverified first-time mail-in registrants, who must comply with HAVA's ID requirements)
Wisconsin	State ID#/DL# or SSN4, unless neither of these has been issued. Additional requirements for late registration	None, except for EDR voters.	Signed witness statement. Additional requirements if late registration or EDR was used and ID not provided at	Adult US citizen must witness

	and EDR.		that time.	
Wyoming	Standard HAVA ID required by all mail-in registrants (not just first-timers)	None	None	None (except for unverified first-time mail-in registrants, who must comply with HAVA's ID requirements)

(Note: a “?” in a table entry means that the State’s response was either unclear or missing, or could not otherwise be succinctly summarized.)

*Alaska also allows the following additional forms of ID for mail-in registrants only: military earnings statement that shows Alaska residence, proof of employment in Alaska, Alaska student loan/tuition statement.

**If registrants in these States do not present acceptable ID at the time of registration, they may also do so at the time of voting. This is similar to the system under HAVA, except that HAVA requires ID only of unverified first-time mail-in registrants.

7: Post-Election Audits

About half of the responding States either require audits or have laws that enable officials to conduct audits at their discretion. Table 7 shows that States differ greatly in not only whether they conduct audits, but also in how they define an audit. Most States require 1 to 10 percent of ballots to be audited. This amount is achieved either by requiring that a percentage of ballots in each precinct be audited, or by requiring that 100 percent of ballots in a set percentage of precincts be audited. States also differ in the methods that they use to conduct an audit: Some count the ballots by running them through a tabulating machine again, while others require a hand count either of the ballots or of a paper record of votes cast electronically.

While audit scope and method seem to be relatively well defined, one area that is not as well defined is what happens when an audit indicates a discrepancy. The election codes of some States prescribe remedies for when the audit count differs too greatly from the original count. For example, in Alaska, a discrepancy of more than 1 percent between the original count and the audit count will trigger an additional manual hand recount in the affected jurisdiction. In Connecticut, a difference of more than 0.5 percent gives the Secretary of State the right to order certain ballots recanvassed. A few States have more nuanced requirements, under which a discrepancy can trigger additional audits that expand in scope until the discrepancies no longer persist (Minnesota) or significant discrepancies no longer exist (California). A few States have a general rule that simply says officials should determine the source of the error and correct it. Most States do not prescribe any consequence at all to the discovery of a discrepancy, but this may be a deliberate choice. Legislators may have decided that the information provided by the audit justifies conducting the audit, and remedies for discrepancies should be left up to the courts or other decision-makers.

Audits Required (C7). Of the 49 States that responded, 24 require audits after elections. Twenty-three do not require audits and two jurisdictions, Hawaii and Louisiana, gave no response. Some jurisdictions are not required to perform audits but have discretionary procedures in place or are developing them. Indiana conducts post-election audits as a part of the recount process. Iowa has established a Post Election Audit Task Force and is in the process of developing a procedure for audits, while Virginia law provides for a pilot program for audits that

can be used at the discretion of local election officials. Vermont law authorizes the Secretary of State to conduct random post-election audits on a discretionary basis.

Audit scope (C7). The scope of an audit for States that perform them is a set percentage of the original vote or a designated number of precincts. Table 7 shows a wide range of specific approaches within this broader approach. A few jurisdictions tailor the scope of the audit depending on the size of the county (Minnesota and Nevada) or the margin of victory (California and Oregon).

Audit method (C7). Thirteen of the 49 responding jurisdictions perform audits where they hand count some small number of ballots to confirm the accuracy of the original count. One jurisdiction, North Dakota, performs a machine audit. Six jurisdictions did not clearly specify their audit methods while two jurisdictions, Nevada and Washington, use both hand and machine recounting to audit the original result. Twenty-three of the jurisdictions do not perform audits and therefore did not specify a method, while eight jurisdictions may perform some type of auditing but provided no information on the method.

Table 7: Post-Election Audits

	Audits required	Audit scope	Audit method	Re-audit trigger	Re-audit scope
Alabama	No	N/A	N/A	N/A	N/A
Alaska	Yes	One precinct per district that has more than 5% of the total votes cast in the district	No info	1%	Hand recount of ballots in affected jurisdiction
American Samoa	Yes	No info	No info	No info	No info
Arizona	Yes	2% of precincts	Hand count	No info	No info
Arkansas	Yes	No info	Unclear	No info	No info
California	Yes	1% of precincts (10% if margin of victory is less than 0.5%)	Hand count	No info	10% audits escalated by additional 5% if significant discrepancies found. Escalation process repeats in 5% blocks until significant discrepancies no longer persist.
Colorado	Yes	5% of precinct-count ballots, 5% of one central count scanner/vote center, and 5% of DRE*	Unclear	No info	Officials will investigate and perform manual recounts as necessary until discrepancy eliminated.
Connecticut	Yes	10% of precincts	Hand count	0.5%	SoS will investigate and may order canvass in close

					rates.
Delaware	No	N/A	N/A	N/A	N/A
District of Columbia	Yes	No info	No info	No info	No info
Florida	Yes	2% of precincts' votes in 1 randomly selected race	Hand count	No info	No info
Hawaii	No info	No info	No info	No info	No info
Idaho	No	N/A	N/A	N/A	N/A
Illinois*	Yes	5% of precincts	Unclear		Ballots shall be retabulated and returns corrected.
Indiana	No	No info	N/A	N/A	N/A
Iowa	No	N/A	N/A	N/A	N/A
Kansas	No	N/A	N/A	N/A	N/A
Kentucky	No	N/A	Unclear	N/A	Voting machines are checked and ballots are recanvassed.
Louisiana	No	N/A	N/A	N/A	N/A
Maryland	Yes	Two audits: 10% of precincts for voting system verification and all precincts for post-election audit	Manual****	N/A	In case of discrepancy, local board required to report to the State and find cause of error, and resolve
Massachusetts	No	N/A	N/A	N/A	N/A
Michigan	No	N/A	N/A	N/A	N/A
Minnesota	Yes	Depends on county size. 2-3 precincts for smaller counties. For larger counties, 4 precincts or 3% of precincts, whichever is greater.	Hand count	0.5%	An audit of additional precincts is required if there is a discrepancy in one of the precincts. If discrepancies persist, it can lead to countywide audit, or even a statewide audit.
Mississippi	No	N/A	N/A	N/A	N/A
Missouri	Yes	At least 5% of precincts	Hand count	N/A	N/A
Montana	No	N/A	N/A	N/A	N/A
Nebraska	No	No info	N/A	N/A	N/A
Nevada	Yes	Depends on county size; 2-3% of precincts	Both	No info	No info
New Hampshire	No	N/A	N/A	N/A	N/A
New York	Yes	3% of machines	Hand count	No info	No info
North Carolina	Yes	No info	No info	No info	No info
North Dakota	Yes	1 precinct in each county	Machine	If the machines do not return	Cause of error must be determined and corrected if possible

				the expected results	and must contact Secretary of State if tabulation discrepancy is found.
Ohio***	No	N/A	N/A	N/A	N/A
Oklahoma	No	N/A	N/A	N/A	N/A
Oregon	Yes	Depends on margin of victory; 10%, 5%, or 3% of ballots	Hand count	0.5%	Second hand count of same ballots
Pennsylvania	Yes	In each precinct, fewer of 2% of the ballots or 2,000 ballots	No info	No info	No info
Puerto Rico	No	N/A	N/A	N/A	N/A
Rhode Island	No	N/A	N/A	N/A	N/A
South Carolina	No	No info	N/A	N/A	N/A
South Dakota	No	N/A	N/A	N/A	N/A
Texas	Yes	1% of precincts or 3 precincts, whichever is greater	Hand count	No info	No info
Utah	Yes	1% of DRE* and PCOS** machines statewide	Hand count	No info	No info
Vermont	No	Discretion of the Secretary of State	Hand count	No info	No info
Virgin Islands	No	N/A	N/A	N/A	N/A
Virginia	No	1 or more optical scan tabulators in 1 or more precincts in 1 or more localities (discretionary)	Unclear	N/A	N/A
Washington	Yes	4% of the DRE's* or 1 DRE per jurisdiction, whichever is greater	Combination	No info	No info
West Virginia	Yes	2% of ballots	Hand count	1%	Entire jurisdiction must be recounted.
Wisconsin	Yes	50 jurisdictions	Hand count	Any difference	Voting machine must explain discrepancy or face suspension of voting system.
Wyoming	No	N/A	N/A	N/A	N/A

*DRE refers to “direct recording electronic” voting machines, most typically touchscreens.

**PCOS refers to “precinct count optical scan” voting machines, where completed ballots are fed into an optical scanner in the precinct where they are voted.

***Ohio law does not require audits, but in 2008 the Secretary of State required boards of election to conduct audits of the Presidential election. It is anticipated that post-election audits will be required in the future.

***Maryland reports that its voting system verification audit is a “manual verification of the results from the voting units compared with the results from the central database,” and the post-election audit is a “manual audit of polling place documents to reconcile turnout with votes cast.”

8: Polling Place Operations

The Statutory Overview asked States to describe any requirements for poll worker training and access for elections observers to the polls. In both of these areas, responses varied widely. With respect to poll worker training, some jurisdictions require training of all poll workers before every election, while others do not require training at all. With respect to observers, most States allow observers to be appointed to polling places by local political parties, but access for individuals not appointed by political parties is limited. Seven States allow any member of the public to observe. A handful of other States allow observers only at the discretion of elections officials. Puerto Rico and West Virginia stated they do not allow observers at all.

Frequency of poll worker training (C8). The frequency of poll worker training varies from State to State and in some cases from locality to locality. Seventeen of the 49 States that responded train their poll workers before each election. Three States—Arkansas, Colorado, and Missouri—train their poll workers annually. Six States train poll workers every 2 years, while one State, Mississippi, trains them every 4 years. Seven States do not require training, but do not prohibit local election administrators from conducting it. Three of these States—California, Kansas, and Pennsylvania—indicated that State officials issue guidance on the voluntary training (California requires training before elections of its polling place (chief) inspectors).

Which poll workers are trained (C8). Twenty-seven States train all of their poll workers, while four train only the chief poll workers. One State, Virginia, trains the chief and assistant chief poll workers, but no others. Arkansas requires that only one poll worker per polling place receives training. California (which requires training of its chief inspector), Kansas, and Pennsylvania leave the decision up to local officials. Eight States have no requirements for poll worker training, although locals may perform training at their discretion. Oregon has no need for Election Day poll workers in its vote-by-mail elections. Five States did not specify in their answers who must be trained. In the three States that leave poll worker training to local discretion, respondents indicated that State officials issue guidance on such training.

Observers (D3). Of the 49 States that responded, 42 expressly allow observers at the polls. Twenty-seven allow some number of observers who must be appointed by a party, candidate, advocacy group, or ballot issue group. One of these, Iowa, allows challengers from each party but reserves the term “observer” to describe representatives of non-party political groups and nonpartisan candidates. Eight allow any member of the public to observe. Five States allow observers, but did not provide details on how many are allowed or any limits on access. One State, Oregon, does not have polling places, but allows observers at ballot processing offices in numbers determined by the counties.

Seven of the responding States either do not allow observers or failed to indicate that they do. Only two respondents, Puerto Rico and West Virginia, clearly stated that they do not allow observers at all. Two States, Delaware and Minnesota, specified that they allow challengers at the polls but did not mention observers in their answers (the difference between challengers and observers is that challengers may question a voter’s eligibility to vote, while observers generally must remain passive). It is unclear whether Nebraska allows observers at the polls during actual voting, but nonpartisan observers may watch the counting of ballots. Two jurisdictions, American Samoa and Kansas, leave it to the discretion of local officials whether to allow observers.

Table 8: Polling Place Operations

	Frequency of training required	Who is required to be trained	Number of observers allowed	Authorization to be observer
Alabama	Before each election	All	One per political party	Must be appointed by political party
Alaska	Every 2 years	All	One per political party	Must be appointed by political party, candidate, or issue group
American Samoa	No info	No info	Local discretion	Permission from “Chief Election Officer”
Arizona	Before each election	All	One per political party	Must be appointed by political party
Arkansas	Annually	One worker per polling place	No limit specified	No info
California	Annually	Polling place inspectors	No limit specified	Open to public as long as rules are obeyed
Colorado	Annually	All	One per party or issue	Must be appointed by political party chairperson, candidate, or issue group
Connecticut	Before each election	All	No limit specified	Must be requested by candidate
Delaware	Before each election	All	Challengers allowed - one per party on ballot	Must be appointed by political party
District of Columbia	Before each election	All	No limit specified	Must be requested by candidate
Florida	Before each election	All	One per political party, candidate, or issue position	Must be appointed by political party chairperson, candidate, or issue group
Hawaii	No info	All	One per political party	Must be appointed by political party
Idaho	Before each election	All	One per political party, candidate, or issue position	Must be appointed by political party chairperson, candidate, or issue

				group
Illinois	No State requirement	No State requirement	Two per political party or candidate and one per group	No info
Indiana	Before each election	Chief poll workers only	No limit specified	No info but observers are allowed
Iowa	Before each election	All	One per non-party political group and per non-partisan candidate; Challengers also allowed - up to 3 per political party	Observers must be appointed by the groups or candidates Challengers must be appointed by political party
Kansas	Local discretion	Local discretion	Local discretion	Local discretion
Kentucky	Before each election	All	Two per political party	Must be appointed by candidate groups from party
Louisiana	Before each election	All	One per candidate or issue for each precinct	Must file with Clerk of Court
Maryland	Before presidential and gubernatorial primaries, and before the general election	All	No limit specified, but poll workers may limit under certain circumstances	Must be appointed by respective groups
Massachusetts	No State requirement	No State requirement	No limit specified	Observers are allowed
Michigan	Every 2 years	All	Unlimited	Open to public*
Minnesota	Before each election	All	Challengers allowed	N/A
Mississippi	Every 4 years	All	No limit specified	No info but observers are allowed
Missouri	At least annually	All poll workers	No limit specified	Unclear but observers are allowed
Montana	Every 2 years	All	One per political party; more from candidates and groups if space	Permission by election administrator
Nebraska	Before each election	No info	One party-appointed observer. Unlimited nonpartisan observers at officials' discretion	Must be appointed by political party
Nevada	Before each election	Members of election board	Any person – no limit specified	Must sign form swearing to obey rules
New Hampshire	No State requirement	No State requirement	Open to public	Open to public
New York	Annually	All	No limit specified	Must be appointed

				by political party or candidate
North Carolina	No info	No info	No limit specified	Must be appointed by political party
North Dakota	Before each election	All	One per political party	Must be appointed by political party
Ohio	Every three years	All (presiding judges every two years)	One per political party or candidate group. Issue committees can appoint up to 6.	Must be appointed by political party, candidate group, or issue committee
Oklahoma	Every 2 years	All	One per candidate and political party	Unclear – must be “commissioned in writing”
Oregon	N/A	N/A	No polling places – Number allowed at ballot processing office determined by counties	Anyone may be an observer; no specific authorization needed
Pennsylvania	Local discretion	Local discretion	No limit specified	Must be appointed by political parties or candidates
Puerto Rico	Unclear	Unclear	None	N/A
Rhode Island	No info	All	No limit specified	Open to public; must sign form swearing to obey rules
South Carolina	One time	All	Watchers – Two per party for every 1,000 registered voters; at primaries and in non-partisan races, candidates can have watchers, too Public observers - No limit except space constraints	Open to public
South Dakota	Before each election	Chief poll workers only	No limit	Open to public
Texas	No State requirement	No State requirement	No limit specified	Must be appointed by political party or candidate
Utah	No State requirement	No State requirement	Three per political party and per issue position	Must be appointed by political party or issue group
Vermont	Every 2 years	Chief poll workers only	Two per political party, candidate, or issue position	Must be appointed by political party, candidate, or issue group
Virgin Islands	Not required	No State requirement	Two per candidate at primaries; three per political party at generals	Must be appointed by candidate or political party

Virginia	Before each election	Chief poll workers + assistant chief poll workers	One per political party or independent candidate (local discretion to allow up to 3)	Must be appointed by political party or candidate
Washington	Before each election	All	No limit specified	Must be appointed by political party or other committee
West Virginia	Before each election	All	None allowed	N/A
Wisconsin	Every 2 years	All	No limit	Open to public
Wyoming	Before each election	All	No limit specified	Must be appointed by political party

* Michigan allows any interested individual to observe from the “public area” of the polling place. “Challengers,” appointed by the political parties, ballot issue groups, ballot integrity groups, and incorporated organizations can observe from the voter processing area of the polling place.

9: Other Data

Capturing under- and over-votes (D1). Question D1 of the survey asked States to identify methods used to “capture” residual votes (under- and over-votes). The responses seem to indicate that States interpreted this question in two different ways: Some States interpreted it to ask how the States collect statistical data regarding residual votes, while others interpreted it to ask whether and how States prevent residual votes from occurring in the first place.

Despite the confusion, the responses yielded some useful results. Twenty-seven States indicated that the voting technology in use in their States collects statistics regarding residual votes: Alabama, Alaska, Arkansas, Connecticut, DC, Florida, Hawaii, Idaho (in some jurisdictions), Illinois, Iowa, Maryland, Minnesota, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas (in some jurisdictions), Vermont, Washington, West Virginia (in some jurisdictions), and Wyoming. A few of these States reported that the residual voting statistics are reported on a statewide level, but most did not speak to the issue. California, Indiana, Massachusetts, Michigan, Missouri, Montana, New York (for now), North Carolina, South Carolina, Virginia, and Wisconsin specifically indicated that they do not collect residual voting statistics on a statewide level.

Arizona, Arkansas, Kansas (in some jurisdictions), Mississippi, Nevada, North Carolina, the Virgin Islands, and Wisconsin (in some jurisdictions) indicated that their voting technology prevents over-votes, and Arkansas specifically indicated that the technology there does not prevent under-votes. In Colorado, the technology for audio ballots warns the voter of both over- and under-votes before they occur. In Delaware and some parts of Kansas, the voting technology does not prevent over- or under-votes at all.

Revision of HAVA administrative complaint procedures (E1). Question E1 of the survey asked States whether they have revised their procedures to allow individuals and entities

to file complaints regarding HAVA procedures. Only four States have revised their procedures. Maryland indicated that it revised its complaint hearing procedures to give better notice of the evidence to be presented at the administrative hearing and make the proceedings more efficient and easier to administer. Montana indicated that it revised its procedures “to clarify that the presiding officer is not required to be the Secretary of State and to expand the areas of law that are covered by the complaint process while removing a requirement for a special review panel.” Virginia made minor changes to allow a designee of the State Board of Elections, rather than the Deputy Secretary of the State Board, to preside over these hearings. Washington revised its proceedings, but did not specify how. New York is still developing its procedures.

Conclusions

The decentralized nature of American election administration has created a patchwork of terms and definitions that reflect the diversity of laws and procedures in use across the country. In most of the important areas of contemporary reform, from early voting to absentee voting to balloting by overseas citizens, common understandings of terms may be shared by many States, but in almost all cases, there is no uniform definition applied. Some areas of rapid change, such as the increasing use by States of voting prior to Election Day, has led to wide divergence and overlap in terms such as “early voting” and “absentee voting.”

The information collected in the Statutory Overview portion of the 2008 Election Administration and Voting Survey will play an invaluable role in helping the EAC and its stakeholders understand the quantitative data States report in other sections of the Survey. This report will serve as a detailed guide to that database and as a reference for policymakers, advocates, journalists, and voters. Used in this way, the Statutory Overview promises to reduce the confusion and error in the quantitative portion of the Survey.

This report’s broader utility will come in the contribution it makes toward cataloguing and understanding the very different laws in place across the country. The diversity of laws and procedures reflects local customs and contexts, political histories, and voter preferences. While this flexibility allows for local control over balloting, the diversity represents a challenge both for election administrators and for voters. The descriptions above of how election laws vary across the country should serve as a reminder that more needs to be done to provide clear and accessible information to voters, particularly those changing their registration as they move from State to State. It is a safe conjecture that few voters appreciate the important ways election administration varies between States, and confusion over prevailing laws and procedures leads to voter registration problems, confusion at the polls, and lost votes.

This diversity also creates challenges for advocates, scholars, and journalists analyzing and reporting on important election reform topics. Comparisons of voting statistics across States need to be done with extreme care. This report will be a useful reference to these stakeholders, and a warning that caution should be used in making such comparisons.

It may not be necessary to ask States to complete the full Statutory Overview in every biennial survey. The Statutory Overview may be omitted, or offered in a greatly abbreviated version that would track important changes and allow for the updating of the statutory data

underlying this report. In any case, studying and understanding the diversity of American election laws will remain an important part of the EAC's role as a national clearinghouse for election data.

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help us to better understand the quantitative data relating to the 2008 general election that we are collecting from all U.S. states and territories.

We understand that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

Information Supplied By	
Name	
Title	
Office/Agency Name	
Address 1	
Address 2	
City	
State	
Zip Code	
Email Address	
Telephone (area Code and number)	
Fax Number (area code and number)	

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote
- b. Under-vote
- c. Blank ballot
- d. Void/Spoiled ballot
- e. Provisional/Challenged ballot
- f. Absentee
- g. Early voting
- h. Active Voter
- i. Inactive Voter
- j. Other terms (please specify) _____

A2. Please provide the legal citation for any **significant** changes to election laws or procedures that have been enacted or adopted since the previous Federal election. By "significant," we do not mean routine or technical changes (such as changes to election district boundaries or polling place changes). However, we would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

If your state has a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's drivers license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with using NCOA?

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

- a. Are the votes counted centrally or at the precincts?
- b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?
- c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?
- d. How are UOCAVA ballots counted and reported?

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

C7. Please describe your state's laws regarding post-election audits, if any.

C8. Please describe any state requirements for poll worker training.

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

D2. What identification does your state require from voters in the following situations:

- a. registering to vote;
- b. casting an in-person ballot;
- c. casting a mail-in or absentee vote;
- d. casting a ballot under UOCAVA;
- e. any other stage in registration or voting process in which identification is required (please specify).

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to have in place administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 3/31/09). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2008 Election Administration and Voting Survey, 1225 New York Avenue, Suite 1100, Washington, DC 20005.