

IS AMERICA READY TO VOTE?

STATE PREPARATIONS FOR

VOTING MACHINE PROBLEMS

IN 2008

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The Verified Voting Foundation is a non-partisan, non-profit organization championing reliable and publicly verifiable elections. Founded by Stanford University Computer Science Professor David Dill, the organization supports a requirement for voter-verified paper ballots (VVPBs) allowing voters to verify individual permanent records of their ballots and election officials to conduct meaningful recounts. The Verified Voting Foundation is the recognized leader of the nationwide grassroots movement for VVPBs and verifiable elections.

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METHODOLOGY

There were three steps to determining **state practices**: first, attorneys and paralegals at private law firms, Verified Voting staff, and Legal Interns and Research Associates at the Brennan Center reviewed state statutes, regulations, and directives relating to the areas of focus in this report. Second, after this research was complete, staff at all three organizations presented these initial findings to the office of the chief election official in each state to confirm that our analysis of state practice was accurate, and to ascertain any additional information relevant to this report; these exchanges were conducted by telephone and e-mail. We also contacted a representative sampling of county clerks in each state to confirm the state's policies and practices and gain further insight into the elements of voting system preparedness at the local level. Finally, once this information was synthesized into summaries, the three author-organizations sent copies of the summaries to the office of the chief election official in each state for final review. Comments from election officials were incorporated into the final draft of this report.

Recommended **best practices** were based upon actual practices in place in certain counties and states, and were developed in consultation with election officials and election experts, both in and outside the three author-organizations.

The methodology for **scoring states** on their compliance with the best practices for each of the four areas of election system preparedness is described in each section of the report; the “best prepared” and the “least prepared” states are those with the highest and the lowest scores in all four categories, respectively.

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INTRODUCTION

On November 4, 2008, some voting systems will fail in at least a few counties. Unfortunately, we cannot predict where. For this reason, every state must be as prepared as possible for system failures. Vigilance will help ensure that machinery-related problems do not interfere with the right of eligible citizens to vote, or imperil the accuracy of the vote count.

In every national election since 2000, voting systems have failed: machines won't start or fail in the middle of voting,¹ memory cards can't be read,² votes are mistallied³ or lost,⁴ and more⁵. The 2008 primaries were similarly plagued with problems. What follows is a list of just some of the more highly publicized problems:

- In the Republican presidential primary in Horry County, South Carolina, touch screen machines in 80% of precincts temporarily failed, and a number of precincts ran out of paper ballots and sent voters to cast provisional ballots at other precincts.⁶
- In Ohio's March 2008 primary, votes in at least 11 counties were "dropped" when memory cards were uploaded to computer servers due to a software flaw.⁷
- In the August 26, 2008 primary in Palm Beach County Florida, several votes in a judicial contest disappeared during a recount, then reappeared in a second and third recount, flipping the outcome to a different winner each time.⁸
- In the September 9 primary in Washington, D.C., three different counts produced three different vote totals, with thousands of "phantom votes" appearing in the first two counts.⁹

These problems come as no surprise to those who have closely studied election administration in the United States. Our elections are so complex, and involve so many jurisdictions, varying technologies, voters, poll workers, technicians and election workers, that problems are inevitable. And, as the machinery of democracy has become more complicated, the opportunity for error has substantially increased.

Today, the challenge for election jurisdictions is not how to avoid mistakes entirely. The challenge is to institute procedures that will make it possible for jurisdictions to deal appropriately with mistakes — and malfunctions — when they occur.

That is the focus of this report: In the face of election system problems such as broken machines, damaged voting system cartridges, software glitches, incorrectly programmed tally servers, and other voting system problems we have seen in the past few years, we have attempted to determine which procedures each state has adopted in order to ensure the integrity of every citizen's vote. Our essential question: In the event of voting system failures, how prepared is each state to ensure that every voter can vote and that each vote cast is counted?

This report has two purposes: First, we hope to remind jurisdictions inadequately prepared for election system failure that there are steps they can take to ensure that mechanical failures don't disenfranchise voters — in fact, many jurisdictions across the country are *already* doing these things. We urge states and counties to take steps to improve preparedness before November 4, 2008. Our long-term objective is to prompt states to look at ways to improve rules and procedures that will protect against disenfranchisement. Most jurisdictions will survive November 4th without a major system meltdown; however, eventual breakdown or mechanical trouble is inevitable.

Second, we would like this report to serve as a resource for concerned citizens and election observers on Election Day. Some states may have good written procedures, but some counties and precincts may fail to adhere to them. We've tried to make clear what election officials are and are not *obligated to do*, by statute, regulation or directive. Just as importantly, if there are problems with machines registering and counting votes, thoroughly understanding these procedures should give concerned citizens, election observers and election officials a better understanding of what may have happened.

CATEGORIES OF SYSTEM PREPAREDNESS

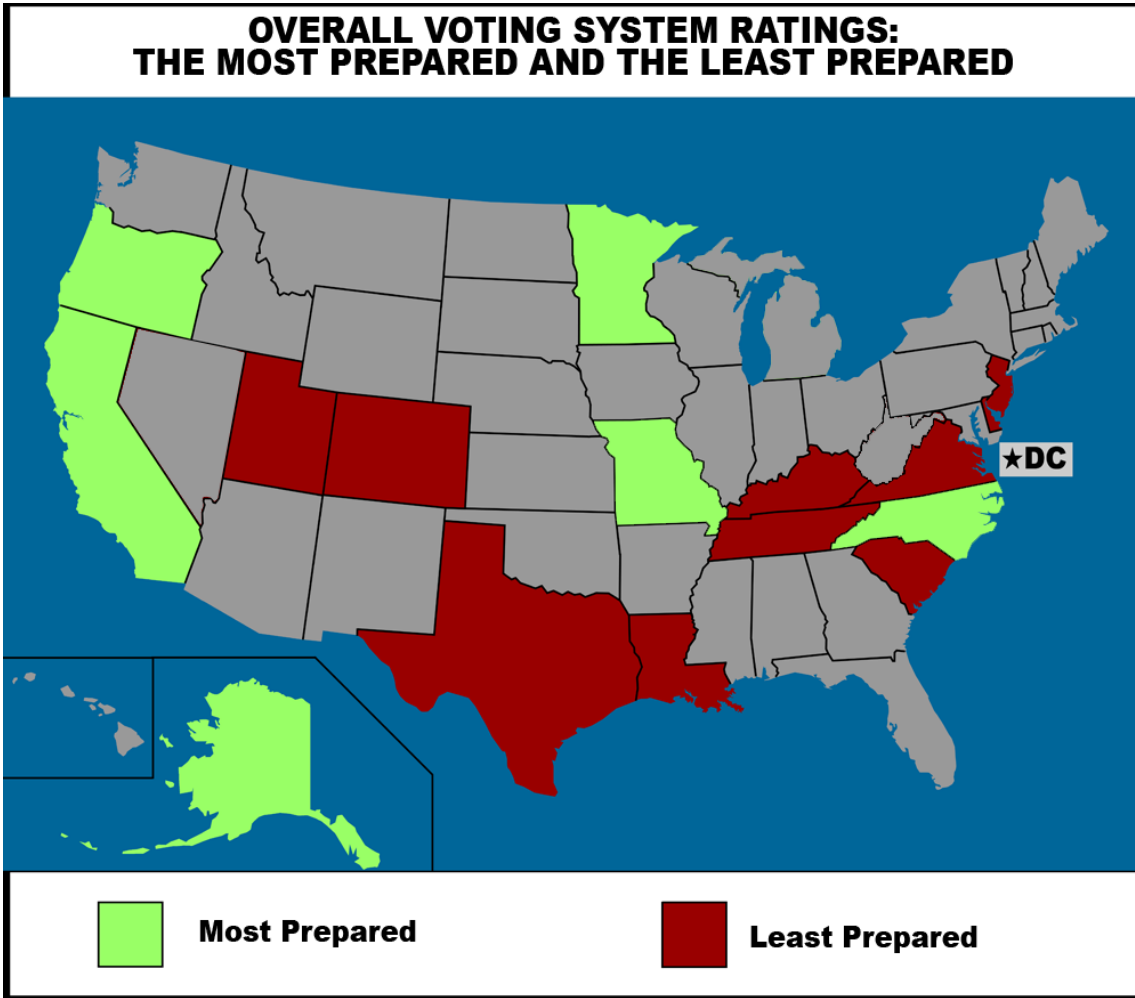
The Brennan Center for Justice at NYU School of Law, Common Cause and Verified Voting have reviewed the laws, regulations and procedures of all 50 states and the District of Columbia in four key areas related to their preparedness for voting system failures:

- **Polling Place Contingency Plans** Twenty-four states have at least some counties that use electronic voting machines or lever machines as their primary voting system on Election Day. In the remaining twenty-six states and the District of Columbia, voters in all precincts may vote on a paper ballot, which can later be read by an electronic scanner. The key difference between these machines and paper scanners is that if machines fail, as they inevitably do, voters may have to wait in long lines while election workers scramble to repair matters. If electronic scanners fail, voters can still vote on paper and their ballots can be read when the scanner is fixed, or after the polls have closed, on another scanner or by hand. The best solution to problems posed by machine failures in machine-only precincts is to repair or replace machines quickly and ensure that polling places have enough emergency paper ballots on hand to provide to voters waiting to vote.
- **Requirements for Sound Ballot Accounting and Reconciliation** Ballot accounting and reconciliation practices help ensure that the number of ballots cast matches the number of voters who have voted, and also insures that no votes are lost. Jurisdictions can catch the kinds of glitches and failures that resulted in incorrect totals in several past elections by checking the number of people who've signed in at the polls against totals reported by the voting machines; double-checking that all absentee votes are counted and that every machine's total is included in the statewide tally; and accounting for all ballots used and unused.
- **Use of a Voting System with a Voter Verifiable Paper Record** Nearly every state in the country counts its votes on some form of electronic voting system. But 19 states use machines that have no voter-verifiable paper record. Such records can be an important check to ensure that corrupt software or a programming error did not result in an incorrect machine total.
- **Conduct Post-Election Audit of Voter Verifiable Paper Record** Mandatory comparison of some percentage of the paper ballots to electronic totals is one of the best ways to ensure that the electronic totals reported by voting machines are accurate.

We measure each state against best practices — developed in consultation with leading election officials and security experts — in each of these areas. We rate each state on a five-grade scale — from inadequate to excellent — based on how well their laws and procedures match up to these best practices.

State	Polling Place Contingency Plans	Ballot Reconciliation	Paper Records	Post-Election Audits
Alabama	N/A	Needs Improvement	Good	Inadequate
Alaska	N/A	Generally Good*	Good	Good
Arizona	N/A	Generally Good*	Good	Needs Improvement
Arkansas	Generally Good*	Generally Good*	Inadequate	Inadequate
California	Excellent	Good	Good	Good
Colorado	Needs Improvement	Generally Good*	Inadequate	Needs Improvement
Connecticut	N/A	Generally Good*	Good	Needs Improvement
D.C.	N/A	Generally Good*	Inadequate	Needs Improvement
Delaware	Needs Improvement	Generally Good*	Inadequate	Inadequate
Florida	N/A	Good	Inadequate	Needs Improvement
Georgia	Good	Generally Good*	Inadequate	Inadequate
Hawaii	N/A	Good	Good	Needs Improvement
Idaho	N/A	Generally Good*	Good	Inadequate
Illinois	Good	Needs Improvement	Good	Needs Improvement
Indiana	Excellent	Generally Good*	Inadequate	Inadequate
Iowa	N/A	Good	Good	Inadequate
Kansas	Good	Good	Inadequate	Inadequate
Kentucky	Good	Needs Improvement	Inadequate	Needs Improvement
Louisiana	Needs Improvement	Generally Good*	Inadequate	Inadequate
Maine	N/A	Needs Improvement	Good	Inadequate
Maryland	Generally Good*	Generally Good*	Inadequate	Inadequate
Massachusetts	N/A	Generally Good*	Good	Inadequate
Michigan	N/A	Generally Good*	Good	Inadequate
Minnesota	N/A	Generally Good*	Good	Good
Mississippi	Good	Generally Good*	Inadequate	Inadequate
Missouri	N/A	Generally Good*	Good	Generally Good*
Montana	N/A	Generally Good*	Good	Inadequate
Nebraska	N/A	Generally Good*	Good	Inadequate
Nevada	Needs Improvement	Generally Good*	Good	Generally Good*
New Hampshire	N/A	Good	Good	Inadequate
New Jersey	Good	Needs Improvement	Inadequate	Inadequate
New Mexico	N/A	Generally Good*	Good	Needs Improvement
New York	Good	Generally Good*	Inadequate	Inadequate
North Carolina	Good	Good	Good	Generally Good*
North Dakota	N/A	Good	Good	Inadequate
Ohio	Excellent	Generally Good*	Good	Needs Improvement
Oklahoma	N/A	Generally Good*	Good	Inadequate
Oregon	N/A	Generally Good*	Good	Generally Good*
Pennsylvania	Generally Good*	Good	Inadequate	Needs Improvement
Rhode Island	N/A	Generally Good*	Good	Inadequate
South Carolina	Generally Good*	Needs Improvement	Inadequate	Inadequate
South Dakota	N/A	Generally Good*	Good	Inadequate
Tennessee	Good	Needs Improvement	Inadequate	Inadequate
Texas	Needs Improvement	Needs Improvement	Inadequate	Needs Improvement
Utah	Needs Improvement	Needs Improvement	Good	Needs Improvement
Vermont	N/A	Generally Good*	Good	Needs Improvement
Virginia	Needs Improvement	Needs Improvement	Inadequate	Inadequate
Washington	N/A	Generally Good*	Good	Needs Improvement
West Virginia	Needs Improvement	Generally Good*	Good	Good
Wisconsin	N/A	Generally Good*	Good	Generally Good*
Wyoming	N/A	Good	Good	Inadequate

Overall Voting System Preparedness: The Best Prepared and the Least Prepared



SUMMARY OF BEST PRACTICES AND STATE RATINGS

Most states have not adopted laws and procedures that would allow them to effectively address all of the most common election system meltdowns. As can be seen from the map on the previous page, six states – Alaska, California, Minnesota, Missouri, North Carolina, and Oregon — rate “generally good,” “good,” or “excellent” in a majority of the categories in which they were rated. Ten states — Colorado, Delaware, Kentucky, Louisiana, New Jersey, South Carolina, Tennessee, Texas, Utah and Virginia — rate “inadequate” or “needs improvement” in at least three of the four categories. This is not to say that all states in this list received the same score. For example, Kentucky and Utah each received one “good” score and one and zero “inadequate” scores, respectively, while Texas and Virginia received exclusively “needs improvement” and “inadequate” scores.

We have every reason to expect all fifty states to adopt all of the best practices detailed in this report; our elections are simply too important to risk another meltdown that further shakes the confidence of the American public in our democratic system. Obviously, however, some of these recommendations will have to be instituted after this November’s elections. In particular, at this late date, it is impossible for jurisdictions to change or modify their current voting systems.

Nevertheless, in the weeks before the election, there is still time for states to take several crucial measures to ensure that they are prepared for the possibility of voting system failure:

- In precincts that use voting machines, officials can ensure that there are adequate emergency paper ballots available on Election Day in the event of machine failures or long lines caused by poor machine allocation.
- Authorities can make sure that at the close of polls on election night, all polling places and county offices comply with the best practice Ballot Accounting and Reconciliation checklist listed in this report on pages 44–45 to ensure that a software malfunction or poll worker error did not leave some votes uncounted or mistallied.
- There is still time to conduct audits, after the election but before final certification of election results, to make sure that the unofficial totals reported by the machines are accurate.

Below is a summary of best practices in each of the five categories we have reviewed, as well as an analysis of how closely state requirements adhere to these best practices.

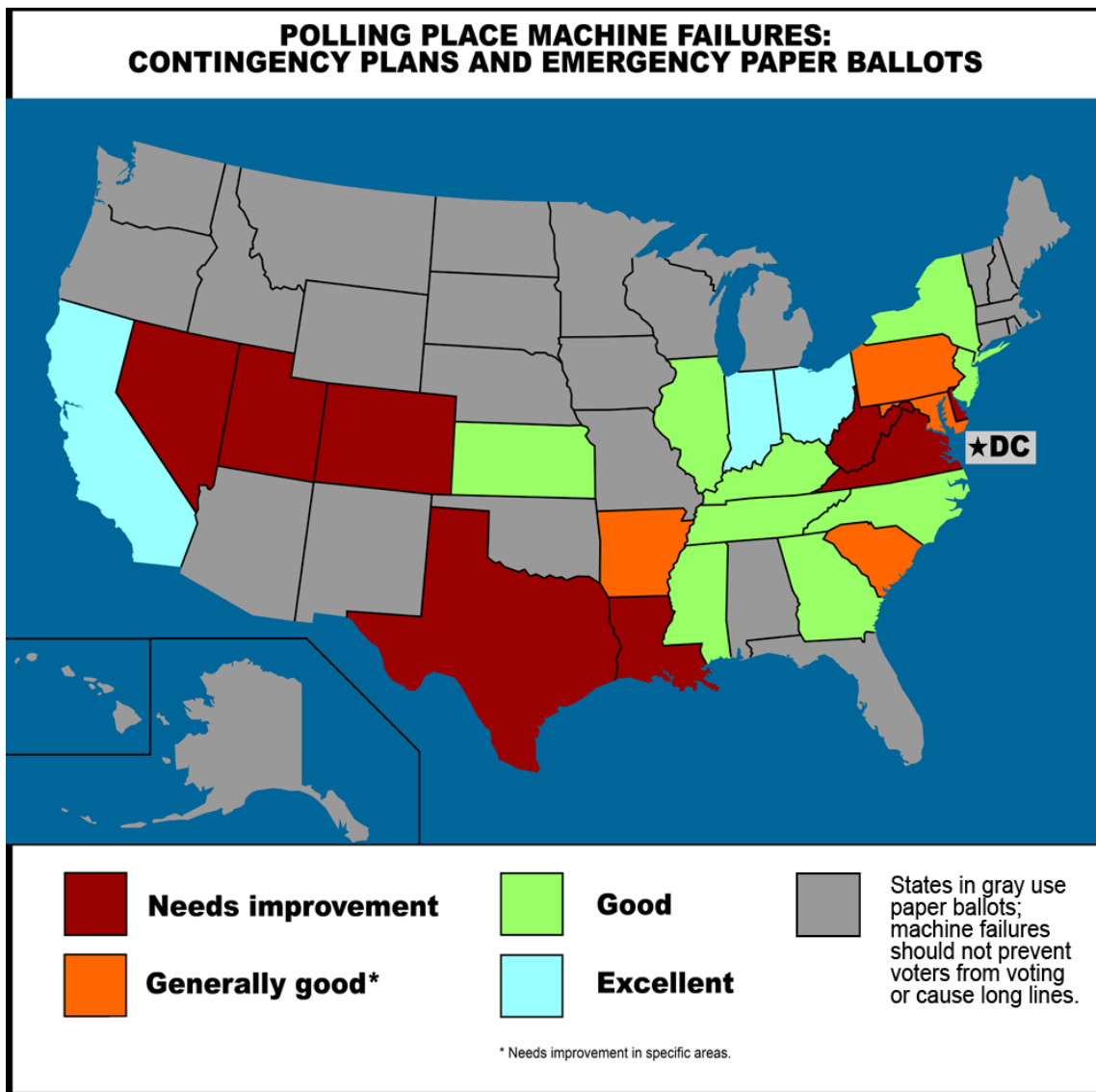
Summary of Best Practices for Polling Place Contingency Plans: Repair of Machines and Emergency Paper Ballots

States that use direct recording electronic (DRE) machines or lever machines as a primary voting system on Election Day should require immediate repair or addition of machines if *any* of them fail. Emergency paper ballots should be available at the polling place if long lines are caused by failure of any of the voting machines, or because there are not enough machines in the precinct. In developing procedures for emergency paper ballots, states

should take steps to ensure that emergency paper ballots are treated as regular ballots (rather than absentee or provisional ballots), and that there are sufficient numbers of them to distribute in the event of long lines.

State ratings on Polling Place Contingency Plans

Of the twenty-four states that use voting machines (as opposed to paper ballots and optical scanners) as a primary voting system in at least some precincts, only California, Indiana and Ohio have state-mandated requirements which satisfy most of the best practices listed above. Colorado, Delaware, Louisiana, Nevada, Texas, Utah, Virginia, and West Virginia have no state-mandated requirement for emergency paper ballots to be available in precincts that use voting machines.



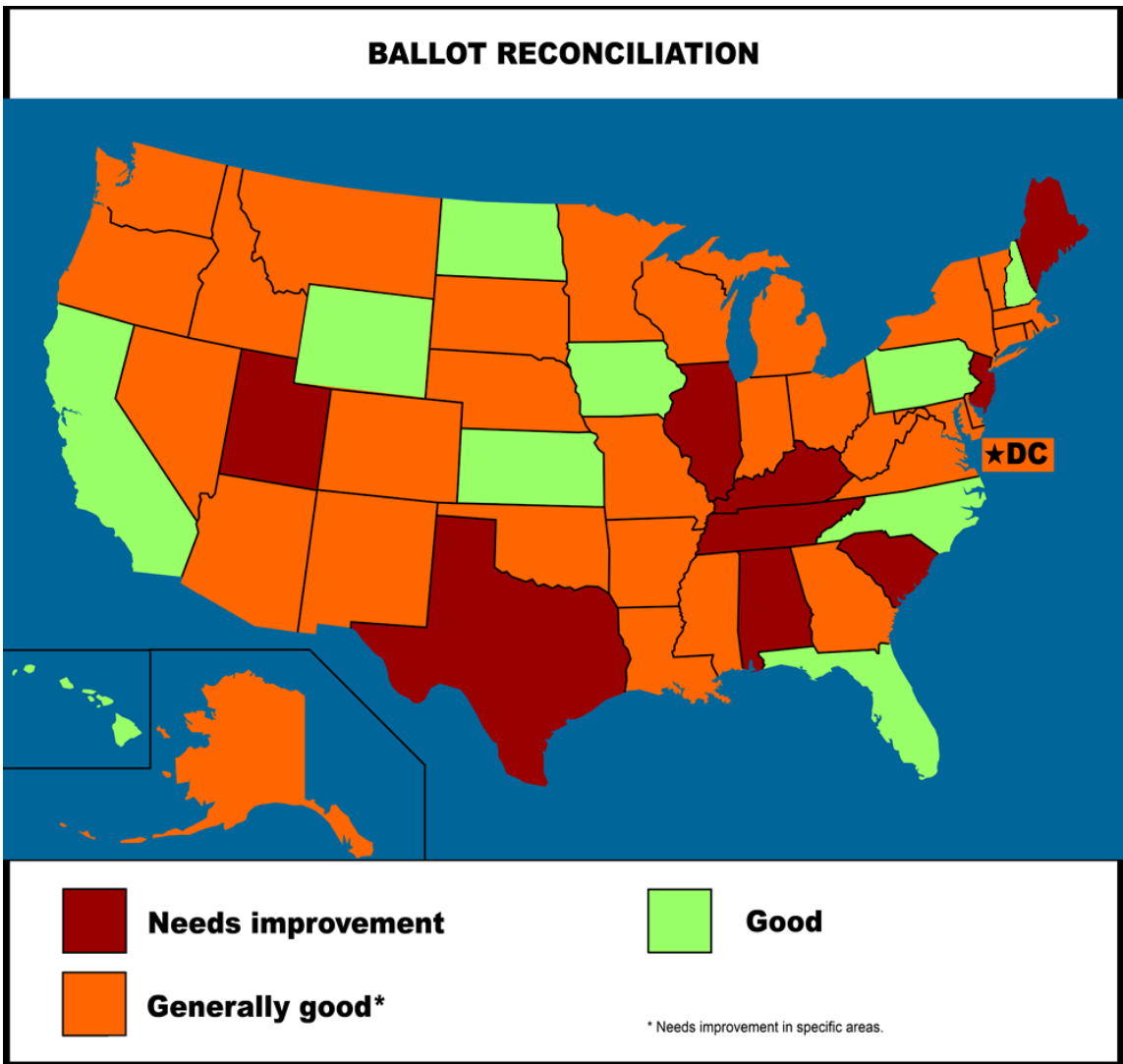
A more detailed explanation of state ratings in this category can be found on pages 19–42 of this report.

Summary of Best Practices for Ballot Accounting and Reconciliation

There are four main steps to ensuring that all ballots are accounted for after the polls have closed: accounting for all ballots, votes and voters at the polling place (including counting and recording the total number of votes cast); reconciling vote and ballot totals at the polling place (including checking the number of votes recorded against the number of voters who have signed the polling books); reconciling redundancies as votes from each precinct are totaled at the county level (including ensuring that all absentee ballots and every voting machine total is accounted for in the county totals); and making all results public, so that candidates and members of the public can double-check all totals. A detailed checklist of these steps can be found on pages 44–45.

State Ratings on Requirements for Ballot Accounting and Reconciliation

While all states do some form of ballot accounting, we found that ten states (Alabama, Illinois, Kentucky, Maine, New Jersey, South Carolina, Tennessee, Texas, Utah, and Virginia) have requirements that fall far short of our recommended best practices, and are therefore rated “needs improvement.” By contrast, ten states (California, Florida, Hawaii, Iowa, Kansas, New Hampshire, North Carolina, North Dakota, Pennsylvania, and Wyoming) report that they require enough in the way of ballot accounting and reconciliation, and we rate their requirements as “good.”



A more detailed explanation of state ratings in this category can be found on pages 48–137 of this report.

Summary of Best Practices on Voter Verifiable Paper Records.

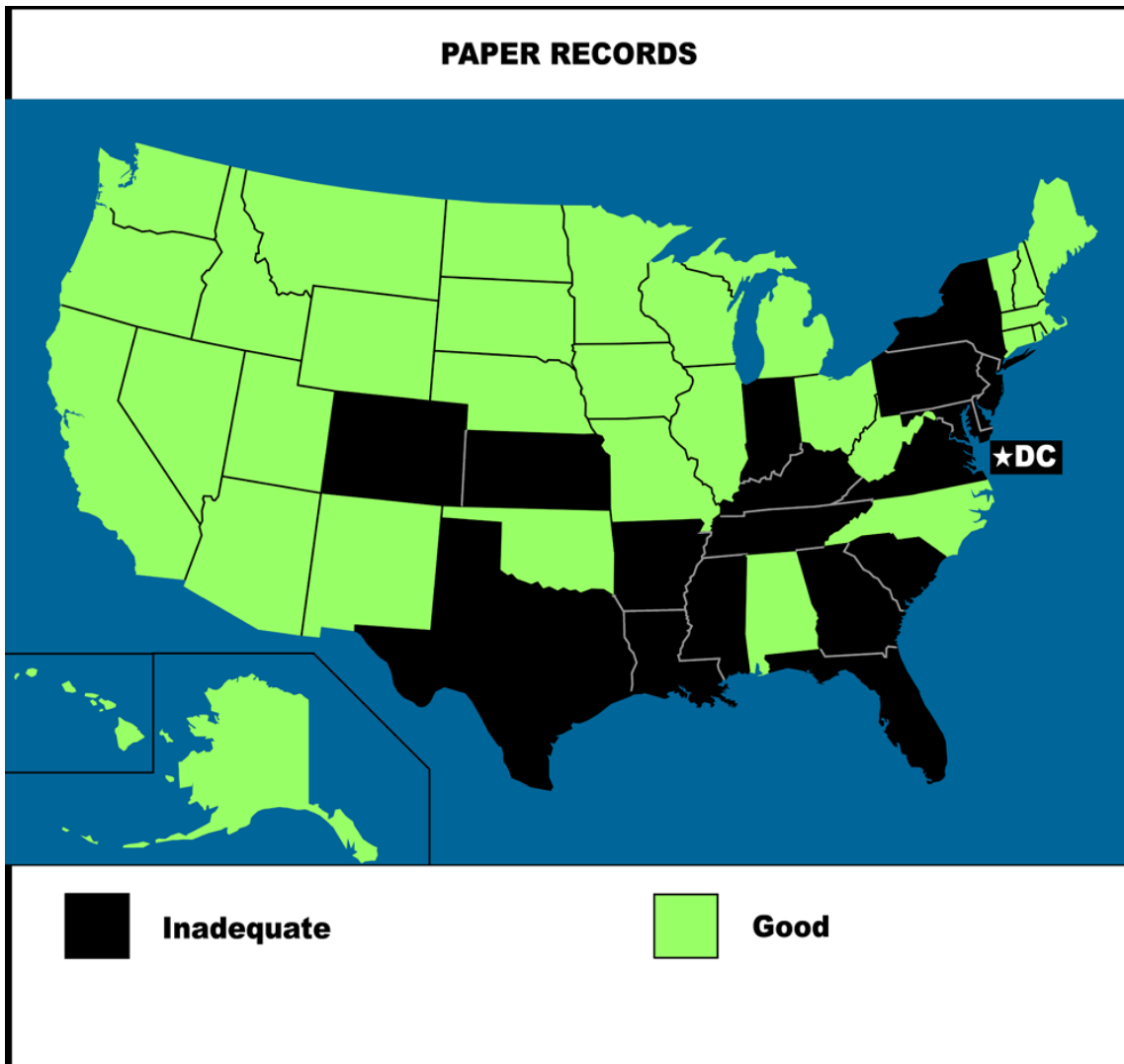
There is widespread agreement among security experts that some form of independent voter-verified record is critical for voting system security, and as a check against potential electronic miscounts.¹⁰ Currently, the only two forms of these records are optical scan ballots, which are filled out by the voter and read by a scanner, and “paper trails” which are printed and used with touch-screen machines. Voters who use touch screen machines with paper trails have the opportunity to review a paper record of their vote before casting it. All three organizations involved in writing this report support accessible voter-verifiable paper ballots.

While no voting system is perfect, the Verified Voting Foundation believes that a paper optical scan ballot system, used with an accessible ballot-marking system, offers significant advantages over DRE systems (with or without voter-verified paper audit trail printers),

including reliability, auditability, and ease of use for voters and poll workers alike, and that these systems should replace DREs. All three organizations agree that if DRE systems are in use, they should not be used without (1) a software-independent, voter-verifiable paper audit trail printer; (2) guidance to help voters check the paper records for accuracy when voting; and (3) sufficient emergency paper ballots on hand in case of machine malfunctions.

State Ratings on Voter-Verifiable Paper Records

States were given a simple binary score of “good” or “inadequate” based on whether or not their voting systems included paper records. Nineteen states do not mandate paper records as a part of their voting system.



A more detailed explanation of state ratings in this category can be found on pages 141–142 of this report.

Summary of Best Practices for Post-Election Audits of Voter Verifiable Paper Records

In the last several years, most of the public debate on electronic voting has concerned whether voting machines should include a voter-verifiable paper record. As detailed above, in much of the country, that debate is over. Thirty-two states currently have either voter-verifiable paper ballots, or have added voter-verifiable paper record printers to voting machines statewide.¹¹ Another four states (Maryland, New Jersey, New York and Tennessee) have passed laws to require voter-verifiable paper ballots or records, which take effect in 2009 or 2010. Three states — Arkansas, Colorado and Mississippi — have paper in most counties. The District of Columbia and Florida have paper ballot systems in all counties, along with paperless DREs, and Florida will eliminate paperless systems altogether by 2012.

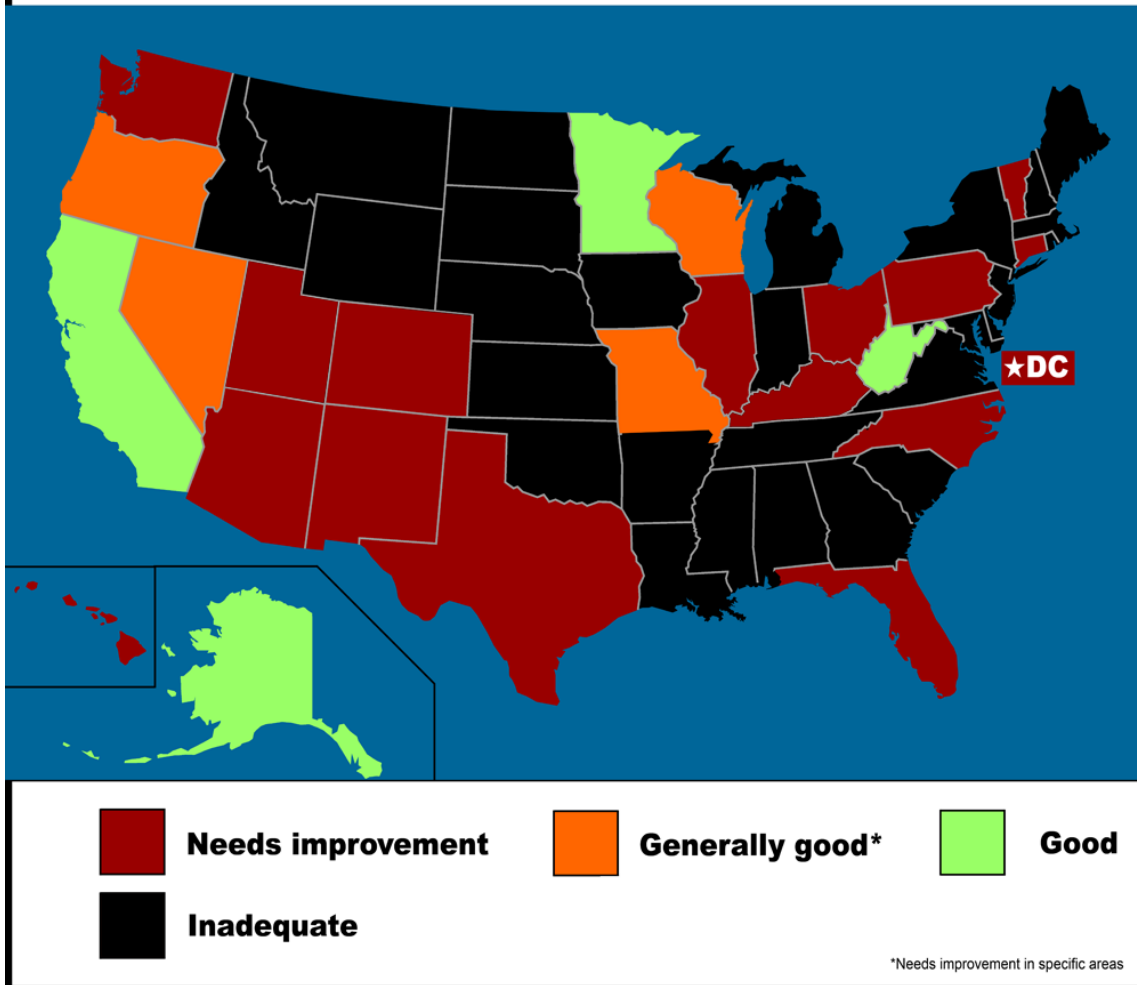
Unfortunately, the widespread adoption of voter-verifiable paper records does not mean jurisdictions will catch software problems that can cause lost or mistallied votes. On the contrary, as the Brennan Center noted in its June 2006 comprehensive study of electronic voting system security *The Machinery of Democracy: Protecting Elections in an Electronic World*,¹² voter-verifiable paper records by themselves are “of questionable security value.” Paper records will not prevent programming errors, software bugs or the introduction of malicious software into voting systems. If paper is to maximize the security and reliability of voting systems, it must be used to check, or “audit,” the voting system’s electronic records.

State Ratings on Post-Election Audits

States that conducted audits received points for conducting audits that are (1) robust (examining more than just one or two contests) (2) comprehensive (auditing all types of systems/ballots), (3) timely (selection starts after initial count is published, and completed before results are finalized), and (4) transparent and random (there is an observably random selection of units to be audited, and audit count itself is transparent). States were also given credit for statutory provisions that trigger expansion of the audit if unexplained discrepancies are found. To achieve an “excellent” grade a state would have to require all of the foregoing, plus use of risk-limiting or statistical audits. No states currently do so.

Four states — Alaska, California, Minnesota, and West Virginia received “good” ratings. The vast majority of states in the country do not perform audits — they received an “inadequate” rating.

POST-ELECTION AUDITS



A more detailed explanation of state ratings in this category can be found on pages 148–151 of this report.

SCOPE OF ANALYSIS

This report reviews and ranks state laws and procedures that jurisdictions are required to follow in the event of *voting machine and voting system failures*. We do not examine how states have prepared to deal with other election administration issues that could cause serious problems on Election Day: problems with the voter registration rolls, ballot design, voter ID requirements, deceptive practices, caging and voter challenges, or the use and counting of provisional ballots, for instance. Both the Brennan Center and Common Cause have published separate reports related to these other issues.¹³

Nor do we examine the critical steps that jurisdictions should take to *avoid* voting system failures, including ensuring that there has been rigorous certification testing of all machines, and that each machine receives a thorough “logic and accuracy test” before voting begins. Pre-election logic and accuracy testing is critical to minimizing voting system failures on Election Day; such tests help jurisdictions ensure that their machines are functioning properly, and should record all votes, before they are deployed in the polling place. Professor Douglas Jones and John Washburn, among others, have provided guidance for jurisdictions on how to conduct logic and accuracy testing.¹⁴ Unfortunately, even with the best logic and accuracy testing, system failures sometimes happen. This report only addresses the steps that jurisdictions should take to make sure such failures do not disenfranchise voters or result in lost votes.

Our analysis in this report is also limited by what jurisdictions *report* their procedures to be, through written laws, regulations and directives, and interviews we conducted with each state’s election officials. Of course, having these policies in place will be of little value unless they are executed successfully. For instance, the fact that a state requires emergency paper ballots to be distributed to every polling place does not mean that such ballots will actually be distributed, or that poll workers will make them available to voters when appropriate. The analysis that follows *assumes* that jurisdictions will carry out their policies as written, and evaluates the likelihood that jurisdictions will successfully navigate a voting system meltdown based on that assumption.

Finally, and related to the previous point, there are many items that we were not able to evaluate that will be critical to handling election system failures, mostly related to staffing: whether jurisdictions have well-trained poll workers, available technical staff, and sufficient election office staff.

FOUR CATEGORIES OF PREPAREDNESS FOR ELECTION SYSTEM PROBLEMS

I. POLLING PLACE CONTINGENCY PLANS: REPAIR OF MACHINES AND EMERGENCY PAPER BALLOTS

Voting machines — as opposed to paper ballots and optical scans — are the primary voting system in all or some precincts in 24 states. Because voting machines sometimes break or malfunction, it is critical for counties using these machines to have backup plans in the case of such failures so voting can continue uninterrupted.

Recent experience has shown what can happen when a comprehensive backup plan does not exist: disruption of voting, long lines, frustrated voters and, sometimes, disenfranchisement. Most voters have other obligations, such as work, on Election Day. These voters will not always have time to wait for new machines to arrive or for election officials to develop contingency plans on the spot.

In just the past few years, we've seen many instances of voting machine failures, including:

- On Jan. 19, 2008 in Horry County, S.C., during the Republican primary, the electronic iVotronic voting machines would not start up. Eighty percent of the precincts were affected in Horry County and in 15 precincts; all of the electronic voting machines were inoperable for at least part of the day. Poll workers handed out paper ballots in the affected precincts, but some of the precincts ran out of paper ballots. Voters were sent to other precincts to cast provisional ballots.¹⁵
- On Sept. 12, 2006, in Montgomery County, Md., election workers did not receive access cards to voting machines for the county's 238 precincts on time, forcing as many as 12,000 voters to use provisional paper ballots until they ran out.¹⁶
- On Nov. 7, 2006, in Delaware County, Ind., the MicroVote touch screen voting machines failed to work in 75 out of 914 precincts. The blue start cards were programmed incorrectly by MicroVote General Corp. A court order was sought to extend voting hours to give citizens a chance to vote due to the backup.¹⁷
- In Westmoreland County, Pa., on Nov. 7, 2006, election-programming errors left voters standing in long lines at some polls. Some machines failed to start up while others shutdown early. Officials blamed the failures on an incorrect time stamp.¹⁸

The good news is that this type of Election Day polling place confusion can be remedied with comprehensive contingency planning; even in the event of large-scale machine failures, good plans will allow voting to continue uninterrupted. We have reviewed the laws, policies and practices of the 24 states that deploy voting machines. After consulting with local

election officials, we have compiled a list of those practices that best ensure citizens will be able to vote without long wait times should machines fail.

BEST PRACTICES FOR CONTINGENCY PLANS

The following is a list of “best practices” that are critical to ensuring machine failures do not disenfranchise voters, and the rationale behind each of them. Each of these practices is in place in at least some states:

Procedures in place for machine repair or replacement in the event of failures

When machines fail to start up or break down in the middle of the voting day, it is critical for technicians to be available to fix problems. All the states surveyed had contingency plans that included repairing or replacing malfunctioning machinery.

Making sure emergency paper ballots are available at the polling place in the event of long lines

If there are not enough machines for voters because of machine failures or a misallocation of machines among precincts, voters may be forced to wait in long lines to cast a ballot. Not all voters will be able to wait for more than an hour or two to vote, and these voters may be disenfranchised by such problems. We recommend three practices to address these potential problems.

Have paper ballots available at every polling place

States should require emergency paper ballots to be kept at the polling place. If machines fail, and ballots are not immediately available, voters will be forced to wait at the precincts until ballots arrive. If weather is inclement, the delay can be even longer as counties struggle to get ballots where they are needed.

In a memo to county clerks, titled *Emergency Paper Ballots*, the Pennsylvania secretary of state made clear the importance of having paper ballots at the polling place. The memo reads:

Each county should make sure that a sufficient amount of emergency paper ballots are available **on location** at each polling place and that preparations are made to **supplement that supply** in the event that the voting system malfunction(s) cannot be quickly resolved. Making sure that enough emergency paper ballots are available on location is important because, as you know, the majority of malfunctions are most likely to occur at the opening of the polls. This is traditionally one of the busier periods of the voting during the day. Ensuring that voting occurs uninterrupted during this critical timeframe, and until any malfunctions can be corrected, is extremely important.¹⁹

Most states require emergency paper ballots to be available at each polling place. But in some counties in states such as Nevada and Louisiana, counties keep emergency paper ballots in a central location — at county headquarters, for instance, or in the vehicles of roving technicians.

Allow emergency paper ballots to be deployed when *any* machine malfunctions

If the failure of most or even half the machines in a polling place leads to long lines at the polls, workers should be able to deploy emergency paper ballots.

Fourteen states require emergency paper ballots at the polls, but four (Maryland, Alaska, Pennsylvania and South Carolina) limit deployment of emergency paper ballots until *all* the machines in a precinct malfunction are inoperable. This policy ties the hands of election workers.

Allow emergency paper ballots to be deployed when lines are long due to an inadequate number of machines

These policies allow election workers the flexibility to address a crisis situation in which wait times have become excessively long. Long lines may develop at rush hour times of the day if machine allocation is inadequate and ballots have questions or initiatives that are long and complicated.

Three states — California, Ohio and Kansas — allow emergency paper ballots to be deployed for multiple reasons, including long wait times at the polls.

In addition to these practices, it is important that states develop procedures to ensure that they have *adequate numbers* of paper ballots for long lines, and that emergency paper ballots are treated as regular ballots and are not mixed with provisional or absentee ballots. In our description of state practices in “Rating the States,” below, we highlight states that have done a particularly good job in adopting model procedures in these areas.

RATING THE STATES

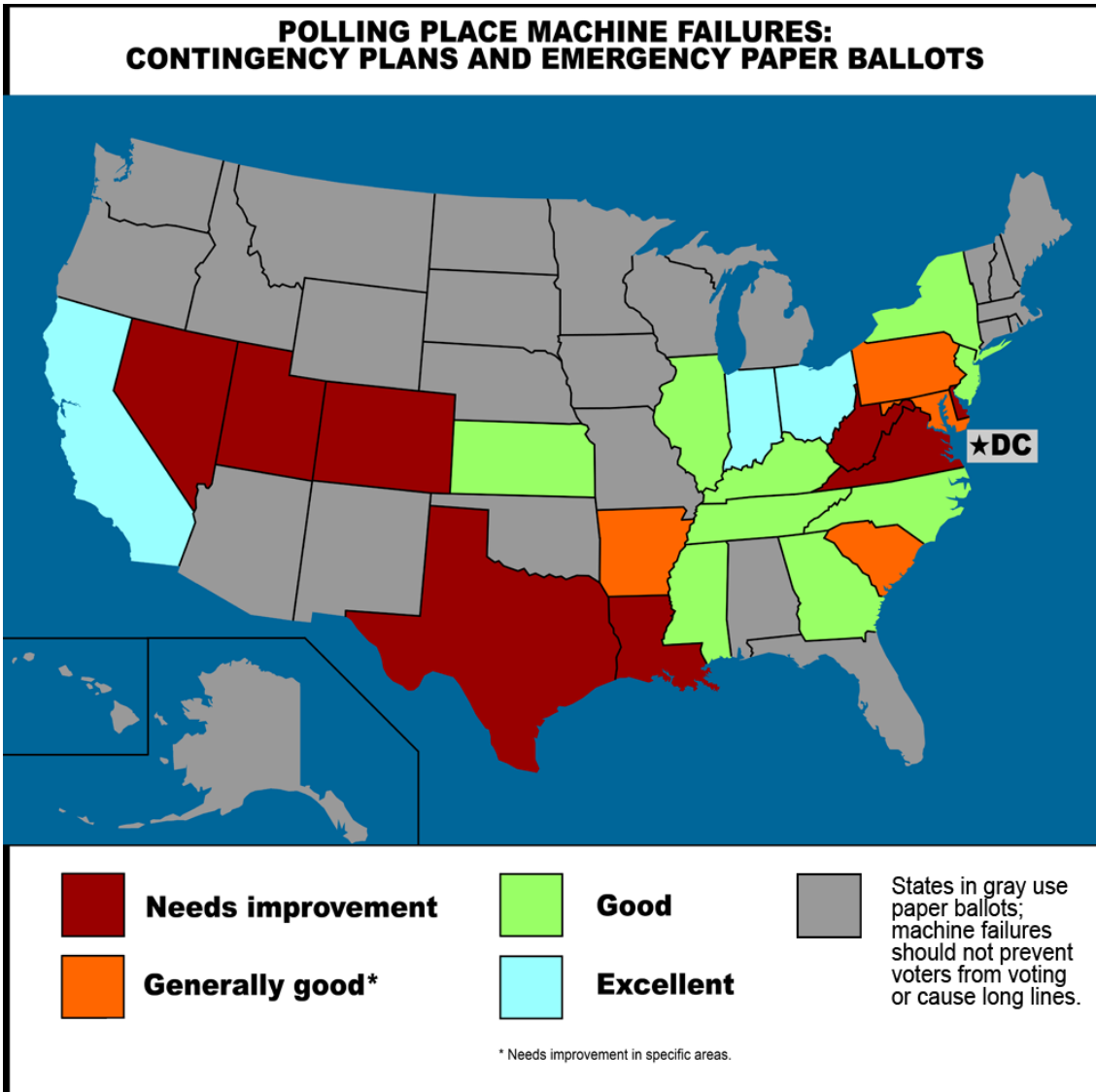
Every state had some kind of contingency plan in place to address machine failure. However, only a few states implemented all the “best practices” listed above. The state ratings correspond to how many of the practices were required or recommended by the state. We rated the states based on the following criteria:

Needs Improvement – States that do not (1) recommend or require paper ballots at the polling place, and/or (2) have procedures to repair or replace machines when they malfunction.

Generally Good – States that (1) have procedures to repair or replace machines when they malfunction and (2) also require or recommend paper ballots at the polling places, *but only allow their use if **all** machines are inoperative.*

Good – States that (1) have procedures to repair or replace machines when they malfunction, (2) require or recommend paper ballots at the polling place and (3) allow the use of emergency ballots if *any* machines are inoperative

Excellent – States that (1) have procedures to repair or replace machines when they malfunction, (2) require or recommend paper ballots at the polling places and (3) *by statute or directive* allow the use of paper ballots when lines are excessively long due to inadequate machine allocation or machine malfunction.



STATE PRACTICES IN DETAIL

Arkansas

The contingency plans in Arkansas are **generally good** but need improvement in specific areas.

Procedures in place for machine repair or replacement in the event of failures

Arkansas has procedures for the repair or replacement of voting machines in the event of malfunction. Arkansas code states that if “any voting machine is out of order or fails to work,” the county-level election commission should “be ready at any time on Election Day to deliver ballots, ballot boxes, replacement voting machines, if available, or other necessary equipment required by law for voting to any precinct.”²⁰

Making sure emergency paper ballots are available at the polling place in the event of long lines

Arkansas requires emergency paper ballots to be kept at the polling place, but only requires deployment in the event *all* machines fail. The counties are instructed to use emergency paper ballots only when *all* machines in a precinct are not working. According to the public affairs director at the office of the secretary of state, only the rural counties use DREs. Because the rural population is sparse, long lines do not form when only one or two machines are not working.²¹

The Arkansas secretary of state *has* verbally advised all counties that deploy DREs to make sure they have sufficient paper ballots on hand in the event of an emergency. The state also requires provisional paper ballots to be deployed at each polling place, and election officials may use these for emergencies.²²

Recommendation: The Arkansas state contingency plans are generally good but need improvement in specific areas. Arkansas should allow emergency ballots to be deployed if insufficient machine allocation leads to long lines at the polls. Because provisional ballots are used for this purpose, the state should have clear protocols to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to their counting.

California

The contingency plans in California are **excellent**.

Procedures in place for machine repair or replacement in the event of failures

California has procedures for the repair or replacement of voting machines in the event of malfunction. The only two counties in California that deploy direct record electronic voting systems as the primary voting system are San Mateo and Orange counties. These counties require machines to be repaired or replaced upon malfunction.

Making sure emergency paper ballots are available at the polling place in the event of long lines

California requires emergency paper ballots to be kept at the polling place and allows paper ballots to be used if there are long lines due to machine failure or inadequate allocation of machines. The only two counties in California that deploy direct record electronic voting systems as the primary voting system are San Mateo and Orange counties. These counties are governed by a California statute that requires election officials to provide paper ballots at the polling place.²³

The statute requires each polling place to have paper ballots in the amount of 10% of registered voters for the general election. Election officials in Orange County plan to have enough emergency paper ballots for 30% of their registered voters.²⁴ At the time of the survey, San Mateo County had not yet determined how many emergency paper ballots it would have.²⁵

Emergency paper ballots may be provided upon a voter's request, regardless of whether the direct recording electronic voting system is working, as long as sufficient supplies are available for the duration of the election.²⁶ While we do not endorse a blanket "paper or plastic" option — meaning giving every voter the option to vote on machines or paper *regardless* of whether there are long lines²⁷ — we do endorse the fact that election officials will be able to provide voters with paper ballots in the event of long lines, when voters might otherwise be forced to forego voting altogether.

Recommendation: California state contingency plans are excellent. No recommendation.

Colorado

The contingency plans in Colorado **need improvement**.

Procedures in place for machine repair or replacement in the event of failures

Colorado law provides only general procedures to address voting machine failure and does not make specific recommendations about repair, replacement or emergency ballots. The election regulations created by the secretary of state require that county clerks file contingency plans for electronic voting systems 60 days before the election.²⁸ The plans are to specify backup procedures and emergency responses.²⁹ Additionally, the regulations require electronic voting machines to have at least two hours of standby power capability in the event of a power failure.³⁰

Making sure emergency paper ballots are available at the polling place in the event of long lines

Colorado does not require emergency paper ballots to be kept at the polling place. Interviews with county clerks revealed a variety of contingency plans. In Kiowa County, paper ballots are to be printed at county headquarters and taken to the polls if machines fail on Election Day. Provisional ballots may be used as a stop gap measure while delivery of ballots occurs or technicians work on the machines.³¹ In Weld County, provisional ballots may be used while machines are repaired, but the county clerk indicated there were no emergency ballots on site per se.³²

Recommendation: Emergency paper ballots should be required at the precinct for deployment should voting machines fail, or where insufficient machine allocation has led to long lines at the polls. If the state instruction to the counties is to use provisional or absentee ballots for this purpose, clear protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Delaware

The contingency plans in Delaware **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Delaware has procedures for the repair or replacement of voting machines in the event of malfunction. Delaware state law provides that in the event a machine becomes inoperative, it should be replaced with another machine.³³ To ensure that machines can be replaced, each district is to “maintain and hold in readiness a reasonable number of extra voting machines to be supplied to election districts where a voting machine has become inoperative, and the department shall take reasonable steps to insure rapid delivery in such event.”³⁴ According to election officials in Delaware, if a machine breaks, a rover technician is called. The technician must also bring the extra machine and replace the faulty machine if it can’t be fixed.³⁵

Making sure emergency paper ballots are available at the polling place in the event of long lines

Delaware does not have a provision for the deployment of emergency ballots in the event of machine malfunction or other reasons.

Recommendation: Emergency paper ballots should be required at the precinct for deployment should voting machines fail, or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Georgia

The contingency plans in Georgia are **good**.

Procedures in place for machine repair or replacement in the event of failures

Georgia has procedures for the repair or replacement of voting machines in the event of malfunction. The Georgia Election Code requires repair or replacement of voting machines that malfunction during an election. The Georgia Election Code provides that “[i]f a DRE unit malfunctions . . . the poll manager shall immediately notify the election superintendent and shall not allow any voter to use the unit until and unless the malfunction is corrected. The election superintendent shall immediately arrange for the repair of the DRE unit or shall provide a replacement DRE unit as soon as practicable to replace the malfunctioning unit.”³⁶

Making sure emergency paper ballots are available at the polling place in the event of long lines

Georgia requires emergency paper ballots to be kept at the polling place and allows deployment in the event that *any* machine fails. If the replacement DRE malfunctions or is “impossible or impracticable” to use, Georgia election law states that officials *may* allow voters to vote on paper ballots.³⁷ Additionally, according to Georgia State Election Board rules, paper ballots must be provided at every polling location.³⁸

Emergency paper ballots may only be used when a voting machine malfunctions and cannot be repaired. The Georgia Election Code provides that “[i]f any voting machine shall become out of order during a primary or election and repair or substitution cannot be made, paper ballots, either printed or written, and of any suitable form, may be used for the taking of votes.”³⁹ Therefore, emergency paper ballots may not be used to alleviate other potential problems on Election Day, such as long lines at the polls caused by insufficient machine allocation.

Georgia has also developed rules meant to ensure emergency paper ballots are treated as regular ballots. The law clearly states that if paper ballots are used for emergencies, the ballots “shall not be considered provisional ballots and shall not require verification.”⁴⁰ This is significant, because Georgia prints a multi-purpose paper ballot that is good for absentee, provisional and emergency purposes. This aspect of the code is added assurance that the ballots will be kept separate from other provisional ballots and counted on Election Day.

Recommendation: The Georgia state law is good, as paper ballots are required at the polling place and may be deployed upon machine failure. The law should be amended to allow their deployment if lines are long at the polling place.

Illinois

The contingency plans in Illinois are **good**.

Procedures in place for machine repair or replacement in the event of failures

Illinois has procedures for the repair or replacement of voting machines in the event of malfunction. Illinois law states that if a machine malfunctions during an election (or primary election), the custodian or election authority must, if possible, repair the injured machine or replace it with a substitute.⁴¹ If the election authority cannot fix the machine or replace it immediately, paper ballots must be available for voters to use.⁴² The election authority must provide ballots to each precinct equal to at least 20% of those registered to vote in that precinct.⁴³

DREs are used as the primary voting system in only two counties in Illinois — Peoria and Kane counties.

Peoria County, Ill., takes a series of actions to comply with Illinois law.⁴⁴ If one of its voting booths goes down, that booth is removed and examined by an election judge.⁴⁵ If the judge cannot fix the booth, he/she will contact a troubleshooter, who will come to the polling location and try to fix the booth.⁴⁶ If the booth cannot be repaired, the polling location will continue operating with the remaining voting booths.⁴⁷

Kane County, Ill., requires that there be a certain number of voting machines per voters.⁴⁸ This ratio is based on the time it takes to cast a ballot and other factors that help determine the number of people who vote in a given election.⁴⁹ Kane County also maintains battery backups in the event of a power outage, places IT people within a couple minutes of all polling locations to tend to problematic machines and maintains extra voting machines at locations near the polling places.⁵⁰

Making sure emergency paper ballots are available at the polling place in the event of long lines

Illinois requires emergency paper ballots to be kept at the polling place and allows deployment in the event that *any* machine fails. Illinois does not restrict the deployment of emergency paper ballots. Under state law, the officers in charge of preparing ballot labels for the voting machines have wide discretion in determining whether citizens may vote by paper ballot. If the use of voting machines at an election is not “practicable or possible,”⁵¹ the officer(s) may arrange for voters to vote by paper ballot.⁵²

Recommendation: Illinois state contingency plans are good. State law requires that emergency ballots be stocked at the polling place. The state does not restrict deployment of emergency paper ballots. However, the state could give counties guidance on appropriate uses of emergency ballots and should state that emergency ballots may be distributed if voting machines malfunction, or if insufficient machine allocation has led to long lines at the polls.

Indiana

The contingency plans in Indiana are **excellent**.

Procedures in place for machine repair or replacement in the event of failures

Indiana has procedures for the repair or replacement of voting machines in the event of malfunction. Indiana law contains provisions to address an electronic voting machine failure. It provides that, upon notice from a precinct that an electronic voting system has failed, the county election board shall “deliver to any precinct in the county: (1) necessary paper ballots; (2) election booths with an adequate number of stalls; (3) ballot boxes; and (4) all necessary supplies and equipment as required by law.”⁵³

Making sure emergency paper ballots are available at the polling place in the event of long lines

Indiana requires emergency paper ballots to be kept at the polling place and allows paper ballots to be used if there are long lines due to machine failure or inadequate allocation of machines.

There is a specific provision of the state elections code that applies to any county with a population greater than 400,000 but less than 700,000.⁵⁴ (Notably only one county, Lake County, falls in this category.) In this case, at least twenty-five emergency paper ballots must be stocked at the polling place if there are more than 300 registered voters assigned to a precinct.⁵⁵ If there are fewer than 300 voters, the law calls for only ten emergency paper ballots.⁵⁶

For all other counties, the law does not give a benchmark number but does require emergency ballots to be delivered on Election Day. According to the code, prior to Election Day, the county election board is required to deliver to each inspector the number of ballots that will be required to be printed and furnished to the precincts for emergency purposes only.⁵⁷ The Indiana code also allows precinct county boards to print ballots if “there are no ballots or other necessary means for voting at the opening of the polls.”⁵⁸

The Indiana code allows election workers to distribute emergency paper ballots if machines malfunction or in the event of long lines at the polling place. That is, the Indiana code provides that “if, in the judgment of a county election board, the number of voters in a precinct of the county where a voting system is used for voting is so large that the voting system in use will not be sufficient to register the vote of all the voters in the precinct, the board may use paper ballots in addition to the voting system.”⁵⁹

Recommendation: The law governing contingency planning in Indiana is excellent. Paper ballots must be prepared and county election boards may deploy them when long lines form due to inadequate machine allocation.

Kansas

The contingency plans in Kansas are **good**.

Procedures in place for machine repair or replacement in the event of failures

Kansas has procedures for the repair or replacement of voting machines in the event of malfunction. Kansas law charges the county election officer with the duty of providing for the storage, safekeeping and repair of voting machines.⁶⁰ The law does not specifically mention repairs at the polling place, although counties do this under authority of the law.⁶¹

Making sure emergency paper ballots are available at the polling place in the event of long lines

The Kansas state election director recommends that paper ballots be kept at the polling place and allows deployment in the event that *any* machine fails.⁶² Kansas law requires county election officers to retain additional ballots “to meet any emergency need for such ballots that might arise from loss or destruction of ballots, enlarged vote or any other legitimate cause.”⁶³ Additionally, the Kansas state election director has advised each precinct to keep emergency paper ballots on hand in the event of machine failure or emergency. An informal survey of small and large counties indicates they are all planning to stock emergency paper ballots.

According to the secretary of state’s election director, emergency paper ballots may be used in four instances: (1) in case of machine malfunction; (2) to keep lines moving and to alleviate long lines in a heavy turnout election or during busy times of day; (3) to accommodate voters who don't want to vote on DREs; and (4) for provisional voting.⁶⁴

Recommendation: The contingency policies and practices in Kansas are excellent, but they are not mandatory. The policies should be codified.

Kentucky

The contingency plans in Kentucky are **good**.

Procedures in place for machine repair or replacement in the event of failures

Kentucky law prescribes procedures for the repair or replacement of voting machines in the event of malfunction. Kentucky law states that “if an emergency should arise due to the malfunction of the voting machine, the county clerk shall provide a backup voting machine or supplemental paper ballots for use at the precinct.”⁶⁵ At least fifty days prior to the election, the county clerk is to print a “sufficient number” of paper ballots to be used for absentee voting, for disabled voters unable to appear at the polls and for an emergency situation.⁶⁶

Making sure emergency paper ballots are available at the polling place in the event of long lines

Kentucky recommends that emergency paper ballots be kept at the polling place and allows deployment in the event that *any* machine fails. Emergency paper ballots may be used when a voting machine malfunctions⁶⁷ or if a voter is so disabled by age, infirmity or illness that he/she is unable to appear at the polls.⁶⁸ However, they may not be used solely to help voters avoid long lines at the polls.⁶⁹ The use of emergency paper ballots also depends on the emergency contingency plans each Kentucky county submits to the State Board of Elections.⁷⁰

Recommendation: The contingency plans in Kentucky are good. State law should be changed to allow for the distribution of paper ballots to alleviate long lines due to insufficient machine allocation. In urban centers, long lines may form at certain peak hours of the day.

Louisiana

Louisiana contingency plans **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Louisiana has procedures for the repair or replacement of voting machines in the event of malfunction. The secretary of state is required to have mechanics and experts available to repair any voting machines that malfunction on Election Day.⁷¹ Additionally, the secretary of state is required to set aside machines for the purpose of replacing damaged or disabled machines.⁷² The secretary of state is also authorized to reallocate voting machines between voting parishes if a voting machine shortage exists in a particular parish.⁷³

Making sure emergency paper ballots are available at the polling place in the event of long lines

Paper ballots are not kept at the polling place. They are stored at the parish register office and may be used in an emergency on Election Day.⁷⁴

Recommendation: Emergency paper ballots should be required at the precinct for use if voting machines fail or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Parishes should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Maryland

The contingency plans in Maryland are **generally good** but need improvement in specific areas.

Procedures in place for machine repair or replacement in the event of failures

Maryland has procedures for the repair or replacement of voting machines in the event of malfunction. *Maryland law does not explicitly address how to respond to a machine malfunction on Election Day.* It only directs local boards to “provide for delivery to each polling place the supplies, records and equipment necessary for the conduct of the election.”⁷⁵

However, the Maryland State Board of Elections has developed a series of measures to address machine failure. According to the State Board of Elections, if a machine stops working, election workers must contact the county boards of election so a technician can be sent to repair or replace the machine.⁷⁶ Second, all voting machines have battery backups and are part of an extensive power management plan.⁷⁷

Making sure emergency paper ballots are available at the polling place in the event of long lines

Maryland requires emergency paper ballots to be kept at the polling place, but only requires deployment in the event *all* machines fail.⁷⁸ Election officials **are required** to prepackage emergency supply bags containing photocopied optical scan ballots and instructions in the event of a machine malfunction. These bags are distributed to local precincts by the local boards of election.⁷⁹ Finally, Maryland allows provisional ballots to be used as emergency paper ballots if (1) all machines are not operative in a given voting location and (2) emergency ballots have not yet been delivered from the county board to the precinct.

Recommendation: The Maryland State Board of Elections should not restrict the deployment of emergency ballots to instances when all the machines in a polling place are inoperable. If the failure of a few machines or inadequate machine allocation results in long lines, election workers should coordinate with local county boards of election to give voters the opportunity to mark emergency ballots. The Maryland State Board of Elections should develop a protocol for the deployment and collection of emergency ballots under these circumstances.

Mississippi

The contingency plans in Mississippi are **good**.

Procedures in place for machine repair or replacement in the event of failures

Mississippi has procedures for the repair or replacement of voting machines in the event of malfunction. Mississippi law states that if a machine malfunctions during an election, it should be replaced with another machine.⁸⁰

Making sure emergency paper ballots are available at the polling place in the event of long lines

Mississippi requires emergency paper ballots to be kept at the polling place, and allows deployment in the event that *any* machine fails.

The Mississippi law states that if repair or replacement of a machine cannot be made, paper ballots may be used.⁸¹ Paper ballots are required to be in place at the polling place on Election Day.⁸² There is no requirement for the number of emergency paper ballots that must be available at each polling location.⁸³ The counties determine the number of paper ballots to have on hand for emergencies.⁸⁴

The Mississippi Poll Manager Guides reiterate the statutory emergency plan. The Guides provide that optical scan paper ballots are to be used for emergency ballots “but only in the event of a voting machine malfunction.”⁸⁵ Both the statute and the Mississippi Poll Manager Guides make clear that “optical scan emergency ballots are not to be used as a convenience item such as when the polls are busy and a voter might have to wait for a [voting machine].”⁸⁶

Recommendation: Mississippi contingency plans are good; however, the statute is overly restrictive. If long lines occur and wait times are excessive, deployment of emergency ballots should be permitted. The statute should be revisited to reflect this policy change.

Nevada

The contingency plans in Nevada **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Nevada does not have a statutorily mandated contingency plan for voting machine malfunctions during an election; state regulations address machine failures, but only in the context of tabulating votes.⁸⁷ Instead, each county clerk is charged with “determin[ing] the most reasonable and practical method for completing the process of tabulating ballots in the event the existing system fails.”⁸⁸ To this end, the secretary of state works with individual counties to assist in their preparedness.

As a contingency measure, Clark County will have four fifty-foot trailers that can be deployed in the case of an emergency. Each trailer meets all state and federal requirements and can house twelve voting machines. The Clark County registrar of voters has made arrangements with a trucking company so that the trailers can be transported simultaneously to be used as support for a polling location or as a replacement polling location.⁸⁹

Making sure emergency paper ballots are available at the polling place in the event of long lines

Nevada does not require emergency paper ballots to be kept at the polling place. The secretary of state’s office, pursuant to its authority in the Nevada Revised Statutes, has sent instructions to all county clerks and registrar of voters instructing them to make available any unused absentee ballots at polling locations throughout the counties should any unexpected events occur during the election.⁹⁰

By way of local example, Washoe County, the second-largest county in Nevada, deploys roving technicians to respond to voting machine problems. The technicians are equipped with extra voting machines and emergency paper ballots if the voting machines fail.⁹¹ In Clark County, emergency paper ballots are stored in a vault in the centralized election office and delivered if the need arises.⁹² Clark County is also exploring the possibility of placing absentee ballots in the city clerk’s offices as a backup. And in Esmeralda County, election officials can deliver emergency paper ballots to all voters within half an hour of a voting emergency.⁹³

Recommendation: Emergency paper ballots should be required at the precinct for deployment should voting machines fail or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

New Jersey

The contingency plans in New Jersey are **good**.

Procedures in place for machine repair or replacement in the event of failures

New Jersey has procedures for the repair or replacement of voting machines in the event of malfunction. If a voting machine becomes inoperable, state law requires that election officers contact the custodian of the voting machines (i.e., the county board of elections, the superintendent of elections or the municipal clerk) to substitute a machine in “perfect working order” for the damaged machine.⁹⁴

Making sure emergency paper ballots are available at the polling place in the event of long lines

New Jersey requires emergency paper ballots to be kept at the polling place and allows deployment in the event that *any* machine fails. The law mandates that the county clerk or the municipal clerk, in the case of a municipal election, prepare an emergency paper ballot box packet for every voting machine.⁹⁵ According to the law, each emergency ballot box packet should include emergency ballots, pre-punched single-hole white envelopes and two tally sheets with carbon duplicates attached.⁹⁶ Each voting machine has a corresponding emergency ballot box packet attached to it. The ballots are only to be used if the corresponding voting machine fails.⁹⁷ New Jersey explicitly authorizes the use of emergency ballots if a voting machine fails.⁹⁸ The law also mandates that each emergency ballot box packet contain a minimum of 30 ballots.⁹⁹ If the clerk determines that an election district requires more than thirty emergency ballots based on the number of registered voters, additional emergency ballots shall be delivered to that district.¹⁰⁰

Because of the design of the New Jersey system, in which a set of emergency ballots is associated with each machine, emergency ballots are not used to alleviate long lines at the polls caused by insufficient availability of voting machines. Emergency paper ballots are only used if “a voting machine fails to operate.”¹⁰¹

Recommendation: New Jersey has a very good and detailed emergency ballot program. However, because emergency ballot deployment is linked physically to machine operation, there are no statewide plans to allow emergency paper ballots to be deployed when insufficient machine allocation has led to long lines at the polls. Ultimately, such a policy should be adopted and a protocol should be developed to deploy, collect, store and account for emergency paper ballots prior to counting.

New York

The contingency plans in New York are **good**.

Procedures in place for machine repair or replacement in the event of failures

New York has procedures for the repair or replacement of voting machines in the event of malfunction. New York law mandates that if a voting machine used in any election is out of order, “it shall, if possible, be repaired or another machine substituted as promptly as possible.”¹⁰² If the repair or substitution cannot be made, emergency ballots may be used.

Making sure emergency paper ballots are available at the polling place in the event of long lines

New York requires emergency paper ballots to be kept at the polling place, and allows deployment in the event that *any* machine fails.

The law also requires that “a sufficient number of emergency ballots be placed at each polling place in which voting machines are used to be employed in the event the voting machines break down.”¹⁰³ New York law provides a guideline of one lever voting machine for every 800 registered voters. The maximum size of an election district for the 2008 election year is 1,150 voters. Most election districts will have 500 emergency ballots, but the actual number is within the discretion of the county board of elections. There is usually more than one election district at a poll site, so that if one district runs short, it can use the ballots from the neighboring district. The county board will also provide additional ballots if called during Election Day.¹⁰⁴

Election inspectors can decide to use emergency ballots during the first hour after the breakdown, but they *must* use emergency ballots if the breakdown lasts more than one hour.¹⁰⁵ The emergency ballots can be printed or written, “of any suitable form” and sample ballots “may be used for this purpose,” as well.¹⁰⁶

Recommendation: The contingency plans in New York are good. State law should be changed to allow for the distribution of paper ballots to alleviate long lines due to insufficient machine allocation. In urban centers, long lines may form at certain peak hours of the day.

North Carolina

North Carolina contingency plans are **good**.

Procedures in place for machine repair or replacement in the event of failures

North Carolina has procedures for the repair or replacement of voting machines in the event of malfunction. North Carolina law provides general directions for county election officials to: (1) deliver to each precinct “the supplies, records and equipment necessary for the conduct of the election”; (2) ensure that adequate procedures are in place for a fair election; and (3) respond to problems where necessary.¹⁰⁷

Making sure emergency paper ballots are available at the polling place in the event of long lines

North Carolina recommends emergency paper ballots to be kept at the polling place, and allows deployment in the event that *any* machine fails. The North Carolina Administrative Code allows for deployment of emergency paper ballots in “extraordinary circumstances,” which may include “an inability to use another system, unavailability of another system, economic factors, existence of contested races, size of potential electorate, and integrity needs.”¹⁰⁸

Significantly, the North Carolina Board of Elections has sent an advisory to every county on the need to have contingency plans in place. Counties that deploy electronic voting systems as the primary means of voting are advised to keep paper ballots for provisional and emergency use at the polling place. These counties are advised to order backup paper ballots “at a minimum rate equal to the highest number of voters that vote on Election Day in any four-hour time frame or 40% of the registered voters in the county.”¹⁰⁹

Emergency paper ballots may be used at the discretion of the county clerks and local election officials. There is no restriction on their use.¹¹⁰

Recommendation: The advisory sent to counties by the North Carolina Board of Elections is excellent. However, it is not mandatory. There should be a similar measure that is mandatory. Additionally, any mandatory provision should clarify that emergency ballots should be deployed if machines malfunction or where insufficient machine allocation has led to long lines at the polls.

Ohio

The contingency plans in Ohio are **excellent**.

Procedures in place for machine repair or replacement in the event of failures

Ohio has procedures for the repair or replacement of voting machines in the event of malfunction. The Ohio Revised Code provides that a board of elections that experiences a significant problem with voting equipment shall report the problem to the secretary of state or the Ohio Board of Voting Machine Examiners, which may require additional testing of the equipment or withdraw that equipment's certification.¹¹¹ The Revised Code provides general procedures to provide additional ballots or supplies during the time the polls are open."¹¹²

Making sure emergency paper ballots are available at the polling place in the event of long lines

Ohio requires emergency paper ballots to be kept at the polling place, and allows paper ballots to be used if there are long lines due to machine failure or inadequate allocation of machines.

On July 25, 2008, the Ohio secretary of state issued Directive 2008-59, instructing all counties using direct recording electronic (DRE) voting equipment as their primary voting system to provide a paper ballot to "any voter who requests it as an alternative method to casting a ballot on a DRE voting machine for the Nov. 4, 2008 general election."¹¹³ As already stated (*see* California, page 19), we do not endorse providing voters with this "paper or plastic" option at the polling place. However, adoption of this option means that election officials will be able to provide voters with paper ballots in the event of long lines, when voters might otherwise be forced to forego voting altogether.¹¹⁴

Pennsylvania

The contingency plans in Pennsylvania are **generally good** but need improvement in specific areas.

Procedures in place for machine repair or replacement in the event of failures

Pennsylvania has procedures for the repair or replacement of voting machines in the event of malfunction. The Pennsylvania Secretary of the Commonwealth issued a directive on Sept. 3, 2008, titled “Directive Concerning the Use, Implementation and Operation of Electronic Voting Systems By the County Boards of Election.” The directive reiterated the requirements of the Pennsylvania Election Code regarding the repair or substitution of inoperable voting machines. According to the Sept. 3 directive, “if a voting machine fails, the county board of elections is required ‘as promptly as possible’ to make necessary repairs or to use substitute voting machines.”¹¹⁵

Making sure emergency paper ballots are available at the polling place in the event of long lines

Pennsylvania requires emergency paper ballots to be kept at the polling place, but only requires deployment in the event *all* machines fail. The Sept. 3 directive issued by the secretary of state on voting machines notes that the county boards of elections may use unvoted absentee ballots, provisional ballots, emergency ballots designed specifically for emergency use or “other paper ballots that are either printed or written and of any suitable form.”¹¹⁶

Notably, the directive makes clear that provisional or absentee ballots used for emergency purposes are *not* to be subject to the same scrutiny and procedures as those ballots. The directive states that “procedures applicable to casting of absentee ballots, alternative ballots or provisional ballots (declaration and affidavit requirements) do not apply to an emergency backup paper ballot that is cast under section 1120-A(b) of the Election Code.”¹¹⁷

Additionally, in August 2008 the Pennsylvania secretary of state recommended that each election district receive ballots “equal to 20% of the number of registered electors in each district.”¹¹⁸ The memo also notes that it is vital to have the paper ballots available on location. “Making sure that enough emergency paper ballots are available on location is important because, as you know, the majority of malfunctions are most likely to occur at the opening of the polls. This is also traditionally one of the busier periods of voting during the day. Ensuring that voting occurs uninterrupted during this critical timeframe, and until any malfunctions can be corrected, is extremely important.”¹¹⁹

The Sept. 3 directive only requires paper ballots to be made available to voters if *all* electronic voting machines in a precinct are inoperable.

Recommendation: Pennsylvania state contingency plans are generally good. The requirement is mandatory and the directive states that emergency ballots must be counted as regular ballots on Election Day and not subject to the scrutiny of provisional or absentee ballots. However, the state could make improvements to these plans. Pennsylvania state

policy and law should be amended to allow deployment of emergency paper ballots upon failure of *any* voting machines or where insufficient machine allocation has led to long lines at the polls.

South Carolina

The contingency plans in South Carolina are **generally good** but need improvement in specific areas.

Procedures in place for machine repair or replacement in the event of failures

South Carolina has procedures for the repair or replacement of voting machines in the event of malfunction. South Carolina law provides that if a voting machine becomes inoperative, poll workers must notify “the commissioners of election or other electoral board,” who are in charge of the election at the county level.¹²⁰ The commissioners must attempt to provide a substitute machine for the polling place.¹²¹ The commissioners must also attempt to repair the machine.¹²²

Making sure emergency paper ballots are available at the polling place in the event of long lines

South Carolina requires emergency paper ballots to be kept at the polling place, but only requires deployment in the event *all* machines fail. State law requires that paper ballots be provided where voting machines are used, but it limits the number of pre-printed ballots to 10% of registered voters.¹²³ However, if the 10% is not enough, election managers must provide voters with ballots “made as nearly as possible in the form of the official ballot.”¹²⁴ The law states that these ballots are the same as official ballots for election purposes.¹²⁵ In other words, the law allows election workers to trouble shoot — perhaps photocopying ballots in an emergency situation — and guarantees these ballots will be treated the same as official ballots. Finally, the law requires that “failsafe ballots, or ballots containing only the races for federal, statewide, countywide and municipalwide offices,” also be provided at polling places. However, the quantity is limited to 5% of registered voters.¹²⁶

Emergency paper ballots may be used when “no other machine is available for use at such election and the injured one cannot be repaired in time to continue use thereof at such election.”¹²⁷

Recommendation: The contingency plans in South Carolina need improvement because the law restricts the number of official paper ballots allowed at the polling place to 10% of registered voters and of failsafe ballots to 5% of registered voters. Although the law allows for trouble shooting — creating and providing ballots “nearly in the form of the official ballot” — this must occur on Election Day. In Horry County, during the Jan. 19, 2008, Republican primary, 80% of the machines could not be activated at the start of the day due to a programming error. Some of the precincts reportedly ran out of paper ballots and were sending voters to other precincts to cast provisional ballots. It is not desirable to restrict election workers to providing only a certain number of official emergency and failsafe ballots *before* the election. While the law allows election workers to improvise on Election Day if there is a crisis, it should not prevent them from adequate preparation before the election. South Carolina law should be changed to lift the restriction on the number of official emergency paper ballots that can be provided in the polling place on Election Day.

Tennessee

The contingency plans in Tennessee are **good**.

Procedures in place for machine repair or replacement in the event of failures

Tennessee has procedures for the repair or replacement of voting machines in the event of malfunction. Tennessee law dictates that if a machine fails, it must “be repaired if possible or another machine substituted as promptly as possible.”¹²⁸

Making sure emergency paper ballots are available at the polling place in the event of long lines

Tennessee requires emergency paper ballots to be kept at the polling place and allows deployment in the event that *any* machine fails. State law requires that if a malfunctioning machine cannot be repaired or substituted, “and other machines at the polling place cannot handle the voters,” paper ballots must be used.¹²⁹ If a polling place runs out of paper ballots, the elections officer in charge of the polling place must notify the county election commission.¹³⁰ The commission must then provide any paper ballots they hold in reserve and have “such additional ballots prepared as may be necessary.”

Although no written mandate exists, phone conversations with county and state officials indicate the coordinator verbally recommended that counties distribute to polling places paper ballots equal to at least 4% of the registered voters in the county, and that they reserve at commission offices paper ballots equal to at least 5% of the registered voters.¹³¹ This recommendation is based on the percentages once required by state law, which were created with punch card voting machines in mind rather than electronic voting machines.

Tennessee state law recommends the use of paper ballots if machine failure leads to long lines. Notably, the code reads, “if repair or substitution cannot be made and *other machines at the polling place cannot handle the voters*, the paper ballots provided for the polling place shall be used.”¹³²

Recommendation: Tennessee state contingency plans are very good as they require preparation and stocking of paper ballots at the polls and allow the use of paper ballots to mitigate long lines at the polls when machines malfunction. However, the number of emergency paper ballots required to be held in reserve may not serve urban or suburban communities that have a greater number of voters arriving at the polls at busy times. A greater number than 4% of registered voters should be considered. Additionally, to accommodate voter turnout, paper ballots should be deployed regardless of machine function if lines and wait times are sufficiently long. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Texas

Texas contingency plans **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Texas has procedures for the repair or replacement of voting machines in the event of malfunction. The secretary of state requires that each local jurisdiction have “[p]rocedures and plans . . . written for handling Election Day equipment failure, including backup and contingency plans.”¹³³ As soon as a voting machine malfunctions, the presiding judge at the polling place must prevent further use of the machine and have it “promptly repaired or replaced if practicable.”¹³⁴

Making sure emergency paper ballots are available at the polling place in the event of long lines

Texas does not require or recommend emergency paper ballots to be kept at the polling place. Phone conversations with county election officials indicate that contingency plans vary. Some counties plan to have emergency paper ballots at polling places, while others plan to rely on extra voting machines and machine technicians.¹³⁵

Emergency paper ballots may be used at the discretion of the county clerks and local election officials.¹³⁶ There is no state-imposed restriction on their use, and counties vary in how they deploy them.¹³⁷

Recommendation: Emergency paper ballots should be required at the precinct for deployment upon failure of voting machines or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Utah

Contingency plans in Utah **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Utah has procedures for the repair or replacement of voting machines in the event of malfunction. Utah state elections code requires election workers to repair or replace machines. According to the Utah code, if a poll worker reports that “voting devices or equipment do not appear to be functioning properly, the election officer must repair it or provide a substitute.”¹³⁸ Each county develops its own contingency plan to comply with the law and most plans include provisions for roving technicians and extra backup voting machines.

Making sure emergency paper ballots are available at the polling place in the event of long lines

Utah does not require emergency paper ballots to be kept at the polling place. According to the Utah code, if the election officer is unable to repair or substitute the voting machine, he “may elect to provide paper ballots or ballot sheets.”¹³⁹ Therefore, the provision of emergency paper ballots is optional. Although the larger counties surveyed planned to have backup paper ballots available, some smaller counties had no such plans and instead will rely on extra voting machines, technicians and — as a default — provisional ballots. In compliance with the Utah state law, every county surveyed had contingency plans in place.

Recommendation: Emergency paper ballots should be required at precincts that deploy DREs. They should be distributed upon the failure of voting machines or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

Virginia

The contingency plans in Virginia **need improvement.**

Procedures in place for machine repair or replacement in the event of failures

Virginia has procedures for the repair or replacement of voting machines in the event of malfunction. Virginia law provides that if a voting machine becomes “inoperative,” poll workers are to contact the county electoral board.¹⁴⁰ The board must, if possible, “dispatch a qualified technician to the polling place to repair the inoperative device.”¹⁴¹ If the machine cannot be repaired on site, the board must then, if possible, provide a substitute machine.¹⁴² If no substitute is available, official paper ballots *may* be used.¹⁴³

Making sure emergency paper ballots are available at the polling place in the event of long lines

Virginia does not require emergency paper ballots to be kept at the polling place. There is no state law requiring the placement of emergency paper ballots in polling places, nor has the Virginia State Board of Elections issued an advisory directing counties to have emergency paper ballots on hand. The number of paper ballots provided to each polling place before and during an election is determined by the county election boards.¹⁴⁴ The decision on whether and when to use them is left to the county boards.¹⁴⁵

Recommendation: Emergency paper ballots should be required at the precinct for deployment upon failure of voting machines or where insufficient machine allocation has led to long lines at the polls. If absentee or provisional ballots are used for this purpose, protocols should be established to ensure such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to counting.

West Virginia

The contingency plans in West Virginia **need improvement**.

Procedures in place for machine repair or replacement in the event of failures

West Virginia has procedures for the repair or replacement of voting machines in the event of malfunction. West Virginia law requires election commissioners to obtain a substitute machine from the county clerk should an electronic voting machine become inoperable during an election.¹⁴⁶ Election commissioners are present at each polling station.¹⁴⁷ The county commission is charged with acquiring as many substitute machines “as will be deemed necessary” in advance of the election.¹⁴⁸ To comply with these mandates, a number of county election officers indicated that they deploy rovers to fix or replace the voting machines.

Making sure emergency paper ballots are available at the polling place in the event of long lines

West Virginia does not require emergency paper ballots to be kept at the polling place. West Virginia law does not require emergency paper ballots to be stocked at the precinct level, and there are no state recommendations regarding the deployment of emergency paper ballots. In the counties surveyed, it was clear that keeping backup emergency ballots on hand at each individual polling place was not a common strategy, although some county election officials surveyed did indicate that extra paper ballots were sometimes held at county headquarters.

Recommendation: Emergency paper ballots should be required at precincts if voting machines fail or if insufficient machine allocations lead to long lines at the polls. If absentee or provisional ballots are used in emergencies, there should be protocols ensuring such ballots are counted and treated as regular ballots on Election Day and not subject to the additional scrutiny of provisional ballots or absentee ballots. Counties should be required to develop secure strategies for deploying, collecting, storing and accounting for all emergency paper ballots prior to their counting.

II. BALLOT ACCOUNTING AND RECONCILIATION

With new, complex voting systems, it is easier than it should be to lose votes and even count some votes more than once. Ballot accounting and reconciliation practices help ensure that the number of ballots cast matches the number of voters who have voted, and that no votes are lost. Jurisdictions can catch the kinds of glitches and failures that resulted in incorrect totals in several past elections by checking the number of people who've signed in at the polls against totals reported by the voting machines; double-checking that all absentee votes are counted and that every machine's total is included in the statewide tally; and accounting for all ballots used and unused.

Election Day problems in three recent primaries have served as a stark reminder of the importance of good ballot accounting and reconciliation before and after the polls have closed:

- On August 19, Premier voting systems, formerly known as Diebold, acknowledged that the voting system used during the recent Ohio primary contained a critical programming error, which led to the loss of votes as they were being totaled. When multiple memory cards containing votes from individual machines were uploaded at the same time to a central location, not all votes were uploaded.¹⁴⁹
- In the September 9 primary in Washington, D.C., there were three different counts of the votes — and each time they came out differently, as reported by *The Washington Post*.¹⁵⁰
- In the August 26 Palm Beach County, Florida, primary, several votes disappeared during a recount, then reappeared in different measures upon a second and third recount.¹⁵¹

Software glitches, programming errors, damaged memory cards, lost ballots — all of these can, and have, led to miscounted votes in American elections.

The good news is that even as the way we count votes becomes more dependent on technology that is occasionally subject to error, we have redundancies — backup information in the form of tapes printed from machines, poll books and precinct totals — that allow us to check the math and make sure every vote is accounted for and counted. All jurisdictions should be using these redundancies to make sure that mistakes or foul play do not result in incorrect vote tallies.

With the contributions of election officials, election administration experts and computer scientists, the Brennan Center developed “Checklist for Best Ballot Accounting and Reconciliation Practices.” We have distributed this checklist to every county and state election official in the country, and we have rated states based on how closely their procedures adhere to it. The checklist is printed on the next two pages.

BEST PRACTICES CHECKLIST FOR BALLOT ACCOUNTING AND RECONCILIATION

At the polling place:

Account for all ballots, votes, and voters

Before the polls open:

- Count and record the total number and type (*e.g.*, regular, emergency, provisional) of blank ballots received by the polling place. If multiple styles of ballots are used, each style should be accounted for separately.
- Print a “zero tape” from each machine that shows that all counters are zeroed.
- Check all ballot boxes, including those for optical scanners, to make sure they are empty.

After the polls close:

- Count and record the total number of votes cast as shown on the summary tapes printed from voting machines at the close of polls, and retain these ballots and summary tapes (*e.g.*, voter-verified paper records, vote total tapes and optical scan ballots).
- If using optical scanners, check auxiliary bins to make sure they contain no voted ballots.
- Count and record the total number of provisional ballots cast.
- Count and record the total number of spoiled ballots.
- Count and record the total number of unused ballots. If multiple styles of ballots are used, each style should be accounted for separately.
- If using touch screens, count and record the total number of emergency paper ballots issued.
- If applicable, count and record the total number of hand-delivered absentee ballots.
- Count and record the total number of voters who signed in at the polling place. Account for voters who voted provisionally separately from voters who voted on a standard ballot.
- If possible, count and record the number of voters who signed in but left the polling place without voting.
- Post copies of paper records of vote totals logged on each machine at the polling place. If possible, include numbers of abstentions and overvotes in each race.

Reconcile vote and ballot totals and address discrepancies at the polling place

- Compare the total number of votes cast to the total number of voters who signed in. Explain and address any discrepancies.
- For both regular and emergency paper ballots, compare the number of voted, spoiled and unused paper ballots with the number of ballots sent to the polling place. Explain and address any discrepancies.
- Compare digital vote tallies from voting machines to vote total tapes. Notify county and state officials of any discrepancies. If using optical scanners, flag ballots that should be re-counted on the central tabulator.
- If your precinct has an “accumulator” that totals memory cards for each machine, compare the total tapes from each machine to the total tapes from this accumulator.
- Seal, sign and return packages of used and unused ballots.
- Deliver official, sealed information packets containing all audit information (poll books, paper trails, paper ballots, vote total tapes, provisional ballots, emergency paper ballots, unused ballots and memory cards) to the central count location.

At the county level:

Reconcile redundancies

- Review status reports from the electronic tally server to ensure that all memory cards have been read.
- Compare electronic tally server totals to vote total tapes generated from each voting machine.
- Account for additional ballots that might not be included in vote total tapes, such as provisional ballots, emergency paper ballots, absentee/mail-in ballots, or early voting ballots.
- Reconcile the total number of voters who signed in with the total number of votes recorded in the county.
- Re-check reconciliations performed at the polling places and investigate/resolve any discrepancies.

Make all results public

- Publish results of ballot, machine total, and memory card reconciliations.

RATING THE STATES

States were given numerical scores from zero (does nothing) to four (the law follows best practices exactly)¹⁵² in five areas of ballot reconciliation: accounting for all ballots at the polling place, comparing the number of votes cast with voters who signed in on the poll books, ensuring that all memory cards have loaded onto the tally server, reconciling precinct totals with county totals, and making all results public. These scores were averaged (excluding any practices that did not apply to a particular state) to produce an overall numerical score. Where a state's overall score fell in the range between 0 and 4 dictated its qualitative score.

Preference was given to states where best practices were codified in law, regulation, or policy; states or counties that reported employing best practices only as a matter of practice were given partial credit.

The numerical scores translate to the following ratings:

Needs improvement – These states received a two or lower in almost all categories, or they received a zero or one in at least two categories

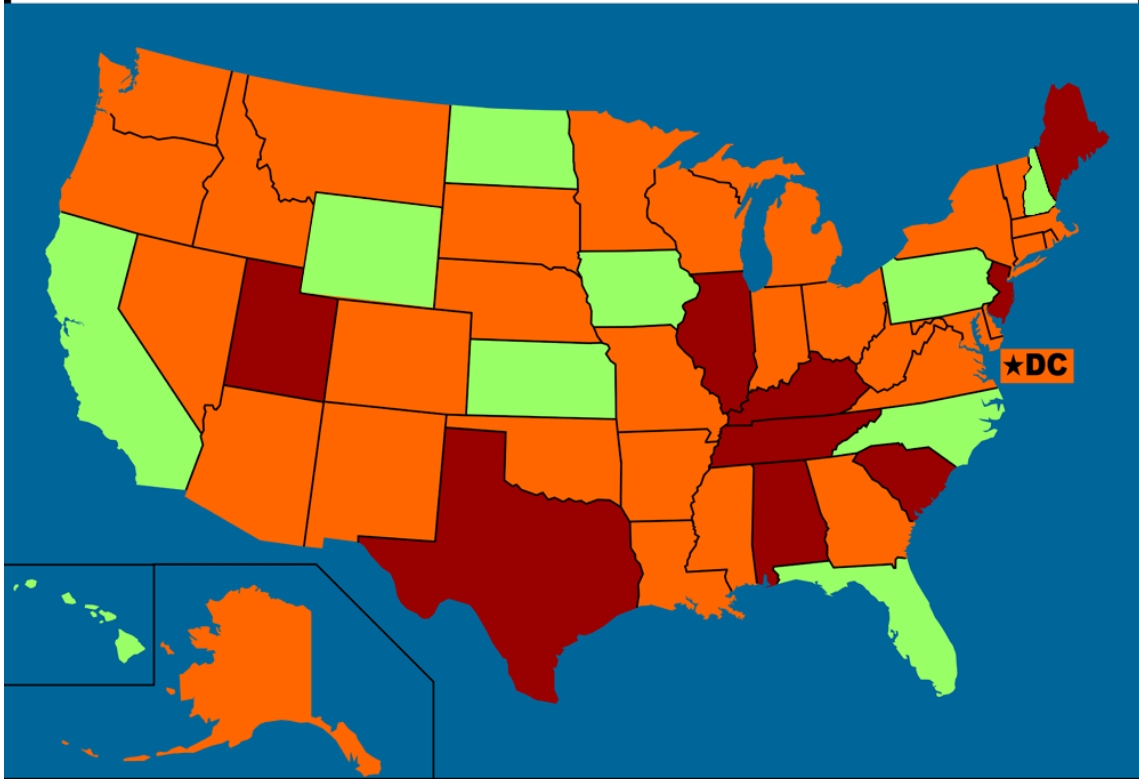
Generally good, but needs improvement in certain areas – The majority of states fall into this category. Most of these states got a three or four in more than one category, but also received a two or lower in at least one category.


Good – These states received threes and fours in all categories.


No state received a rating of “inadequate,” because all states require at least *some* accounting and reconciliation practices in some of the areas of ballot accounting and reconciliation studied. No state received a rating of “excellent,” because no state received a four in all five areas of ballot accounting and reconciliation.

While we have ranked practice based on legal and procedural requirements, we cannot know how well counties and states will actually perform in following state requirements. For example, we rate Florida's ballot reconciliation practices as “good,” and indeed, its law and policy are quite clear and rigorous. However, just weeks ago Palm Beach County officials first “lost” 3,400 ballots between Election Day and a recount, and days later found the 3,400 plus an additional 200 cast ballots they hadn't known existed; it seems fairly certain that local officials failed to follow state law and properly account for all ballots before sending their results to the state.¹⁵³

BALLOT RECONCILIATION



 **Needs improvement**

 **Generally good***

 **Good**

* Needs improvement in specific areas.

STATE PRACTICES IN DETAIL

Alabama

Alabama's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

At the close of polls, election officials lock tabulating equipment against further voting and print out a total of five copies of the vote totals for each candidate or question.¹⁵⁴ Officials then record the polling place, date, tabulator serial number, the value of the public counter showing the total number of ballots cast, and the names of the candidates and questions voted on.¹⁵⁵ Officials then sign and certify a statement of the number of votes for each office and certify the poll list before sealing all elections records and delivering them to the sheriff.¹⁵⁶

Reconcile vote and ballot totals and address discrepancies at the polling place

While both poll lists and the total number of votes cast must be recorded and certified in the precinct count, Alabama law does not explicitly require the number of votes to be reconciled with the number of people who signed in at the polling place. This is a fundamental element of the ballot reconciliation process, and we recommend comparing the number of voters with the number of ballots cast at each polling place.

Reconcile redundancies at the county level

Alabama law offers little detail on the practices of the canvassing board. The board is required to meet after an election to make a statement of the vote totals for the county based on the returns from each precinct. County officials report employing many of the best practices for ballot reconciliation, however.¹⁵⁷ Counties report comparing the number of votes cast against the number of voters who signed in at the polls, as well as comparing precinct totals with composite totals.¹⁵⁸ Counties also tally the spoiled, unused, and undervoted or overvoted ballot totals and compare those numbers against the total number of ballots sent to each precinct.¹⁵⁹ While these practices are commendable, standardized reconciliation procedures are essential to a fair election, and we recommend legally mandating reconciliations both of ballot and vote totals and of precinct totals against composite totals. Alabama does not use a tally server.

Make all results public

Poll inspectors post election results outside the polling place¹⁶⁰ and at the county courthouse.¹⁶¹ Counties report also report releasing the results of their canvass publicly.¹⁶²

Recommendation: Alabama's ballot reconciliation procedures need improvement. While the state has good procedures in place for making results public and its counties independently reconcile ballots in a satisfactory manner, we recommend codifying the best practices for ballot reconciliation. Specifically, we recommend comparing the number of

voters with the number of ballots cast at each polling place and the county level, reconciling ballot totals, and comparing precinct-level totals with composite county totals.

Alaska

Alaska's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls close, the election board in each district records the number of official ballots received; number of ballots voted, including overvoted, invalid or ballots rejected from voting machine; number of spoiled ballots; and number of unused or destroyed ballots.¹⁶³ The election board records these totals and reports any discrepancies on an election certificate.¹⁶⁴ This certified tally is sent to the State Elections Director, and all "properly cast" ballots are sent to the Regional Elections Supervisor.¹⁶⁵ While Alaska mandates that any electronic voting machines used in the state must have voter-verified paper records that could be used in the event of a recount,¹⁶⁶ there is no formal provision in the law that election officials must run or retain paper records from voting machines. We recommend generating a paper record of voting machine tallies and forwarding those records along with *all ballots* to higher election officials after the precinct count.

Reconcile vote and ballot totals and address discrepancies at the polling place

Alaska law does not require district officials to reconcile ballot totals with the number of voters at the precinct level. While state officials do reconcile the number of ballots with the number of voters during the canvass, we recommend reconciling the number of voters signed in with the number of ballots cast at the precinct level, as well.

Reconcile redundancies at the county level

Elections are conducted entirely by the State Division of Elections, which reviews all tallies conducted by precinct elections boards. The state canvassing director reviews the precinct registers, vote tallies, and regular, absentee, and questioned ballots for discrepancies.¹⁶⁷ The director also hand counts the ballots from one randomly selected precinct, and if she discovers a discrepancy between the hand-count and the precinct tally, the director will hand count all ballots in that election district.¹⁶⁸ The director certifies any changes and publishes them on the Elections Division's website.¹⁶⁹ Upon completion of this review, the director certifies the election.¹⁷⁰ The Elections Division reports reviewing status reports from the state's tally server to ensure that all memory cards are read.¹⁷¹

Making results public

Vote tallies and changes resulting from the state canvassing director's review are posted to the Elections Division's website.¹⁷²

Recommendation: Alaska's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for reconciling redundancies at the county level and making results public, we recommend enhancing procedures to reconcile all ballots, votes, and voters at the polling place. Specifically, we recommend generating a record of machine tallies and retaining all polling place records, as

well as reconciling the number of ballots cast with the number of voters signed in at each polling place.

Arizona

Arizona's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls close and election officials lock and seal all voting machines,¹⁷³ officials compare the number of voters who signed in to the number of ballots cast or votes recorded on each voting machine.¹⁷⁴ Officials then tally valid votes and identify invalid ballots,¹⁷⁵ but there is no legal provision for invalid or unused ballots to be tallied and recorded at the precinct level. After the votes are tallied, election officials seal ballots and sign the tally list.¹⁷⁶ Poll workers then deliver the tally list, poll list, and stubs of voted ballots to county election officials.¹⁷⁷ In precincts that rely on central tabulation, poll workers deliver a copy of the poll list and the ballot box to the central counting location.¹⁷⁸ We recommend tallying *all* ballots, including spoiled and unused ballots, at the polling place.

Reconcile vote and ballot totals and address discrepancies at the polling place

The first step in the Arizona canvass is a comparison of the number of voters who signed in on the poll list to the number of ballots cast or votes recorded on each voting machine.¹⁷⁹

Reconcile redundancies at the county level

Arizona law is vague about the elements of the canvass at the county level, mandating only that an additional canvass shall be made by "opening the returns" from each precinct¹⁸⁰ and that if there appears to be a discrepancy in a precinct, the county will call upon precinct officials to re-tally the votes.¹⁸¹ However, county election officials interviewed for this study reported employing many of the recommended best practices in their canvasses. Maricopa County, for example, requires precincts to fill out a "Precinct Ballot Report" separately tallying the number of ballots received along with the number of voted, misread, spoiled, provisional, and unused ballots, which it reviews for discrepancies.¹⁸² Coconino County assembles a canvassing board that is required to compare the results tapes from the voting equipment, official ballot reports, the number of signatures in the poll books, the number of signatures in the roster, and the precinct results printed out of the tally sever software.¹⁸³ Both counties report taking steps to ensure that every memory card used in electronic voting systems is accounted for and tallied correctly.¹⁸⁴ While these counties' efforts are commendable, we recommend that best practices for ballot accounting and reconciliation at the county level be mandated by state law.

Make all results public

Arizona law requires one copy of the certificate of election containing the number of ballots cast, number of ballots rejected, and number of votes for each candidate or question to be posted outside each polling place.¹⁸⁵ Curiously, counties using automatic vote tabulating equipment are exempted from this requirement.¹⁸⁶ We could discern no legitimate reason for uneven public disclosure of canvass results across different voting systems, and we recommend remedying this discrepancy.

Recommendation: Arizona's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for comparing voter and ballot totals and its counties perform well in reconciling redundancies, we recommend that best practices for ballot accounting and reconciliation at the county level be mandated by state law. Moreover, we could discern no legitimate reason for uneven public disclosure of canvass results across different voting systems, and we recommend remedying this discrepancy.

Arkansas

Arkansas' ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls close, local officials total and record the number of voters on the poll list.¹⁸⁷ Election officials then count ballots by hand at the polling place.¹⁸⁸ During this count, officials will examine over-voted ballots and attempt to determine the voter's intent.¹⁸⁹ Officials will then seal ballots, keeping voted and unused ballots separate.¹⁹⁰ After the initial tally at the polls, local election officials deliver ballots, tally sheets, a copy of the certificate of election, and all other election materials to the county clerk.¹⁹¹ They deliver another copy of the certificate of election and the tally sheets to the county board of election commissioners.¹⁹²

In precincts that use DREs, officials remove the activation pack or devices from each machine,¹⁹³ and then open counter compartments.¹⁹⁴ Officials must print three copies of the return records and return these records, with the activation packs, to the county board of election commissioners for canvassing.¹⁹⁵

Reconcile vote and ballot totals and address discrepancies at the polling place

In precincts using tabulators, election officials compare the number of voters indicated by each machine with the list of voters.¹⁹⁶ Officials must report any discrepancies.¹⁹⁷ No such comparison is required for other voting systems, although state officials report that officials conduct this reconciliation in practice.¹⁹⁸ We recommend adopting mandatory voter and ballot reconciliation procedures for all systems.

Reconcile redundancies at the county level

For precincts using DREs, county officials compile totals from all activation packs and compare precinct officials' certified paper return records to countywide electronic records;¹⁹⁹ this constitutes both memory card reconciliation and reconciling precinct totals with county totals. Before certifying the official results, county officials prepare a report of the number of people who voted in the election, number of early votes cast, number of votes cast on Election Day, number of absentee ballots cast, the number of regular ballots cast on Election Day, the number of provisional ballots counted and disqualified for each method of voting, the number of spoiled ballots, the number of unused ballots, and the total number of ballots printed.²⁰⁰ The county board of election commissioners submits this report to the state board along with an official, certified abstract of the election results.²⁰¹ The county board also sends a copy of the abstract to the secretary of state.²⁰²

Making results public

When the precinct count is completed, local officials create certificates of election and post one copy outside the polling place.²⁰³ Arkansas also posts all results by polling place on its website.²⁰⁴

Recommendation: Arkansas' ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state's procedures for reconciling totals in precincts that use DREs is quite rigorous, its reconciliation procedures in precincts that use paper ballots is less well-defined. We recommend adopting mandatory voter and ballot reconciliation procedures for all voting systems.

California

California's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

Before the ballot count commences, election officials count the number of ballots cast and compare that to the number of signatures on the roster.²⁰⁵ Any discrepancies are noted and accounted for.²⁰⁶ If votes are counted mechanically or electronically, officials separate spoiled, and voided ballots and send them to the central counting center.²⁰⁷ Alternately, ballots may be tallied in the precincts using an automatic tabulator.²⁰⁸

Reconcile vote and ballot totals and address discrepancies at the polling place

Precinct officials are required to compare the number of votes cast to signatures on the voting roster and address any discrepancies.²⁰⁹ Poll workers must also reconcile the number of voted, spoiled and unused ballots with the number of ballots received by the polling place.²¹⁰

Reconciling redundancies at the county level

On election night, officials conduct a "semifinal official canvass" in which they tally the number of valid votes cast for each candidate or question.²¹¹ Counties using electronic voting systems upload voting machine memory cards to the server during this canvass, and they report comparing totals tapes to memory card totals, and comparing memory card totals to the information uploaded to the tally server.²¹²

During the official canvass that commences after Election Day, election officials reconcile the number of signatures on the roster with the number of ballots recorded.²¹³ If a discrepancy is discovered, officials will reconcile ballots and signatures for each polling place within their jurisdiction.²¹⁴ Officials also reconcile the number of valid, spoiled, canceled, invalidated, overvoted and other ballots with the number of votes recorded by the vote counting system, and tally the number of provisional or by-mail ballots not recorded by the system.²¹⁵ Election officials also manually tabulate the ballots cast in 1% of the precincts, selected at random.²¹⁶ Officials must resolve any discrepancies discovered during this tally, using voter-verified paper trails where appropriate.²¹⁷ Counties also report comparing results tapes from precinct scanners to memory cards uploaded to the tally servers.²¹⁸

Make all results public

After ascertaining or receiving precinct results, county officials must make results available to the public.²¹⁹ After the official canvass, the election officials must also post the results, along with write-in and paper ballot totals, outside the counting place.²²⁰

Recommendation: California's ballot reconciliation procedures are good. The state has particularly good measures in place for reconciling redundancies at the county level; it scores slightly lower at the precinct level. We recommend tallying the total number of voted, spoiled and unused ballots at the polling place as well as at the county level.

Colorado

Colorado's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

The first element of the canvass in Colorado is a tally of the number of ballots in the ballot box.²²¹ Poll workers compare this tally to the number of signatures in the poll book and reconcile and report any discrepancies.²²² Poll workers in precincts using electronic voting machines run totals tapes from the machines.²²³ In precincts using optical scanners, poll workers account for the number of ballots received by the precinct and the number of spoiled or unused ballots before filling out an election certificate and sealing the ballots for delivery to a central counting location.²²⁴ In precincts using paper ballots or at central counting centers using electronic tallying systems, election officials count all votes and prepare a statement of votes for each candidate or question, along with the total number of ballots received, the number of spoiled and unused ballots, and the number of unofficial or substitute ballots.²²⁵ This statement is returned to county election officials with all ballots, poll books, totals tapes and accounting forms.²²⁶

Reconcile vote and ballot totals and address discrepancies at the polling place

At the polling place, all ballots must be accounted for and compared against the number of voters who signed in on the poll books.²²⁷ Colorado also conducts a thorough accounting of each type of ballot at the polling place.²²⁸

Reconciling redundancies at the county level

The county canvassing board reconciles the number of ballots cast with the number of ballots counted.²²⁹ If any discrepancies are discovered, the canvassing board will require a signed explanation from local elections judges.²³⁰ County election officials report reconciling precinct totals with composite totals for the county,²³¹ though this practice is not required by law. We recommend legally mandating the practice of comparing precinct and composite totals. Following each general election, each county conducts a random audit to compare the manual tallies of the voter-verified paper records or totals recorded by ballot counting machines to ballot tallies.²³² Any discrepancies are investigated and remedied.²³³ County officials report taking measures to reconcile all memory cards, but they offer little detail on the process.²³⁴

Making results public

At all polling places, judges make an abstract of votes and post them outside the polling place.²³⁵ Results of the random manual audit conducted by each county are also made public on the secretary of state's website.²³⁶

Recommendation: Colorado's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state performs extremely well in reconciliations at the precinct level, we recommend legally mandating the practice of comparing precinct and

composite totals. Additionally, we recommend adopting clearly defined and uniform memory card reconciliation procedures.

Connecticut

Connecticut's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Immediately after the close of the polls, official checkers give the “moderator,” who oversees canvassing in each town, the poll lists stating the whole number of eligible names and the whole number of voters who are marked as having voted.²³⁷ “Ballot clerks” for each location tally the number of spoiled and unused ballots, and return a report of this tally, along with the total number of ballots received by the precinct, to the municipal clerk.²³⁸ Over-voted ballots are not tallied, but they are returned along with spoiled and unused ballots.²³⁹ All other totals are read off of ballot scanner counters – or totals tapes if applicable – and manually recorded by poll workers.²⁴⁰ The moderator then completes a return showing the total number of votes cast, the number of votes for each candidate or question, the number of write-in votes, and the number originally on the machine counter if counters were not at zero and could not be reset before the opening of the polls.²⁴¹ Poll workers remove the results report from each tabulator and attach it to the moderator's return.²⁴²

Reconcile vote and ballot totals and address discrepancies at the polling place

While Connecticut law requires the moderator's return of votes and the poll lists to be sealed together with tabulators at the end of election night,²⁴³ the law does not explicitly require these two numbers to be compared. However, the secretary of state's office reports that the moderator's return does include a comparison between the number of individuals checked as voted on the poll list and the number of votes recorded on optical scanners.²⁴⁴ This reconciliation is crucial, and we recommend that it be explicitly required by law.

Reconcile redundancies at the county level

Elections in Connecticut are conducted at the municipal level, and moderators deliver tabulators, the moderator's return with a tally of the votes, and poll lists directly to the secretary of state.²⁴⁵ While town clerks are required to furnish the state with vote totals broken down by voting district and all discrepancies accounted for,²⁴⁶ this report is not required until 60 days after an election.²⁴⁷ Similarly, the secretary of state's office conducts a manual audit of at least 10% of election returns and will recanvass in the event of a discrepancy, but this audit occurs up to two weeks after an election.²⁴⁸ Reconciliations of totals reported by each precinct are crucially important, and we recommend formally mandating such a comparison as a part of the official canvass.

Making results public

One copy of the results report printed from each tabulator is posted at the polling place for public inspection.²⁴⁹ All audits and moderator's returns are made available for public inspection.²⁵⁰

Recommendation: Connecticut's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for reconciling ballots at the polling place, a number of crucial reconciliation practices are not mandated by law. We recommend explicitly requiring precincts to compare the number of ballots cast with the number voter signed in at the polling place, and requiring municipal officials to tally and report election results by precinct.

Delaware

Delaware's ballot accounting and reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

At the close of the polls, election inspectors verify that each voting machine has been deactivated²⁵¹ and election officials run total tapes on all machines.²⁵² Officials remove memory cartridges, place them in a sealed envelope and deliver them to a central count location.²⁵³ Officials at the polling place sign each total tape²⁵⁴ and sets one copy aside for delivery to the Department of Elections.²⁵⁵ The elections inspector examines the other copies and reads the votes cast for each candidate,²⁵⁶ which are tallied by two clerks.²⁵⁷ Clerks compare and reconcile their tallies before delivering the set of totals tapes used in the tally to the prothonotary.²⁵⁸ Election officials deliver paper tapes from each machine, poll lists, registration books, voter signature cards, tally sheets and all other election materials to the county.²⁵⁹

Reconcile vote and ballot totals and address discrepancies at the polling place

Poll workers at the precinct level do not reconcile the number of votes recorded with the number of voters signed in. While this comparison is made at the county level,²⁶⁰ we recommend reconciling the number of voters with the number of votes at the polling place.

Reconcile redundancies at the county level

The county superior court convenes and acts as a canvassing board, examining precinct results and calculating the composite county totals for each candidate or question.²⁶¹ The county canvassing board reconciles all election documents delivered to them by the precincts, and where these documents do not agree, they will examine voting machines, conduct a recount, and/or correct any errors as appropriate.²⁶² Election officials compare paper tapes from each machine to the tally server to reconcile precinct totals with composite totals and to ensure that each memory card is recorded.²⁶³

Make results public

There are no provisions in Delaware state law for making any ballot accounting information public. We recommend posting a copy of total tapes at each polling place and making the results of the county superior courts' reconciliations public.

Recommendation: Delaware's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for accounting for all votes at the polling place and in reconciling precinct results at the county level, it is crucial that the results of these reconciliations be made public. We recommend posting a copy of total tapes at each polling place and making the results of the county superior courts' reconciliations public.

District of Columbia

The District of Columbia's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the close of the polls, poll workers secure all ballots in transfer cases to be sent to a central count location.²⁶⁴ They then produce totals tapes from automatic tabulating equipment²⁶⁵ and record the reading from the tabulating system's public counter on the totals tape.²⁶⁶ Poll workers seal the totals tapes and the tabulator's memory pack²⁶⁷ and deliver all materials to the District's central count location.²⁶⁸

Reconcile vote and ballot totals and address discrepancies at the polling place

Before ballots are sent to the central count location, the precinct captain must account for the number of voted, spoiled and unused ballots, along with the number of ballots issued to the precinct.²⁶⁹ Officials are not, however, required to reconcile the number of ballots cast with the number of voters signed in at the precinct level. While this reconciliation is conducted at the central count location, we recommend that the practice of reconciling voters with ballots also be adopted at the polling place.

Reconcile redundancies at the county level

The District of Columbia does not have counties, and all reconciliation occurs at the central count location where ballots are tabulated. At the central count location, officials receive the ballots from each precinct and count all ballots using an automatic tabulator²⁷⁰ unless they deem a manual count necessary.²⁷¹ Once all ballots have been counted, officials must generate a report of the ballot tallies by precinct, by groups of precincts and districtwide.²⁷² Officials then accumulate vote totals for each candidate or question by precinct and districtwide²⁷³ and create a consolidated report of vote totals by precinct.²⁷⁴ After all ballots are tallied but before election results are certified, election officials account for all ballots and votes.²⁷⁵ During this accounting, officials must compare and reconcile the number of ballots issued to voters with the number of ballots cast and spoiled²⁷⁶ and the number of ballots issued to voters with the number of voters who signed in²⁷⁷ for each precinct.

Make all results public

The Board of Elections publishes the certified results of each election in the D.C. register.²⁷⁸

Recommendation: The District of Columbia's ballot reconciliation procedures are generally good but need improvement in specific areas. While the district performs extremely well in reconciling ballots at the polling place and reconciling precinct totals with composite totals, we recommend that the practice of reconciling voters with ballots be adopted at the polling place.

Florida

Florida's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

After voting devices have been locked against further voting, poll workers tally the number of voted, spoiled, unused and provisional ballots to make sure that these tallies add up to the number of ballots issued to the precinct.²⁷⁹ Poll workers then compare the number of votes against the total number of ballots cast, and the number of provisional ballots cast against provisional voters signed in.²⁸⁰

Reconciling ballot totals

If there is a discrepancy between the number of voted, spoiled, unused, and provisional ballots and the total number of ballots received by the precinct, poll workers must report the discrepancy to the canvassing board.²⁸¹ If there is a discrepancy between the number of voters who signed in and the number of ballots cast, poll workers will conduct a recount. If a discrepancy remains, poll workers will report the discrepancy to the canvassing board.²⁸²

Reconciling redundancies at the county level

The county canvassing board reviews returns provided by inspectors in each precinct.²⁸³ If there are omissions or obvious errors, the county canvassing board will order a recount.²⁸⁴ The canvassing board also examines the ballots cast against the returns, and if there is any discrepancy, the tabulation of ballots is assumed to be correct.²⁸⁵ If the county canvassing board determines that the unofficial returns may contain a counting error in which the vote tabulation system failed to count votes that were properly marked, the board will either correct the error and retabulate the affected ballots or request that the Department of State verify the tabulation software.²⁸⁶ The state has no official policy regarding procedures to ensure that all memory cards are loaded onto the tally server, but counties report running reports to ensure that all memory cards are accounted for.²⁸⁷ While these results are commendable, we recommend implementing a memory card reconciliation policy at the state level. The county canvassing board files a return with the state certifying that it has compared the number of ballots cast with the number of voters in each precinct.²⁸⁸ Along with this return, the canvassing board must furnish a report that includes any malfunctions or problems involving software and equipment, ballots, staffing, or any other element of the election procedures.²⁸⁹

Making results public

The results of the vote for each candidate or question are posted at the polls as the ballot count is completed.²⁹⁰ The post-election report of the county canvassing board is also available to the public.²⁹¹

Recommendation: Florida's ballot reconciliation procedures are good. The state has excellent procedures in place for ballot, vote, and voter accounting at the polling place and for reconciling redundancies at the county level. However, while counties report taking steps

to account for all machine and tabulator memory cards, we recommend implementing a memory card reconciliation policy at the state level.

Georgia

Georgia's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After closing the polls and locking machines against further voting, the precinct manager runs the results tape from each DRE.²⁹² The manager then transmits results to the county tabulating center via modem²⁹³ and removes the memory card from each unit.²⁹⁴ The manager then completes a "ballot recap form," which show the number of valid, spoiled, provisional and unused ballots used at the polling place.²⁹⁵ The manager collects the zero tape, results tape and memory card for each machine and seals these materials for delivery to the county tabulating center.²⁹⁶ At the tabulating center, the elections superintendent downloads the results from each memory card to the tally server.²⁹⁷

Reconcile vote and ballot totals and address discrepancies at the polling place

Before tallying votes, poll workers compare the total number of votes logged on the results tape with the number shown on the machine's public counter.²⁹⁸ Poll workers are also required to total and reconcile all ballots on an accounting form.²⁹⁹

Reconcile redundancies at the county level

Before the superintendent of elections computes the vote in any precinct, the superintendent will compare the number of votes cast to the number of individuals registered in the precinct and the number of people who voted in the precinct.³⁰⁰ If the superintendent finds the number of ballots to exceed the number of voters, she may exclude the votes of that precinct at her discretion.³⁰¹ If there is a discrepancy, the superintendent shall halt further returns until discrepancies are displayed to her satisfaction.³⁰² Election officials then compare the returns announced for all precincts with tally sheets from each precinct.³⁰³ If any discrepancies are discovered, the superintendent shall examine all of the return sheets, tally papers, and other papers in his or her possession relating to the same precinct.³⁰⁴ If necessary, the superintendent shall have the ballot box opened and the vote recounted; if there are still errors, the superintendent may summon the poll officers responsible for the precinct in question.³⁰⁵ In precincts in which voting machines have been used, election officials read the records of the numbers shown on the protective counter or device on each voting machine before the polls opened and after the polls closed.³⁰⁶ If any discrepancies are noted, the superintendent shall halt further returns until discrepancies are resolved to her satisfaction.³⁰⁷ If voting machines are equipped to print paper records, officials will compare return sheets to voting machine totals.³⁰⁸ If any discrepancies are discovered, the superintendent shall examine all of the return sheets, proof sheets, and other papers in her possession relating to the same precinct.³⁰⁹ There are no provisions in Georgia's statutes or regulations regarding memory card reconciliation, and counties responding to a survey for this report furnished no detail on memory card reconciliation procedures. We recommend verifying that all memory cards have been properly loaded onto the tally server before certifying the results of any election.

Make all results public

Upon completion, copies of election returns are posted outside each polling place.³¹⁰ Counties also release precinct level and county totals upon the completion of their canvass.³¹¹

Recommendation: Georgia's ballot reconciliation procedures are generally good but need improvement in specific areas. The state has good procedures in place for basic precinct and county level reconciliations. However, the lack of memory card reconciliation procedures in a state that relies entirely on DREs has the potential to be hugely damaging. We recommend reviewing status reports from the electronic tally server and comparing totals tapes to tally server totals to ensure that all memory cards have been read.

Hawaii

Hawaii's ballot accounting and reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

In precincts where ballots are centrally counted using automatic tabulators, officials must take sealed ballot boxes to the central count location.³¹² In precincts where prompt tabulation at the polling place is feasible, officials may tabulate the votes at the polling place.³¹³ Poll workers must gather all records and supplies and return them to the proper county official.³¹⁴

At the counting center, officials in a receiving team forward ballots to the inspection team,³¹⁵ poll books to the poll book audit team,³¹⁶ and spoiled ballots to the counting center manager.³¹⁷ The ballot inspection team cleans and inspects ballots, separating those that cannot be machine-counted.³¹⁸ The ballot preparation team conducts a final inspection of ballots before tabulation.³¹⁹ All valid ballots are read and counted by a computer³²⁰ and sent to storage teams to be logged and sealed.³²¹

Counting center officials also receive and sign for ballots that were counted at each polling place and transfer these ballots to the storage team.³²² Uncounted ballots, poll books, memory cards, zero tapes and spoiled ballots are all forwarded to the proper officials.³²³ Officials prepare and process memory cards³²⁴ and count all valid ballots by computer.³²⁵

Reconcile vote and ballot totals and address discrepancies at the polling place

The chief election officer or clerk at each central counting center audits the poll books to verify the ballots received from each precinct.³²⁶ The poll book audit team counts the number of signatures in each poll book and compares the number with the precinct turnout logged on the computer to determine overages and underages.³²⁷

Reconcile redundancies at the county level

Upon receiving election materials from precinct officials, county election officials must compare the number of ballots returned and the information recorded on the results of votes cast form with the ballot inventory and certification form and investigate any discrepancies.³²⁸ Then county officials reconcile tally sheet totals with individual tally marks, if applicable, compare tally sheet totals to totals on the results cast form and correct any errors.³²⁹ County officials must make a list of all precincts that showed overages or underages in the comparison of the number of votes to the poll books.³³⁰ County officials then compile, certify and release election results based on a comparison and reconciliation of the results of the initial canvass, an audit of the poll books and the overage/underage report, the results of a manual audit, the results of an absentee ballot reconciliation compiled by election officials, and all logs, tally sheets and other documents.³³¹

Make all results public

When poll workers determine the total number of votes for each candidate or question, they must make a public declaration of the total number of votes cast and the number of votes for each candidate or question.³³² The county list of ballot overages or underages must be kept on file as a public record.³³³ Hawaii law also requires county officials to “release” election results based on the materials examined and reconciled during the canvass.

Recommendation: Hawaii’s ballot reconciliation procedures are good. The state performs especially strongly in the county canvass, which explicitly requires a thorough reconciliation of all totals and supporting documents.

Idaho

Idaho's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

When the polls close, judges count all ballots cast,³³⁴ including absentee ballots that election officials deliver to the polls for tabulation.³³⁵ Election officials then tally the number of votes cast, recording the results on tally books for posting at the polling place and delivery to the county clerk.³³⁶ In counties that count ballots by optical scanners and punch cards at central count locations, ballots and other elections materials are sealed and sent to the county without being tallied.³³⁷ Election judges then seal the combination election record and poll book, tally books, all ballot stubs, unused ballot books and other supplies in a suitable container and deliver them to the county clerk's office.³³⁸

Reconcile vote and ballot totals and address discrepancies at the polling place

After all ballots have been counted at the polling place, poll workers compare the number of voted and spoiled ballots to the number of voters marked as having received a ballot on the poll lists³³⁹ Election judges have the authority to take action to reconcile any discrepancies, but they may not void any ballots cast.³⁴⁰ State election officials also report that unused ballots are included in this count, and that the total number voted, spoiled, and unused ballots must be reconciled with the number of ballots sent to each precinct.³⁴¹

Reconcile redundancies at the county level

The county board of canvassers examines precinct-by-precinct statements of the total number of votes for each candidate or question, and certifies if statement is true.³⁴² While all precinct counts are examined and verified at the county level, there are no statutory requirements mandating reconciliation of vote or ballot totals. The secretary of state, however, requires the reconciling of the number of voters with the number of votes cast, and reconciling precinct totals with composite totals.³⁴³ The importance of standardized reconciliation measures cannot be overstated; we recommend comparing precinct totals to countywide totals and taking other measures to ensure that every ballot sent to the precincts and every vote cast at the precincts are accounted for. None of the counties surveyed for this report reported using a state or local tally server.

Make all results public

Tallies of votes cast at each polling place are posted outside the polling site in the same form that this information is transmitted to the county clerk.³⁴⁴ All counties also reported releasing results to the media, to the public upon request, or by posting results publicly.³⁴⁵

Recommendation: Idaho's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for reconciliations at the precinct level, its county canvass is less rigorous. We recommend

comparing precinct totals to countywide totals and taking other measures to ensure that every ballot sent to the precincts and every vote cast at the precincts are accounted for.

Illinois

Illinois' ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

Immediately upon the closing of the polls, poll workers count the whole number of ballots cast before tallying the votes for each candidate or question and recording the results on their own tally sheets and certificates of results.³⁴⁶ Spoiled and unused ballots are separated, tallied, and sealed in their own envelope.³⁴⁷ In all but two of the counties surveyed for this report, officials count spoiled and unused ballots and compare those totals against the total number of ballots sent to each precinct.³⁴⁸ In precincts that use voting machines, officials will either read counter numbers from machines to election officials who write the results on tally sheets, or officials will generate paper returns from machines with the capability to print results.³⁴⁹ Results are totaled and read aloud, and discrepancies are corrected immediately.³⁵⁰ Judges will then announce the total votes received for each candidate or question, seal and sign bundles of both counted and defective ballots and deliver them to county election officials.³⁵¹

Reconcile vote and ballot totals and address discrepancies at the polling place

If the whole number of ballots cast at a polling place exceeds the number of voters who received ballots, "the ballots shall be replaced in the box, and the box closed and well shaken and again opened and one of the judges shall publicly draw out so many ballots unopened as shall be equal to such excess; and the number of the ballots agreeing with the poll lists."³⁵² Remaining ballots will be marked as excess and will not be counted, though their existence will be recorded in the certificate of results.³⁵³ In other words, the number of ballots counted will be equal to the number of voters on the poll lists, but exactly which ballots are counted will be left to random chance. Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we recommend outlawing this practice.

Reconcile redundancies at the county level

County election officials receive ballots at a central count location, where they reconcile the number of ballots delivered with the number of voters who voted in the precinct, before delivering them to the automatic tabulator.³⁵⁴ Officials note any discrepancies between the number of ballots and the number of voters.³⁵⁵ The county clerk canvasses the results from each precinct and develops a county canvass³⁵⁶ and an abstract of the votes, which she reports to the State Board of Elections.³⁵⁷ There are no standardized procedures for comparing precinct totals to composite totals, nor for reconciling memory cards used with those loaded onto the tally sever where applicable.³⁵⁸ While some counties report checking precinct records against memory card totals loaded onto the tally server,³⁵⁹ others have no such procedures in place.³⁶⁰ Counties surveyed report reconciling precinct totals with composite totals, but other reconciliation practices vary widely.³⁶¹ We recommend reconciling precinct totals with composite totals and ensuring that all memory cards are properly loaded onto the tally server.

Make all results public

Precincts report the result of their canvass to the county clerk, who is obligated by law to post the results in a public place.³⁶² All counties also report releasing results of the canvass.³⁶³

Recommendation: Illinois' canvassing procedures need improvement. While the state has good procedures in place for accounting for all ballots at the polling place, its practice of removing excess ballots at random is highly problematic; we recommend discontinuing and outlawing this practice. Also, Illinois offers its counties insufficient guidance in reconciling ballots and votes at the county level. We recommend reconciling precinct totals with composite totals and ensuring that all memory cards are properly loaded onto the tally server.

Indiana

Indiana's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls have closed, each precinct election board counts the number of paper ballot votes for each candidate.³⁶⁴ When all votes have been counted, the precinct election board prepares a certificate stating the number of votes for each candidate or question.³⁶⁵ If precincts use optical scan ballots and are equipped to tabulate those ballots at the precinct, the board will process all ballot cards through the tabulating machine and certify the total shown by the tabulating system.³⁶⁶ In precincts using electronic voting systems, election officials run totals tapes³⁶⁷ and read the result out loud³⁶⁸ before preparing certificates of the votes cast based on machine results.³⁶⁹ Where applicable, the precinct inspector bundles all voted, unused, disputed or uncounted ballots along with the certificates, voter lists and tally sheets.³⁷⁰ Officials then deliver all elections materials to the circuit court clerk.³⁷¹ Precincts using ballot cards must also deliver copies of the certificate and list of voters to the county elections board by midnight on Election Day; if there was a failure of the voting system, these materials must be delivered as soon as possible.³⁷² If votes are cast on ballot cards that do not allow precinct boards to tabulate the votes themselves, precinct officials will immediately seal the voted ballots and deliver them, along with the unused, uncounted, and defective ballots to the central counting location.³⁷³

Reconcile vote and ballot totals and address discrepancies at the polling place

Where ballot cards are used, the first step of the canvass requires the inspector to count the number of ballot cards to determine whether the number of cards cast exceeds the number of voters shown on the poll lists. If there is a discrepancy, this fact will be reported in writing to the appropriate election officer.³⁷⁴

Reconcile redundancies at the county level

The county election board carefully examines and compares the certificates, poll lists, and tally sheets and aggregates the vote for its jurisdiction based on totals furnished by each precinct.³⁷⁵ Counties are not required by law to reconcile precinct totals with county totals, and while some counties report conducting this reconciliation in practice,³⁷⁶ others do not.³⁷⁷ We recommend reconciling precinct totals to composite totals during the county canvass. No counties reported rigorous memory card reconciliation procedures. We recommend adopting universal standards for memory card reconciliation in any state where counties use electronic voting systems.

Make all results public

Immediately upon completion of the vote count, each precinct election board must record the vote totals for each candidate or question on a certificate, which is delivered to the news media.³⁷⁸ In precincts using automatic tabulating equipment, the return printed directly from the optical scanners constitutes the official precinct return, and this document will be

released to the public and the media upon request.³⁷⁹ All counties also report releasing the results of the county canvass to the public.³⁸⁰

Recommendation: Indiana's ballot reconciliation procedures are generally good but need improvement in specific areas. The state has good procedures in place for reconciliations at the precinct level and in making results public, but we recommend reconciling precinct totals to composite totals during the county canvass and adopting universal standards for memory card reconciliation in any state where counties use electronic voting systems.

Iowa

Iowa's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

After the close of the polls, votes are tallied manually, Election officials publicly canvass the vote, tally the votes for each candidate, ascertain the final result, and take note of any errors or discrepancies in the election register.³⁸¹ Officials also tally and record the number of spoiled, unused³⁸² and over-voted or under-voted ballots.³⁸³ Election officials announce the results of the vote and forward those results to the county board of supervisors.³⁸⁴

Reconcile vote and ballot totals and address discrepancies at the polling place

The precinct board reconciles the number of voters who signed in with the number of ballots cast; if there is a discrepancy, officials must certify that fact on the precinct return.³⁸⁵ Poll workers must record and reconcile the total number of ballots received at the polling place with the total number of voted, disputed, spoiled, provisional and unused ballots returned.³⁸⁶

Reconcile redundancies at the county level

The county board of supervisors meets after the election to prepare an abstract of precinct tallies.³⁸⁷ The board reviews the tallies and corrects any obvious errors, though it does not review the underlying vote.³⁸⁸ The county board of supervisors forwards its abstract to the secretary of state. The secretary of state prepares an abstract,³⁸⁹ which the canvassing board reviews for accuracy,³⁹⁰ comparing precinct reports to the county abstracts and addressing any discrepancies.³⁹¹ The canvassing board also reviews results reports from officials in precincts where memory cards are used against compiled canvass results and addresses any discrepancies.³⁹² Though procedures vary from county to county, most use some kind of voting system tally server,³⁹³ some in conjunction with manual tallies intended as an additional check.³⁹⁴ Other counties have procedures for counting the total number of memory cards from each precinct but do not use a server per se.³⁹⁵

Make all results public

Tally sheets, ballot records and other documents are public record and are open to public inspection.³⁹⁶

Recommendation: Iowa's ballot reconciliation procedures are good. Ballots and votes are fully accounted for at the polling place and the county level, and Iowa is one of a very few states with formal memory card reconciliation procedures in its code.

Kansas

Kansas' ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

In precincts where ballots are hand-counted, election officials remove ballots from the ballot box and read the votes aloud; those votes are then recorded by a clerk.³⁹⁷ Void and blank ballots are also announced.³⁹⁸ After all votes are counted, the election board prepares an abstract of the results that is submitted to the county canvassing board.³⁹⁹ In precincts using optical scanners, ballots are tallied automatically; the abstract returned is the totals tape produced by the machines.⁴⁰⁰ After the initial canvass, all tally sheets, poll books, abstracts, and ballots, including unused and spoiled ballots, are returned to the county election officers.⁴⁰¹

Reconcile vote and ballot totals and address discrepancies at the polling place

From time to time during the initial tally of the votes, canvass clerks will compare tally sheets and reconcile any differences to the satisfaction of the majority of election officials present.⁴⁰² Poll workers are also required by law to reconcile the number of voted, spoiled, and unused ballots returned with the number issued to the precinct.⁴⁰³ While the law does not specifically require precinct-level canvassers to compare the number of ballots cast to the number of voters who signed in, election officials assert that this comparison is made in practice.⁴⁰⁴ Because this comparison is a crucial element of the canvass upon which other important ballot reconciliation procedures are based, we recommend formally adopting these procedures into law.

Reconcile redundancies at the county level

The county board of elections conducts an intermediate canvass.⁴⁰⁵ The county election officer first inspects the abstracts and tally sheets from each precinct; this is called a preliminary intermediate abstract.⁴⁰⁶ The results of the preliminary intermediate abstracts are presented to the county board of canvassers, which inspects the records corrects errors.⁴⁰⁷ The county board of canvassers also reviews the poll books, and can order a recount if it finds errors that might affect the election's outcome.⁴⁰⁸ After the intermediate canvass, the county board of canvassers prepares an abstract and transmits it to the secretary of state.⁴⁰⁹ The county includes precinct totals in this abstract, and the secretary of state's office reviews these totals and reconciles them with countywide totals when producing final election results.⁴¹⁰ Counties that use multiple memory cards report rigorous reconciliation procedures, including post-election audits⁴¹¹ and loading cards one at a time and checking results after each.⁴¹² Other counties also reported specific procedures for using tally servers.⁴¹³ While these practices are commendable, we recommend that the state adopt uniform procedures for memory card reconciliation.

Make all results public

The results of the county canvass are kept in the county elections officer's office as a permanent record.⁴¹⁴ Some counties even reported posting the results on their websites.⁴¹⁵

Recommendation: Kansas' ballot reconciliation procedures are good. The state has good procedures in place for both precinct-level and county-level reconciliations, though we recommend that the practices of reconciling ballot totals with the total number of voters and reconciling all memory cards with tally server totals be standardized and adopted as official state policy.

Kentucky

Kentucky's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

At the close of polls, precincts using paper ballots open the ballot boxes and count the total number of ballots.⁴¹⁶ Precinct officials separate invalid and damaged ballots and certify the number of ballots to be sent to the central count location.⁴¹⁷ After inspecting all ballots, election officials certify the number of ballots issued to the precinct, and the number of voted, spoiled and unused ballots.⁴¹⁸ Precinct officials then seal all election materials for delivery to county officials⁴¹⁹ and sign a certified statement of the number of voters who signed in on the poll list, the number of ballot cards submitted for tabulation, and discrepancies in ballot reconciliation, and other precinct information.⁴²⁰ All materials are delivered to the county clerk.⁴²¹ The county board of elections receives and tallies ballots at a central count location.⁴²² After all ballots are tallied and accounted for, the certifying board completes a statement of returns and re-seals the ballots.⁴²³

In precincts using voting machines, judges lock machines against further voting and record the number of voters shown on the public counters and the number on the protective counter of each device.⁴²⁴ One judge then makes the internal counters visible and announces the number of votes for each candidate or question recorded on the counters.⁴²⁵ The other judges enter the results as read on quadruplicate return sheets and a statement of results.⁴²⁶ After results are recorded, one judge will read the votes for each candidate or question aloud and individuals present will have the opportunity to compare the votes as announced with the machine counters.⁴²⁷ After any discrepancies are corrected and judges sign the returns,⁴²⁸ judges forward copies of the return to the county clerk, county board of elections, and each of the political parties.⁴²⁹

Reconcile vote and ballot totals and address discrepancies at the polling place

Before any votes are counted, officials at precincts that use ballots count the total number of ballots, compare it against the number of voters who signed the poll list, and explain any discrepancies.⁴³⁰ Regulations also require officials at precincts using DREs to compare the number of voters on the poll list with the public counters on devices periodically throughout the day.⁴³¹ After all ballots have been tallied at the central count location, the certifying board reconciles the number of ballots tallied with the number of ballots that each precinct reported submitting to the county for tally.⁴³² The board must reconcile or explain any discrepancies.⁴³³

Reconcile redundancies at the county level

The precinct canvass constitutes the official results, unless the county board of elections notices any discrepancy in the precinct tallies or a candidate requests a recanvass in writing.⁴³⁴ If a recanvass is requested, the county recounts the votes on each machine and corrects all records accordingly if necessary.⁴³⁵ The county board of elections must report the machine votes, absentee votes and vote totals for each candidate.⁴³⁶ While counties report examining precinct totals and reconciling vote and ballot totals,⁴³⁷ rigorous county canvass

procedures are necessary. We recommend adopting uniform county ballot reconciliation procedures, including reconciling precinct totals with county totals and reviewing tally server status reports to ensure that all memory cards have been read.

Make all results public

Immediately after the vote has been ascertained, the results are posted on the door of the polling place.⁴³⁸ Representatives of the news media are authorized to witness all vote counts and recanvasses.⁴³⁹

Recommendation: Kentucky's ballot reconciliation procedures need improvement. While the state has good procedures in place for vote and ballot reconciliation at the precinct level, its county-level canvass is unstandardized and leaves opportunity for inadequate review of precinct totals. We recommend adopting uniform county ballot reconciliation procedures, including reconciling precinct totals with county totals and reviewing tally server status reports to ensure that all memory cards have been read.

Louisiana

Louisiana's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

At the close of the polls, elections commissioners run four identical tally sheets from each voting machine at the precinct.⁴⁴⁰ The commissioners “examine, sign and certify each set,” and complete certificates that state, among other information, the number on the public voting machine counter, the total number of votes cast on that machine, and the number shown on the protective counter.⁴⁴¹ Officials then sign and certify the duplicate poll lists and seal all duplicate affidavits of voters, any address confirmation cards, and other elections documents into an envelope attached to the precinct register.⁴⁴² They then seal any original affidavits of voters and original challenges of voters, the zero proof sheet, one copy of the final result tally sheets, one of the duplicate poll lists, and a copy of the machine certificates in an envelope that is attached to or placed in the voting machine with the envelope attached to the precinct register.⁴⁴³ The elections commissioners then send the secretary of state one copy of the final tally sheets, the poll list and the machine certificate.⁴⁴⁴

Reconcile vote and ballot totals and address discrepancies at the polling place

Although a copy of the poll list is mailed to the secretary of state,⁴⁴⁵ the secretary uses the compilation of votes statements prepared by the parish board and transmitted by the clerk of court to certify the vote. This comparison is a crucial element of ballot reconciliation, and we recommend requiring this reconciliation by law.

Reconcile redundancies at the county level

The clerk of court, in the presence of the parish board of election supervisors, is required to verify the total votes cast for each candidate or question as shown on the voting machines or voting machine election result.⁴⁴⁶ The machine votes cast will be recorded separately by each precinct.⁴⁴⁷ The parish board is charged with preparing two statements of the election returns, which show the machine votes for each candidate, the total absentee by mail and early voting votes for each candidate, the total provisional votes for each candidate for federal office, and the total of all votes for each candidate.⁴⁴⁸ The board may – but is not required to – attach to this statement a report of any irregularities associated with the security of the polling place, the security of the voting machines, the physical condition of the machines, the physical condition of the other election materials, the substantive contents of the election materials, and any other matter affecting the verification of the vote totals.⁴⁴⁹

Make all results public

After tally sheets have been run from machines at each polling place and examined by election officials, officials are required by law to announce the results of the election and post the results of the election at a conspicuous place at the polling place for public viewing.⁴⁵⁰ We recommend making county-level results available, as well.

Recommendation: Louisiana's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for other forms of vote accounting at the polling place, it does not require the crucial reconciliation of the number of voters with the number of ballots cast in each precinct. We recommend reconciling the number of votes cast with the number of voters who are marked in the poll books as having voted. Additionally, all voting systems that use memory cards, but especially those that rely entirely on DREs, should review tally server reports to ensure that all memory cards have been properly recorded.

Maine

Maine's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

At the close of polls, all ballots are separated and tallied in a manner specified by the secretary of state.⁴⁵¹ Spoiled ballots are separated but not tallied. In precincts where ballots are counted by hand, pairs of poll workers tally ballots on separate tally sheets, reconciling any discrepancies between the tally sheets after each lot of 50 ballots is counted.⁴⁵² Where applicable, precincts are also required to run an official totals tape from an electronic tabulation system and return that document to the municipal clerk, along with all used ballots and tabulation sheets.⁴⁵³ Unused ballots are canceled and sealed in a separate container.⁴⁵⁴ Election officials then sign and seal the certified list of voters who checked in on the poll lists, which includes a list of voters who submitted absentee ballots.⁴⁵⁵ All election materials are then delivered to the municipal clerk.⁴⁵⁶ The warden at each ward or precinct fills out and signs the election return form provided by the secretary of state, showing the number of votes cast for each candidate or question and recording the total number of state ballots cast in that ward or precinct.⁴⁵⁷

Reconcile vote and ballot totals and address discrepancies at the polling place

Maine has no explicit legal requirements for the comparison of the number of voters who checked in at the polls with the number of ballots cast. This comparison is a crucial element of the ballot reconciliation process, and we recommend legally mandating this comparison.⁴⁵⁸

Reconcile redundancies at the county level

Municipal officials oversee the regional element of the canvass in Maine, and the secretary of state plays a large part in the Maine canvass. The municipal clerk receives the signed returns from each precinct and may correct any tabulation or vote recording errors that are made "obvious" through an examination of the tally sheets or tapes.⁴⁵⁹ The secretary of state receives returns from the municipal clerks and tabulates all votes.⁴⁶⁰ The secretary examines the returns and the record of the vote, and if any discrepancy exists, he will correct the tabulation.⁴⁶¹ In municipalities with multiple precincts, clerks add together the totals from each polling place to determine the composite totals for the municipality. While one municipality reports reconciling precinct and composite totals,⁴⁶² there is no provision for the reconciliation of precinct and composite totals; we recommend legally mandating this comparison to ensure that every vote is accurately reflected in the statewide canvass. Maine does not use a tally server and has no need to reconcile memory cards with server totals.

Make all results public

In precincts where optical scanners are used, one copy of the returns printed from each tabulator is posted outside the polling place.⁴⁶³ The secretary of state is required by law to have copies of the statewide tabulation printed and made available to the public.⁴⁶⁴

Recommendation: Maine's ballot reconciliation procedures need improvement. Maine omits a number of key reconciliation measures. We recommend accounting for all ballots, reconciling the number of voters checked off in the poll books against the number of ballots cast, and reconciling precinct totals against composite totals for the jurisdiction overseeing elections.

Maryland

Maryland's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Accounting for all ballots and votes at the polling place

After the last vote has been cast, the election judge closes the polls and secures the voting systems⁴⁶⁵ and completes all documents, records and reports required by law or regulation.⁴⁶⁶ The county board of canvassers provides election judges with detailed procedures on the closing of polls based on what voting system is used.⁴⁶⁷ If a precinct tabulator is used, the precinct count is conducted in accordance with state regulations specific to various voting systems.⁴⁶⁸

For optical scan machines, election judges remove any ballots that have been deposited in the auxiliary ballot box and enter them into the scanner.⁴⁶⁹ A copy of the vote total count is printed, signed by a bipartisan pair of election judges and sealed for return to the counting center.⁴⁷⁰ A bipartisan pair of election judges must also remove all voted ballots from the ballot box and seal them in a container provided for that purpose.⁴⁷¹ Spoiled ballots are placed in the spoiled ballot envelope.⁴⁷² A bipartisan pair of election judges must also place the scanner into its carrying case, seal it and deliver the carrying case to the local board.⁴⁷³ Voted ballots, memory cards and printout tapes must be delivered to the counting center promptly after polls close by a bipartisan pair of election judges.⁴⁷⁴ Unused ballots, spoiled ballots and all other materials must also be returned to the counting center, but the mode or security of their delivery is not specified.⁴⁷⁵

For DRE touch screen machines, when the "end election" button and "print totals report" button are pushed, the machine will automatically tabulate and print out the total number of votes cast for each candidate and question.⁴⁷⁶ The results report indicates the number of votes cast in each write-in position.⁴⁷⁷ Election judges end the election on each voting machine, print and sign the vote totals reports, post the reports, document the public and protective counter totals, remove memory cards from the machines, and return materials to the local board.⁴⁷⁸ For DRE touch screen machines, memory cards, memory card envelopes, door key envelopes, official results envelopes, signs and supply bags must be promptly delivered to the local board after polls close.⁴⁷⁹

Reconciling ballot totals

Following the tabulation of the votes, the election director produces a consolidated report that shows the total votes cast for all offices and on all questions.⁴⁸⁰ The election director makes a full accounting of the ballots.⁴⁸¹ While Maryland does not have any laws or regulations requiring a comparison of the number of voters who sign in to vote and the number of ballots cast, the state Board of Elections reported that each voter receives a piece of paper that contains his or her voter registration information, called a "VAC." The VAC is put in an envelope that is taped to the voting machine to which the voter is assigned. As laid out in the poll worker manual, throughout voting, poll workers are required to count the number of VACs in the envelope and compare the number to the counter on the voting

unit.⁴⁸² While this procedure is fairly rigorous, we recommend legally requiring the reconciliation of ballots cast to signed-in voters.

Reconciling redundancies at the county level

The local board of canvassers review election returns and ascertain the result of the election. If the board finds an error in the precinct returns, they must investigate the matter.⁴⁸³ The local board then certifies the votes cast for each candidate or question.⁴⁸⁴

If multiple DRE touch screen machines have been used in a precinct, the local board will determine if memory cards should be consolidated to determine a precinct total and will do so according to procedures in the judges' manual.⁴⁸⁵ For DRE touch screen machines, the local board is charged with developing procedures for assembling memory cards from each polling place, transferring votes from the memory cards to the central system, tabulating write-in votes, and aggregating vote totals for the county, including polling place and absentee ballot totals.⁴⁸⁶

For DRE touch screen machines, the central tabulating system will tabulate and report the total number of votes for each candidate and question by precinct and by groups of precincts, such as districts, wards and countywide. It will also report the total number of votes for each contest and in write-in positions.⁴⁸⁷ County boards are required to compare 10% of the polling place tallies by manually tabulating the official results report for each DRE machine and comparing them to the report from the election management system.⁴⁸⁸ While this procedure is admirable, we recommend adopting measures by which vote totals for every precinct are compared with composite totals logged on the tally server. The election management system accounts for every memory card used in the election.⁴⁸⁹

Making results public

Where DRE voting machines are used, the results are posted per instruction in the election judge manual.⁴⁹⁰ The local board is also required to make a report of the total votes for all contests and questions organized by precinct available to the public.⁴⁹¹

Recommendation: Maryland's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for reconciliation of votes cast at the precinct and deserves particular acclaim for having regulations in place for memory card reconciliation, we recommend adopting measures by which the total number of voters is compared to the number of ballots cast in every precinct in the state and adopting measures by which vote totals for every precinct are compared with composite totals logged on the tally server.

Massachusetts

Massachusetts' ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes and voters at the polling place

At the close of the polls, precinct officers print out totals tapes from each optical scanning machine and deliver the printout to the clerk for tabulation.⁴⁹² Precinct officers count paper ballots and any optical scan ballots sent to voting machines' auxiliary bins by hand.⁴⁹³ The clerk records the total number of voters on the voting list, total number of names checked on the voting lists, the number of ballots received at the polling place, the ballot box register, the total number of provisional ballots cast, and the total number of spoiled and unused ballots.⁴⁹⁴ The clerk records the total number of ballots cast and the vote totals for each candidate or question.⁴⁹⁵ Massachusetts law requires that spoiled ballots be destroyed without being examined.⁴⁹⁶

Reconcile vote and ballot totals and address discrepancies at the polling place

Precinct officers must compare the number of ballots cast to the number of voters who are checked on both the check-in list voter list and check-out voter list.⁴⁹⁷ Once tally sheets balance, officials announce and record vote totals.⁴⁹⁸ All ballots – including spoiled and unused ballots – are accounted for, gathered and recorded; precinct officers seal cast and uncast ballots into separate containers.⁴⁹⁹ Election officials sign the sealed cast ballot container and then seal and sign the total tally sheet.⁵⁰⁰

Reconcile redundancies at the county level

Massachusetts conducts elections on the municipal level, and counties are not involved in vote-counting. As required by law, city or town clerks examine precinct results for any discrepancies or tabulation errors before reporting results to the secretary of state.⁵⁰¹ The secretary of state presents the record of votes to the governor and councilors, who tabulate and certify the statewide result.⁵⁰² Massachusetts does not upload any memory cards to a vote counting server.⁵⁰³

Make all results public

The returns from each precinct are reported to the secretary of state by way of the Central Reporting Service; these results are disseminated to the public.⁵⁰⁴ Municipalities also report posting optical scan printouts outside the city clerk's office.⁵⁰⁵ We recommend legally mandating the release of all precinct and county-level results.

Recommendation: Massachusetts' ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for poll site reconciliation practices, its municipal reconciliation lacks a comparison of precinct and composite totals. We recommend reconciling all totals received from each polling place with composite totals before certifying the result of an election. We also recommend legally mandating the release of all precinct and municipal level results.

Michigan

Michigan's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls close, the precinct inspectors print the recorded vote results from the precinct's optical scan tabulator.⁵⁰⁶ After any discrepancies are resolved, the ballots are secured in approved ballot containers.⁵⁰⁷ Poll workers prepare and sign an election certificate stating the whole number of votes cast for each candidate or question, which they affix to the ballot container in such a way that the certificate cannot be removed without breaking the seal on the ballot container.⁵⁰⁸ Officials seal and secure the ballot box and deliver it to the town, city, or village clerk.⁵⁰⁹

The election inspectors prepare duplicate statements of the election returns showing the total number of votes cast for all offices and the number of votes cast for each candidate and question.⁵¹⁰ The total number of ballots delivered to the precinct is accounted for in the ballot summary, including voted, defective, and unused ballots.⁵¹¹ Undervotes are not recorded.⁵¹²

Reconcile vote and ballot totals and address discrepancies at the polling place

The number of ballots cast as recorded on the tabulator tape is compared to the number of names entered in the precinct's poll book.⁵¹³ If a discrepancy exists, the precinct inspectors attempt to resolve the discrepancy through a review of the records and a manual count of the ballots.⁵¹⁴ If it appears that one or more ballots have not been counted, the ballots are retabulated, and a corrected tabulator tape is produced.⁵¹⁵

Reconcile redundancies at the county level

The board of county canvassers canvasses the returns of votes cast for all candidates and questions according to the returns.⁵¹⁶ They check the tabulated totals from the precincts.⁵¹⁷ If there are any missing, incomplete, or incorrect returns, the county canvassers have access to election materials and are authorized to correct obvious mathematical errors in tallies and returns and call upon election inspectors to retabulate any ballots to produce correct returns.⁵¹⁸ We recommend adopting the practice of comparing precinct totals to composite totals.

Make all results public

Immediately following the completion of any canvass, the results stating the number of votes cast for each candidate and question must be made available to anyone who is present.⁵¹⁹ Statements of election returns are submitted to the board of canvassers and the county clerk.⁵²⁰ The county clerk compiles the unofficial returns and makes them public.⁵²¹ Election results are posted on the Internet as they are returned to county officials.⁵²² In addition, county clerks forward unofficial returns for state and federal office to the secretary of state, who posts them on the Department of State's website.⁵²³

Recommendation: Michigan's ballot reconciliation procedures are generally good, but need improvement in specific areas. The state has good procedures in place for accounting for all ballots at the polling place and making all results public. However, we recommend discontinuing and outlawing the practice of removing ballots in excess of the number of voters at random, and we recommend adopting the practice of comparing precinct totals to composite totals.

Minnesota

Minnesota's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

As soon as the polls have closed and poll workers have locked tabulators against further voting, they must open the ballot box and count and record the total number of ballots.⁵²⁴ Judges then enter all ballots into the ballot counter.⁵²⁵ Poll workers must create a printed record of the results of the election for the precinct; after the record has been printed, the head poll worker may transmit accumulated totals to a central county report location using a telephone, modem, Internet or other means of electronic communication.⁵²⁶ These returns remain unofficial until the canvassing board has examined and reconciled all results.⁵²⁷

Where ballots are tabulated at a central count location, judges seal all voted, defective and damaged ballots, along with all unused ballots, for delivery to the counting center.⁵²⁸ Counting center judges conduct a preliminary tabulation of ballots using an automatic tabulator before returning ballot cards to the judges designated to examine the ballots for physical defects and prepare them for final tabulation.⁵²⁹ After judges replace any damaged or defective cards, they must obtain a final tabulation from the automatic tabulating equipment.⁵³⁰

The poll workers in every precinct must prepare a statement that details the number of votes for each candidate or question; the number of under-voted or over-voted ballots; the number of blank, defective, spoiled or unused ballots; the total number of individuals who voted in the precinct; and the total number of voters registered in the precinct.⁵³¹ This, together with the final tabulation and the returns of write-in and absentee votes, constitute the official returns for the precinct.⁵³² These returns must include a complete report from the tabulating equipment of all ballots processed.⁵³³

Reconcile vote and ballot totals and address discrepancies at the polling place

After the close of the polls, poll workers must count the total number of ballot cards in the ballot box to determine whether this total matches the number of voters who signed in the election register.⁵³⁴ If there is an excess, poll workers must seal the ballots and transport them to the county auditor or municipal clerk, who will examine all ballots to ensure that they are properly initialed by election judges.⁵³⁵ The auditor or clerk will set aside any ballots folded together or not properly initialed; if there is still an excess, an election judge will withdraw a number of ballots equal to the excess at random.⁵³⁶ Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we recommend discontinuing and outlawing this practice.

Reconcile redundancies at the county level

The county canvassing board canvasses the precinct returns and files a report stating the total number of voters in each precinct, the total number of voters registered before Election Day and on Election Day in each precinct, and the total votes for each candidate or

question in each precinct.⁵³⁷ The county canvassing board then certifies the results of the canvass and transmits those results to the secretary of state.⁵³⁸ While there is no explicit legal requirement that county officials compare precinct results to composite totals, a representative of the secretary of state's office reports that this reconciliation is done in practice,⁵³⁹ and three of the four counties surveyed for this report state that they do reconcile precinct results with countywide results.⁵⁴⁰ We recommend legally mandating a comparison of precinct totals to countywide totals during the county canvass. Similarly, while Minnesota has no procedures for memory card reconciliation in place, a representative of the secretary of state's office reports that tabulator tapes are compared against tally server totals as a best practice.⁵⁴¹ Counties report stronger reconciliation practices, verifying that each precinct's memory cards have properly uploaded to the server before the end of election night⁵⁴² and comparing results tapes to tally server reports.⁵⁴³ We recommend codifying these practices as a matter of law.

Make all results public

The results of the preliminary tabulation of precinct results at a counting center may be released to the public if they are clearly marked as unofficial.⁵⁴⁴ The county auditor in each county must also provide a certified copy of the county canvassing board report to anyone who requests it.⁵⁴⁵

Recommendation: Minnesota's ballot reconciliation procedures are generally good, but need improvement in specific areas. The state has good procedures in place for accounting for all ballots at the polling place and making all results public. However, we recommend outlawing the practice of removing ballots in excess of the number of voters at random. We also recommend legally mandating the practices of comparing precinct totals to composite totals and reviewing status reports from the tally server to ensure that all memory cards have been properly loaded onto the tally server.

Mississippi

Mississippi's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Immediately at the close of the polls, election officials count the ballots cast, reading aloud votes, which are then recorded by clerks.⁵⁴⁶ Once votes have been completely and correctly tallied, the managers publicly announce the result of each ballot box, certify in duplicate a statement of the result, and enclose one copy of the statement in the ballot box.⁵⁴⁷ Officials then lock all voted, spoiled or unused ballots in the ballot box, along with a copy of the ballot receipt, the tally list and the poll books.⁵⁴⁸ All elections materials are delivered to the clerk of the county circuit court.⁵⁴⁹

Reconcile vote and ballot totals and address discrepancies at the polling place

Election officials must reconcile the number of ballots voted with the number of voters who signed in.⁵⁵⁰ Additionally, the number of voted, spoiled, and unused ballots must correspond with the total number of ballots received by the polling place as listed on the ballot receipt.⁵⁵¹ If there is a discrepancy, it must be "perfectly accounted for" by a sworn statement signed by the elections managers and included with other elections materials sealed in the ballot box.⁵⁵²

Reconcile redundancies at the county level

The county executive committee receives and canvasses the returns from each precinct.⁵⁵³ County officials transmit the certified vote totals for the whole county and for each precinct within the county to the secretary of state, but there is no explicit legal requirement that the sum of precinct-level totals be reconciled with vote totals for the county. We recommend adopting this reconciliation as a part of the county canvass. After the county canvass is complete and the results of the election are certified, county officials must submit a report of residual votes, which includes spoiled, undervoted, and overvoted ballots, to the secretary of state.⁵⁵⁴ While the state uses a server system that prompts officials to enter memory cards that have not been loaded,⁵⁵⁵ the state appears to have no provisions for checking to see that memory cards that have been loaded were properly read by the server. We recommend reviewing status reports from the tally server to ensure that all memory cards have been read.

Make all results public

A statement of the result of each ballot box is required by law to be kept by one of the elections managers to be examined by any voter who requests the opportunity to do so.⁵⁵⁶

Recommendation: Mississippi's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for polling place reconciliation and elements of its canvass are quite rigorous, we recommend including a reconciliation of precinct totals with county totals as a part of the county canvass and reviewing status reports from the tally server to ensure that all memory cards have been read.

Missouri

Missouri's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

According to the Missouri secretary of state's office, DREs or memory cards are sent to a central count location on election night, and there is no longer any hand-counting at the polls, although laws applicable to this practice remain on the books.⁵⁵⁷ At the close of polls, election judges generate at least one tally tape from each precinct counter (optical scanning device) or DRE.⁵⁵⁸ Judges then accumulate the votes recorded on each unit.⁵⁵⁹ Memory cards are removed from any unit that will not be delivered to a central count location and sealed in any unit that will be delivered to the count location.⁵⁶⁰ Election officials seal and preserve all paper cast vote records, memory components, and provisional, optical scan and spoiled ballots.⁵⁶¹ Audit trail tapes, voter access cards, voter lists, recap sheets and other election materials are transported to the election authority.⁵⁶²

Reconcile vote and ballot totals and address discrepancies at the polling place

After judges print totals tapes from each machine, they are required to compare the totals shown on the tape with the counter shown on the unit and the number of voters who signed in on the precinct register.⁵⁶³ In the case of precinct counters, the judges will compare the number on the tapes with the number on the machine counter and the number of ballots marked.⁵⁶⁴ Judges must document any discrepancy.⁵⁶⁵

Reconcile redundancies at the county level

At the central count location, the election authority transfers the vote totals from the memory components of each DRE or precinct counter into the election management system for official tabulation and consolidation.⁵⁶⁶ Missouri has no formal procedures for verifying that all memory cards are properly loaded onto the tally server; according to officials from the secretary of state's office, this is handled at the local level.⁵⁶⁷ This is an essential component of ballot reconciliation for any elections system that relies on memory cards, and we recommend adopting formal procedures for the reconciliation of memory cards loaded onto the tally server.

Prior to certification of the results, accuracy certification teams run a set of votes identical to that used in a pre-election logic and accuracy test on each memory component used to tabulate votes at the precincts.⁵⁶⁸ In the event of a discrepancy, the program will be corrected or paper cast vote records will be hand-counted.⁵⁶⁹ The elections authority is also required by law to hand count the paper records from at least one precinct out of every 100 selected at random.⁵⁷⁰

As soon as possible after each election, the county convenes a verification board to verify the results of the tally and certify the results of the election.⁵⁷¹ The verification board's corrections supersede any returns reported by judges on Election Day.⁵⁷² The verification board examines all voting machines and prints returns from these machines.⁵⁷³ The board

compares machine returns with the returns furnished by elections judges on Election Day; if there is any discrepancy, the verification board corrects the judges' returns.⁵⁷⁴ The verification board prepares an abstract, which includes the votes for each candidate or question broken down by political subdivision within its jurisdiction.⁵⁷⁵

Make all results public

The printed return from each voting machine and any written notes regarding write-in votes will constitute the official return sheet for that machine, and one copy of this return will be posted outside the polling place.⁵⁷⁶

Recommendation: Missouri's ballot reconciliation procedures are generally good but need improvement in specific areas. While its precinct-level reconciliations and many elements of its county canvass are quite rigorous, reviewing tally server status reports to ensure that all memory cards have been read is an essential component of ballot reconciliation for any elections system that relies on memory cards, and we recommend adopting formal procedures for the reconciliation of memory cards loaded onto the tally server.

Montana

Montana's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Votes are counted at the polling place and recorded on return forms.⁵⁷⁷ Two election judges must each keep a tally of the vote on separate tally sheets; after the tally is complete, the judges must compare their tally sheets.⁵⁷⁸ If there is a discrepancy, the count must be conducted again until the tallies match.⁵⁷⁹ After counting is complete, election judges seal the ballots and sign and certify the poll book.⁵⁸⁰ County election officials also reported that the number of spoiled, unused and overvoted and undervoted ballots are counted and compared to the total number of ballots delivered to the precinct.⁵⁸¹ Election judges then seal the precinct register, lists of individuals challenged, the poll book, the two tally sheets, all unused ballots and all ballots voted (including those not counted or allowed), and detached stubs from all counted or rejected absentee ballots, and deliver these items to the election administrator.⁵⁸²

Reconcile vote and ballot totals and address discrepancies at the polling place

Before counting the votes, the counting board is required by law to count all ballots cast to ensure that the total number of ballots corresponds with the total number of votes who signed the poll book.⁵⁸³ If there is a discrepancy that cannot be reconciled, the counting board must submit a report of the number of ballots missing or in excess and any known reason for the discrepancy.⁵⁸⁴

Reconcile redundancies at the county level

The county canvassing board meets to canvass the returns from each precinct.⁵⁸⁵ During this process, the canvassing board opens the returns, audits the tally books or other records of votes cast, determines the precinct-wide vote for each candidate or question, compiles totals, and declares the result.⁵⁸⁶ If the canvassing board finds an error in precinct documents affecting vote totals, the board can petition for a recount or for an inspection of the ballots.⁵⁸⁷ The canvassing board then compiles a report of the total number of people who voted in each precinct and in the county, the votes in each precinct for each candidate or question, and the total votes in the county for each candidate or question.⁵⁸⁸ Although no information is currently available regarding Montana's policies toward memory card reconciliation, one county official reported comparing the numbers on the memory cards to the reconciliation of the poll books.⁵⁸⁹

Make all results public

Immediately after all votes are counted and recorded, election judges must post a copy of the return form at the counting location.⁵⁹⁰ One county official reported that results are posted in the courthouse and provided to newspapers, radio stations and others.⁵⁹¹ Another county reported that results are available upon request.⁵⁹²

Recommendation: Montana’s ballot reconciliation procedures are generally good but need improvement in specific areas. While its precinct and county-level reconciliations are strong, we recommend mandating a comprehensive accounting of all ballots, including spoiled and unused. We also recommend mandating the release of county returns to the public.

Nebraska

Nebraska's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls close, poll workers count and record the number of registered voters and sign the precinct voter list and sign-in register.⁵⁹³ Election officials deliver the ballot box and all other election materials to a central count location.⁵⁹⁴

The initial vote count takes place at a more central count location determined by each county.⁵⁹⁵ The counting board staffing these central count locations counts the ballots using optical scanners unless it becomes impracticable to do so.⁵⁹⁶ According to the Nebraska secretary of state's office, the counting board also tallies the number of spoiled and unused ballots and reconciles that tally with the number of ballots delivered to each precinct, but this practice is not mandated by law. We recommend adopting ballot reconciliation procedures upon the initial count to ensure that all ballots are accounted for before they are examined in the county canvass. The counting board seals voted and rejected ballots, generates a report summarizing the votes cast for each candidate or question, and returns these materials to the county clerk.⁵⁹⁷

Reconcile vote and ballot totals and address discrepancies at the polling place

Typically, ballots are delivered to the central count location in sealed ballot boxes that poll workers at the precinct are not authorized to open.⁵⁹⁸ When poll workers count the number of ballots at the precinct prior to their transfer to the county, this count is for chain of custody verification and not for the purpose of reconciling the number of voters with the number of ballots.⁵⁹⁹ While no statute requires election officials at the county level to compare poll lists to the number of ballots cast in each precinct, the Nebraska secretary of state's office reports that the county canvassing board makes this comparison.⁶⁰⁰

Reconcile redundancies at the county level

After ballots are counted at the central count location, county canvassing boards meet to canvass the vote for all precincts within their jurisdiction.⁶⁰¹ Although this practice is not required by law, state and local officials report that the county canvass includes reconciling spoiled, unused and overvoted and undervoted ballots with the total number of ballots sent to each precinct.⁶⁰² If there is an obvious error in the vote tallies as reported, the board may correct the error and open the ballot container and recount the ballots as needed.⁶⁰³ Once all precinct totals are determined to be correct, the canvassing board records the results in a permanent ledger⁶⁰⁴ and prepares an abstract of votes, which the board delivers to the secretary of state.⁶⁰⁵ The system used to generate county abstracts requires county canvassing boards to enter precinct-by-precinct totals,⁶⁰⁶ and Nebraska counties widely report comparing precinct totals with their countywide total in certifying county canvass results.⁶⁰⁷ While Nebraska appears to have adequate extralegal safeguards in place with respect to reconciling precinct totals, we strongly recommend legally mandating a comparison of precinct totals with county totals to ensure that each precinct tally is accurately reflected in

the state canvass. Very few counties in Nebraska use a voting system server, but those that do report comparing totals tapes to data loaded onto the server to ensure that all memory cards have loaded properly.⁶⁰⁸

Make all results public

The Nebraska secretary of state's office makes its state abstract, which is created through the examination and compilation of county abstracts,⁶⁰⁹ available to the public.⁶¹⁰ Additionally, all counties surveyed reported releasing the vote totals publicly,⁶¹¹ and four of the nine counties surveyed reported making full canvass reports available upon request.⁶¹² We recommend legally mandating the practice of releasing full precinct and county totals so that the public has the opportunity to review all totals and tabulations.

Recommendation: Nebraska's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state performs relatively well in the county canvass and in making results public, its precinct-level canvass is insufficient. We recommend adopting ballot reconciliation procedures upon the initial count to ensure that all ballots are accounted for before they are examined in the county canvass, and comparing the number of voters signed in to the number of ballots cast at the precinct level. Additionally, we recommend legally mandating the practice of releasing full precinct and county totals so that the public has the opportunity to review all totals and tabulations.

Nevada

Nevada's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Before counting the votes at the close of the polls, the counting board counts all ballots,⁶¹³ regardless of the voting system employed by the precinct. After counting is complete, voted, rejected, spoiled and unused ballots must be sealed with tally lists and delivered to the county clerk, along with the poll rosters.⁶¹⁴ The counting board tallies all votes and records the total votes for each candidate or question on a tally list.⁶¹⁵ Contests and questions are evaluated independently, so overvoting in one question does not affect the entire ballot.⁶¹⁶ In precincts that use DREs, the counting board is required to run a totals tape from each machine.⁶¹⁷ Officials then seal all paper records, recording devices and other materials⁶¹⁸ and deliver them to a receiving center or a central count location as determined by the county clerk.⁶¹⁹

A central ballot inspection board receives ballots at a central counting location, inspects the ballots and their containers, separates damaged, voided and rejected ballots, and delivers them to a ballot processing and packing board for tabulation.⁶²⁰ The ballot processing and packaging board verifies the accuracy of the testing equipment,⁶²¹ runs the ballots through the appropriate counting device by precinct,⁶²² maintains a log to ensure that every precinct is accounted for,⁶²³ records an explanation of any irregularities,⁶²⁴ and returns all election materials to the county clerk.⁶²⁵

Reconcile vote and ballot totals and address discrepancies at the polling place

Before votes are tallied at each polling place, the counting board counts each ballot and compares the number of ballots cast against the number of voters who signed in on the poll list.⁶²⁶ However, if a discrepancy exists in a precinct that uses paper ballots, a counting board officer is required by law to remove a number of ballots equal to the excess, and those ballots will be set aside and not counted.⁶²⁷ In other words, the number of ballots counted will be equal to the number of voters on the poll lists, but exactly which ballots are counted will be left to random chance. Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we strongly recommend discontinuing and outlawing this practice. If a discrepancy exists in a precinct using an electronic voting system, the counting board is required to make a note of the discrepancy and any known cause in writing.⁶²⁸ The counting board is also required by law to "account for all ballots, used and unused" before counting any votes.⁶²⁹

Reconcile redundancies at the county level

The county board of commissioners begins the countywide canvass as soon as all returns are received.⁶³⁰ The commissioners review the returns from each precinct, note and correct any clerical error, and then create an abstract of the votes for each contest and question, which they deliver to the secretary of state.⁶³¹ While no such comparison is required by law, all of the Nevada counties surveyed reported reconciling vote, elector and ballot totals in each precinct and countywide.⁶³² We recommend mandating the practice of precinct totals with

county totals by law. Counties also report comparing printed reports from the tally server to memory cartridge serial numbers to ensure that each cartridge was properly loaded and recorded.⁶³³

Make all results public

According to Nevada law, returns must be posted conspicuously outside the counting facility or courthouse. County clerks are also required to make voting rosters available to the public and tally lists except for voted ballots available to any contestant in the election in question.⁶³⁴

Recommendation: Nevada's ballot reconciliation procedures are generally good but need improvement in specific areas. The state has good procedures in place for ballot accounting and reconciliation at the precinct level and in making results public. However, we recommend discontinuing and outlawing the practice of randomly removing ballots in excess of the number of voters, and we also recommend mandating the practice of precinct totals with county totals by law.

New Hampshire

New Hampshire's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

After the polls close, the moderator at each precinct oversees the counting of all ballots.⁶³⁵ After votes are tabulated and totaled, the moderator announces the final count for each office.⁶³⁶ The town or ward clerk then prepares a return based on the totals announced,⁶³⁷ which includes vote totals for each candidate or question and "information relating to the number of voters and to the number and types of ballots cast."⁶³⁸ After this return is created, the moderator places all ballots in a sealed container and labels the seal with the number of voted, spoiled and unused ballots contained therein.⁶³⁹ The town clerk holds all ballots unless a recount is ordered, in which case the clerk forwards the ballots to the secretary of state.⁶⁴⁰ The clerk forwards the election return to the secretary of state's office.⁶⁴¹

Reconcile vote and ballot totals and address discrepancies at the polling place

Town clerks are legally required to include information about the number of voters and the number and types of ballots on the returns they furnish to the secretary of state.⁶⁴² To facilitate compliance with this law, the secretary of state requires all moderators to complete a "Moderator's Worksheet," in which poll workers are required to total and reconcile the number of ballots cast, the number of voters marked as having checked in at the polling place, and either the number of voters marked as having checked out (where ballots are hand-counted) or the total number of ballots counted by the tabulator (where ballots are machine-counted).. The New Hampshire secretary of state's office also extensively trains local elections officials on ballot accounting and verifying results.⁶⁴³

Reconcile redundancies at the county level

There is no county canvass in New Hampshire; the secretary of state reviews all results during the state canvass. The secretary of state examines, records, and totals the returns from each polling place.⁶⁴⁴ The secretary of state's office closely scrutinizes returns where the number of votes cast exceeds 95% of the number of registered voters or where the number of votes cast is significantly below voter turnout trends for the precinct.⁶⁴⁵ The secretary of state's office also examines the return of votes form, moderator's worksheet, and ballots cast form for discrepancies, and follows up with town clerks or polling place moderators as necessary to explain and resolve discrepancies.⁶⁴⁶

Make all results public

Town clerks are required by law to preserve all poll lists as public record for at least five years.⁶⁴⁷ According to the secretary of state's office, the public can also request to view the election reports submitted to the secretary of state.⁶⁴⁸

Recommendation: New Hampshire's ballot reconciliation procedures are good. The state has very good policies and materials related to ballot reconciliation at the polling place, though ideally reconciliation procedures should also be made explicitly clear by law.

New Jersey

New Jersey's ballot accounting and reconciliation procedures **need improvement.**

Account for all ballots, votes, and voters at the polling place

In precincts that use paper ballots, the district board that oversees each polling place counts all ballots immediately upon the close of the polls.⁶⁴⁹ As ballots are read and counted, officials number each ballot (including void or partially void ballots) consecutively.⁶⁵⁰ Clerks of the board record each vote on tally sheets; when the tally sheets are complete, the clerks must place one sheet in the ballot box and file a duplicate with the county clerk.⁶⁵¹ After all ballots are tallied, clerks total the votes on the tally sheets⁶⁵² and on a statement of results that also includes the total number of signed-in voters.⁶⁵³ The elections board must transmit this certified statement to the county clerk.⁶⁵⁴

In precincts that use voting machines, the district board opens the machine counters after the polls have closed and officials have locked the machine against further voting.⁶⁵⁵ One official reads the totals for each candidate or question as they appear on the counters, and two other officials record the totals on canvass sheets, which they must compare back to the counters when tallying is complete.⁶⁵⁶ After tabulation is complete, anyone lawfully present has the opportunity to review the counters and the totals; if a discrepancy is noted, any necessary corrections can be made at that time.⁶⁵⁷ The certified totals from this count constitute the official returns for precincts using this system.⁶⁵⁸

In precincts that use optical scan ballots, district officials place the ballot cards in a container for delivery to a central count location, and the voting devices are placed in their containers for return to the county board of elections.⁶⁵⁹ The district board then prepares a report stating the number of voters who signed in on the poll list, the number of write-in votes that the board hand-counted, and the number of spoiled ballots.⁶⁶⁰ Officials place one copy of this report in the ballot container and seal the container for delivery to the counting center and deliver another copy of the report to county election officials.⁶⁶¹ At the central count location, county election officials test the tabulating equipment, tabulate the ballots and certify the results.⁶⁶² The certified results constitute the official returns for precincts using this system.⁶⁶³

Reconcile vote and ballot totals and address discrepancies at the polling place

While precincts are required to report both the number of votes counted and the number of people who signed in on the poll lists,⁶⁶⁴ there is no legal requirement that election district boards reconcile the number of votes with the number of voters at each polling place. This is a fundamental element of the ballot reconciliation process, and we recommend legally mandating a comparison of the number of ballots cast and reported with the number of voters.

Reconcile redundancies at the county level

The county canvassing board convenes to determine the results of the election.⁶⁶⁵ The canvassing board examines the statements made by each district board to make its

determination.⁶⁶⁶ The canvassing board must produce a statement of the number of voters who signed in, the number of voters on the poll books, the number of ballots rejected, and the number of votes cast for each candidate or question, broken down by election district.⁶⁶⁷ There is no explicit requirement for comparing precinct totals to county totals; we recommend reconciling these totals as a part of the county canvass. The state offers no guidance on memory card reconciliation.

Make all results public

County canvassing boards are required to file their statement of results with the county clerk, who is required to preserve these records for five years.⁶⁶⁸ Under New Jersey law, any 10 voters who voted in the election in question may petition to have the counters on electronic voting machines unlocked and examined against the recorded totals.⁶⁶⁹

Recommendation: New Jersey's ballot reconciliation procedures need improvement. We strongly recommend legally mandating a comparison of the number of ballots cast and reported with the number of voters signed in at the polls, reconciling precinct totals with composite totals, and checking tally server reports to ensure that all memory cards have been read. While local officials may take informal measures to reconcile vote totals, it is crucial to update laws and codes to ensure safeguards appropriate for the voting system that is currently in use.

New Mexico

New Mexico's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Immediately after the close of polls, pollworkers certify that voting is complete.⁶⁷⁰ Each precinct then mails the checklist and one copy of the machine-printed returns to the secretary of state.⁶⁷¹ The signature roster, the machine-printed returns, the direct recording electronic cartridge for electronic and marksense machines, one tally sheet, all ballots, all unused election materials and all returns are returned to the county clerk.⁶⁷²

Reconcile vote and ballot totals and address discrepancies at the county level

New Mexico officials are not required to reconcile the number of ballots cast with the number of voters who signed in at the precinct level. While this reconciliation is conducted at the county level and a representative of the county clerk's office reports that poll workers are trained to reconcile vote and ballot totals as well as to account for all ballots, we recommend requiring precinct-level reconciliations by law.

Reconcile redundancies at the county level

County clerks compare the votes for each office and for each question appearing on the ballot, and enter the totals into the canvassing program.⁶⁷³ The county canvassing board meets within three days of the election and examines the returns for any prima facie discrepancy, omission or error.⁶⁷⁴ A machine recheck is made if necessary due to a defect in returns or if any candidate or 25 voters request a recheck.⁶⁷⁵ The board certifies to the state canvassing board the number of votes for each candidate and for/against each issue.⁶⁷⁶ Within five days of the county canvass, the county clerks compare the vote tally in the general election for the office of president or governor from 2% of the voting systems in the state with the voter-verifiable, auditable paper trail from those voting systems. If a precinct's count differs by more than 1.5%, a recount shall be conducted for the precincts of the legislative district in which the discrepancy occurred.⁶⁷⁷

County canvassing boards are required by state statute to compare the sign-in count against the number of votes cast. In the course of its canvass, the county canvassing board shall immediately summon the precinct board to appear and make necessary corrections or supply omissions if: (1) any certificate has not been properly executed; (2) there is a discrepancy within the election returns; (3) there is a discrepancy between the number of votes set forth in the certificate for any candidate and the number of electors voting as shown by the election returns; or (4) it appears that there is any omission, informality, ambiguity, error or uncertainty on the face of the returns.⁶⁷⁸

The state canvassing board's canvass is based on returns transmitted to the secretary of state directly from each precinct board and certificates transmitted by the county canvassing boards.⁶⁷⁹ The board examines all election returns and certificates issues by county

canvassing boards. If there is any discrepancy, a district judge will summon the precinct board or county canvassing board to complete or correct such returns or certificates.⁶⁸⁰

Make all results public

One copy of the returns from each tabulator must be posted outside each polling place.⁶⁸¹ Additionally, all returns and certificates of results are public documents that may be accessed by any concerned party.⁶⁸²

Recommendation: New Mexico's ballot reconciliation procedures are generally good but need improvement in specific areas. While the procedures in place for reconciling redundancies at the county level and making results public are quite good, we recommend requiring precinct-level reconciliations of vote and ballot totals as a matter of law.

New York

New York's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes and voters at the polling place

Upon the close of the polls, precinct officials lock all machines against further voting, record and certify the number on each machine's public and protective counters, and account for any paper ballots used.⁶⁸³ Officials then canvass the vote on each machine by opening the counter compartment and reading aloud the designating number or letter for each counter and the reading on the counter.⁶⁸⁴ An inspector will record these results and will verify her record by calling out the results as recorded in the same order they were announced from the machine counters.⁶⁸⁵ The inspectors then sign the return showing the number of votes cast for each candidate or question, the number of write-in votes, and the total number of ballots cast on each machine.⁶⁸⁶

Reconcile vote and ballot totals and address discrepancies at the polling place

Before canvassing votes on machine counters, officials account for all paper ballots by counting the number of used and unused ballots of each type and using the additions and subtractions required on the return to reconcile the ballot totals.⁶⁸⁷ Officials must also reconcile paper records with the poll books to ensure that the number of voters equals the number of ballots cast.⁶⁸⁸ However, if a discrepancy exists in a precinct that uses paper ballots, the inspectors are required by law to remove a number of ballots equal to the excess, and those ballots will be set aside and not counted.⁶⁸⁹ In other words, the number of ballots counted will be equal to the number of voters on the poll lists, but exactly which ballots are counted will be left to random chance. Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we recommend discontinuing and outlawing this practice.

Reconcile redundancies at the county level

The county canvassing board reviews the return from each precinct for the number of voters, the number of votes for each candidate or question, and the number of unrecorded or undervoted ballots.⁶⁹⁰ If the precinct returns show any clerical errors or omissions, the canvassing board may correct the error.⁶⁹¹ If there seems to be a discrepancy greater than a clerical error, the canvassing board may recanvass the vote for the precinct in question.⁶⁹² If a discrepancy cannot be resolved by recanvassing, officials will test the voting machines on which votes were logged.⁶⁹³ The canvassing board must also manually audit the voter-verified paper records for 3% of the machines in their jurisdiction, and if a machine shows an error, they will manually recount the paper records from that machine.⁶⁹⁴ New York uses mechanical lever machines and does not total votes on a tally server.

Make all results public

Election inspectors are required by law to provide one copy of their election return to the police at the close of the polls; the police are responsible for delivering this information to

the press.⁶⁹⁵ Under New York State Law, each county canvassing board must file a copy of their statement showing the total number of votes for each candidate or question, the total number of unrecorded or undervoted ballots, and the total number of ballots cast with the board of elections.⁶⁹⁶

Recommendation: New York's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for ballot accounting and reconciliation at the polling place and in making results public, we recommend discontinuing and outlawing the practice of randomly discarding ballots in excess of the number of voters, and we recommend adopting formal procedures for the reconciliation of precinct totals with composite totals at the county level.

North Carolina

North Carolina's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

At the close of the polls, precinct officials conduct a preliminary count of all ballots, following procedures specified by the manufacturer of the voting system in use at each precinct.⁶⁹⁷ The chief judge at each precinct must print a return sheet from each voting system unit and place it in an envelope.⁶⁹⁸ Then the election judges count all ballots or votes and fill out a certified statement of returns.⁶⁹⁹ Judges must also keep consolidation and accounting sheets, which they must sign and include in the envelope with all results tapes from voting devices.⁷⁰⁰ After this initial tally is complete, poll workers must transmit the results to the county board of elections, which conducts an official canvass.⁷⁰¹ Officials in all precincts must also complete a ballot accounting form that details the number of blank ballots received and the number of voted, provisional, spoiled, and unused ballots returned.⁷⁰²

Reconcile vote and ballot totals and address discrepancies at the polling place

The county conducts an "election audit" before its official canvass in which they reconcile vote and ballot totals by precinct.⁷⁰³ Officials compare poll books to the machine tapes from each precinct and compare the total number of votes cast in each race to the total number of voters in the precinct.⁷⁰⁴ County officials also count spoiled, unused, voted, challenged, and provisional ballots by precinct and compare those totals to the ballot accounting sheet returned by each precinct.⁷⁰⁵ Any discrepancies must be explained and documented.⁷⁰⁶ Finally, machine counter numbers must be reconciled with the precinct accounting sheet.⁷⁰⁷

Reconcile redundancies at the county level

The county board of elections examines the returns from each precinct, absentee and provisional ballot totals, and the totals of the county's "hand-to-eye paper ballot counts" to ascertain the countywide election results.⁷⁰⁸ The county board of elections must create abstracts that include the total votes for each candidate or question, the votes for each candidate or question by precinct, the votes for each candidate or question countywide, the number of votes on absentee ballots in the county, the number of votes on provisional ballots in the county, and the number of votes in any other category of official ballots not otherwise reported.⁷⁰⁹ The county board of elections may order a recount "when necessary to complete the canvass."⁷¹⁰ County officials must audit poll books against precinct registers again after the canvass.⁷¹¹ During the election audit, officials must compare precinct totals to the results logged on the Election Night Reporting System server.⁷¹²

Make all results public

As soon as the unofficial precinct count is complete, election judges release the results of the unofficial canvass to the media.⁷¹³ Some counties report detailed precinct results on their websites.⁷¹⁴

Recommendation: North Carolina's ballot reconciliation procedures are good. The state has good procedures in place for all categories and is one of only a handful of states to have formal regulations in place for memory card reconciliation.

North Dakota

North Dakota's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters

As soon as polls close, the inspector of elections and the judges must generate a canvass report from the electronic voting system. At the instruction of the secretary of state's office, county election officials count spoiled and unused ballots to ensure that all ballots are accounted for.⁷¹⁵ After election officials reconcile machine totals with the number of voters who signed the poll books and the number of ballots received by the precinct, the canvass reports are signed and certified and delivered to each judge⁷¹⁶ and the county auditor.⁷¹⁷ Election officials then wrap ballots, separate them into labeled bundles of valid ballots, void ballots and spoiled ballots, and seal the wrappers.⁷¹⁸

Reconcile vote and ballot totals and address discrepancies at the polling place

The number of ballots counted must be equal to the number of voters signed in on the poll list.⁷¹⁹ If the number of votes on the system does not match the number of voters who signed in, election officials will examine the poll books to determine the reason for the discrepancy.⁷²⁰ The number of total ballots counted by the voting machine, added to the number of otherwise spoiled, void and unused ballots, is also compared against the number of ballots received by the precinct before the polls open.⁷²¹

Reconcile redundancies at the county level

The county canvassing board publicly reviews the results from each precinct and compares them with aggregated county totals.⁷²² If the board notes any discrepancies, it may summon precinct election boards to explain and correct the problem.⁷²³ Once the county canvassing board has reviewed all precinct canvass reports and reconciled any discrepancies, the board prepares an abstract of results.⁷²⁴ The state canvassing board reviews the counties' certified abstracts and may summon the county auditor if any errors, omissions or discrepancies are noted.⁷²⁵ The state canvassing board prepares a statement of votes for the secretary of state,⁷²⁶ who records the state canvassing board's statements for each race and certifies the election.⁷²⁷ North Dakota does not use a tally server to determine official results, and no reconciliation of memory cards is necessary.⁷²⁸

Make results public

The results of vote and ballot tallies described above are not specifically required to be published or posted under North Dakota law. We recommend requiring the release of precinct and county totals. However, counties widely report releasing canvass results on the Web and in the media.⁷²⁹

Recommendation: North Dakota's ballot reconciliation procedures are good. The state has good procedures in place for all ballot counting procedures. We do, however, recommend legally mandating the release of precinct and county totals.

Ohio

Ohio's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Immediately after polls close, poll workers must count the number of electors who voted as shown on the poll books and account for all voted, spoiled and unused ballots.⁷³⁰ The poll workers also must cause each DRE voting machine or precinct count optical scanner, whichever is appropriate for that precinct, to print results tapes of votes cast on that device.

After the precinct election judges complete the reconciliation process and certify the results, they must place all ballots, memory cards or cartridges, poll books and signature lists in containers provided by the board of elections and seal each container.⁷³¹ They must transmit at least one copy of the certified summary report along with the containers returned to the board of elections.⁷³²

Reconcile vote and ballot totals and address discrepancies

Immediately after polls close in precincts that use paper ballots, the poll workers must count the number of electors who voted as shown on the poll books and account for all voted, spoiled and unused ballots.⁷³³ The poll workers compare the number of voters who signed the poll book, the number of spoiled and unused ballots, and the total number of voted ballots.⁷³⁴ If there is a discrepancy, the poll workers must record an explanation on the report forms.⁷³⁵

While the statutes currently in effect do not explicitly require a comparison between vote totals recorded on direct recording equipment and voters who signed in at the polls, directives from the secretary of state advocate such a comparison⁷³⁶ and at least one county reports requiring poll workers to reconcile votes logged on the machines throughout the day with the totals shown at the close of the polls.⁷³⁷ We recommend legally mandating a comparison between the voters signed in at the polls and the number of ballots cast for all voting systems.

Reconcile redundancies at the county level

The board of elections for each county conducts two canvasses of the election results. The "unofficial canvass" is conducted on election night; it is a compilation of the precinct results as shown on the summary reports certified by the precinct election judges.⁷³⁸ During the official canvass, county officials count the number of ballots and reconcile that information with poll books, poll lists, tally sheets and the precinct summary reports.⁷³⁹ If the board observes an error, omission or discrepancy, it has the authority to make the necessary corrections.⁷⁴⁰ County officials also have the authority to subpoena precinct election officials when investigating any irregularities or omissions in precinct returns.⁷⁴¹

While the secretary of state's office has issued no formal directives specifically outlining the procedures for memory card reconciliation, some counties report taking steps to ensure that

all memory cards are properly loaded onto the tally server, including comparing reports of the number of cards uploaded to the number of cards downloaded⁷⁴² and checking the serial numbers of each card against a report generated by the tally server.⁷⁴³ County officials must then certify and return abstracts of results for each office and question on the ballot.⁷⁴⁴ We recommend mandating a comparison of totals tapes to tally server totals in all jurisdictions that use memory cards.

Make all results public

One copy of the election results from each precinct must be posted outside the polling place at the completion of vote-counting.⁷⁴⁵ After the county officials determined the result of the official canvass, they must post the certified declaration of the results in a conspicuous place in the board office for at least five days,⁷⁴⁶ and some counties also report publishing the full canvass report more widely.⁷⁴⁷

Recommendation: Ohio's ballot reconciliation procedures are generally good but need improvement in specific areas. The state has good procedures in place for ballot accounting and reconciliation at the precinct level and in reconciling redundancies at the county level. However, we recommend making explicitly clear requirements for the reconciliation of the number of voters with the number of ballots cast for all voting systems, and for the reconciliation of memory cards with tally server totals.

Oklahoma

Oklahoma's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the close of the polls, the inspector at each polling place must run a number of printouts predetermined by the State Election Board from each "voting device."⁷⁴⁸ The inspector, elections judge and clerk each sign all printouts and certify that they are correct.⁷⁴⁹ This constitutes the official return from the precinct, one copy of which will be forwarded to the State Election Board.⁷⁵⁰ Officials then place a copy of the return inside the ballot box, reseal the ballot box⁷⁵¹ and remove the "data pack" from each device.⁷⁵² All of these materials are forwarded to the county election board.⁷⁵³

Reconcile vote and ballot totals and address discrepancies at the polling place

Oklahoma law does not require precinct officials to compare the number of ballots cast in each precinct to the number of voters who signed in, nor does the state informally require this practice.⁷⁵⁴ Officials are also not required to reconcile the number of ballots received with the number of ballots returned to the county.⁷⁵⁵ After the polls close, precinct officials in every precinct complete a ballot accounting form, which documents the number of ballots that were received, issued, spoiled and remaining for each style of ballot within that precinct.⁷⁵⁶ Precinct-level reconciliations are crucial, and we recommend reconciling both vote totals and ballot totals during the initial ballot count, particularly when ballots are totaled by machine.

Reconcile redundancies at the county level

The county canvassing board convenes to "accumulate and list the results of each election" based on precinct returns.⁷⁵⁷ Oklahoma law requires the canvassing board to use precinct returns to certify the composite county totals⁷⁵⁸ by comparing these returns to tally server totals shown after each data pack is uploaded.⁷⁵⁹ Once the county elections board ascertains the results, it certifies the vote totals for each candidate or question.⁷⁶⁰ The secretary of state's office asserts that they have "many procedures in place" to ensure that all memory packs are correctly read by the tally server, but they offer no detail on these procedures. No county data is available to corroborate this claim or provide more detail. Once precinct totals are verified to uploaded results by canvassing board, the results are considered "unofficial." Vote totals are not certified and considered "official" until after 5 p.m. Friday following the election.⁷⁶¹

Make all results public

After election officials generate totals sheets from each machine, they are required by law to post one copy outside the polling place.⁷⁶²

Recommendation: Oklahoma's ballot reconciliation procedures are generally good but need improvement in specific areas. While the county canvass is satisfactory, precinct-level

reconciliations are crucial, and we recommend reconciling both vote totals and ballot totals during the initial ballot count, particularly when ballots are totaled by machine.

Oregon

Oregon's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes and voters at the polling place

Oregon votes entirely by mail. At 8 p.m. on Election Day, the county clerk must account for and destroy all unused absentee and regular ballots.⁷⁶³ Ballots are counted on a tally machine and processed in the office of the county clerk;⁷⁶⁴ ballots are tabulated by precinct.⁷⁶⁵

Reconcile vote and ballot totals and address discrepancies at the polling place

Election officials count all ballots received by 8 p.m. on Election Day from the Post Office, over the counter at the county clerk's office and at drop sites, and account for ballots forwarded to other counties, ballots returned unsigned and ballots returned undeliverable.⁷⁶⁶ County clerks are also encouraged to maintain an audit trail, which "may include" number of ballots issued, received, counted, rejected, challenged, etc.⁷⁶⁷ Oregon's vote-by-mail system does not lend itself to reconciliation of the number of voters signed in with the number of ballots cast, given that this reconciliation is conducted in other states using poll books. Officials must, however, compare the number of ballots tabulated to the number of return identification ballots envelopes or the voter history log for each precinct.⁷⁶⁸ County officials must address any discrepancies before certifying the results of the election.⁷⁶⁹

Reconcile redundancies at the county level

As soon as possible after any election, the county clerk must compare an abstract of the votes and a summary of votes for each office, candidate and ballot question.⁷⁷⁰ The secretary of state canvasses votes for all offices except governor.⁷⁷¹ A tally server is not employed in a statewide canvass; the secretary of state's office reports that those counties whose vote tabulation systems require them to transfer memory card data to a tally server "have control and reconciliation procedures in place," for tracking memory cards,⁷⁷² but only one county surveyed for this report loads multiple memory cards onto a tally server, and this county does not report any reconciliation procedures.⁷⁷³ There is no statutory requirement for counties or the state to compare precinct totals with composite totals, nor are counties required to provide information by precinct to the state.⁷⁷⁴ We recommend reconciling precinct totals to county totals as an element of the county canvass.

Make all results public

Each tally sheet, return sheet and ballot return envelope used in the unofficial precinct-level canvass must be kept on record for two years after any election.⁷⁷⁵

Recommendation: Oregon's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for ballot accounting and making results public, we recommend reconciling precinct totals to county totals as an element of the county canvass.

Pennsylvania

Pennsylvania's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters

At the close of the polls in precincts where ballots are used, officials total, announce and record the number of ballots given to electors cast, spoiled and unused.⁷⁷⁶ Officials then separate ballots by party, count them one by one, and record their total number.⁷⁷⁷ Then the judge or minority inspector reads aloud the votes for each candidate, question or straight party vote on each ballot as clerks record what is read.⁷⁷⁸

In districts where electronic voting systems are used, which employ paper ballots and provide for district tabulation, the number of ballots issued to voters and the number of ballots spoiled or returned by voters and canceled shall be announced to all present in the polling place and entered on the general returns. Officials then compare the number of names marked as voting in the district register to the numbered lists of voters, announce the result of that comparison, and enter on the general returns the number of voters who have voted.⁷⁷⁹ The officials use the automatic tabulation equipment to tabulate the ballots cast during the election and prepare duplicate records of the total number of voters whose ballots have been tabulated.⁷⁸⁰

In the event that district tabulation of votes is not provided for by the voting system, it is the responsibility of the county board of elections to make available to the public at the central tabulating center the election results for each election district. It is the county board of elections further responsibility to post such returns in each precinct no later than 5 p.m. on the second day following the election.⁷⁸¹

In precincts using either system, election officials sign the returns and deliver them to the county board once the count is complete.⁷⁸² Officials then lock and seal the district register and the voting checklist.⁷⁸³

Reconcile vote and ballot totals and address discrepancies at the polling place

After the polls have closed, election officials must count the total number of ballots and compare that total to the number of voters who signed in on the checklist.⁷⁸⁴ If any discrepancies exist, they must be reconciled if possible and noted on the general return if unresolved.⁷⁸⁵ In precincts that use voting machines, officials must compare the number of votes cast on the machine – as shown on the public counter – with the check list.⁷⁸⁶

Reconcile redundancies at the county level

The county board of elections receives precinct returns and compares the number of votes cast with registration in the precinct, and if the number of ballots cast for each party or total exceeds the number of party registrants or total number of voters, respectively, in a particular precinct, the board will investigate the discrepancy.⁷⁸⁷

Officials read the recorded number of cast, spoiled and unused ballots and compare those totals with returns from each precinct; where voting machines are used, officials read the counter numbers and compare them with the returns.⁷⁸⁸ Again, if there appear to be any discrepancies, the board shall investigate the matter to its satisfaction.⁷⁸⁹

Pennsylvania has no formal procedures in place to ensure that memory cards are properly loaded onto the tally server. However, the counties surveyed for this report indicated monitoring the totals uploaded to the tally server to ensure that all memory cards are loaded.⁷⁹⁰ While it appears that counties informally conduct this reconciliation, we recommend adopting standardized, statewide procedures for the reconciliation of memory cards with totals logged on tally servers.

Make all results public

After votes are tallied in each precinct, officials must post one copy of the certified return outside the polling place.⁷⁹¹

Recommendation: Pennsylvania's ballot accounting and reconciliation procedures are good. The state performs well on all measures; however, we do recommend adopting standardized, statewide procedures for the reconciliation of memory cards with totals logged on tally servers.

Rhode Island

Rhode Island's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

The precinct warden prints out and signs vote totals from each voting machine in the precinct and reads the results aloud.⁷⁹² Write-in ballots are sent immediately to local boards of canvassers, who will count and record all such ballots.⁷⁹³ Machine-result printouts are attached to return forms (which include the record of number of voters on the poll list and the number of votes cast on each machine) and sent to both local board of canvassers as well as state board of elections.⁷⁹⁴

Reconcile ballot totals and address discrepancies at the polling place

State statute requires that each precinct must record the numbers of names checked on the voting list in the precinct as well as the number of votes cast in the precinct's optical scan machine.⁷⁹⁵ While Rhode Island law does not explicitly require the comparison of these two totals, a representative of the state board of elections reports that poll workers are required to reconcile these totals on the official election certificate.⁷⁹⁶ We recommend explicitly requiring the comparison of the number of ballots cast to the total number of voters as a matter of law or regulation.

Secretary of state's office ultimately keeps track of spoiled and unused ballots. The State Board of Elections audits all precincts after an election, and part of this audit involves a comparison of the number of unused/voided ballots and the number of voted ballots. The audit is designed to ensure that the number of voted ballots added to the total number of unused/voided ballots equals the number of ballots originally sent to the precinct.⁷⁹⁷ While this procedure is quite thorough, we recommend requiring poll workers to account for all ballots during the precinct canvass.

Reconcile redundancies at the county level

The local canvassing board meets the day after the election to tabulate the local returns, and after the time period to contest results has passed, certifies local elections.⁷⁹⁸ The local board of canvassers certifies the local elections with a statement of vote, which includes total number of votes by city or town for each candidate or proposition.⁷⁹⁹ The state board of elections, in turn, certifies statewide election and sends a statement of vote to the secretary of state, which includes total numbers of votes by district, town, and city for any candidate or proposition.⁸⁰⁰

The Board of Elections verifies the precinct totals by comparing the election tape with the total number of ballot applications, and with the results electronically transmitted from the local boards to the Board of Elections on election night.⁸⁰¹

Make all results public

The Board of Elections must keep record books of votes cast for each office.⁸⁰² Each book must contain a record of the total votes cast for each candidate in each precinct, the total number of votes cast in each precinct, the number of votes cast for each candidate in each town, the total number of votes cast for each candidate in the state, and any other pertinent facts.⁸⁰³

Recommendation: Rhode Island's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state's procedures in place for reconciliation at the county level and making results public are good, we recommend explicitly requiring the comparison of the number of ballots cast to the total number of voters as a matter of law or regulation and requiring poll workers to account for all ballots during the precinct canvass.

South Carolina

South Carolina's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters

After locking machines against further voting at the close of the polls, election managers must open each machine so that it is visible to all canvassers and observers.⁸⁰⁴ They then canvass and announce vote totals for each office and the votes for every candidate or question.⁸⁰⁵ Poll managers are required to return all voting materials.⁸⁰⁶ Poll managers must endorse a certificate that includes the number on the protective counter of each machine and return this certificate to the county election officials,⁸⁰⁷ along with the poll list and a written return of the election.⁸⁰⁸ We recommend retaining all election records and returning them after the close of polls.

Reconcile vote and ballot totals and address discrepancies at the polling place

County officials reported comparing the number of signatures in the poll books with the number of votes cast in each precinct.⁸⁰⁹ If the number of votes tabulated on voting machines exceeds the number of voters on the poll list, vote totals for each candidate will be reduced proportionate to the fraction of the votes she received to reconcile the totals.⁸¹⁰ This is essentially an electronic version of removing excess ballots from the ballot box at random, and it is an unsatisfactory method of reconciliation. We recommend investigating the cause of any discrepancies and seeking to explain them if they cannot be resolved.

Reconcile redundancies at the county level

The county board of canvassers reviews the results provided by the precincts.⁸¹¹ Although this process is not required by law, county election commissions are required to compare paper voting machine total tapes to electronic precinct-level totals.⁸¹² If they discover a discrepancy during this comparison, they must locate the error and correct it before certifying the results.⁸¹³ If the number of votes cast exceeds the number of voters on the poll list by 10% or more, the county election officials will order a revote for voters who are identified as having voted in the original election at the polling place in question.⁸¹⁴ The board of canvassers must make a certified statement of the results from each precinct, which it forwards to the state board of canvassers;⁸¹⁵ results are separated by candidate and the votes received for each.⁸¹⁶ The state board of canvassers receives these canvassed precinct returns and makes a statement of the total number of votes received by each candidate or question.⁸¹⁷ According to the State Election Commission, this statement is broken down by precinct.⁸¹⁸ There are no formal laws or procedures in place governing reconciliation of memory cards with tally server totals; While the secretary of state's office asserts that safeguards exist on the county level to ensure that all the results from voting machines used in the election are accounted for,⁸¹⁹ county officials only report that the server prompts them to enter all memory cards.⁸²⁰ While this is an adequate safeguard to ensure that all memory cards have been loaded, it offers no assurance that all memory cards have been read. We recommend implementing explicit, statewide requirements that totals tapes from all voting machines or tabulators be compared with tally server totals.

Make all results public

County canvassing boards are required by law to file duplicate statements of the canvass with the State Election Commission.⁸²¹ The secretary of state also publishes its certified statement of the results of the election in at least one of the public newspapers in the state.⁸²² Detailed precinct results for each county are posted on the State Election Commission website.⁸²³

Recommendation: South Carolina's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for reconciliations at the county level and in making results public, its precinct-level reconciliations are unsatisfactory. We recommend investigating the cause of any discrepancies between the number of voters and the number of votes cast and seeking to explain them if they cannot be resolved. We also recommend implementing explicit, statewide requirements that totals tapes from all voting machines or tabulators be compared with tally server totals.

South Dakota

South Dakota's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

At the close of the polls, poll workers seal the ballot box and transport it to a central count location.⁸²⁴ Officials at the central count location tally the votes on automatic tabulators and print the results tapes from the equipment, which constitute the precinct return.⁸²⁵ All election materials must be sealed and returned to the officer in charge of the election.⁸²⁶

Reconcile vote and ballot totals and address discrepancies at the polling place

The number of voters who signed the poll books is compared to precinct returns at the county level, not at the precinct or at central count locations. We recommend comparing the number of ballots cast to the number of voters signed in during the initial ballot count.

Reconcile redundancies at the county level

The county canvassing board considers the poll books⁸²⁷ and the returns from each precinct to make an abstract of the votes cast for each candidate or question.⁸²⁸ County officials reported comparing the poll books to the recap sheets and the optical scanner tape.⁸²⁹ According to the secretary of state's office, the canvassing board compares returns entered into the central election reporting system⁸³⁰ to paper returns from each precinct.⁸³¹ The county auditor immediately sends a copy of the county canvass to the secretary of state.⁸³² During the state canvass, officials compare the county canvass to county totals reported in the central election reporting system.⁸³³ Election results are manually entered into the tally server,⁸³⁴ not entered using memory cards, which renders the comparison of paper to electronic results a satisfactory reconciliation of data entered into the tally server with server results. We recommend comparing precinct totals to county totals as an element of the county or state canvass.

Make all results public

The results printed from each automatic tabulator constitute the unofficial return, and these returns are made available to the public.⁸³⁵ The county auditor tabulates election returns as she receives them from the precincts, entering the information into the state's central election reporting system and making the results available to the public.⁸³⁶

Recommendation: South Dakota's ballot accounting and reconciliation procedures are generally good but need improvement in specific areas. While the state has good procedures in place for ballot accounting at the precinct and making results public, we recommend discontinuing and outlawing the practice of removing ballots in excess of the number of voters at random, and we recommend comparing precinct totals to county totals as an element of the county or state canvass.

Tennessee

Tennessee's ballot reconciliation procedures **need improvement.**

Account for all ballots, votes, and voters at the polling place

In precincts where voting machines are used, poll workers lock machines against further voting and sign a certificate that includes the number of voters as shown on the public counters and the number of voters on the protective counters.⁸³⁷ Officials also print out three totals tapes, two of which are sent to the county at the conclusion of election night.⁸³⁸ Then, poll workers open the counter compartment and one poll worker reads aloud the designation for each candidate or question and the votes for each as registered by the counters.⁸³⁹ Registrars record these votes on duplicate tally sheets and read aloud what they have recorded.⁸⁴⁰

In precincts where ballots are used, precinct officers tear in half all unused ballots and keep only the numbered stubs.⁸⁴¹ In precincts where paper ballots are used, officials insert any ballots in the auxiliary bin into the ballot scanner, then obtain the vote count from the scanner.⁸⁴²

Officials return ballots, poll books, returns and all other supplies to the county election commission.⁸⁴³

Reconcile vote and ballot totals and address discrepancies at the polling place

There are no legal requirements that poll workers reconcile the number of votes cast with the number of voters who signed the poll books. However, several of the counties surveyed for this report indicate that precinct officials within their jurisdiction do make this comparison.⁸⁴⁴ Precinct officials are not required to account for all ballots at the polling place. We recommend adopting formal procedures for vote and ballot reconciliation at each precinct prior to the county canvass.

Reconcile redundancies at the county level

The county election commission meets to examine precinct returns and certify the results of the election.⁸⁴⁵ According to one county official and a member of the State Election Commission, county officials compare returns from each DRE to the total number of votes recorded in the county,⁸⁴⁶ and all county officials surveyed reported comparing precinct totals to county totals as an element of the canvass.⁸⁴⁷ While these are good reconciliation measures, we recommend formally requiring these comparisons by law. Many county officials also report reconciling server totals with printed totals to ensure that all memory cards have been read;⁸⁴⁸ we encourage standardizing this procedure at the state level. Finally, officials prepare and certify an official tabulation that shows both precinct and county totals.⁸⁴⁹

Make all results public

According to a member of the state election commission, one copy of the totals tapes printed out from each DRE is posted outside the polling place on election night.⁸⁵⁰ Additionally, the returns from the county canvass are kept on file with the county clerk.⁸⁵¹

Recommendation: Tennessee's ballot accounting and reconciliation procedures need improvement. While the state's procedures for reconciliation at the county level are relatively sound, precinct officials are not required to account for all ballots or reconcile the number of voters with the number of votes cast at the polling place. We recommend adopting formal procedures for vote and ballot reconciliation at each precinct prior to the county canvass. We also recommend formally requiring the reconciliation practices reported at the county level, including reconciling precinct totals with county totals and comparing totals tapes to tally server totals.

Texas

Texas' ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

After the polls have closed in precincts whose ballots are tabulated at a central count location, precinct officials seal ballot boxes and elections records for delivery to the central counting station.⁸⁵² Officials at the central counting station examine ballots for irregularities and approve those ballots that can be machine counted.⁸⁵³ The counting location manager then delivers the ballots to the tabulation supervisor,⁸⁵⁴ who oversees the tabulation of ballots by precinct.⁸⁵⁵ Undervoted and overvoted ballots must be separately tallied, tabulated and reported by race and by precinct.⁸⁵⁶ After all ballots are tabulated by precinct, the presiding judge at the central counting station prepares returns for each precinct that include automatically and manually counted votes.⁸⁵⁷ The presiding judge then returns the voted ballots, election returns, poll list, tally lists for manually counted votes, and other election records to the county authorities.⁸⁵⁸

In precincts where ballots are counted at the polls, election officials remove the ballots from the automatic tabulator to examine for irregularly marked ballots.⁸⁵⁹ These ballots will be delivered to a central count location for tabulation.⁸⁶⁰ Then the precinct judge will print totals tapes from the tabulator and sign the tape.⁸⁶¹ The presiding judge then returns the voted ballots, election returns, poll list and tally lists for manually counted votes, and other election records to the county authorities.⁸⁶² If there is a discrepancy of more than three between the recorded total number of ballots and the total reported by the machine total tape, the central counting station will count the ballots, and that will be the official tabulation.⁸⁶³

Reconcile vote and ballot totals and address discrepancies at the polling place

The precinct returns must state the number of voters on the poll list and the total number of votes counted, but a comparison of these two totals is not explicitly required.⁸⁶⁴ We recommend reconciling vote totals with the number of voters signed in at the polling place. The ballot register lends itself more readily to reconciliation, requiring the presiding official to report the total number of ballots received and the total number of defective, voted, spoiled and unused ballots returned.⁸⁶⁵

Reconcile redundancies at the county level

The canvassing authority prepares a tabulation of the total votes in each precinct, the sum total of votes in the county for each candidate or question, and the total number of voters in each precinct.⁸⁶⁶ The canvassing authority may, though it does not appear to be required to, compare the precinct returns to the corresponding tally list.⁸⁶⁷ If this comparison reveals a discrepancy, the presiding judge must make the necessary corrections on the returns.⁸⁶⁸ Upon completion of the canvass, the canvassing authority will return the precinct returns, tally lists and early voting precinct report to the general custodian of election records.⁸⁶⁹

The general custodian of election records conducts a recount “sufficient to confirm the accuracy of vote totals” for precincts in which DREs are used.⁸⁷⁰ For precincts in which paper ballots have been tabulated at the polling place or at a central count location, the general custodian of elections must conduct a manual recount of at least 1% of precincts or in three precincts, whichever is greater.⁸⁷¹ The general custodian of elections must present a report of this recount to the secretary of state.⁸⁷²

Prior to the canvass, county elections officials must reconcile vote totals printed at one percent of the precincts within their jurisdiction to totals recorded on the tally server.⁸⁷³ While this is a strong reconciliation practice, the requirement that this comparison must be made for only 1% of precincts renders it insufficient to determine whether all precinct totals are properly logged and that their sum equals the county total as recorded. The canvassing authority is not otherwise required to compare precinct totals to county totals. We recommend reconciling vote and ballot totals countywide.

Make all results public

Any documents produced by automatic tabulators or other electronic voting system equipment must be made available for public inspection at the office of the general custodian of election records.⁸⁷⁴

Recommendation: Texas’ ballot reconciliation procedures need improvement. While the state has good procedures in place for ballot accounting and reconciliation at the precinct level, its reconciliation procedures are unsatisfactory. We recommend reconciling vote totals with the number of voters signed in at the polling place and reconciling precinct totals with composite totals.

Utah

Utah's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

At the close of polls, officials print and sign the end of the journals tape following the summary totals report⁸⁷⁵ and retain these paper records while the election is pending.⁸⁷⁶ Tabulation reports are transmitted to county officials;⁸⁷⁷ the unofficial vote count may be transmitted by electronic means provided that reasonable security measures are in place.⁸⁷⁸

Little information about Utah's canvassing procedures is available, and officials did not respond to requests for an interview covering the subject matter included in this report.

Reconcile vote and ballot totals and address discrepancies at the polling place

Election officials must also provide poll workers with ballot disposition forms that have spaces for reporting the number of voted, spoiled and unused ballots and the number of voters signed in on the poll books.⁸⁷⁹ However, there is no explicit legal requirement that poll workers must complete and return this form, and this form does not explicitly require poll workers to actively compare the number of ballots cast against the number of voters signed in at the polls.

Reconcile redundancies at the county level

The board of canvassers reviews the votes of each precinct for each candidate or question.⁸⁸⁰ After the board determines the results, an election officer prepares a report that includes the total number of votes cast in the county, the total number of votes for each candidate or question in the county, the total number of votes cast in each precinct, and the total number of votes for each candidate or question in each precinct.⁸⁸¹ The only county that responded to a survey for this report reports comparing precinct totals to voting system tabulation reports both to check to see that all memory cards have been uploaded and to reconcile precinct-level totals with county totals recorded on the tabulation system.⁸⁸² While this practice is commendable, we recommend adopting standard procedures for checking tally server totals to verify that all memory cards have been loaded properly, particularly in states that rely entirely on DREs.

Make all results public

County officials must post a copy of the certified canvass report in one or more conspicuous places in the county, in a conspicuous place on the county's website and in a newspaper with general circulation in the county.⁸⁸³

Recommendation: Utah's ballot reconciliation procedures need improvement. We recommend comparing votes cast against the number of voters and comparing digital vote tallies to totals tapes in every precinct. We also recommend adopting standard procedures for checking tally server totals to verify that all memory cards have been loaded properly, particularly in states that rely entirely on DREs.

Vermont

Vermont's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

At the close of the polls, election officials work in opposite-party pairs to count the ballots.⁸⁸⁴ Officials keep track of votes for each candidate or question, the total number of votes, and spoiled or unused ballots on tally sheets.⁸⁸⁵ After all votes are tallied, officials record the totals shown on all tally sheets and the sum of those totals⁸⁸⁶ and certify a return of the grand totals of all votes cast in the polling place.⁸⁸⁷ Officials must deliver the return⁸⁸⁸ and the ballots, tally sheets and other election materials⁸⁸⁹ to the town clerk, who transmits the return to the secretary of state.

Reconcile vote and ballot totals and address discrepancies at the polling place

After the close of the polls, precinct officials must examine the "entrance" and "exit" checklists of voters and tally and record the number of voters checked as having voted.⁸⁹⁰ The presiding officer must list and detail the reasons for any discrepancies.⁸⁹¹ Secretary of State's office also requires precincts to compare the checklists with the total number of ballots cast.⁸⁹²

Reconcile redundancies at the county level

Canvassing is conducted on the municipal level in Vermont. Canvassing committees review and tally returns to ascertain the overall votes for the municipality.⁸⁹³ State statutes, the secretary of state's office and the municipality that was surveyed for this report did not offer any further detail on the elements of the canvass. Reconciling precinct totals at a higher level is crucial to accurate ballot accounting and reconciliation, and we recommend reconciling vote and ballot totals at the county or municipal level. While Vermont has a strong chain-of-custody procedure in place for memory cards, its procedures for reconciling memory cards with totals tapes remain unknown.⁸⁹⁴

Make all results public

The town clerk must keep a copy of each precinct return on file to be provided for public inspection upon request.⁸⁹⁵

Recommendation: Vermont's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state performs relatively well in ballot accounting and reconciliation at the precinct level, we strongly recommend comparing actual ballots cast to the number of voters on each checklist, and we recommend reconciling vote and ballot totals at the county or municipal level.

Virginia

Virginia's ballot reconciliation procedures **need improvement**.

Account for all ballots, votes, and voters at the polling place

In precincts that use DREs, election officers must lock each voting device against further voting and then proceed to count the votes.⁸⁹⁶ Officers announce the votes for each candidate or question as shown by machine counters or printed return sheets.⁸⁹⁷ Officials enter the results as read on a statement of results, which is compared with the counters or return sheets when the tally is complete.⁸⁹⁸

In precincts that use paper ballots, all used and unused ballots are accounted for following guidelines set by the state board of elections.⁸⁹⁹ Spoiled ballots are collected in an envelope at the polls.⁹⁰⁰ Elections officers must first count the total number of paper ballots and then ascertain the number of votes for each candidate or question.⁹⁰¹

After officials have determined the votes on all devices and ballots, election officers verify that all data was entered correctly and sign the statements of results.⁹⁰² All election materials, including voted, unused, and spoiled ballots accounted for, are sent to the clerk of court by noon on the day after the election.⁹⁰³ If devices used have the capability to print paper returns, officials must include two copies of these paper returns with the poll books and the inspection sheet, and they must forward another copy to the clerk of the circuit court.⁹⁰⁴

Reconcile vote and ballot totals and address discrepancies at the polling place

Officials must review the number of votes cast on voting machines,⁹⁰⁵ which several county officials reported comparing to the number of voters who checked in to vote.⁹⁰⁶ If this number exceeds the number of voters who signed the poll books, the figures on the device will be accepted as correct, and officials must record a statement to that effect on the statement of results.⁹⁰⁷ This is a comparison without reconciliation or an explanation of discrepancies, and it is an unsatisfactory procedure. We recommend investigating the reason for any discrepancies and reporting any discrepancies that cannot be reconciled.

After the votes have been recorded, election officers examine and count any paper ballots against the poll book register of individuals who voted by paper ballot. If the comparison indicates that ballots folded together were likely cast by the same voter, these ballots are not counted.⁹⁰⁸ If ballots still exceed the number of names on the poll books, a blindfolded elections officer must randomly withdraw ballots equal to the number of excess.⁹⁰⁹ Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we recommend discontinuing and outlawing this practice.

Reconcile redundancies at the county level

The electoral board determines the county results for each candidate or question and completes an abstract of votes for the county.⁹¹⁰ One county official reported reviewing all statements of results, voting machine tapes and poll book count sheets to verify accuracy.⁹¹¹ If the electoral board finds any irregularities in the precinct returns, the board must summon

the local election officials responsible for the faulty returns.⁹¹² If the electoral board makes any changes to precinct results, the board must forward the change to the State Board of Elections, which will post an explanation for the change on its website.⁹¹³ There is no requirement that precincts compare precinct totals with composite totals; however, some county officials reported doing so.⁹¹⁴ We recommend reconciling precinct totals with county totals as an element of the county canvass. While Virginia has no formal memory card reconciliation procedures in place, one county official reported that after memory cards from precincts are uploaded to the tally system, their vote totals are compared to statements of results returned by the precincts.⁹¹⁵

Make all results public

Precinct officials must deliver copies of return sheets printed from devices that can generate paper returns to the clerk of the circuit court, who keeps these records for public inspection and transcription.⁹¹⁶ The electoral board must deliver one copy of its county abstract to the general registrar, where it is accessible for public inspection.⁹¹⁷ Additionally, information is updated on the State Board of Elections website.⁹¹⁸

Recommendation: Virginia's ballot reconciliation procedures need improvement. While the state has good procedures in place for making results public, its canvass is unsatisfactory. We recommend investigating the reason for any discrepancies and reporting any discrepancies that cannot be reconciled, and we recommend discontinuing and outlawing the practice of removing ballots in excess of the number of voters at random. We also recommend reconciling precinct totals with county totals and comparing totals tapes to tally server totals as an element of the county canvass.

Washington

Washington's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes and voters at the polling place

Most counties in Washington vote entirely by mail. The results remain unofficial until a reconciliation is performed by loading the memory pack from the tabulation device into the central accumulator or by comparing the printed result with the results reported on the central accumulator.⁹¹⁹ Officials must seal all ballots tallied at the poll site and deliver them to the elections department.⁹²⁰

Where ballots are centrally counted, county officials open ballot containers received from each precinct, inspect and set aside damaged ballots, and tally the returns.⁹²¹ The returns produced by the vote tallying system, accompanied by the total number of questioned ballots, write-in votes and absentee votes, constitute the official return for each precinct.⁹²²

Reconcile vote and ballot totals and address discrepancies at the polling place

Because most voters in Washington vote entirely by mail, ballot reconciliation is conducted at the county level. The county auditor must publish a report reconciling all ballots cast and counted against the total number of registered voters in a county and the total number of voters recorded as having voted at the polls.⁹²³ The auditor is also required to issue a report of the number of absentee ballots issued and returned and the records of absentee ballot requests.⁹²⁴

Reconcile redundancies at the county level

The county auditor must produce cumulative and precinct returns and deliver them to the canvassing board for review.⁹²⁵ The canvassing board verifies the results from each precinct and the absentee ballots and certifies the results of the election.⁹²⁶ If the canvassing board finds any discrepancy or inconsistency in the returns, the board may recanvass the ballots in question.⁹²⁷ The auditor may, but is not required to, reconcile individual precinct totals with composite totals. We recommend requiring this reconciliation by law.

Make all results public

The precinct and cumulative returns of any primary or election are public records under chapter Washington state law.⁹²⁸ The county auditor must also create a publicly available reconciliation report that includes the number of registered voters, the number of ballots counted, provisional and absentee ballot totals, the number of registered voters both in total and who voted in the election, and other information.⁹²⁹ The auditor may also prepare such a report for individual precincts.⁹³⁰

Recommendation: Washington's ballot reconciliation procedures are generally good, but need improvement in specific areas. While the state has good procedures in place for ballot

accounting and making results public, we recommend requiring the county auditor by law to reconcile precinct totals with composite totals.

West Virginia

West Virginia's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

After the polls have closed in precincts that use DREs, poll workers prepare a report in quadruplicate of the number of voters who have voted and the number of spoiled personalized electronic ballots (if applicable) and place two copies of this report in the DRE, which is sealed and delivered to the clerk of the county election commission.⁹³¹ Officials also print machine results and remove the paper record from each machine for return to the county clerk along with other election materials.⁹³²

In precincts where ballots are used, poll workers record the number of spoiled and unused ballots and the number of voters who signed in the poll books.⁹³³ In precincts where paper ballots are hand-counted, poll workers record the number of voters and the number of challenged, voted, spoiled and unused ballots⁹³⁴ before counting all ballots, keeping a tally of votes for each candidate or question.⁹³⁵ As soon as officials ascertain the results, they must complete and sign four certificates of return, post one and deliver the others, along with all election materials, to the clerk of the county commission.⁹³⁶ Precinct commissioners prepare a report containing this information in quadruplicate and place two copies inside the ballot boxes and deliver the boxes to the clerk of the county election commission.⁹³⁷

Where ballots are tabulated at a central counting center, officials remove ballots from their boxes, separate ballots with write-in votes and tabulate the ballots.⁹³⁸ Where votes have been recorded on DREs that function as ballot marking devices, counting center officials remove personalized electronic ballots and send them through the tabulator.⁹³⁹ The returns generated from automatic tabulating equipment constitute the official returns of that precinct's votes when signed by the clerk of the county commission.⁹⁴⁰

For any system, poll workers must deliver the poll books, register of voters, spoiled and unused ballots, and all other records to the clerk of the county election commission.⁹⁴¹

Reconcile vote and ballot totals and address discrepancies at the polling place

In precincts using paper ballots, officials must record the total number of voters from the poll books and compare and reconcile that total to the number of voted and challenged ballots.⁹⁴² In precincts using optical scan ballots, officials must account for all spoiled and unused ballots and tally the number of voters who signed in the poll book and report any irregularities in the number of ballots cast or the number of unused ballots.⁹⁴³ We recommend reconciling the number of voters signed in on the poll books with the number of voters shown on the public counter of each DRE that does not produce an optical scan ballot.

Reconcile redundancies at the county level

The board of canvassers reviews the ballots, poll books, registration records, tally sheets, and certificates from each precinct.⁹⁴⁴ In precincts using paper ballots, the board re-counts the number of ballots in each package as a part of the canvass.⁹⁴⁵ In canvassing the returns from precincts using vote-recording devices, the board of canvassers must examine all vote recording devices, electronic poll books, vote tabulating equipment, and voter-verified paper ballots in at least 5% of the precincts within the board's jurisdiction. If the board of canvassers suspects that a vote recorder or tabulator incorrectly recorded or tabulated the votes cast, the board must seek to determine whether such an error did occur, correct the error if found and have ballots recounted.⁹⁴⁶ If the board of canvassers can't correct such errors, the vote totals must be accepted as recorded.⁹⁴⁷ Once the board has determined the results of the election, they must certify the results of the election.⁹⁴⁸ The board of canvassers is not explicitly required to compare precinct totals to county totals; however, the certificate of results contains the vote totals for each candidate or question both for the county and for each precinct.⁹⁴⁹

Make all results public

All returns must be posted on a precinct basis and posted at the central counting location, both after the initial tally and after the official canvass.⁹⁵⁰

Recommendation: West Virginia's ballot reconciliation procedures are generally good but need improvement in specific areas. While the state has relatively good procedures in place for accounting for all ballots at the polling place and reconciling redundancies at the county level, we recommend reconciling the number of voters signed in on the poll books with the number of votes cast on any voting system.

Wisconsin

Wisconsin's ballot reconciliation procedures are **generally good** but need improvement in specific areas.

Account for all ballots, votes, and voters at the polling place

Before tallying vote totals on tally sheets, inspectors compare and reconcile the poll lists with one another and count the total number of ballots.⁹⁵¹ In polling places that use automatic tabulators, officials examine the ballots for write-in votes or damage and shall process these ballots separately.⁹⁵² Inspectors must keep a written statement of the number of ballots set aside as well as the number of defective and challenged ballots; when tallying is complete, they must attach this statement to the tally sheets.⁹⁵³ Tally sheets state the total number of votes for each candidate or question, and they are accompanied by an inspectors' statement that details the number of excess ballots, if any.⁹⁵⁴ In precincts that use optical scanners, inspectors must attach the paper return from the tabulating equipment to the official tally sheet.⁹⁵⁵ After recording the votes, inspectors seal one tally sheet and one poll list for delivery to the county clerk, and one tally sheet, one poll list and the inspector's statement for the municipal clerk.⁹⁵⁶ Inspectors then deliver all ballots, statements, lists, tally sheets, and returns to the county clerk.⁹⁵⁷

Reconcile vote and ballot totals and address discrepancies at the polling place

County officials reported comparing the number of voters checked in the poll books to the number of ballots cast,⁹⁵⁸ and one county official in particular reported checking that the greatest number of votes for any office did not exceed the number of checked-in voters.⁹⁵⁹ When the number of ballots exceeds the number of voters signed in on the poll list, officials must first check for blank ballots mixed in among the voted ballots.⁹⁶⁰ One county official reported that any discrepancy in the number of ballots and the number of voters must be explained.⁹⁶¹ If the number of ballots still exceeds the total number of voters, inspectors separate absentee and regular ballots; inspectors then randomly remove a number of whichever type of ballot is in excess so that the number of voters equals the number of ballots cast.⁹⁶² Because this practice lends itself to ballot box stuffing, it is unsatisfactory as a reconciliation measure, and we recommend discontinuing and outlawing this practice.

Where ballots are counted at central counting locations, officials must compare the number of ballots delivered against the number of electors reported by the precinct; they must note any discrepancies.⁹⁶³

Reconcile redundancies at the county level

The county board of canvassers opens and examines the returns from each precinct.⁹⁶⁴ County officials reported that vote totals from each precinct are compared to the composite totals in the county.⁹⁶⁵ Two county officials reported that totals on precinct tapes are compared to results compiled centrally.⁹⁶⁶ The board of canvassers must review each precinct's tally sheet and inspector's statement and shall append to each statement a tabulation of the total county votes for each office and for each candidate.⁹⁶⁷ The board of

canvassers makes separate statements for the numbers of the total number of votes cast in the county and in each precinct for every office and ballot question.⁹⁶⁸

Make all results public

The chief inspector in each precinct reports returns to the county clerk, who makes the results public, which several county officials confirmed.⁹⁶⁹

Recommendation: Wisconsin's ballot reconciliation procedures are generally good but need improvement in specific areas. While the procedures in place for reconciling redundancies at the county level are good, we recommend discontinuing the practice of randomly removing ballots in excess of the number of voters signed in at the polling place.

Wyoming

Wyoming's ballot reconciliation procedures are **good**.

Account for all ballots, votes, and voters at the polling place

After polls have closed at each polling place, the counting board reviews each ballot and tallies each vote on a tally sheet.⁹⁷⁰ In precincts using automatic tabulating equipment, officials do not review each ballot.⁹⁷¹ When the votes are tabulated, officials then record and certify the number of electors voting in person and absentee, the votes cast for each candidate or question, and the number of provisional ballots cast.⁹⁷² Precinct officials then transfer these unofficial tabulations to the secretary of state,⁹⁷³ and then transfer the poll books, all ballots cast, spoiled or rejected ballots, unused ballots, tally sheets and other documents to the county clerk.⁹⁷⁴

Reconcile vote and ballot totals and address discrepancies at the polling place

If the number of ballots cast does not equal the number of voters recorded in the poll books as having voted, election judges must attempt to determine the cause of the discrepancy; if the board cannot do so, resolving the discrepancy becomes the responsibility of the county clerk and county canvassing board.⁹⁷⁵

Reconcile redundancies at the county level

Prior to the county canvass, the county clerk must examine the poll books, tally sheets, precinct certifications and other materials, summarize the votes cast in each precinct for every candidate or question, and count the write-in votes.⁹⁷⁶ The county canvassing board then meets and performs or reviews a reconciliation of ballots by precinct,⁹⁷⁷ reviews provisional ballots⁹⁷⁸ and reviews and certify the county clerk's abstracts.⁹⁷⁹ Wyoming does not use a tally server.

Make all results public

The county clerk is required by law to post copies of the certified results of the county canvass and to make copies of the canvass available to the public.⁹⁸⁰

Recommendation: Wyoming's ballot reconciliation procedures are good. The state's procedures for ballot and vote reconciliation at the precinct and county level are strong, as are the state's procedures for making results public.

III. VOTER-VERIFIABLE PAPER RECORDS

While good ballot accounting and reconciliation are critical to ensuring that votes have not been “dropped,” or lost, or added as a result of a software glitch or human error, such practices have two important limitations that only voter-verifiable paper records can currently address.

First, ballot accounting and reconciliation will not necessarily allow a jurisdiction to discover if particular votes have been misread — for example, if a software or programming error causes a voting machine to count a vote for Thomas Jefferson when the voter chose John Adams. Put another way, ballot accounting and reconciliation allows us to determine if all votes were counted, but it will not necessarily let us know if those votes were counted *correctly*.

Second, even where good ballot accounting and reconciliation lets us know that certain votes have gone uncounted, such knowledge will not necessarily allow us to *find* the uncounted votes. For instance, in November 2004 in Carteret County, N.C., a memory limitation on the county’s touch screen machine caused 4,500 votes to be lost. Because the machines did not have a paper trail, it was impossible to determine how those lost votes should have been counted.⁹⁸¹

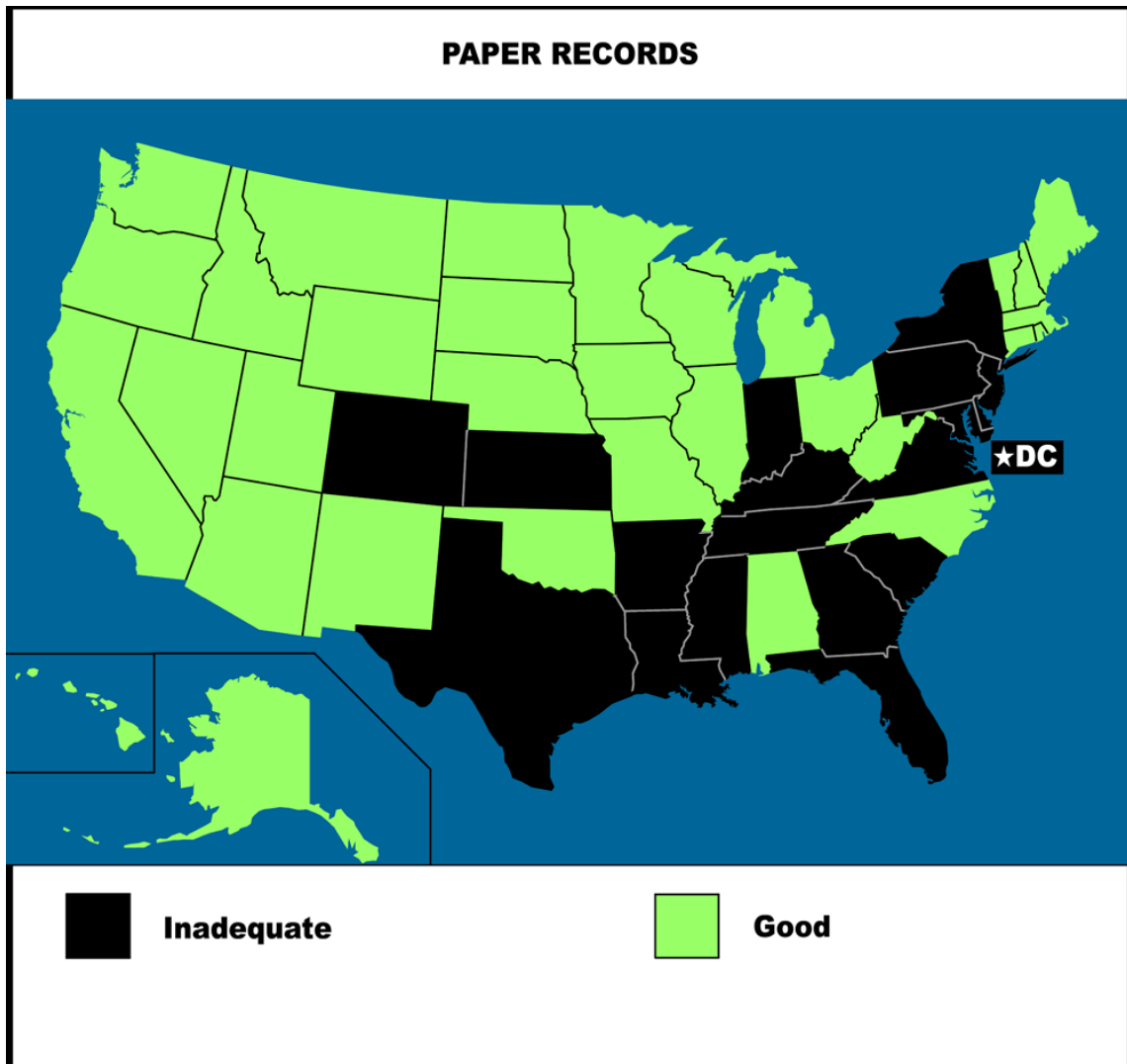
In response to the concern that software errors in voting machines could result in inaccurate readings of votes, or votes lost entirely, the Technical Guidelines Development Committee of the Election Assistance Commission has recommended new standards for future voting systems that would require voting systems to produce a voter-verifiable voting record that is *independent* of the software.⁹⁸²

Currently, the only two forms of these independent records are optical scan ballots, which are filled out by the voter and read by a scanner, and “paper trails,” which are printed and used with touch screen machines. Voters who use touch screen machines with paper trails have the opportunity to review a paper record of their vote before casting it.⁹⁸³

Nineteen states use voting machines without a software independent voter-verifiable paper record. In these states, there is a risk that, as happened in Carteret County in 2004, vote totals could be corrupted or lost, and there would be no way to recover voters’ actual choices.

RATING THE STATES

States were given a simple binary score of “good” or “inadequate” based on whether or not their voting systems included paper records. State practices in detail describe states that are rated inadequate as of November 2008 but that are taking steps to implement voter-verified paper records after 2008.



Voter-Verifiable Paper Records

Alabama	Good
Alaska	Good
Arizona	Good
Arkansas	Inadequate
California	Good
Colorado	Inadequate
Connecticut	Good
D.C.	Inadequate
Delaware	Inadequate
Florida	Inadequate
Georgia	Inadequate
Hawaii	Good
Idaho	Good
Illinois	Good
Indiana	Inadequate
Iowa	Good
Kansas	Inadequate
Kentucky	Inadequate
Louisiana	Inadequate
Maine	Good
Maryland	Inadequate
Massachusetts	Good
Michigan	Good
Minnesota	Good
Mississippi	Inadequate
Missouri	Good

*but needs improvement in specific areas

Montana	Good
Nebraska	Good
Nevada	Good
New Hampshire	Good
New Jersey	Inadequate
New Mexico	Good
New York	Inadequate
North Carolina	Good
North Dakota	Good
Ohio	Good
Oklahoma	Good
Oregon	Good
Pennsylvania	Inadequate
Rhode Island	Good
South Carolina	Inadequate
South Dakota	Good
Tennessee	Inadequate
Texas	Inadequate
Utah	Good
Vermont	Good
Virginia	Inadequate
Washington	Good
West Virginia	Good
Wisconsin	Good
Wyoming	Good

STATE PRACTICES IN DETAIL

Arkansas

Arkansas law requires all voting systems to produce a voter-verified paper record except those systems currently deployed in Union, Columbia and Ouachita counties. The voting systems used in these counties at the time the legislation passed deployed the Shouptronic machine manufactured by Danaher Controls, which could not be retrofitted with paper records and therefore were exempt from the requirement. The law requires any new purchase of voting systems to be able to produce a voter-verified paper record.⁹⁸⁴

Colorado

Colorado law requires all voting systems to produce voter-verified paper records by January 2010. Two counties, Arapahoe and Jefferson, still deploy paperless DREs. Colorado law prohibits the purchase of any new voting systems unless they produce a voter-verified paper record. By Jan. 1, 2010, any existing paperless equipment must have been retrofitted or replaced.⁹⁸⁵

Florida

Florida law requires all counties to have as their primary voting system an optical scan paper ballot system. However, counties may deploy a paperless DRE for disability access in each polling place. All but three counties do so. By 2012, all paperless DREs must be replaced by accessible devices that produce paper ballots.⁹⁸⁶

Maryland

Pursuant to Maryland law, Maryland will replace its paperless DRE system with an optical scan system by 2010.⁹⁸⁷

New Jersey

In 2005 New Jersey passed a law requiring all voting systems to produce a voter-verifiable paper record by Jan. 1, 2008, unless a waiver was granted by the attorney general. In January 2008, the law was amended to extend the deadline to Jan. 1, 2009.⁹⁸⁸

New York

New York passed a law requiring voting systems to produce voter-verified paper records by January 2006; however, they are not in compliance with their own law. New York is still in the process of certifying new systems, and these systems likely won't be in place until

approximately October 2009. The New York State Board of Elections approved paper ballot optical scan systems and ballot marking devices for this purpose.⁹⁸⁹

Tennessee

Tennessee law requires each county to deploy a precinct count optical scan system on or before 2010.⁹⁹⁰

IV. POST-ELECTION AUDITS OF VOTER-VERIFIABLE PAPER RECORDS

As described in the previous section of this report, most counties and states have voting systems with voter-verifiable paper records. But in all these states, it is the electronic tally from the voting machines that is used to aggregate the official totals. Unless the paper records are used to check the accuracy of the electronic tallies from the voting machine, flaws in machine totals may go unnoticed. As the Brennan Center noted in its June 2006 study of electronic voting system security, *The Machinery of Democracy: Protecting Elections in an Electronic World*,⁹⁹¹ voter-verifiable paper records will not prevent programming errors, software bugs or the introduction of malicious software into voting systems: “If paper is to maximize the security and reliability of voting systems, it must be used to check, or “audit,” the voting system’s electronic records.”

BEST PRACTICES FOR POST-ELECTION AUDITS OF VOTER-VERIFIABLE PAPER RECORDS

In *Post-Election Audits: Restoring Trust in Elections*, the Brennan Center teamed with the Samuelson Law, Technology & Public Policy Clinic at Boalt Hall School of Law (UC Berkeley), as well as several election officials and leading academics (collectively, the “Audit Group”), to make several recommendations for conducting post-election audits. Many of these recommendations are amplified in “Principles and Best Practices for Post-Election Audits,” which is available online at www.electionaudits.org/principles.

In particular, the following steps are critical for a good audit:

- **Auditing All Ballots** Good audit protocols will mandate that all ballots – from early and absentee ballots to regular and provisional ballots, to aggregation at the tally server – be audited for accuracy
- **Using Transparent and Random Selection Processes for All Auditing Procedures** Audits are much more likely to prevent fraud, and produce greater voter confidence in the results, if the ballots, machines or precincts to be audited are chosen in a truly random and transparent manner.
- **Conducting in a Timely Manner** Audits should be conducted before results are finalized, so that if the audit reveals problems, official totals can be corrected.
- **Implementing Effective Procedures for Addressing Evidence of Fraud or Error** If audits are to have a real deterrent effect and catch widespread, systemic problems, jurisdictions must adopt clear procedures for dealing with audit discrepancies when they are found. Detection of fraud will not prevent attacks from succeeding without an appropriate response. Such procedures should also ensure that outcome-changing errors are not ignored.

- **Encouraging Rigorous Chain of Custody Practices.** Audits of voter-verified paper records will deter attacks and identify problems only if states have implemented solid chain of custody and physical security practices that will allow them to make an accurate comparison of paper and electronic records.

All states should look to statistical sampling to improve their criteria for how many units to audit for more effective and efficient auditing. Only North Carolina legally requires the use of statistical methods in its process.⁹⁹² New Jersey has passed a law requiring statistical methods, but has not yet implemented it.⁹⁹³ Some California counties are piloting these methods.⁹⁹⁴

RATING THE STATES

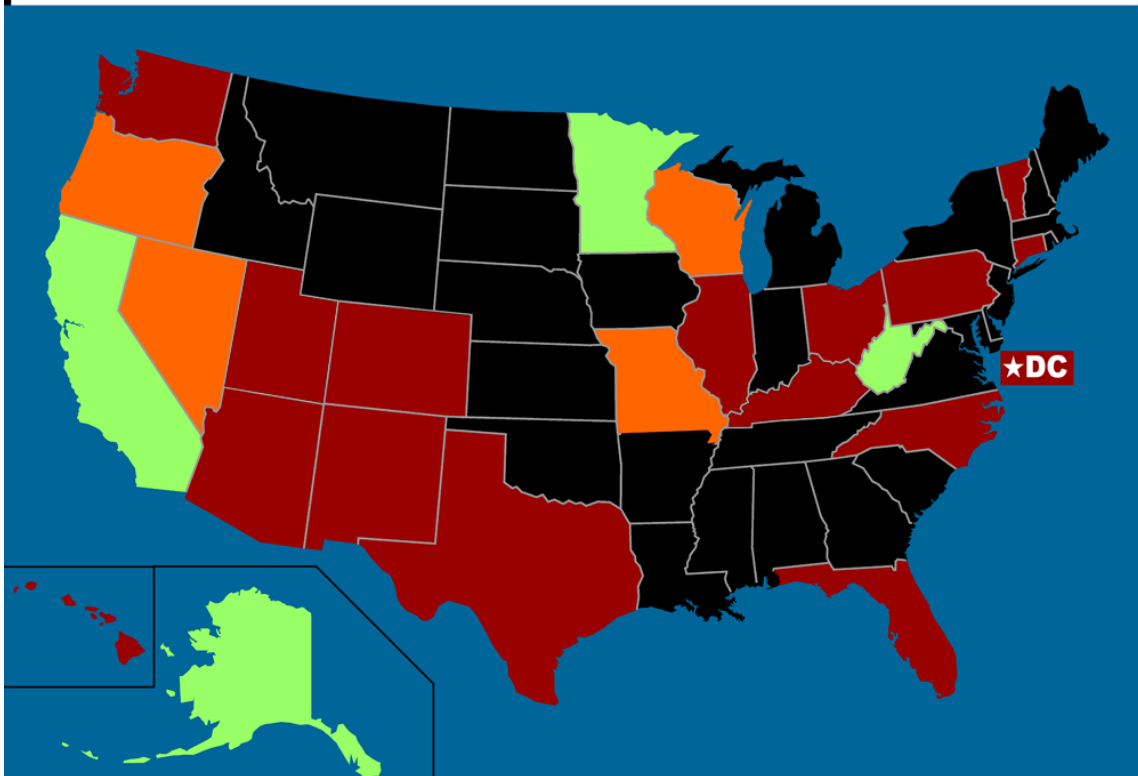
States were given points toward a grade of “good” or “generally good” for audits that are (1) robust (examining more than just one or two contests), (2) comprehensive (auditing all types of systems/ballots), (3) timely (selection starts after initial count is published and completed before results are finalized) and (4) transparent and random (conducting an observably random selection of units to be audited, and of the audit count). States were also given credit for having statutory provisions that trigger expansion of the audit if unexplained discrepancies are found. To achieve an “excellent” grade, a state would have to require all of the foregoing, plus use risk-limiting or statistical audits. No states currently do so.

Points were subtracted for lack of transparency, incompleteness (that the audit cannot be — or is not required to be — conducted statewide), carrying out the random selection of machines or precincts too early (prior to election night) or where there is no clear requirement to audit top-of-the-ticket contests (e.g. president, governor, etc.).

If a state had an insufficient number of positive points, or had sufficient points subtracted, it would receive a “needs improvement” grade. Where audit requirements are in place but cannot be conducted in all jurisdictions (e.g., where some counties or systems are paperless), those states were automatically given a “needs improvement” grade. Similarly, states where an audit will be conducted this November but where there is no legal requirement to do so were automatically given a “needs improvement” grade.

States given an “inadequate” ranking will have no post-election audits this November. Three of these have passed audit laws, but they will not take effect this year (see New Jersey, New York and Tennessee below).

POST-ELECTION AUDITS



*Needs improvement in specific areas

Post-Election Audit Procedures

Alabama	Inadequate
Alaska	Good
Arizona	Needs Improvement
Arkansas	Inadequate
California	Good
Colorado	Needs Improvement
Connecticut	Needs Improvement
D.C.	Needs Improvement
Delaware	Inadequate
Florida	Needs Improvement
Georgia	Inadequate
Hawaii	Needs Improvement
Idaho	Inadequate
Illinois	Needs Improvement
Indiana	Inadequate
Iowa	Inadequate
Kansas	Inadequate
Kentucky	Needs Improvement
Louisiana	Inadequate
Maine	Inadequate
Maryland	Inadequate
Massachusetts	Inadequate
Michigan	Inadequate
Minnesota	Good
Mississippi	Inadequate
Missouri	Generally good*

Montana	Inadequate
Nebraska	Inadequate
Nevada	Generally good*
New Hampshire	Inadequate
New Jersey	Inadequate
New Mexico	Needs Improvement
New York	Inadequate
North Carolina	Generally Good*
North Dakota	Inadequate
Ohio	Needs Improvement
Oklahoma	Inadequate
Oregon	Generally good*
Pennsylvania	Needs Improvement
Rhode Island	Inadequate
South Carolina	Inadequate
South Dakota	Inadequate
Tennessee	Inadequate
Texas	Needs Improvement
Utah	Needs Improvement
Vermont	Needs Improvement
Virginia	Inadequate
Washington	Needs Improvement
West Virginia	Good
Wisconsin	Generally good*
Wyoming	Inadequate

*but needs improvement in specific areas

STATE PRACTICES IN DETAIL

Details of requirements for every state that conducts audits can be found at verifiedvoting.org/audits. Below is an explanation for why certain states were given a “generally good” or “needs improvement” ranking for their audits.

Arizona

Arizona’s audit, though otherwise good, depends on participation from the political parties and any given county. If both decline to participate, no audit takes place.⁹⁹⁵

Colorado

Colorado has an audit law⁹⁹⁶ but cannot conduct post-election audits throughout the state because two counties still deploy paperless voting machines.

Connecticut

Connecticut has made recent improvements to its audit requirement but still lacks any requirements for triggering additional audits when discrepancies are found; investigation of discrepancies by the secretary of state is discretionary. The law also lacks clarity about which contests to audit; the language references contests required to be audited by federal law, but no federal law currently requires states to audit. Thus, it is not clear that top-of-the-ticket contests such as the presidential race will be audited. The law also exempts centrally counted ballots such as absentees.⁹⁹⁷

District of Columbia

The District of Columbia has indicated that it will conduct audits this November. However, it does not legally require audits after every election.⁹⁹⁸

Florida

Florida’s new audit law is far from robust. The current language requires only one contest to be selected at random, and it limits the auditing to no more than 2% of precincts.⁹⁹⁹ Setting a minimum makes sense; prohibiting more expansive audits does not.

Hawaii

Hawaii’s provision, while flexible, lacks sufficient transparency and clear criteria about which contests to audit.¹⁰⁰⁰

Illinois

Illinois' audit law does not mandate that the count of the voter-verified paper records be manual. Illinois law calls for optically scanned ballots to be audited by machine.¹⁰⁰¹ Selection is done by the state board in one location for the entire state; as a result, while notice is given, it may be difficult for interested citizens to observe the selection process.

Kentucky

Kentucky has had an audit law for decades,¹⁰⁰² but much of the state uses paperless DREs, which makes such audits impossible.

Missouri

Missouri's requirement is generally good; to improve it should explicitly require all ballot types to be included (absentees, provisionals and polling place) and include a trigger provision.¹⁰⁰³

Nevada

Nevada's requirement, though generally good, lacks a trigger provision and does not mandate that the count be manual. It does not explicitly address any ballots not cast on DREs (such as absentee or provisional ballots).¹⁰⁰⁴

New Jersey

New Jersey's law is in many ways the strongest passed in the country to date, but because the state has yet to meet its voter-verified paper record mandate, it cannot be implemented this year.¹⁰⁰⁵

New Mexico

New Mexico is developing rules for its 2% audit law, to be implemented for the first time this year.¹⁰⁰⁶

New York

New York passed a law in 2005 requiring audits, but it has not yet replaced its lever machines, and therefore cannot implement the audit.¹⁰⁰⁷ In anticipation of new paper ballot voting systems being deployed next year, the audit regulation is in review.

North Carolina

North Carolina's law is generally good, but needs improvement in specific areas. The statute only requires a single contest to be audited for each election.¹⁰⁰⁸ Their ranking reflects recent improvement; early selection carried out in previous elections has been corrected.¹⁰⁰⁹

Ohio

Ohio does not have a requirement for post-election audits, but Secretary of State Jennifer Brunner has stated that she intends to issue a directive requiring audits this November. A pilot audit was conducted in several counties after the primaries earlier this year.¹⁰¹⁰

Oregon

Oregon's otherwise strong provision was rated "generally good" due to a significant time gap between selection and audit. The selection process, while public, is conducted centrally, which may limit its observability by those who may not be able to travel to a central location for that purpose.¹⁰¹¹

Pennsylvania

Pennsylvania has had an audit law for decades, but much of the state uses paperless DREs, which make such audits impossible.¹⁰¹²

Tennessee

Tennessee has passed an audit law, but it will not go into effect until 2010.¹⁰¹³

Texas

Texas' requirement only pertains to optical scan paper ballots, but the state has many DRE jurisdictions.¹⁰¹⁴

Utah

Utah's audit regulation needs improvement. The language permits selection of machines to audit to be conducted earlier than appropriate (prior to the close of polls on Election Day). Although officials are required to explain in writing any discrepancies, there is no trigger provision.¹⁰¹⁵

Vermont

Vermont's law permits, but does not require, the secretary of state to order an audit.¹⁰¹⁶ An audit is planned for November 2008.¹⁰¹⁷

Washington

Washington's law was written with DREs equipped with VVPAT printers in mind; since it was passed, most of the state has transitioned to centrally counted vote-by-mail ballots, and the law does not address how to audit those ballots.¹⁰¹⁸

Wisconsin

Wisconsin's law does not require (nor prohibit) that the audit be conducted after every election — just every November election.¹⁰¹⁹ However, the state did proactively seek voluntary audits for this year's primary elections.¹⁰²⁰ The state does not require that the audit occur before results are certified, though it is allowed.¹⁰²¹

CONCLUSION

For the past few years, the Brennan Center, Common Cause and Verified Voting have conducted a campaign with election officials across the country to improve their voting system procedures. There is no question that in that time, states and counties have made dramatic improvements that make it much less likely voting system failures will disenfranchise voters.¹⁰²² Unfortunately, as evidenced by this report, there is still much work to be done.

We urge states to do what they can to improve their procedures in the remaining weeks before the election. In the longer term, states should enact laws that will allow election officials to adequately deal with a number of potential voting system failures. For states with paperless DREs, that means changing systems so that every voter can review and confirm their vote on a paper record independent of a voting machine's software. For states that already use voter verifiable paper records, it means passing laws that require officials to audit those paper records after every election to ensure that the machine count is accurate. For states using DREs, whether or not they produce a paper record, it means mandating a minimum number of emergency paper ballots in the event that machines fail. For all states, it means strengthening voting system security and requiring ballot accounting and reconciliation procedures that will give us greater confidence that all votes have been counted.

Most states and counties will not experience major voting system failures this election. But that fact should not lull them into complacency. Every national election since 2000 has shown us the same thing: Voting systems sometimes fail. Voters in jurisdictions with poor procedures should not have to wait, as others have in the past, for a system failure to cause the loss of thousands of votes, or shake the public's confidence in the fairness and accuracy of their elections, before lawmakers and election officials adopt the best procedures to prevent such meltdowns.

GLOSSARY OF TERMS

Absentee ballots: Historically, absentee ballots have been, simply, ballots cast by voters who are not able to vote in regular polling places due to travel or to some circumstance that makes it difficult for them to come to the polls. This definition is still true but incomplete. A number of states have adopted no-excuse absentee balloting, which allows any voter to vote by absentee ballot. In some states with no-excuse absentee voting, so-called “early voting” is really just the period during which voters can request and submit an absentee ballot. Because most absentee ballots are mailed to the election office, voter turnout campaigns sometimes call no-excuse absentee balloting “vote by mail,” even if the state does not have a formal vote by mail system.

Ballot Accounting: The practice of tallying the number of voted, spoiled, unused, damaged, etc. ballots and making sure that tally equals the number of ballots received.

Ballot recap form: A form which shows the number of valid, spoiled, provisional and unused ballots from a polling place.

Canvassing: Compiling the results from an election for the purpose of validating and officially certifying the results. Canvassing may include both review of the statements of the vote prepared by poll workers and of results tapes printed from DREs and optical scanners.

Central counting center: A facility where ballots and/or results from multiple polling places are tallied. In jurisdictions which do not use equipment that tallies votes at the polling places, the central counting center is the only place where votes are counted. In jurisdictions which use equipment that tallies votes at the polling places, the central counting center may be the facility where tallies from all the polling places are compiled, and where absentee or other mail ballots are counted.

Central tabulator: A central tabulator may be a high-speed optical scanner that is used to count large numbers of optical scan paper ballots. The term “central tabulator” is also used sometimes to describe a jurisdiction's election management system, which aggregates vote tallies from all the polling places following the election and which is often also used to program all the jurisdiction's polling-place machines before the election.

Counter compartment: A compartment on lever voting machines which contains the mechanical counters that keep a running total of votes cast for each candidate on the ballot and for and against each measure on the ballot. The counter compartment is usually not opened until the polls have closed and the machine has been locked against further voting.

DRE (Direct Recording Electronic Voting Machine): A Direct Recording Electronic (DRE) voting machine directly records the voter's selections in each race or contest. It does so via a ballot that appears on an electronic display screen. Typical DRE machines have flat panel display screens with touch screen or keypad input, although other technologies have been used (including paper and push button displays). The defining characteristic of these machines is that votes are captured and stored electronically. Some DREs can be equipped with printers capable of printing voter-verifiable paper records.

Election system: The equipment (including hardware, software and firmware) that is used by a jurisdiction to record and tabulate votes, including equipment used to program voting machines and tabulators, transmit election data and aggregate tallies from different polling places.

Electronic Tally: The electronic count of votes recorded on individual voting machines, possibly aggregated by precinct or polling place.

Emergency paper ballots: Paper ballots that are on hand in polling places where paperless voting machines are the standard method of voting. Emergency paper ballots may be used when paperless voting machines are inoperable, or when long lines form at the polling place.

Lever voting machines: Machines that directly record voters' choices via mechanical lever-actuated controls into a counting mechanism that tallies the votes without using a physical ballot.

Logic and Accuracy (pre-election) test: A means of determining that voting systems will function properly for the election by recording test votes on each machine, verifying that it is possible to vote for each candidate on the ballot and that these votes are tabulated correctly all the way through to the canvass. This can be done, for example, by casting a different number of votes for each candidate or issue position in each race or contest on the ballot. Different testing requirements apply to different types of voting systems (e.g., optical scan sensor calibration, touch screen calibration, etc.). After testing, officials clear the voting machinery, set vote totals to zero and empty the physical or electronic ballot boxes, sealing the systems prior to their official use for the election.

Optical scan ballots: These are used with machines that allow voters to mark paper ballots, typically with pens. Voters then carry their ballots (sleeved or otherwise protected so that others cannot see their ballot selections) to a scanner. At the scanner, they un-sleeve the ballot and insert it into the scanner, which detects the voters' marks with an optical scanning element and records the votes electronically. The paper ballots are preserved for audits and recounts. Sometimes called "mark-sense" ballots, these are used widely for absentee voting, vote-by-mail and often for provisional voting.

Overvote: An overvote occurs when a voter makes more selections than she is entitled to make. For example, voting for four candidates when the voter is entitled to vote for only three out of seven candidates is an overvote.

Polling books: Documents that contain a list of registered voters within a jurisdiction, which poll workers use to verify voters' registration status. Voters typically must enter their signatures into a polling book before they begin voting. Polling books may be in paper or electronic form.

Poll workers: People who staff and operate polling places. Duties of poll workers include setting up the polling place, including placing voting equipment in operation; checking in voters; maintaining order in the polling place, including maintaining strict custody of election materials such as ballots and equipment; recording and reporting election results; and in

some cases transporting ballots and voting system media (such as memory cards) to the jurisdiction's central election office. Poll workers typically are not full-time employees of a jurisdiction's election authority, and usually serve as temporary employees or, in some cases, as volunteers. (Depending on the jurisdiction, a poll worker may be called election judge, clerk, election inspector or other similar title.)

Post-election audit: A procedure that takes place after an election in which a sample of ballots from the election is recounted by hand in order to check the initial vote tallies reported on election night. A sample of ballots is chosen by randomly choosing *audit units*. Audit units may be entire precincts, individual machines or batches of absentee ballots that were subtotaled on election night. Some advocates and voting experts argue that in addition to the randomly chosen audit units, post-election audits should also include a number of audit units chosen by candidates for office. Post-election audit practices vary considerably among the states that will conduct them in 2008.

Provisional ballots: Ballots cast by voters whose eligibility to vote is disputed by an election official. Standards for counting provisional ballots vary significantly among the states.

Spoiled Ballot: A spoiled ballot will not count in an election. It is a ballot (optical scan, absentee or provisional) that a voter returns to election officials to cancel after she has made an error. The concepts of “cancellation” and “spoiled ballot” are often linked, in that statutory limits on the number of ballots a voter may spoil are sometimes interpreted as applying to the number of cancellations a voter can make on a DRE.

Summary tape: A tape that is printed by an electronic voting machine or electronic ballot tabulator at the closing of the polls, which shows the number of votes cast for each candidate and for and against each measure on the ballot.

Touch screen voting machines: These are a type of Direct Recording Electronic (DRE) voting machine in which the voter makes selections on her ballot by touching a specified area on an electronic display screen.

Undervote: An undervote occurs when a voter makes fewer selections than she is entitled to make. For example, voting for only two candidates when the voter is entitled to vote for three out of seven candidates is an undervote.

Vote reconciliation: The practice of comparing the number of voters who signed the polling books to the number of ballots cast.

Vote total tape: A tape that is printed by an electronic voting machine or electronic ballot tabulator at the closing of the polls, which shows the number of votes cast for each candidate and for and against each measure on the ballot. It's the same thing as a summary tape.

Voter-Verifiable Paper Record: Voter-verifiable paper records are the paper trails produced by DRE voting machines that show a voter's selections. The voter may use the paper record to verify that the machine correctly recorded her selections before casting her ballot. In some states, the voter-verifiable paper record is the legal ballot in a recount

situation (e.g., California), taking precedence over electronic counts. The term can also include a voter-marked paper ballot, such as an optical scan ballot, sometimes called a voter-verifiable paper ballot.

Voting machines: Devices that voters use to cast their votes and that tabulate the number of votes cast for candidates and for and against the measures on the ballot

Zero tape: A tape that is printed by an electronic voting machine or electronic ballot tabulator before the machine or tabulator is to begin accepting ballots. The zero tape verifies that zero votes have been tallied by the machine before the election begins.

ENDNOTES

- ¹ See, e.g., Cameron W. Barr, *Md. Election Problems Fuel Push for Paper Records*, WASH. POST, Sept. 17, 2006, at A4; Michael Scherer, *Electronic Voting Machine Problems in Myrtle Beach*, TIME, SwampLand Blog, Jan. 19, 2008, available at http://www.time-blog.com/swampLand/2008/01/electronic_voting_machine_prob.html
- ² See, e.g., Brian C. Mooney, *Voting errors tallied nationwide*, BOSTON GLOBE, Dec. 1, 2004; Mary Pat Flaherty, *Ohio Voting Machines Contained Programming Error That Dropped Votes*, WASH. POST, Aug. 23, 2008. See also Josh Sweigart, *Ohio Officials Prepare for Voting-Machine Breakdowns*, HAMILTON JOURNAL-NEWS, Aug. 28, 2008.
- ³ See, e.g., John Archibald & Brett J. Blackenridge, *Early Printout Was Only Source of Wrong Tally*, BIRMINGHAM NEWS, Nov. 10, 2002; Nedra Linsey, *McComish's District 20 2nd-place Finish Confirmed*, ARIZ. REPUBLIC, Sept. 24, 2004; Ben Cunningham, *Malfunction Delays Hasting Results*, GRAND RAPIDS PRESS, May 4, 2006.
- ⁴ See, e.g., *More than 4,500 North Carolina votes lost because of mistake in voting machine capacity*, USA TODAY, Nov. 4, 2004; Tim O'Meilia, *State faults elections office for lost votes*, PALM BEACH POST, July 2, 2008.
- ⁵ See, e.g., Cecil Bothwell, *Buncombe Machines Disenfranchise Voters*, MOUNTAIN XPRESS, Nov. 10, 2004; David Cho, *Fairfax Judge Orders Logs of Voting Machines Inspected*, WASH. POST, Nov. 6, 2003; Susan Kuzca, *Returns Are In: Software Goofed – Lake County Tally Misled 15 Hopefuls*, CHICAGO TRIB., Apr. 4, 2003, at 1.
- ⁶ Domenico Montanaro, *SC Voting Problems*, FIRST READ, Jan. 19, 2008, available at <http://firstread.msnbc.msn.com/archive/2008/01/19/592019.aspx>.
- ⁷ Josh Sweigart, *Ohio Officials Prepare for Voting-Machine Breakdowns*, HAMILTON JOURNAL-NEWS, Aug. 28, 2008. Editorial, *Dropped, then caught*, COLUMBUS DISPATCH, Aug. 24, 2008, at G4. See also Lynn Hulsey, *Local counties join vote machine suit: Boards of elections are parties to claim filed by Ohio Secretary of State Jennifer Brunner*, DAYTON DAILY NEWS, Aug. 7, 2008, at A4. See also Mark Niquette, *Missing votes spark lawsuit*, COLUMBUS DISPATCH, Aug. 7, 2008.
- ⁸ Susan Spencer-Wendel, *Wennet's thin lead in judicial race prompts manual recount of votes*, PALM BEACH POST, Aug. 30, 2008.
- ⁹ See Nikita Stewart & Elissa Silverman, *D.C. Election Glitch Blamed On Equipment*, WASH. POST, Sept. 11, 2008, at A1.
- ¹⁰ Ronald Rivest & John P. Wack, *On the Notion of "Software Independence" in Voting Systems* (Draft, July 28, 2006), available at <http://vote.nist.gov/SI-in-voting.pdf>.
- ¹¹ The thirty-two states are AL, AK, AZ, CA, CT, HI, ID, IA, IL, MA, ME, MO, MN, MI, MT, NE, NV, NM, NH, ND, NC, OH, OK, OR, RI, SD, UT, VT, WA, WV, WI and WY.
- ¹² Lawrence Norden *et al.*, THE MACHINERY OF DEMOCRACY: PROTECTING ELECTIONS IN AN ELECTRONIC WORLD (Brennan Center for Justice ed., 2006), available at http://www.brennancenter.org/dynamic/subpages/download_file_39288.pdf.
- ¹³ Myrna Perez, VOTER PURGES (Brennan Center for Justice ed., 2008), available at http://www.brennancenter.org/content/resource/voter_purges; Lawrence Norden *et al.*, *Better Ballots* (Brennan Center for Justice ed., 2008), available at http://www.brennancenter.org/content/resource/better_ballots/; Lawrence Norden *et al.*, THE MACHINERY OF DEMOCRACY: PROTECTING ELECTIONS IN AN ELECTRONIC WORLD (Brennan Center for Justice ed., 2006), available at http://www.brennancenter.org/dynamic/subpages/download_file_39288.pdf. Lawrence Norden *et al.*, THE MACHINERY OF DEMOCRACY: VOTING SYSTEM SECURITY, ACCESSIBILITY, USABILITY, AND COST (Brennan Center for Justice ed., 2006), available at http://www.brennancenter.org/content/section/category/voting_technology/
- ¹⁴ Douglas W. Jones, Dep't of Computer Science, Univ. of Iowa, *Voting and Elections*, <http://www.cs.uiowa.edu/~jones/voting/> (last visited Oct. 15, 2008); John Washburn, *Guidelines for Creating a Deck of Test Ballots*, available at <http://www.washburnresearch.org/archive/TestingGuidelines/GuidelinesForCreatingTestBallots.pdf>.
- ¹⁵ Press Release, Common Cause, *South Carolina Voting Machine Failure Underscores Need for Swift Federal Action for Voting Security* (Jan. 22, 2008), available at <http://www.commoncause.org/site/apps/nlnet/content2.aspx?c=dkLNK1MQIwG&b=194883&ct=4967187>
- ¹⁶ Ian Urbina, *Officials Wary of Electronic Voting Machines*, NEW YORK TIMES, Sept. 24, 2006, available at <http://www.nytimes.com/2006/09/24/us/politics/24voting.html>.
- ¹⁷ Cliff Brunt, *Machine Problems, Ballot Probe Mar Voting in Indiana Counties*, ASSOCIATED PRESS, Nov. 8, 2006.
- ¹⁸ *Some Electronic Voting Machines Not 'Up to Date'*, PITTSBURGH TRIBUNE REVIEW, Nov. 8, 2006.
- ¹⁹ Memorandum from the Pennsylvania Department of State, *Emergency Paper Ballots* (Aug. 2008) (copy on file with the Pennsylvania Department of State).

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- ²⁰ ARK. CODE ANN. § 7-5-513 (2008).
- ²¹ Telephone Interview with Natasha Naragon, Pub. Affairs Coordinator, Ark. Sec’y of State (Sept. 30, 2008).
- ²² Email Interview with Jill Belin, Dir. of Elections, Ark. Sec’y of State (Oct. 10, 2008) (on file with Common Cause).
- ²³ CAL. ELEC. CODE § 14300(b) (2007).
- ²⁴ Telephone Interview with Brett Rowley, Community Outreach Manager, Orange County, Cal. (Aug. 24, 2008).
- ²⁵ Telephone Interview with David Tom, Elections Manager, San Mateo County, Cal. (Aug. 24, 2008).
- ²⁶ CAL. ELEC. CODE § 14300(c) (2007).
- ²⁷ Providing voters with an option to vote on paper ballots in the event of long lines makes sense: It is better to have voters vote on paper ballots than not vote at all. But giving the option to voters under *any* circumstances creates its own set of problems. First of all, election officials are forced to store and account for an extra set of votes; absent long lines, it is not clear that the benefit of giving voters this choice outweighs the potential logistical challenges associated with this extra option. Second, jurisdictions that offer voters the “paper or plastic” option generally don’t have precinct count optical machines in the polling place that will let voters know if they made an error (for instance, if the machine will read a stray mark as a second vote in a particular contests, thereby nullifying the voter’s vote). This increases the risk that voters using paper ballots will have their intended choices accurately recorded. Again, absent long lines, which could keep voters from voting at all, it is unclear that providing voters with the option of using paper ballots makes sense.
- ²⁸ 8 COLO. CODE REGS. § 1505-1 (43.2-.3) (2008).
- ²⁹ *See id.*
- ³⁰ 8 COLO. CODE REGS. § 1505-1(43.8.8) (2008).
- ³¹ Telephone Interview with Debra Lening, County Clerk & Recorder, Kiowa County, Colo. (Sept. 10, 2008).
- ³² Telephone Interview with Steve Moreno, County Clerk, Weld County, Colo. (Sept. 11, 2008).
- ³³ DEL. CODE ANN. tit. 15, § 5010 (2008).
- ³⁴ *Id.*
- ³⁵ Telephone Interview with Elaine Manlove, Comm’r of Elections, Del. (Sept. 11, 2008); Telephone Interview with Anthony Albence, Election Dir., New Castle County, Del. (Sept. 11, 2008).
- ³⁶ GA. COMP. R. & REGS. 183-1-12-.02 (4)(k) (2008).
- ³⁷ GA. CODE ANN. § 21-2-281 (2008).
- ³⁸ GA. COMP. R. & REGS. 183-1-12-.06(3) (2008).
- ³⁹ GA. CODE ANN. § 21-2-326 (2008).
- ⁴⁰ GA. CODE ANN. § 21-2-418(h) (2008).
- ⁴¹ 10 ILL. COMP. STAT. 5/24-11 (2008).
- ⁴² *Id.*
- ⁴³ *Id.*
- ⁴⁴ Telephone Interview with Lyn Schmidt, Chief Deputy Clerk, Peoria County, Ill. (Oct. 2, 2008).
- ⁴⁵ *Id.*
- ⁴⁶ *Id.*
- ⁴⁷ *Id.*
- ⁴⁸ Telephone Interview with John Cunningham, County Clerk, Kane County, Ill. (Oct. 7, 2008).
- ⁴⁹ *Id.*
- ⁵⁰ *Id.*
- ⁵¹ 10 ILL. COMP. STAT. 5/24-11 (2008).
- ⁵² *Id.*
- ⁵³ IND. CODE ANN. § 3-11-14-19 (West 2008).
- ⁵⁴ IND. CODE ANN. § 3-11-3-35 (West 2008).
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*
- ⁵⁷ IND. CODE ANN. § 3-11-3-11 (West 2008).
- ⁵⁸ IND. CODE ANN. § 3-11-3-28 (West 2008).
- ⁵⁹ IND. CODE ANN. § 3-11-3-3 (West 2008).
- ⁶⁰ KAN. STAT. ANN. § 25-4408 (2006).
- ⁶¹ E-mail Interview with Brad Bryant, Elections Dir., Kan. Sec’y of State (Oct. 14, 2008) [hereinafter *Brad Bryant interview*] (on file with Common Cause).
- ⁶² *Id.*

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- ⁶³ KAN. STAT. ANN. § 25-604(c) (2006).
- ⁶⁴ Brad Bryant interview, *supra* note 61.
- ⁶⁵ KY. REV. STAT. ANN. § 117.215 (LexisNexis 2008).
- ⁶⁶ KY. REV. STAT. ANN. § 117.145 (LexisNexis 2008).
- ⁶⁷ KY. REV. STAT. ANN. § 117.215(2) (LexisNexis 2008).
- ⁶⁸ KY. REV. STAT. ANN. § 117.145(2) (LexisNexis 2008).
- ⁶⁹ Telephone Interview with Sarah Ball Johnson, Dir., Ky. State Bd. of Elections (Sept. 22, 2008).
- ⁷⁰ *Id.*
- ⁷¹ LA. REV. STAT. ANN. § 18:1353(E) (2008).
- ⁷² LA. REV. STAT. ANN. § 18:1363(E) (2008).
- ⁷³ LA. REV. STAT. ANN. § 18:1363(F) (2008).
- ⁷⁴ Email Interview with Angie LaPlace, Comm'r of Elections, La. Sec'y of State (Oct. 7, 2008) (on file with the Brennan Center).
- ⁷⁵ MD. CODE ANN., ELEC. LAW § 10-302 (West 2008).
- ⁷⁶ Telephone Interview with Ross Goldstein, Deputy State Admin'r, Md. State Bd. of Elections (Aug. 26, 2008).
- ⁷⁷ *Id.*
- ⁷⁸ *Id.*
- ⁷⁹ Maryland State Board of Elections, Policy 2007-01: Election Day Contingency Plans (rev. Apr. 2008) (on file with Common Cause).
- ⁸⁰ MISS. CODE ANN. § 23-15-427 (2008).
- ⁸¹ MISS. CODE ANN. § 23-15-531.12 (2008).
- ⁸² *Id.*; *see also* Telephone Interview with Matt Grubbs, HAVA Admin'r, Miss. Sec'y of State (Sept. 16, 2008) [hereinafter *Matt Grubbs interview*].
- ⁸³ Matt Grubbs interview, *supra* note 82.
- ⁸⁴ Telephone Interview with Pamela Weaver, Dir. of Commc'ns, Miss. Sec'y of State (Oct. 3, 2008).
- ⁸⁵ Mississippi Secretary of State, Mississippi Poll Manager Guide for use with the TSX Voting System, at 23 (2008), *available at* <http://www.sos.state.ms.us/elections/Mississippi%20TSX%20Poll%20Managers%20Guide.pdf> [hereinafter *TSX Voting System Guide*]; *see* Mississippi Secretary of State, Mississippi Poll Manager Guide (Desoto, Hinds, Lee, Rankin, and Yalobusha Counties), at 14 (2007), *available at* <http://www.sos.state.ms.us/Elections/2007/Forms/MS%20POLL%20MANAGER%20GUIDE.pdf> [hereinafter *Mississippi Poll Manager Guide*].
- ⁸⁶ TSX Voting System Guide, *supra* note 85; Mississippi Poll Manager Guide, *supra* note 85.
- ⁸⁷ NEV. ADMIN. CODE § 293B.070 (2008).
- ⁸⁸ *Id.*
- ⁸⁹ Email Interview with Ryan High, HAVA Coordinator, Nev. Sec'y of State (Oct. 9, 2008) (on file with Common Cause).
- ⁹⁰ *Id.*
- ⁹¹ Telephone Interview with Dan Burk, Registrar, Washoe County, Nev. (Sept. 4, 2008).
- ⁹² Telephone Interview with Larry Lomax, County Clerk, Clark County, Nev. (Aug. 2008).
- ⁹³ Telephone Interview with Kelly Eagen, Chief Deputy Clerk/Treasurer, Esmeralda County, Nev. (Aug. 2008).
- ⁹⁴ N.J. REV. STAT. § 19:48.7 (West 2008).
- ⁹⁵ N.J. REV. STAT. § 19:53B-1 (West 2008).
- ⁹⁶ *Id.*
- ⁹⁷ N.J. REV. STAT. § 19:48-7 (West 2008).
- ⁹⁸ N.J. REV. STAT. § 19:48-3.2 (West 2008).
- ⁹⁹ N.J. REV. STAT. § 19:53B-1 (West 2008).
- ¹⁰⁰ *Id.*
- ¹⁰¹ N.J. REV. STAT. § 19:48-3.13 (West 2008).
- ¹⁰² N.Y. ELEC. LAW § 7-120(1) (Consol. 2008).
- ¹⁰³ N.Y. ELEC. LAW § 7-120(3) (Consol. 2008).
- ¹⁰⁴ Email Interview with Douglas Kellner, Co-Chair, N.Y. State Bd. of Elections, (Sept. 24, 2008) (on file with Common Cause).
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- ¹⁰⁷ N.C. GEN. STAT. § 163-166.1(1) (2008).

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- ¹⁰⁸ 8 N.C. ADMIN. CODE 6B.0102 (2008).
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- ¹¹⁰ Telephone Interview with Johnnie Mclean, Deputy Dir. for Admin., N. C. State Bd. of Elections (Sept. 30, 2008).
- ¹¹¹ OHIO REV. CODE ANN. § 3506.05(F), (G) (West 2008).
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- ¹¹³ Ohio Secretary of State, Directive 2008-59: Optical Scan Ballots for Voters in Counties Using DRE Voting Machines (July 25, 2008), *available at* <http://www.sos.state.oh.us/SOS/Upload/elections/directives/2008/Dir2008-59.pdf>.
- ¹¹⁴ *Id.*
- ¹¹⁵ Pennsylvania Secretary of the Commonwealth, Directive Concerning the Use, Implementation and Operation of Electronic Voting Systems by the County Boards of Elections (Sept. 3, 2008), *available at* <http://www.voteraction.org/files/EVS%20Directive%20Final%20090308.pdf>.
- ¹¹⁶ *Id.*
- ¹¹⁷ *Id.*
- ¹¹⁸ Memorandum from Pennsylvania Department of State, Emergency Paper Ballots (August, 2008) (copy on file with Pennsylvania Department of State).
- ¹¹⁹ *Id.*
- ¹²⁰ S. C. CODE ANN. § 7-13-1870 (2008).
- ¹²¹ *Id.*
- ¹²² *Id.*
- ¹²³ S. C. CODE ANN. § 7-13-430(A) (2008).
- ¹²⁴ S. C. CODE ANN. § 7-13-430(B) (2008).
- ¹²⁵ *Id.*
- ¹²⁶ S. C. CODE ANN. § 7-13-430(C) (2008).
- ¹²⁷ S. C. CODE ANN. § 7-13-1870 (2008).
- ¹²⁸ TENN. CODE ANN. § 2-7-119(a) (2008).
- ¹²⁹ TENN. CODE ANN. § 2-7-119(b) (2008).
- ¹³⁰ TENN. CODE ANN. § 2-7-108(a) (2008).
- ¹³¹ Telephone Interview with Wayne Pruett, Elections Dir., Sumner County, Tenn. (Aug. 1, 2008).
- ¹³² TENN. CODE ANN. § 2-7-119(b) (2008).
- ¹³³ Texas Secretary of State, Election Advisory No. 2007-06, at 6(f) (2007), *available at* <http://www.sos.state.tx.us/elections/laws/advisory2007-06.shtml>.
- ¹³⁴ TEX. ELEC. CODE ANN. § 125-006 (2008).
- ¹³⁵ Telephone Interview with Juanita Woods, State Manager for the Electronic Voting Program, Tex. Sec’y of State (Aug. 2008) [hereinafter Juanita Woods interview]; Telephone Interview with Johnny German, Admin’r of Elections, Harris County, Tex.; Telephone Interview with Michael Wynn, Clerk’s Office, Travis County, Tex.; Telephone Interview with Gina Jones, County Clerk, Sherman County, Tex. (Oct. 3, 2008); Telephone Interview with Marilyn Holcomb, County Clerk, Floyd County, Tex.
- ¹³⁶ TEX. ELEC. CODE ANN. § 125-006 (2008); Email Interview with Juanita Woods, State Manager for the Electronic Voting Program, Tex. Sec’y of State (Aug. 4, 2008).
- ¹³⁷ Juanita Woods interview, *supra* note 135
- ¹³⁸ UTAH CODE ANN. § 20A-5-406(2)(b)(iv) (2008).
- ¹³⁹ UTAH CODE ANN. § 20A-5-406(2)(c) (2008).
- ¹⁴⁰ VA. CODE ANN. § 24.2-642(A) (2008).
- ¹⁴¹ *Id.*
- ¹⁴² *Id.*
- ¹⁴³ VA. CODE ANN. § 24.2-642(C) (2008).
- ¹⁴⁴ Telephone Interview with Martha Brissett, Policy Analyst, Va. State Bd. of Elections, (Sept. 1, 2008).
- ¹⁴⁵ *Id.*
- ¹⁴⁶ W. VA. CODE ANN. § 3-4A-18 (2008).
- ¹⁴⁷ W. VA. CODE ANN. §§ 3-1-5(a), -29(a)(1) (2008).
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- ¹⁴⁹ Letter from David Byrd, President, Premier Election Solutions, to Jennifer Brunner, Ohio Sec’y of State (Aug. 19, 2008) (on file with the Brennan Center).

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- ¹⁵⁰ Nikita Stewart & Mary Pat Flaherty, *Firm Subpoenaed in Vote Tally*, ~~THE~~ WASHINGTON POST, Sept. 19, 2008, at B06.
- ¹⁵¹ Larry Keller & Susan Spencer-Wendel, *Battle for Bench Tightens Under Scrutiny*, ~~THE~~ PALM BEACH POST, Aug. 27, 2008, available at http://www.palmbeachpost.com/search/content/local_news/epaper/2008/08/27/0827judges.html.
- ¹⁵² Numerical scores were assigned according to the following rubric: 0 = does nothing; 1= follows a deeply unsatisfactory practice; 2 = follows the practice partially or the practice is only reported by county officials and is not required by the state or the law; 3 = policy generally adheres to the best practices; 4 = best practices explicitly require by law
- ¹⁵³ Jane Musgrave & Susan Spencer-Wendel, *State Postpones Election Certification*, PALM BEACH POST, Sept. 2, 2008, available at http://www.palmbeachpost.com/search/content/local_news/epaper/2008/09/02/recount0903.html.
- ¹⁵⁴ ALA. CODE § 17-12-1 (2008).
- ¹⁵⁵ *Id.*
- ¹⁵⁶ ALA. CODE § 17-12-8 (2008).
- ¹⁵⁷ See E-mail Interview with Shirley Miller, Assistant Chief Clerk, Calhoun County, Ala. (Sept. 25, 2008) (on file with the Brennan Center)[hereinafter *Shirley Miller interview*]; E-mail Interview with Wallace Wyatt Jr., Probate Judge, St. Clair County, Ala. (Sept. 26, 2008) (on file with the Brennan Center) [hereinafter *Wallace Wyatt interview*].
- ¹⁵⁸ See Shirley Miller interview, *supra* note 157; Wallace Wyatt interview, *supra* note 157.
- ¹⁵⁹ E-mail Interview with Shirley Miller, Assistant Chief Clerk, Calhoun County, Ala. (Sept. 25, 2008) (on file with the Brennan Center); E-mail Interview with Wallace Wyatt Jr., Probate Judge, St. Clair County, Ala. (Sept. 26, 2008) (on file with the Brennan Center).
- ¹⁶⁰ ALA. CODE § 17-12-10 (2008).
- ¹⁶¹ ALA. CODE § 17-12-8 (2008).
- ¹⁶² See Shirley Miller interview, *supra* note 157; Wallace Wyatt interview, *supra* note 157.
- ¹⁶³ ALASKA STAT. § 15.15.350 (2008).
- ¹⁶⁴ *Id.*
- ¹⁶⁵ ALASKA STAT. § 15.15.370 (2008).
- ¹⁶⁶ ALASKA STAT. § 15.15.032(c) (2008).
- ¹⁶⁷ ALASKA STAT. § 15.15.430(a) (2008).
- ¹⁶⁸ ALASKA STAT. § 15.15.430(a)(3), (b) (2008).
- ¹⁶⁹ ALASKA STAT. § 15.15.430(d) (2008).
- ¹⁷⁰ ALASKA STAT. § 15.15.450 (2008).
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- ¹⁷³ ARIZ. REV. STAT. ANN. § 16-606(A) (2008).
- ¹⁷⁴ ARIZ. REV. STAT. ANN. § 16-602(A) (2008).
- ¹⁷⁵ ARIZ. REV. STAT. ANN. § 16-604(B) (2008).
- ¹⁷⁶ ARIZ. REV. STAT. ANN. § 16-614 (2008).
- ¹⁷⁷ ARIZ. REV. STAT. ANN. § 16-615 (2008).
- ¹⁷⁸ ARIZ. REV. STAT. ANN. § 16-608(A) (2008).
- ¹⁷⁹ ARIZ. REV. STAT. ANN. § 16-602(A) (2008).
- ¹⁸⁰ ARIZ. REV. STAT. ANN. § 16-643 (2008).
- ¹⁸¹ ARIZ. REV. STAT. ANN. § 16-641(A) (2008).
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- ¹⁸³ E-mail Interview with Patty Hansen, Elections Adm'r, Coconino County, Ariz. (Sept. 16, 2008) (on file with the Brennan Center) [hereinafter *Patty Hansen interview*].
- ¹⁸⁴ Reynaldo Valenzuela interview, *supra* note 182; Patty Hansen interview, *supra* note 183
- ¹⁸⁵ ARIZ. REV. STAT. ANN. § 16-618 (2008).
- ¹⁸⁶ *Id.*
- ¹⁸⁷ ARK. CODE ANN. § 7-5-314 (2008).
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- ¹⁹¹ ARK. CODE ANN. § 7-5-317(a)(1) (2008).
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- ¹⁹³ ARK. CODE ANN. § 7-5-526(a) (2008).
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- ¹⁹⁶ ARK. CODE ANN. § 7-5-613(1) (2008).
- ¹⁹⁷ *Id.*
- ¹⁹⁸ E-mail Interview with Tim Humphries, Legal Counsel, Ark. Sec’y of State Elections Div. (Aug. 20, 2008) (on file with the Brennan Center) [hereinafter *Tim Humphries interview*]
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- ²⁰⁰ ARK. CODE ANN. § 7-5-707(b) (2008).
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- ²⁰² ARK. CODE ANN. § 7-5-701(a) (2008).
- ²⁰³ ARK. CODE ANN. §§ 7-5-315(6), -527(c)(2)(B) (2008).
- ²⁰⁴ Tim Humphries interview, *supra* note 198; see Arkansas Secretary of State Elections Department Home Page, <http://www.arelections.org>.
- ²⁰⁵ CAL. ELEC. CODE § 14420 (Deering 2007).
- ²⁰⁶ *Id.*
- ²⁰⁷ CAL. ELEC. CODE § 14421 (Deering 2007).
- ²⁰⁸ CAL. ELEC. CODE § 15250 (Deering 2007).
- ²⁰⁹ CAL. ELEC. CODE § 14420 (Deering 2007).
- ²¹⁰ CAL. ELEC. CODE § 14405(a) (Deering 2007).
- ²¹¹ CAL. ELEC. CODE § 15150 (Deering 2008).
- ²¹² See E-mail interview with Betty Canady, Sacramento County, Cal. (Sept. 19, 2008) [hereinafter *Betty Canady interview*]; see also E-mail Interview with Sandy Brockman, Chief Deputy Registrar, Kern County, Cal. (Sept. 18, 2008) (on file with the Brennan Center) [hereinafter *Sandy Brockman interview*]; E-mail Interview with Lindsey McWilliams, Assistant Registrar of Voters, Solano County, Cal. (Sept. 17, 2008) (on file with the Brennan Center) [hereinafter *Lindsey McWilliams interview*]; E-mail Interview with Marcy DeMartile, Elections Coordinator, Pluma County, Cal. (Sept. 17, 2008) (on file with the Brennan Center).
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- ²¹⁶ CAL. ELEC. CODE § 15360(a) (Deering 2008).
- ²¹⁷ CAL. ELEC. CODE § 15360(e) (Deering 2008).
- ²¹⁸ See Betty Canady interview, *supra* note 212; Sandy Brockman interview, *supra* note 212; Lindsey McWilliams interview, *supra* note 212.
- ²¹⁹ CAL. ELEC. CODE §§ 15152, 15251 (Deering 2007).
- ²²⁰ CAL. ELEC. CODE § 15371 (Deering 2007).
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- ²²² *Id.*
- ²²³ COLO. REV. STAT. § 1-7-505(3) (2008).
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- ²²⁵ COLO. REV. STAT. § 1-7-601 (2008).
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- ²²⁷ COLO. REV. STAT. § 1-7-307(1) (2008).
- ²²⁸ See COLO. REV. STAT. § 1-7-601 (2008).
- ²²⁹ COLO. REV. STAT. § 1-10-101.5 (2008).
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- ²³¹ See E-mail Interview with Michelle Nauer, County Clerk & Recorder, Ouray County, Colo. (Sept. 18, 2008) (on file with the Brennan Center) [hereinafter *Michelle Nauer interview*]; E-mail Interview with Kathy Neel, Elections Adm’r, Summit County, Colo. (Sept. 17, 2008) (on file with the Brennan Center) [hereinafter *Kathy Neel interview*]; E-mail Interview with Peggy Nerlin, County Clerk & Recorder, San Miguel County, Colo. (Sept. 18, 2008) (on file with the Brennan Center) [hereinafter *Peggy Nerlin interview*].
- ²³² COLO. REV. STAT. § 1-7-514 (2008).
- ²³³ *Id.*

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- ²³⁴ See Michelle Nauer interview, *supra* note 231; Kathy Neel interview, *supra* note 231; Peggy Nerlin interview, *supra* note 231.
- ²³⁵ COLO. REV. STAT. § 1-7-602 (2008).
- ²³⁶ COLO. REV. STAT. § 1-7-514(3) (2008).
- ²³⁷ CONN. GEN. STAT. § 9-309 (2008).
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- ²⁴⁵ CONN. GEN. STAT. § 9-314 (2008).
- ²⁴⁶ Ted Bromley interview, *supra* note 244.
- ²⁴⁷ *Id.*
- ²⁴⁸ CONN. GEN. STAT. § 9-320f(a) (2008).
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- ²⁵¹ DEL. CODE ANN. tit. 15, § 4975(a) (2008).
- ²⁵² DEL. CODE ANN. tit. 15, § 4975(d) (2008).
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- ²⁵⁴ DEL. CODE ANN. tit. 15, § 4975(f) (2008).
- ²⁵⁵ DEL. CODE ANN. tit. 15, § 4975(g) (2008).
- ²⁵⁶ DEL. CODE ANN. tit. 15, § 4976(a)-(b) (2008).
- ²⁵⁷ DEL. CODE ANN. tit. 15, § 4976(c) (2008).
- ²⁵⁸ DEL. CODE ANN. tit. 15, § 4976(d) (2008).
- ²⁵⁹ DEL. CODE ANN. tit. 15, § 4979 (2008).
- ²⁶⁰ Elaine Manlove, Del. Elections Comm’r (Sept. 22, 2008) (on file with the Brennan Center)[hereinafter *Elaine Manlove interview*].
- ²⁶¹ DEL. CODE ANN. tit. 15, § 5701 (2008).
- ²⁶² DEL. CODE ANN. tit. 15, § 5702(b)-(e) (2008).
- ²⁶³ Elaine Manlove interview, *supra* note 260
- ²⁶⁴ D.C. MUN. REGS. tit. 3, § 723.1(a)-(b) (2008).
- ²⁶⁵ D.C. MUN. REGS. tit. 3, § 723.1(c) (2008).
- ²⁶⁶ D.C. MUN. REGS. tit. 3, § 723.1(d) (2008).
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- ²⁶⁸ D.C. MUN. REGS. tit. 3, § 723.4 (2008).
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- ²⁷⁴ D.C. MUN. REGS. tit. 3, § 811.1 (2008).
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- ²⁷⁶ D.C. MUN. REGS. tit. 3, § 812.2(a) (2008).
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- ²⁷⁸ D.C. MUN. REGS. tit. 3, § 813.2 (2008).
- ²⁷⁹ FLA. STAT. § 101.5614(1) (2008); Polling Place Procedures Manual at 19, FLA. ADMIN. CODE ANN. r. 1S-2.034 (2008), available at <https://doe.dos.state.fl.us/rules/adopted-rules/pdf/R1S-2034PollingPlaceProcedure.pdf> [hereinafter *Polling Place Procedures Manual*]
- ²⁸⁰ Polling Place Procedures Manual, *supra* note 279 at 19-20, FLA. ADMIN. CODE ANN. r. 1S-2.034 (2008)
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- ²⁸² Polling Place Procedures Manual *supra* note 279 at 19-20, FLA. ADMIN. CODE ANN. r. 1S-2.034 (2008)
- ²⁸³ FLA. STAT. § 102.141(3) (2008).
- ²⁸⁴ *Id.*

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- ²⁸⁵ FLA. STAT. § 102.141(3) (2008).
- ²⁸⁶ FLA. STAT. § 102.141(6) (2008).
- ²⁸⁷ See E-mail Interview with Susan Gill, Supervisor of Elections, Citrus County, Fla. (Sept. 23, 2008) (on file with the Brennan Center); E-mail Interview with Jean Lear, Assistant Supervisor of Elections, Columbia County, Fla. (Sept. 23, 2008) (on file with the Brennan Center).
- ²⁸⁸ FLA. STAT. § 102.112 (2008).
- ²⁸⁹ FLA. STAT. § 102.141(9)(a) (2008).
- ²⁹⁰ FLA. STAT. § 102.071 (2008).
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- ³¹⁰ GA. CODE ANN. §§ 21-2-440(a), -456(a) (2008).
- ³¹¹ E-mail Interview with Shea Hicks, Chairperson & Dir., Bd. of Elections & Voter Registration, Gordon County, Ga. (Sept. 24, 2008) (on file with the Brennan Center).
- ³¹² HAW. REV. STAT. § 11-152(b) (2008).
- ³¹³ HAW. CODE R. § 2-51-98 (Weil 2008).
- ³¹⁴ HAW. REV. STAT. § 11-154(b) (2008).
- ³¹⁵ HAW. CODE R. § 2-51-93(b) (Weil 2008).
- ³¹⁶ HAW. CODE R. § 2-51-93(c)(1) (Weil 2008).
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- ³¹⁹ HAW. CODE R. § 2-51-95(b) (Weil 2008).
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- ³²² HAW. CODE R. § 2-51-96.1(a) (Weil 2008).
- ³²³ HAW. CODE R. § 2-51-96.1(c)-(e) (Weil 2008).
- ³²⁴ See HAW. CODE R. §§ 2-51-96.2(b)(2), -96.3 (Weil 2008).
- ³²⁵ HAW. CODE R. § 2-51-96.3(e) (Weil 2008).
- ³²⁶ HAW. CODE R. § 2-51-96.3(b) (Weil 2008).
- ³²⁷ HAW. CODE R. § 2-51-96.3(b)(1) (Weil 2008).
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- ³³³ HAW. REV. STAT. § 11-153(c) (2008).
- ³³⁴ IDAHO CODE ANN. § 34-1201 (2008).
- ³³⁵ IDAHO CODE ANN. §§ 34-1007 to -1008 (2008).
- ³³⁶ IDAHO CODE ANN. § 34-1203 (2008).

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- ³³⁸ IDAHO CODE ANN. § 34-1204 (2008).
- ³³⁹ IDAHO CODE ANN. § 34-1202 (2008).
- ³⁴⁰ *Id.*
- ³⁴¹ Tim Hurst interview, *supra* note 337
- ³⁴² IDAHO CODE ANN. § 34-1206 (2008).
- ³⁴³ Tim Hurst interview, *supra* note 337
- ³⁴⁴ IDAHO CODE ANN. § 34-1203 (2008).
- ³⁴⁵ *See* E-mail Interview with Betty Dressen, County Clerk, Payette County, Idaho (Oct. 1, 2008) (on file with the Brennan Center); E-mail Interview with Constance Swearingen, County Clerk, Boise County, Idaho (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Kerry Haddock, County Clerk, Bear County, Idaho (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Chris Steinlicht, County Clerk, Power County, Idaho (Sept. 29, 2008) (on file with the Brennan Center).
- ³⁴⁶ 10 ILL. COMP. STAT. 5/17-18 (2008).
- ³⁴⁷ 10 ILL. COMP. STAT. 5/17-16 (2008).
- ³⁴⁸ Clark and Will Counties reported not counting spoiled and unused ballots. E-mail Interview with Becky Gilliam, Elections Dept., Will County, Ill. (Oct. 1, 2008) (on file with the Brennan Center); E-mail Interview with Bill Downy, County Clerk & Recorder, Clark County, Ill. (Sept. 30, 2008) (on file with the Brennan Center).
- ³⁴⁹ 10 ILL. COMP. STAT. 5/24-16 (2008).
- ³⁵⁰ *Id.*
- ³⁵¹ 10 ILL. COMP. STAT. 5/17-20 (2008).
- ³⁵² 10 ILL. COMP. STAT. 5/17-18 (2008).
- ³⁵³ *Id.*
- ³⁵⁴ 10 ILL. COMP. STAT. 5/24A-10, 24B-10 (2008).
- ³⁵⁵ *Id.*
- ³⁵⁶ 10 ILL. COMP. STAT. 5/22-1 (2008).
- ³⁵⁷ 10 ILL. COMP. STAT. 5/22-5 (2008).
- ³⁵⁸ E-mail Interview with Steve Sturm, Legal Counsel, Ill. State Bd. of Elections (Sept. 11, 2008) (on file with the Brennan Center).
- ³⁵⁹ *See* E-mail Interview with Dave Dobill, County Clerk, Franklin County, Ill. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Dave Dobill interview*]
- ³⁶⁰ *See* E-mail Interview with Barbara Dreher, Executive Dir., Danville Election Comm’n, Ill. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Barbara Dreher interview*].
- ³⁶¹ *See* E-mail Interview with Bill Downey, County Clerk, Clark County, Ill. (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Bill Downey interview*]; E-mail Interview with Becky Gilliam, Clerk’s Office, Will County, Ill. (Oct. 1, 2008) (on file with the Brennan Center) [hereinafter *Becky Gilliam interview*]; Dave Dobill interview, *supra* note 359.
- ³⁶² 10 ILL. COMP. STAT. 5/17-20 (2008).
- ³⁶³ *See* Dave Dobill interview, *supra* note 359; Barbara Dreher interview, *supra* note 360; E-mail Interview with Bill Downey interview, *supra* note 361; Becky Gilliam interview, *supra* note 361.
- ³⁶⁴ IND. CODE § 3-12-2-1(b) (2008).
- ³⁶⁵ IND. CODE § 3-12-2-6 (2008).
- ³⁶⁶ IND. CODE § 3-12-3-2(c) (2008).
- ³⁶⁷ IND. CODE § 3-11-14-30 (2008).
- ³⁶⁸ IND. CODE § 3-12-3.5-2 (2008).
- ³⁶⁹ IND. CODE § 3-12-3.5-3(a) (2008).
- ³⁷⁰ IND. CODE § 3-12-2-8 (2008).
- ³⁷¹ *See* IND. CODE §§ 3-12-2-9, -3-10 (2008).
- ³⁷² IND. CODE § 3-12-3-10 (2008).
- ³⁷³ IND. CODE § 3-12-3-2(b) (2008).
- ³⁷⁴ IND. CODE § 3-11-13-36 (2008).
- ³⁷⁵ IND. CODE § 3-12-4-8 (2008).

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- ³⁷⁶ See E-mail Interview with Mona Myers, County Clerk, Howard County, Ind. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Mona Myers interview*]; E-mail Interview with Shannon Weisheit, County Clerk, Warwick County, Ind. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Shannon Weisheit interview*].
- ³⁷⁷ See E-mail Interview with Rita Martin, County Clerk, Washington County, Ind. (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Rita Martin interview*].
- ³⁷⁸ IND. CODE §§ 3-12-2-15, -3.5-5 (2008).
- ³⁷⁹ IND. CODE § 3-12-3-11(b) (2008).
- ³⁸⁰ See Mona Meyers interview, *supra* note 376; Shannon Weisheit interview, *supra* note 376; Rita Martin interview, *supra* note 377.
- ³⁸¹ IOWA CODE § 50.1A (2008).
- ³⁸² IOWA CODE §§ 50.9 to .10 (2008); Iowa Secretary of State, Form 1-K: Ballot Record and Receipt (Rev.-03, 2005), available at <http://www.sos.state.ia.us/pdfs/elections/auditors/ElectionRecords.pdf> [hereinafter
- ³⁸³ See IOWA ADMIN. CODE r. 721-26.3(50) (2008).
- ³⁸⁴ IOWA CODE § 50.11 (2008).
- ³⁸⁵ IOWA CODE § 50.6 (2008).
- ³⁸⁶ See Iowa Secretary of State, Form 1-K: Ballot Record and Receipt (Rev.-03, 2005), available at <http://www.sos.state.ia.us/pdfs/elections/auditors/ElectionRecords.pdf>.
- ³⁸⁷ IOWA CODE § 50.24 (2008).
- ³⁸⁸ *Id.*
- ³⁸⁹ IOWA CODE § 50.37 (2008).
- ³⁹⁰ IOWA CODE § 50.38 (2008).
- ³⁹¹ E-mail Interview with Sarah G. Reisetter, Elections Dir., Iowa Sec’y of State (Sept. 22, 2008) (on file with the Brennan Center) [hereinafter Sarah Reisetter interview].
- ³⁹² IOWA ADMIN. CODE r. 721-22.51(12) (2008).
- ³⁹³ E-mail Interview with Joan Schettler, County Auditor, Carroll County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Judy Babcock, County Auditor, Chickasaw County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Terry Johnson, Election Coordinator, Des Moines County, Iowa (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Terry Johnson interview*]; E-mail Interview with Gloria Carr, County Auditor, Floyd County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Leslie Soule, County Auditor, Muscatine County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Margene Bunda, County Auditor & Comm’r of Elections, Pocahontas County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Marsha Carter, County Auditor, Shelby County, Iowa (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Marsha Carter interview*]; E-mail Interview with Bonny Baker, County Auditor, Taylor County, Iowa (Sept. 29, 2008) (on file with the Brennan Center).
- ³⁹⁴ Des Moines, Guthrie, Shelby counties were explicit about this practice, though it is likely that other counties with tally servers do so, as well. Terry Johnson interview, *supra* note 393; E-mail Interview with Gwen Blass, Deputy County Auditor, Guthrie County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); Marsha Carter interview, *supra* note 393.
- ³⁹⁵ See E-mail Interview with Philippe Meier, County Auditor, Boone County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Carla Becker, County Auditor, Delaware County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Linda Griggs, County Auditor & Comm’r of Elections, Iowa County, Iowa (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Janine Sulzner, County Auditor, Jones County, Iowa (Sept. 29, 2008) (on file with the Brennan Center). Boone and Delaware Counties use software programs for accumulating their results.
- ³⁹⁶ Sarah Reisetter interview, *supra* note 391.
- ³⁹⁷ KAN. STAT. ANN. § 25-3001 (2006).
- ³⁹⁸ *Id.*
- ³⁹⁹ KAN. STAT. ANN. § 25-3006(a) (2006).
- ⁴⁰⁰ KAN. STAT. ANN. § 25-3006(b) (2006).
- ⁴⁰¹ KAN. STAT. ANN. § 25-3007 (2006).
- ⁴⁰² KAN. STAT. ANN. § 25-3001(e) (2006).
- ⁴⁰³ See KAN. ADMIN. REGS. § 7-24-2 (2008).
- ⁴⁰⁴ E-mail Interview with Bryan Caskey, Admin. Assistant, Elections & Legislative Matters, Kan. Sec’y of State (Sept. 2, 2008) (on file with the Brennan Center).
- ⁴⁰⁵ KAN. STAT. ANN. § 25-3103 (2006).

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- ⁴⁰⁶ KAN. STAT. ANN. § 25-3106 (2006).
- ⁴⁰⁷ KAN. STAT. ANN. § 25-3107 (2006).
- ⁴⁰⁸ *Id.*
- ⁴⁰⁹ KAN. STAT. ANN. § 25-3202 (2006).
- ⁴¹⁰ E-mail Interview with Bryan Caskey, Admin. Assistant, Elections & Legislative Matters, Kan. Sec’y of State (Sept. 2, 2008) (on file with the Brennan Center).
- ⁴¹¹ E-mail Interview with Brian Newby, Election Comm’r, Johnson County, Kan. (Sept. 29, 2008) (on file with the Brennan Center)
- ⁴¹² *Id.*
- ⁴¹³ E-mail Interview with June Morgan, Election Officer, Chase County, Kan. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Karen Brooks, County Clerk, Cowley County, Kan. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Karen Brooks interview*]; E-mail Interview with Sharon Wolters, County Clerk, Smith County, Kan. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Sharon Wolters interview*].
- ⁴¹⁴ KAN. STAT. ANN. § 25-3109 (2006).
- ⁴¹⁵ E-mail Interview with Debbie Parker, County Clerk, Brown County, Kan. (Sept. 29, 2008) (on file with the Brennan Center); Karen Brooks interview, *supra* note 413; Sharon Wolters interview, *supra* note 413; E-mail Interview with Brian Newby, Election Comm’r, Johnson County, Kan. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁴¹⁶ 31 KY. ADMIN. REGS. 2:010, Sec. 13(2) (2007); *see also* E-mail Interview with Joan Kincaid, County Clerk, Owen County, Ky. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁴¹⁷ 31 KY. ADMIN. REGS. 2:010, Sec. 13(5) (2007).
- ⁴¹⁸ 31 KY. ADMIN. REGS. 2:010, Sec. 13(6) (2007); *see also* E-mail Interview with Denise Curtsinger, County Clerk, Boyle County, Ky. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁴¹⁹ 31 KY. ADMIN. REGS. 2:010, Sec. 13(7) (2007).
- ⁴²⁰ 31 KY. ADMIN. REGS. 2:010, Sec. 13(8) (2007).
- ⁴²¹ 31 KY. ADMIN. REGS. 2:010, Sec. 13(12) (2007).
- ⁴²² 31 KY. ADMIN. REGS. 2:010, Sec. 21 (2007).
- ⁴²³ 31 KY. ADMIN. REGS. 2:010, Sec. 21(12), (14) (2007).
- ⁴²⁴ KY. REV. STAT. ANN. 117.275(2)(b)-(c) (West 2008).
- ⁴²⁵ KY. REV. STAT. ANN. 117.275(3) (West 2008).
- ⁴²⁶ *Id.*
- ⁴²⁷ *Id.*
- ⁴²⁸ *Id.*
- ⁴²⁹ KY. REV. STAT. ANN. 117.275(4) (West 2008).
- ⁴³⁰ 31 KY. ADMIN. REGS. 2:010, Sec. 13(2), (5) (2007). *See also* E-mail Interview with Denise Curtsinger, County Clerk, Boyle County, Ky. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Dot Owens, County Clerk, Warren County, Ky. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Dot Owens interview*].
- ⁴³¹ 31 KY. ADMIN. REGS. 2:010, Sec. 11(3)(a) (2007). *See also* E-mail Interview with Dianne Cline, Adm’r of Elections, Macon County, Ky. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Katrina Fitzgerald, County Clerk, Meade County, Ky. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁴³² 31 KY. ADMIN. REGS. 2:010, Sec. 21(11) (2007).
- ⁴³³ 31 KY. ADMIN. REGS. 2:010, Sec. 11 (2007).
- ⁴³⁴ KY. REV. STAT. ANN. § 117.305(1) (West 2008).
- ⁴³⁵ *Id.*
- ⁴³⁶ KY. REV. STAT. ANN. § 117.305(2)(f) (West 2008).
- ⁴³⁷ *See* E-mail Interview with Joan Kincaid, County Clerk, Owen County, Ky. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Joan Kincaid interview*]; Dot Owens interview, *supra* note 430.
- ⁴³⁸ KY. REV. STAT. ANN. § 117.285 (2008).
- ⁴³⁹ KY. REV. STAT. ANN. § 117.275(6)-(7), .305(1) (West 2008); *see also* Joan Kincaid interview, *supra* note 437 (reporting that local newspapers wait to obtain results from election office).
- ⁴⁴⁰ LA. REV. STAT. ANN. § 18:571 (2008).
- ⁴⁴¹ *Id.*
- ⁴⁴² *Id.*
- ⁴⁴³ *Id.*

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- 444 LA. REV. STAT. ANN. § 18:572 (2008).
445 *Id.*
446 LA. REV. STAT. ANN. § 18:573(B) (2008).
447 *Id.*
448 *See* LA. REV. STAT. ANN. § 18:574 (2008).
449 *See id.*
450 LA. REV. STAT. ANN. § 18:571 (2008).
451 ME. REV. STAT. ANN. tit. 21-A, § 695 (2008).
452 Telephone Interview with Julie Flynn, Deputy Sec’y of State, Me. (Oct. 9, 2008).
453 *See* ME. REV. STAT. ANN. tit. 21-A, § 698 (2008).
454 ME. REV. STAT. ANN. tit. 21-A, § 698 (2008); Telephone Interview with Julie Flynn, Deputy Sec’y of State, Me. (Oct. 9, 2008) [hereinafter *Julie Flynn interview*].
455 ME. REV. STAT. ANN. tit. 21-A, § 698 (2008).
456 *Id.*
457 ME. REV. STAT. ANN. tit. 21-A, § 711 (2008).
458 Officials in Maine assert that their strong chain of custody policies in place prevent against lost or illegally voted ballots, rendering a reconciliation of the number of ballots with the number of voters signed in unnecessary. *See* Julie Flynn interview, *supra* note 454
459 ME. REV. STAT. ANN. tit. 21-A, § 711 (2008).
460 ME. REV. STAT. ANN. tit. 21-A, § 722 (2008).
461 ME. REV. STAT. ANN. tit. 21-A, § 722(2) (2008).
462 E-mail Interview with Barbara Wardwell, City Clerk, Augusta, Me. (Sept. 29, 2008) (on file with the Brennan Center).
463 Julie Flynn interview, *supra* note 454
464 ME. REV. STAT. ANN. tit. 21-A, § 722(3) (2008).
465 MD. CODE ANN., ELEC. LAW §§ 10-303, 11-202(b)(1) (West 2008); MD. CODE REGS. 33.08.01.04 (2008).
466 MD. CODE ANN., ELEC. LAW § 11-202(b)(3) (West 2008).
467 MD. CODE ANN., ELEC. LAW § 10-314 (West 2008); MD. CODE REGS. 33.08.04.02 (2008).
468 MD. CODE REGS. 33.08.01.05 (2008).
469 MD. CODE REGS. 33.10.11.32(A) (2008).
470 MD. CODE REGS. 33.10.11.32(B) (2008).
471 MD. CODE REGS. 33.10.11.32(D) (2008).
472 MD. CODE REGS. 33.10.11.24(C) (2008).
473 MD. CODE REGS. 33.10.11.32(E) (2008).
474 MD. CODE ANN., ELEC. LAW § 11-202(b)(5) (West 2008); MD. CODE REGS. 33.10.11.35(B) (2008).
475 MD. CODE REGS. 33.10.11.35(C) (2008).
476 MD. CODE REGS. 33.10.02.12(A) (2008).
477 MD. CODE REGS. 33.10.02.36(B)(1) (2008).
478 MD. CODE REGS. 33.10.02.31 (2008).
479 MD. CODE REGS. 33.10.02.35; MD. CODE ANN., ELEC. LAW § 11-202(b)(5) (West 2008).
480 MD. CODE REGS. 33.08.05.01 (2008).
481 MD. CODE REGS. 33.08.05.02, .04 (2008).
482 E-mail Interview with Ross Goldstein, Deputy State Admin’r, Md. State Bd. of Elections (Sept. 15, 2008) (on file with the Brennan Center).
483 MD. CODE ANN., ELEC. LAW § 11-307 (West 2008).
484 MD. CODE ANN., ELEC. LAW § 11-401 (West 2008).
485 MD. CODE REGS. 33.10.02.32 (2008).
486 MD. CODE REGS. 33.10.02.36(A) (2008).
487 MD. CODE REGS. 33.10.02.12(B) (2008).
488 E-mail Interview with Ross Goldstein, Deputy State Admin’r, Md. State Bd. of Elections (Sept. 15, 2008) (on file with the Brennan Center).
489 *Id.*
490 MD. CODE REGS. 33.10.02.31 (2008).
491 MD. CODE ANN., ELEC. LAW § 11-402(c) (West 2008).
492 MASS. GEN. LAWS ch. 54, § 105 (2008).
493 *Id.*

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- ⁴⁹⁴ MASS. GEN. LAWS ch. 54, § 105 (2008).
- ⁴⁹⁵ *Id.*
- ⁴⁹⁶ MASS. GEN. LAWS ch. 54, § 109 (2008).
- ⁴⁹⁷ 950 MASS. CODE REGS. 54.06, .04(24) (2008); E-mail Interview with Kristen Green, Attorney, Elections Div., Sec’y of the Commonwealth of Mass. (Sept. 12, 2008) (on file with the Brennan Center).
- ⁴⁹⁸ 950 MASS. CODE REGS. 54.06, .04(24) (2008).
- ⁴⁹⁹ 950 MASS. CODE REGS. 54.06, .04(27)-(28) (2008).
- ⁵⁰⁰ 950 MASS. CODE REGS. 54.06, .04(30)-(31) (2008).
- ⁵⁰¹ MASS. GEN. LAWS ch. 54, § 111 (2008).
- ⁵⁰² MASS. GEN. LAWS ch. 54, § 115 (2008).
- ⁵⁰³ E-mail Interview with Kristen Green, Attorney, Elections Div., Sec’y of the Commonwealth of Mass. (Sept. 12, 2008) (on file with the Brennan Center).
- ⁵⁰⁴ MASS. GEN. LAWS ch. 54, § 110(a) (2008); 950 MASS. CODE REGS. 54.06(15A) (2008).
- ⁵⁰⁵ *See* E-mail Interview with Mike LaBonte, Chairman, Bd. of Registrars of Voters, Haverhill, Mass. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Laurence Pizer, Town Clerk, Plymouth, Mass. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵⁰⁶ E-mail Interview with Melissa Malerman, FOIA Coordinator, Mich. Dep’t of State (Oct. 10, 2008) (on file with the Brennan Center) [hereinafter *Melissa Malerman interview*].
- ⁵⁰⁷ MICH. COMP. LAWS ANN. § 168.805 (West 2008).
- ⁵⁰⁸ MICH. COMP. LAWS ANN. § 168.806 (West 2008).
- ⁵⁰⁹ MICH. COMP. LAWS ANN. § 168.805(2) (West 2008).
- ⁵¹⁰ MICH. COMP. LAWS ANN. § 168.806 (West 2008).
- ⁵¹¹ E-mail Interview with Linda Coburn, County Clerk, Grand Traverse County, Mich. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Linda Coburn interview*]; E-mail Interview with Marilyn Dunn, County Clerk, St. Clair County, Mich. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Marilyn Dunn interview*]; E-mail Interview from Cindy Luczak, County Clerk, Bay County, Mich. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Cindy Luczak interview*]; E-mail Interview with Marcee Purcell, County Clerk, Mecosta County, Mich. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Joyce Watts, County Clerk, Allegan County, Mich. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Joyce Watts interview*]; E-mail Interview with Teri Loew, Election Specialist, Calhoun County, Mich. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁵¹² Linda Coburn interview, *supra* note 511; E-mail Interview with Tom Mohr, County Clerk, Hillsdale County, Mich. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵¹³ Melissa Malerman interview, *supra* note 506; *see, e.g.*, Mich. Dep’t of State, Election Inspectors’ Guide for AccuVote Precinct Tabulator, available at http://www.michigan.gov/sos/0,1607,7-127-1633_11976-28471--00.html (last visited Oct. 14, 2008) [hereinafter *Inspectors’ Guide for AccuVote*].
- ⁵¹⁴ Melissa Malerman interview, *supra* note 506; *see, e.g.*, Inspector’s Guide for AccuVote, *supra* note 513
- ⁵¹⁵ Melissa Malerman interview, *supra* note 506.
- ⁵¹⁶ MICH. COMP. LAWS ANN. § 168.822 (West 2008).
- ⁵¹⁷ Linda Coburn interview, *supra* note 511; E-mail Interview with Joyce Watts, County Clerk, Allegan County, Mich. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵¹⁸ MICH. COMP. LAWS ANN. § 168.823 (West 2008).
- ⁵¹⁹ MICH. COMP. LAWS ANN. § 168.807 (West 2008).
- ⁵²⁰ MICH. COMP. LAWS ANN. §§ 168.809(1)-(2), .824, .825 (West 2008).
- ⁵²¹ MICH. COMP. LAWS ANN. § 168.809(2) (West 2008).
- ⁵²² Linda Coburn interview, *supra* note 511; Marilyn Dunn interview, *supra* note 511; Cindy Luczak interview, *supra* note 511; Joyce Watts interview, *supra* note 511; E-mail Interview with Laura Sexton, County Clerk, Antrim County, Mich. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Teri Loew, Election Specialist, Calhoun County, Mich. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁵²³ Melissa Malerman interview, *supra* note 506
- ⁵²⁴ MINN. STAT. ANN. § 206.86(1) (West 2008).
- ⁵²⁵ *Id.*
- ⁵²⁶ MINN. STAT. ANN. § 206.845(2) (West 2008).
- ⁵²⁷ *Id.*
- ⁵²⁸ MINN. STAT. ANN. § 206.86(2) (West 2008).
- ⁵²⁹ MINN. STAT. ANN. § 206.86(4) (West 2008).

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- 530 MINN. STAT. ANN. § 206.86(6) (West 2008).
- 531 MINN. STAT. ANN. § 204C.24(1)(a)-(d) (West 2008).
- 532 MINN. STAT. ANN. § 206.86(6) (West 2008).
- 533 *Id.*
- 534 MINN. STAT. ANN. § 206.86(1) (West 2008).
- 535 MINN. STAT. ANN. §§ 206.86(1); 204C.20(2) (West 2008).
- 536 MINN. STAT. ANN. § 204C.20(2) (West 2008).
- 537 MINN. STAT. ANN. § 204C.33(1)(a)-(c) (West 2008).
- 538 MINN. STAT. ANN. § 204C.33(1) (West 2008).
- 539 Telephone Interview with Beth Fraser, Dir. of Governmental Affairs/Sec’y of State (Oct. 14, 2008).
- 540 E-mail Interview with Joseph Mansky, Elections Manager, Ramsey County, Minn. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Becky Sue Murphy, Assistant Auditor-Treasurer, Beltrami County, Minn. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Becky Sue Murphy interview*]; E-mail Interview with Cherie MacLennan, County Auditor, Winona County, Minn. (Sept. 29, 2008) (on file with the Brennan Center).
- 541 Telephone Interview with Beth Fraser, Dir. of Governmental Affairs/Sec’y of State (Oct. 14, 2008).
- 542 E-mail Interview with Joseph Mansky, Elections Manager, Ramsey County, Minn. (Sept. 29, 2008) (on file with the Brennan Center).
- 543 Becky Sue Murphy interview, *supra* note 540
- 544 MINN. STAT. ANN. § 206.86(4) (West 2008).
- 545 MINN. STAT. ANN. § 204C.33(2) (West 2008).
- 546 MISS. CODE ANN. § 23-15-581 (2008).
- 547 MISS. CODE ANN. § 23-15-591 (2008).
- 548 *Id.*
- 549 MISS. CODE ANN. § 23-15-595 (2008).
- 550 MISS. CODE ANN. § 23-15-591 (2008).
- 551 *Id.*
- 552 *Id.*
- 553 MISS. CODE ANN. § 23-15-597 (2008).
- 554 MISS. CODE ANN. § 23-15-613 (2008).
- 555 E-mail Interview with John Helmert, Senior Attorney, Elections Division, Mississippi Sec’y of State (Sept. 26, 2008) (on file with the Brennan Center)
- 556 MISS. CODE ANN. § 23-15-591 (2008).
- 557 E-mail Interview with Ben Hovland, Office of Missouri Sec’y of State (Sept. 17, 2008) (on file with the Brennan Center)
- 558 MO. CODE REGS. ANN. tit.15, § 30-10.150(4) (2008).
- 559 MO. CODE REGS. ANN. tit.15, § 30-10.150(5) (2008).
- 560 MO. CODE REGS. ANN. tit.15, § 30-10.150(6) (2008).
- 561 MO. CODE REGS. ANN. tit.15, § 30-10.150(7), (9) (2008).
- 562 MO. CODE REGS. ANN. tit.15, § 30-10.150(8) (2008).
- 563 MO. CODE REGS. ANN. tit.15, § 30-10.150(4) (2008).
- 564 *Id.*
- 565 *Id.*
- 566 MO. CODE REGS. ANN. tit.15, § 30-10.160(6) (2008).
- 567 E-mail Interview with Ben Hovland, Office of Missouri Sec’y of State (Sept. 17, 2008) (on file with the Brennan Center)
- 568 MO. CODE REGS. ANN. tit.15, § 30-10.160(7) (2008).
- 569 MO. CODE REGS. ANN. tit.15, § 30-10.160(7)(A) (2008).
- 570 MO. CODE REGS. ANN. tit.15, § 30-10.110 (2008).
- 571 MO. ANN. STAT. § 115.497 (West 2008).
- 572 MO. ANN. STAT. § 115.501 (West 2008).
- 573 MO. ANN. STAT. § 115.503(1) (West 2008).
- 574 MO. ANN. STAT. § 115.503(2) (West 2008).
- 575 MO. ANN. STAT. § 115.507(2) (West 2008).
- 576 MO. ANN. STAT. § 115.503 (West 2008).
- 577 MONT. CODE ANN. § 13-15-101(1)-(2) (2007).

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- ⁵⁷⁸ MONT. CODE ANN. § 13-15-206(2)(a)-(b) (2007).
- ⁵⁷⁹ MONT. CODE ANN. § 13-15-206(2)(b)(iii) (2007).
- ⁵⁸⁰ MONT. CODE ANN. § 13-15-204 (2007).
- ⁵⁸¹ See E-mail Interview with Marie Wehri, County Clerk & Recorder, Custer County, Mont. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Diane Mellem, County Clerk & Recorder, Hill County, Mont. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Paula Jaconetty, County Clerk & Recorder, Teton County, Mont. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵⁸² MONT. CODE ANN. § 13-15-205 (2007).
- ⁵⁸³ MONT. CODE ANN. § 13-15-201(3) (2007). See also E-mail Interview with Mary Lynch, County Clerk & Recorder, Sheridan County, Mont. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Jane Mang, County Clerk & Recorder, Musselshell County, Mont. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Debbie Wyrick, Deputy Clerk & Recorder, Fallon County, Mont. (Oct. 1, 2008) (on file with the Brennan Center).
- ⁵⁸⁴ MONT. CODE ANN. § 13-15-201(4) (2007).
- ⁵⁸⁵ MONT. CODE ANN. § 13-15-401 (2007).
- ⁵⁸⁶ MONT. CODE ANN. § 13-15-403(1) (2007).
- ⁵⁸⁷ MONT. CODE ANN. § 13-15-403(4) (2007).
- ⁵⁸⁸ MONT. CODE ANN. § 13-15-404 (2008).
- ⁵⁸⁹ E-mail Interview with Charlotte Mills, County Clerk & Recorder, Gallatin County, Mont. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵⁹⁰ MONT. CODE ANN. § 13-15-101 (2007).
- ⁵⁹¹ E-mail Interview with Marie Wehri, County Clerk & Recorder, Custer County, Mont. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵⁹² E-mail Interview with Charlotte Mills, County Clerk & Recorder, Gallatin County, Mont. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁵⁹³ NEB. REV. STAT. § 32-1001 (2008).
- ⁵⁹⁴ NEB. REV. STAT. § 32-1010 (2008).
- ⁵⁹⁵ *Id.*
- ⁵⁹⁶ NEB. REV. STAT. § 32-1012 (2008).
- ⁵⁹⁷ NEB. REV. STAT. § 32-1017 (2008).
- ⁵⁹⁸ E-mail Interview with Neil Erickson, Deputy Sec’y of State for Elections, Neb. (Sept. 15, 2008) (on file with the Brennan Center) [hereinafter *Neil Erickson interview*].
- ⁵⁹⁹ *Id.*
- ⁶⁰⁰ *Id.*
- ⁶⁰¹ See NEB. REV. STAT. § 32-1031 (2008).
- ⁶⁰² See E-mail Interview with Marie Rauner, County Clerk, Thayer County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Rita Mundil, County Clerk, Colfax County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Lonnie Knehans, County Clerk, Webster County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Debbie Postany, County Clerk, Loup County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Linda Kastanek, County Clerk, Saline County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bonnie Vogltance, County Clerk, Cuming County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Shirley Bailey, County Clerk, Harlan County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Darla Walther, County Clerk, Frontier County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Carolyn Pedersen, County Clerk, Antelope County, Neb. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Neil Erickson, Deputy Sec’y of State for Elections, Neb. (Sept. 15, 2008) (on file with the Brennan Center).
- ⁶⁰³ NEB. REV. STAT. § 32-1031(1) (2008).
- ⁶⁰⁴ NEB. REV. STAT. § 32-1031(2) (2008).
- ⁶⁰⁵ NEB. REV. STAT. § 32-1034 (2008).
- ⁶⁰⁶ Neil Erickson interview, *supra* note 598
- ⁶⁰⁷ See, e.g., E-mail Interview with Marie Rauner, County Clerk, Thayer County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Marie Rauner interview*]; E-mail Interview with Rita Mundil, County Clerk, Colfax County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Rita Mundil interview*]; E-mail Interview with Lonnie Knehans, County Clerk, Webster County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Lonnie Knehans interview*]; E-mail Interview with Debbie Postany, County Clerk,

Loup County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Debbie Postany interview*]; E-mail Interview with Linda Kastanek, County Clerk, Saline County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Linda Kastanek interview*]; E-mail Interview with Bonnie Vogltance, County Clerk, Cuming County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Bonnie Vogltance interview*]; E-mail Interview with Shirley Bailey, County Clerk, Harlan County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Shirley Bailey interview*]; E-mail Interview with Darla Walther, County Clerk, Frontier County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Darla Walther interview*]; E-mail Interview with Carolyn Pedersen, County Clerk, Antelope County, Neb. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Carolyn Pedersen interview*]

⁶⁰⁸ Lonnie Knehans interview, *supra* note 607; Shirley Bailey interview, *supra* note 207

⁶⁰⁹ See NEB. REV. STAT. § 32-1038 (2008).

⁶¹⁰ See NEB. REV. STAT. § 32-1036 (2008).

⁶¹¹ Marie Rauner interview, *supra* note 607; Rita Mundil interview, *supra* note 607; Lonnie Knehans interview, *supra* note 607; Debbie Postany interview, *supra* note 607; Linda Kastanek interview, *supra* note 607; Bonnie Vogltance interview, *supra* note 607; Shirley Bailey interview, *supra* note 607; Darla Walther interview, *supra* note 607; Carolyn Pedersen interview, *supra* note 607; E-mail Interview with Dale Baker, Election Comm’r, Hall County, Neb. (Sept. 29, 2008);

⁶¹² See Rita Mundil interview, *supra* note 607; Bonnie Vogltance interview, *supra* note 607; Darla Walther interview, *supra* note 607; Carolyn Pedersen interview, *supra* note 607.

⁶¹³ NEV. REV. STAT. §§ 293.363, 293B.330(1)(b)(2) (2008).

⁶¹⁴ NEV. REV. STAT. § 293.373 (2008).

⁶¹⁵ NEV. REV. STAT. § 293.370 (2008).

⁶¹⁶ NEV. REV. STAT. § 293.3677(1), 293B.085 (2008).

⁶¹⁷ NEV. REV. STAT. § 293B.330(1)(b)(1)(I)(2008).

⁶¹⁸ NEV. REV. STAT. § 293B.330(1)(b)(4) (2008).

⁶¹⁹ NEV. REV. STAT. § 293B.335(1) (2008).

⁶²⁰ NEV. REV. STAT. §§ 293B.365(1)-(2), (4), (6)-(8), -.380 (2008).

⁶²¹ NEV. REV. STAT. § 293B.380(2)(c), (e) (2008).

⁶²² NEV. REV. STAT. § 293B.380(2)(b) (2008).

⁶²³ NEV. REV. STAT. § 293B.380(2)(d) (2008).

⁶²⁴ NEV. REV. STAT. § 293B.380(2)(f) (2008).

⁶²⁵ NEV. REV. STAT. § 293B.380(2)(h) (2008).

⁶²⁶ NEV. REV. STAT. § 293.363(2) (2008).

⁶²⁷ *Id.*

⁶²⁸ NEV. REV. STAT. § 293B.330(2) (2008).

⁶²⁹ NEV. REV. STAT. § 293.365 (2008); see NEV. REV. STAT. § 293B.330(1)(b)(3) (2008).

⁶³⁰ NEV. REV. STAT. § 293.387(1) (2008).

⁶³¹ NEV. REV. STAT. § 293.387(1)-(3) (2008).

⁶³² See E-mail Interview with Lisa Lloyd, County Clerk, Lincoln County, Nev. (Sept. 29, 2008) [hereinafter *Lisa Lloyd interview*]; E-mail Interview with Gladys Burris, County Clerk, Lander County, Nev. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Gladys Burris interview*]; E-mail Interview with Winifred Smith, County Clerk, Elko County, Nev. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Winifred Smith interview*].

⁶³³ Lisa Lloyd interview, *supra* note 632; Gladys Burris interview, *supra* note 632; Winifred Smith interview, *supra* note 632.

⁶³⁴ NEV. REV. STAT. § 293.391(3)-(4) (2008).

⁶³⁵ N.H. REV. STAT. ANN. § 659:60 (2008).

⁶³⁶ N.H. REV. STAT. ANN. § 659:70 (2008).

⁶³⁷ N.H. REV. STAT. ANN. § 659:71 (2008).

⁶³⁸ N.H. REV. STAT. ANN. § 659:73 (2008).

⁶³⁹ N.H. REV. STAT. ANN. § 659:95 (2008).

⁶⁴⁰ N.H. REV. STAT. ANN. §§ 659:98 to :99 (2008).

⁶⁴¹ N.H. REV. STAT. ANN. § 659:75 (2008).

⁶⁴² N.H. REV. STAT. ANN. § 659:73 (2008).

⁶⁴³ See E-mail Interview with Anthony Stevens, N.H. Assistant Sec’y of State (October 15, 2008) (On file with the Brennan Center)

⁶⁴⁴ N.H. REV. STAT. ANN. § 659:81 (2008).

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- ⁶⁴⁵ E-mail Interview with Anthony Stevens, N.H. Assistant Sec’y of State (October 20,2008) (On file with the Brennan Center)
- ⁶⁴⁶ *Id.*
- ⁶⁴⁷ N.H. REV. STAT. ANN. § 659:102 (2008).
- ⁶⁴⁸ Telephone Interview with Anthony Stevens, N.H. Assistant Sec’y of State (Sept. 29, 2008) (on file with the Brennan Center).
- ⁶⁴⁹ *See* N.J. STAT. ANN. § 19:16-2 (West 2008).
- ⁶⁵⁰ N.J. STAT. ANN. § 19:16-5 (West 2008); *see* N.J. STAT. ANN. § 19:16-7 (West 2008).
- ⁶⁵¹ N.J. STAT. ANN. § 19:16-8 (West 2008).
- ⁶⁵² N.J. STAT. ANN. § 19:16-9 (West 2008).
- ⁶⁵³ N.J. STAT. ANN. § 19:17-1 (West 2008).
- ⁶⁵⁴ N.J. STAT. ANN. § 19:17-3 (West 2008).
- ⁶⁵⁵ N.J. STAT. ANN. § 19:52-5 (West 2008).
- ⁶⁵⁶ *Id.*
- ⁶⁵⁷ *Id.*
- ⁶⁵⁸ *Id.*
- ⁶⁵⁹ N.J. STAT. ANN. § 19:53A-7(f) (West 2008).
- ⁶⁶⁰ N.J. STAT. ANN. § 19:53A-7(g) (West 2008).
- ⁶⁶¹ *Id.*
- ⁶⁶² N.J. STAT. ANN. § 19:53A-8(a)-(c) (West 2008).
- ⁶⁶³ N.J. STAT. ANN. § 19:53A-8(c) (West 2008).
- ⁶⁶⁴ N.J. STAT. ANN. § 19:53A-7(g) (West 2008); *see also* N.J. STAT. ANN. § 19:47-2) (West 2008)
- ⁶⁶⁵ N.J. STAT. ANN. §§ 19:19-1, :20-1 (West 2008).
- ⁶⁶⁶ N.J. STAT. ANN. § 19:19-8 (West 2008).
- ⁶⁶⁷ N.J. STAT. ANN. § 19:19-9 (West 2008).
- ⁶⁶⁸ N.J. STAT. ANN. § 19:19-14 (West 2008).
- ⁶⁶⁹ N.J. STAT. ANN. § 19:52-6 (West 2008).
- ⁶⁷⁰ N.M. STAT. ANN. § 1-12-28 (2008); *see also* N.M. STAT. ANN. § 1-12-30(A) (2008)
- ⁶⁷¹ N.M. STAT. ANN. § 1-12-30(A) (2008).
- ⁶⁷² N.M. STAT. ANN. §§ 1-12-30(B), -31(A), -34 (2008).
- ⁶⁷³ E-mail Interview with Larry Dominguez, Elections Official, N.M. Sec’y of State (Sept. 11, 2008) (on file with Brennan Center).
- ⁶⁷⁴ N.M. STAT. ANN. §§ 1-13-3, -4 (2008).
- ⁶⁷⁵ N.M. STAT. ANN. §§ 1-13-7, -9 (2008).
- ⁶⁷⁶ N.M. STAT. ANN. § 1-13-13(c) (2008).
- ⁶⁷⁷ N.M. STAT. ANN. § 1-14-13.1 (2008).
- ⁶⁷⁸ N.M. STAT. ANN. § 1-13-5 (2008).
- ⁶⁷⁹ N.M. STAT. ANN. § 1-13-16(a) (2008).
- ⁶⁸⁰ N.M. STAT. ANN. § 1-13-18 (2008).
- ⁶⁸¹ N.M. STAT. ANN. § 1-12-34 (2008).
- ⁶⁸² N.M. STAT. ANN. § 1-13-17 (2008).
- ⁶⁸³ N.Y. ELEC. LAW § 9-102(1) (McKinney 2008).
- ⁶⁸⁴ N.Y. ELEC. LAW § 9-102(2)(a) (McKinney 2008).
- ⁶⁸⁵ *Id.*
- ⁶⁸⁶ *Id.*
- ⁶⁸⁷ N.Y. ELEC. LAW § 9-106 (McKinney 2008).
- ⁶⁸⁸ N.Y. ELEC. LAW § 9-108(1) (McKinney 2008).
- ⁶⁸⁹ N.Y. ELEC. LAW § 9-108(2) (McKinney 2008).
- ⁶⁹⁰ N.Y. ELEC. LAW § 9-206 (McKinney 2008).
- ⁶⁹¹ *Id.*
- ⁶⁹² N.Y. ELEC. LAW § 9-208(1) (McKinney 2008).
- ⁶⁹³ N.Y. ELEC. LAW § 9-208(3) (McKinney 2008).
- ⁶⁹⁴ N.Y. ELEC. LAW § 9-211(1), (5) (McKinney 2008).
- ⁶⁹⁵ N.Y. ELEC. LAW § 9-126(1) (McKinney 2008).
- ⁶⁹⁶ N.Y. ELEC. LAW § 9-210 (McKinney 2008).
- ⁶⁹⁷ N.C. GEN. STAT. § 163-182.2 (2008).

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- ⁶⁹⁸ 8 N.C. ADMIN. CODE 10B.0105(g) (2008).
- ⁶⁹⁹ 8 N.C. ADMIN. CODE 10B.0105(g) (2008).
- ⁷⁰⁰ 8 N.C. ADMIN. CODE 10B.0105(i) (2008).
- ⁷⁰¹ 8 N.C. ADMIN. CODE 6B.0105(4)(d) (2008); 8 N.C. ADMIN. CODE 10B.0105(h) (2008).
- ⁷⁰² 8 N.C. ADMIN. CODE 10B.0105(k) (2008); *see also* E-mail Interview with Mike Ashe, Dir., Bd. of Elections, Durham County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁰³ North Carolina Board of Elections, NC Elections Uniformity Project Report, at 3-1, (Aug. 2006), (on file with the Brennan Center) [hereinafter *Uniformity Report*]
- ⁷⁰⁴ Uniformity Report, *supra* note 702, at 3-1; *See also* E-mail Interview with Dawn Stumpf, Dir., Bd. of Elections, Chatham County, N.C. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Transylvania County, N.C. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Dell Parker, Dir., Bd. of Elections, Scotland County, N.C. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Patsy Foscue, Dir., Bd. of Elections, Randolph County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁰⁵ Uniformity Report, *supra* note 702, at 3-1; *See also* E-mail Interview with Bd. of Elections, Graham County, N.C. (Oct. 1, 2008) (on file with the Brennan Center).
- ⁷⁰⁶ Uniformity Report, *supra* note 702, at 3-1.
- ⁷⁰⁷ Uniformity Report, *supra* note 702, at 3-1; *See also* E-mail Interview with Robert Inman, Dir., Bd. of Elections, Haywood County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁰⁸ N.C. GEN. STAT. § 163-182.5(b) (2008); *see also* E-mail Interview with Mike Ashe, Dir., Bd. of Elections, Durham County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁰⁹ N.C. GEN. STAT. § 163-182(1) (2008).
- ⁷¹⁰ N.C. GEN. STAT. § 163-182.7(1) (2008).
- ⁷¹¹ Uniformity Report, *supra* note 702, at 3-2.
- ⁷¹² Uniformity Report, *supra* note 702, at 3-1. *See also* E-mail Interview with George Gilbert, Dir. of Elections, Guilford County, N.C. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Duplin County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷¹³ 8 N.C. ADMIN. CODE 06B.0105(4)(d) (2008); *see also* E-mail Interview with Patsy Foscue, Dir., Bd. of Elections, Randolph County, N.C. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷¹⁴ *See, e.g.*, Durham County Government – Election Results, http://www.co.durham.nc.us/departments/elec/Elections_Results.html (last visited Oct. 10, 2008); Transylvania County Board of Elections – Election Results Section, <http://www.transylvaniaselections.org/cgi-bin/Assemble.pl?Page=Results/Home> (last visited Oct. 10, 2008).
- ⁷¹⁵ *See* E-mail Interview with Paul Trauger, County Auditor, Morton County, N.D. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Frances Olson, County Auditor, McKenzie County, N.D. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Devra Smestad, County Auditor, Ward County, N.D. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Joan Hollekim, County Auditor, Mountrail County, N.D. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷¹⁶ N.D. CENT. CODE § 16.1-15-04 (2008).
- ⁷¹⁷ N.D. CENT. CODE § 16.1-15-06 (2008).
- ⁷¹⁸ N.D. CENT. CODE § 16.1-15-08 (2008).
- ⁷¹⁹ N.D. CENT. CODE § 16.1-15-02 (2008). *See also* E-mail Interview with Roy Steiner, County Auditor, Hettinger County, N.D. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with LeAnn Fisher, County Auditor, Renville County, N.D. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁷²⁰ N.D. CENT. CODE § 16.1-15-02 (2008); *see also* E-mail Interview with Roger Schlotman, County Auditor, Foster County, N.D. (on file with the Brennan Center).
- ⁷²¹ E-mail Interview with LeeAnn Oliver, Elections Specialist, N.D. Sec’y of State (Sept. 4, 2008) (on file with the Brennan Center) [hereinafter *LeeAnn Oliver interview*].
- ⁷²² *Id.*; *see also* E-mail Interview with Roy Steiner, County Auditor, Hettinger County, N.D. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Roy Steiner interview*].
- ⁷²³ N.D. CENT. CODE § 16.1-15-20 (2008).
- ⁷²⁴ N.D. CENT. CODE § 16.1-15-24 (2008).
- ⁷²⁵ N.D. CENT. CODE § 16.1-15-37 (2008).
- ⁷²⁶ N.D. CENT. CODE § 16.1-15-41 (2008).
- ⁷²⁷ N.D. CENT. CODE § 16.1-15-44 (2008).
- ⁷²⁸ LeeAnn Oliver interview, *supra* note 720.

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- ⁷²⁹ Roy Steiner interview, *supra* note 721; E-mail Interview with LeeAnn Fisher, County Auditor, Renville County, N.D. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Val McCloud, County Auditor, Rolette County, N.D. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷³⁰ OHIO REV. CODE ANN. § 3505.26(A)-(E) (West 2008).
- ⁷³¹ OHIO REV. CODE ANN. § 3505.31 (West 2008).
- ⁷³² OHIO REV. CODE ANN. § 3505.30 (West 2008).
- ⁷³³ OHIO REV. CODE ANN. § 3505.26(A)-(E) (West 2008).
- ⁷³⁴ OHIO REV. CODE ANN. § 3505.26(a)-(e)(E) (West 2008).
- ⁷³⁵ OHIO REV. CODE ANN. § 3505.26(E) (West 2008).
- ⁷³⁶ See Directive 2008-57: Minimum Security, Access, Inventory Control, Storage and Preservation Requirements for Ballots and Election Data Media, *available at* <http://www.sos.state.oh.us/SOS/elections/Directives/2008%20Directives/2008-57.aspx>.
- ⁷³⁷ E-mail Interview with Bd. of Elections, Miami County, Ohio (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷³⁸ *Id.*
- ⁷³⁹ OHIO REV. CODE ANN. § 3505.32(C)-(D) (West 2008).
- ⁷⁴⁰ OHIO REV. CODE ANN. § 3505.32(D) (West 2008).
- ⁷⁴¹ OHIO REV. CODE ANN. § 3505.32(C) (West 2008).
- ⁷⁴² E-mail Interview with Bd. of Elections, Paulding County, Ohio (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Crawford County, Ohio (Sept. 29, 2008) (on file with the Brennan Center). See also E-mail Interview with Bd. of Elections, Holmes County, Ohio (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁴³ E-mail Interview with Mary Beth Leep, Deputy Dir. Bd. of Elections, Clark County, Ohio (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Henry County, Ohio (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁴⁴ OHIO REV. CODE ANN. § 3505.33 (West 2008).
- ⁷⁴⁵ OHIO REV. CODE ANN. § 3505.30 (West 2008).
- ⁷⁴⁶ OHIO REV. CODE ANN. § 3505.33 (West 2008).
- ⁷⁴⁷ E-mail Interview with Bd. of Elections, Paulding County, Ohio (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Crawford County, Ohio (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bd. of Elections, Henry County, Ohio (Sept. 29, 2008) (on file with the Brennan Center).
- ⁷⁴⁸ OKLA. STAT. ANN. tit. 26, §§ 7-132, -132.1 (West 2008).
- ⁷⁴⁹ *Id.*
- ⁷⁵⁰ *Id.*
- ⁷⁵¹ *Id.*
- ⁷⁵² OKLA. STAT. ANN. tit. 26, § 7-132.2 (West 2008).
- ⁷⁵³ OKLA. STAT. ANN. tit. 26, §§ 7-132.2, -133 (West 2008).
- ⁷⁵⁴ E-mail Interview with Pam Slater, Support Servs., Okla. State Election Bd. (Sept. 22, 2008) (on file with the Brennan Center) [hereinafter *Pam Slater interview*].
- ⁷⁵⁵ *Id.*
- ⁷⁵⁶ 230 Okl. St. Ann § 35-5-75.3
- ⁷⁵⁷ OKLA. STAT. ANN. tit. 26, § 7-136 (West 2008).
- ⁷⁵⁸ OKLA. STAT. ANN. tit. 26, § 7-136 (West 2008).
- ⁷⁵⁹ Pam Slater interview, *supra* note 753.
- ⁷⁶⁰ OKLA. STAT. ANN. tit. 26, § 7-136 (West 2008).
- ⁷⁶¹ E-mail Interview with Pam Slater, Support Servs., Okla State Election Bd. (Oct. 7, 2008) (on file with the Brennan Center).
- ⁷⁶² OKLA. STAT. ANN. tit. 26, §§ 7-132, -132.1 (West 2008).
- ⁷⁶³ OR. REV. STAT. § 254.483(a)-(b) (2007).
- ⁷⁶⁴ See OR. REV. STAT. § 254.485(2)-(3) (2007).
- ⁷⁶⁵ OR. REV. STAT. § 254.485(1) (2007).
- ⁷⁶⁶ Oregon Sec’y of State & the Oregon Ass’n of County Clerks, Vote by Mail Procedures Manual at 57 (2008), http://www.sos.state.or.us/elections/vbm/vbm_manual.pdf.
- ⁷⁶⁷ *Id.* at 54
- ⁷⁶⁸ *Id.* at 89

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- 769 *Id.*
- 770 OR. REV. STAT. § 254.545(1)-(2) (2007).
- 771 OR. REV. STAT. § 254.555(1)(a) (2007).
- 772 E-mail Interview with Brenda Bayes, Staff, Elections Div., Or. Sec’y of State (LAURA DATE) (on file with the Brennan Center) [hereinafter *Brenda Bayes interview*].
- 773 E-mail Interview with Eric Sample, Elections Div., Multnomah County, Or. (Sept. 29, 2008) (on file with the authors).
- 774 Brenda Bayes interview, *supra* note 771
- 775 OR. REV. STAT. § 254.535 (2007).
- 776 25 PA. CONS. STAT. § 3061 (2008).
- 777 25 PA. CONS. STAT. § 3062 (2008).
- 778 *Id.*
- 779 25 PA. CONS. STAT. § 3031.13(a) (2008).
- 780 25 PA. CONS. STAT. § 3031.13(f) (2008).
- 781 25 PA. CONS. STAT. § 3031.13(i) (2008).
- 782 25 PA. CONS. STAT. §§ 3065, 3067 (2008).
- 783 25 PA. CONS. STAT. §§ 3065, 3068 (2008).
- 784 25 PA. CONS. STAT. § 3061 (2008).
- 785 *Id.*
- 786 25 PA. CONS. STAT. § 3066 (2008).
- 787 25 PA. CONS. STAT. § 3154(b) (2008).
- 788 25 PA. CONS. STAT. § 3154(c) (2008).
- 789 *Id.*
- 790 E-mail Interview with Wendy Buzard, Dir., Voter Registration/Elections Dep’t, Armstrong County, Pa. (Oct 1, 2008) (on file with the Brennan Center); E-mail Interview with Kenneth Leffler, Dir. of Elections, Carbon County, Pa. (Sept. 29, 2008) (on file with the Brennan Center).
- 791 25 PA. CONS. STAT. §§ 3065, 3068 (2008).
- 792 R.I. GEN. LAWS § 17-19-32 (2008).
- 793 R.I. GEN. LAWS § 17-19-31 (2008).
- 794 R.I. GEN. LAWS § 17-19-33(a) (2008).
- 795 R.I. GEN. LAWS § 17-19-11 (2008).
- 796 E-mail Interview with Gregory M. McBurney, Bd. of Elections, R.I. (Aug. 8, 2008) (on file with the Brennan Center) [hereinafter *Gregory McBurney interview*].
- 797 *Id.*
- 798 R.I. GEN. LAWS § 17-19-36 (2008).
- 799 R.I. GEN. LAWS § 17-22-5.2 (2008).
- 800 R.I. GEN. LAWS § 17-22-5 (2008).
- 801 Gregory McBurney interview, *supra* note 795.
- 802 R.I. GEN. LAWS § 17-22-7(a) (2008).
- 803 R.I. GEN. LAWS § 17-22-7(b)(1)-(4), (6) (2008).
- 804 S.C. CODE ANN. § 7-13-1880 (2007).
- 805 *Id.*
- 806 *Id.*
- 807 S.C. CODE ANN. § 7-13-1890 (2007).
- 808 S.C. CODE ANN. § 7-13-1150 (2007).
- 809 E-mail Interview with Debra Bryant, Dir. of Voter Registration, Hampton County, S.C. (Oct. 10, 2008) (on file with the Brennan Center); E-mail Interview with Marilyn Bowers, Executive Dir., Bd. of Elections & Voter Registration, Charleston County, S.C. (Sept. 29, 2008) (on file with the Brennan Center).
- 810 S.C. CODE ANN. § 7-13-1140 (2007).
- 811 *See* S.C. CODE ANN. § 7-17-20
- 812 E-mail Interview with Chris Whitmire, Pub. Info. Officer, S.C. State Election Comm’n (Sept. 25, 2008) (on file with the Brennan Center) [hereinafter *Chris Whitmire interview*]; *see also* E-mail Interview with Katy Smith, Voter Registration & Elections Dir., Anderson County, S.C. (Oct. 1, 2008) (on file with the Brennan Center).
- 813 Chris Whitmire interview, *supra* note 811.
- 814 S.C. CODE ANN. § 7-13-1140 (2007).
- 815 S.C. CODE ANN. § 7-17-80 (2007).

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- ⁸¹⁶ S.C. CODE ANN. § 7-17-100 (2007).
- ⁸¹⁷ S.C. CODE ANN. § 7-17-240 (2007).
- ⁸¹⁸ Chris Whitmire interview, *supra* note 811.
- ⁸¹⁹ *Id.*
- ⁸²⁰ See E-mail Interview with Joseph Debney, Dir. of Elections & Voter Registration, Dorechester County, S.C. (Oct. 2, 2008) (on file with the Brennan Center). See also E-mail Interview with Kelly Futch, Pub. Works Clerk, Hampton County, S.C. (Oct. 1, 2008) (on file with the Brennan Center); E-mail interview with Marilyn Bowers, Executive Dir., Bd. of Elections & Voter Registration, Charleston County, S.C. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Katy Smith, Voter Registration & Elections Dir., Anderson County, S.C. (Oct. 1, 2008) (on file with the Brennan Center).
- ⁸²¹ S.C. CODE ANN. § 7-17-90 (2007).
- ⁸²² S.C. CODE ANN. § 7-17-320 (2007).
- ⁸²³ South Carolina State Election Commission, Election Returns, http://scvotes.org/statistics/election_returns (last visited Oct. 8, 2008).
- ⁸²⁴ S.D. CODIFIED LAWS § 12-17B-9 (2008).
- ⁸²⁵ S.D. CODIFIED LAWS § 12-17B-13 (2008).
- ⁸²⁶ S.D. CODIFIED LAWS § 12-20-21 (2008).
- ⁸²⁷ S.D. CODIFIED LAWS § 12-20-32 (2008).
- ⁸²⁸ S.D. CODIFIED LAWS § 12-20-38 (2008).
- ⁸²⁹ E-mail Interview with Paula Jones, County Auditor, Yankton County, S.D. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Lisa Schaeffbauer, County Auditor, Campbell County, S.D. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁸³⁰ See S.D. CODIFIED LAWS § 12-20-13 (2008).
- ⁸³¹ Telephone Interview with Chris Nelson, S.D. Sec’y of State (Aug. 4, 2008) [hereinafter *Chris Nelson interview*].
- ⁸³² S.D. CODIFIED LAWS § 12-20-38.1 (2008).
- ⁸³³ Chris Nelson interview, *supra* note 830.
- ⁸³⁴ See S.D. CODIFIED LAWS § 12-20-13 (2008).
- ⁸³⁵ S.D. CODIFIED LAWS § 12-17B-13 (2008). See also E-mail Interview with Dorothy Schuh, County Auditor, Corson County, S.D. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Pamela Petrak, County Auditor, Brule County, S.D. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁸³⁶ S.D. CODIFIED LAWS § 12-20-13 (2008); see also E-mail Interview with Paula Jones, County Auditor, Yankton County, S.D. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁸³⁷ TENN CODE ANN. § 2-7-130(a)(1)(B), (a)(1)(C) (2008).
- ⁸³⁸ Telephone Interview with Brook Thompson, Tenn. State Election Comm’r (Aug. 4, 2008) [hereinafter *Brook Thompson Interview*].
- ⁸³⁹ TENN CODE ANN. § 2-7-130(a)(2) (2008).
- ⁸⁴⁰ TENN CODE ANN. § 2-7-130(a)(3) (2008).
- ⁸⁴¹ TENN CODE ANN. § 2-7-129 (2008).
- ⁸⁴² TENN. COMP. R. & REGS. 1360-2-12-.09(4) (2008).
- ⁸⁴³ TENN CODE ANN. § 2-7-138 (2008).
- ⁸⁴⁴ See, e.g., E-mail Interview with Patricia Lumpkins, Admin’r of Elections, Hawkins County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Patricia Lumpkins interview*]; E-mail Interview with Elections Comm’n, Madison County, Tenn. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁸⁴⁵ TENN CODE ANN. § 2-8-101(a)(2008).
- ⁸⁴⁶ E-mail Interview with Charlene Bass, Admin’r of Elections, Smith County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Charlene Bass interview*]; Brook Thompson interview, *supra* note 837.
- ⁸⁴⁷ Patricia Lumpkins interview, *supra* note 843; Charlene Bass interview, *supra* note 845; E-mail Interview with Libby Breeding, Admin’r of Elections, Blount County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Nellie Anderson, Admin’r of Elections, Stewart County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Kathy Bassham, Admin’r of Elections, Giles County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Kathy Bassham interview*]; E-mail Interview with Pat Forsythe, Admin’r of Elections, Crocket County, Tenn. (Oct. 1, 2008) (on file with the Brennan Center).
- ⁸⁴⁸ Kathy Bassham interview, *supra* note 846; E-mail Interview with Nellie Anderson, Admin’r of Elections, Stewart County, Tenn. (Sept. 30, 2008) (on file with the Brennan Center); Charlene Bass interview, *supra* note 845; Patricia Lumpkins interview, *supra* note 846

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- ⁸⁴⁹ TENN. CODE ANN. § 2-8-105 (2008).
- ⁸⁵⁰ Brook Thompson interview, *supra* note 837
- ⁸⁵¹ TENN. CODE ANN. § 2-8-106 (2008).
- ⁸⁵² TEX. ELEC. CODE ANN. §§ 127.066(c), .067(b) (Vernon 2007).
- ⁸⁵³ TEX. ELEC. CODE ANN. § 127.125(b) (Vernon 2007).
- ⁸⁵⁴ TEX. ELEC. CODE ANN. § 127.125(c) (Vernon 2007).
- ⁸⁵⁵ TEX. ELEC. CODE ANN. § 127.128 (Vernon 2007).
- ⁸⁵⁶ TEX. ELEC. CODE ANN. § 127.1301 (Vernon 2007).
- ⁸⁵⁷ TEX. ELEC. CODE ANN. § 127.131(a)-(c) (Vernon 2007).
- ⁸⁵⁸ TEX. ELEC. CODE ANN. § 127.132 (b) (Vernon 2007).
- ⁸⁵⁹ TEX. ELEC. CODE ANN. § 127.157(b) (Vernon 2007).
- ⁸⁶⁰ TEX. ELEC. CODE ANN. § 127.157(c)-(d) (Vernon 2007).
- ⁸⁶¹ TEX. ELEC. CODE ANN. § 127.155(a) (Vernon 2007).
- ⁸⁶² TEX. ELEC. CODE ANN. § 127.132(b) (Vernon 2007).
- ⁸⁶³ TEX. ELEC. CODE ANN. § 127.156 (Vernon 2007).
- ⁸⁶⁴ TEX. ELEC. CODE ANN. § 65.014(b) (Vernon 2007).
- ⁸⁶⁵ TEX. ELEC. CODE ANN. § 65.013(b) (Vernon 2007).
- ⁸⁶⁶ TEX. ELEC. CODE ANN. § 67.004(b) (Vernon 2007).
- ⁸⁶⁷ TEX. ELEC. CODE ANN. § 67.004(d) (Vernon 2007).
- ⁸⁶⁸ *Id.*
- ⁸⁶⁹ TEX. ELEC. CODE ANN. § 67.004(f) (Vernon 2007).
- ⁸⁷⁰ TEX. ELEC. CODE ANN. § 129.001(d) (Vernon 2007).
- ⁸⁷¹ TEX. ELEC. CODE ANN. § 127.201(a) (Vernon 2007).
- ⁸⁷² TEX. ELEC. CODE ANN. § 127.201(e) (Vernon 2007).
- ⁸⁷³ Texas Secretary of State, Election Advisory No. 2008-09(4)(c)(i)
- ⁸⁷⁴ TEX. ELEC. CODE ANN. § 125.064 (Vernon 2007).
- ⁸⁷⁵ See Office of the Utah Lieutenant Governor, Election Policy (adopted 10/17, 2006) at 5.3.3.1 (on file with the Brennan Center).
- ⁸⁷⁶ *Id.*
- ⁸⁷⁷ See E-mail Interview with Pat Beckstead, Election Dir., Davis County, Utah (Sept. 30, 2008) (on file with the Brennan Center) [hereinafter *Pat Beckstead interview*].
- ⁸⁷⁸ UTAH CODE ANN. § 20A-4-201(4) (2008).
- ⁸⁷⁹ UTAH CODE ANN. § 20A-5-404(1)(b), (2)(a), (2)(d), (2)(f)-(g) (2008).
- ⁸⁸⁰ UTAH CODE ANN. § 20A-4-303(1)(a) (2008).
- ⁸⁸¹ UTAH CODE ANN. § 20A-4-304(2)(a)(i)-(vi) (2008).
- ⁸⁸² Pat Beckstead interview, *supra* note 875.
- ⁸⁸³ UTAH CODE ANN. § 20A-4-304(2)(c)(iii) (2008).
- ⁸⁸⁴ VT. STAT. ANN. tit. 17 § 2584 (2007).
- ⁸⁸⁵ VT. STAT. ANN. tit. 17 § 2586(1) (2007).
- ⁸⁸⁶ VT. STAT. ANN. tit. 17 §§ 2586(2), 2588 (2007).
- ⁸⁸⁷ VT. STAT. ANN. tit. 17 §§ 2586(3), 2588 (2007).
- ⁸⁸⁸ VT. STAT. ANN. tit. 17 § 2588 (2007).
- ⁸⁸⁹ VT. STAT. ANN. tit. 17 § 2590(a) (2007).
- ⁸⁹⁰ VT. STAT. ANN. tit. 17 § 2583(a) (2007).
- ⁸⁹¹ *Id.*
- ⁸⁹² Vermont Secretary of State, Elections Procedures Manual at 18 (2008), <http://vermont-elections.org/elections1/2008EPBody.pdf>.
- ⁸⁹³ VT. STAT. ANN. tit. 17 § 2592(h) (2007).
- ⁸⁹⁴ Memory card reconciliation procedures, if any, will be posted in the forthcoming Vote Tabulator Guide for Town Clerks, Vermont Secretary of State, 2008.
- ⁸⁹⁵ VT. STAT. ANN. tit. 17 § 2588 (2007).
- ⁸⁹⁶ VA. CODE ANN. § 24.2-654 (2008).
- ⁸⁹⁷ VA. CODE ANN. § 24.2-657 (2008).
- ⁸⁹⁸ *Id.*
- ⁸⁹⁹ VA. CODE ANN. § 24.2-666 (2008).
- ⁹⁰⁰ VA. CODE ANN. § 24.2-645 (2008).

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- ⁹⁰¹ VA. CODE ANN. § 24.2-665(A) (2008).
- ⁹⁰² VA. CODE ANN. § 24.2-667 (2008).
- ⁹⁰³ VA. CODE ANN. § 24.2-668 (2008). *See also* E-mail Interview with Robert Ostergren, Gen. Registrar, Hanover County, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Larnie Hughes, Gen. Registrar, Essex County, Va. (Oct. 2, 2008) (on file with the Brennan Center) [hereinafter *Larnie Hughes interview*].
- ⁹⁰⁴ VA. CODE ANN. § 24.2-658 (2008).
- ⁹⁰⁵ *See* VA. CODE ANN. § 24.2-657 (2008).
- ⁹⁰⁶ E-mail Interview with J. Kirk Showalter, Gen. Registrar, City of Richmond, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Mary Alice Downs, Registrar, City of Waynesboro, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail interview with Douglas Geib, Voter Registrar, Rockingham County, Va. (Sept. 30, 2008); E-mail Interview with Carol Rendleman, Gen. Registrar, City of Lexington, Va. (Oct. 1, 2008) (on file with the Brennan Center); Larnie Hughes interview, *supra* note 901; E-mail Interview with Mark Coakley, Gen. Registrar, Henrico County, Va. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁹⁰⁷ VA. CODE ANN. § 24.2-657 (2008).
- ⁹⁰⁸ VA. CODE ANN. § 24.2-661 (2008).
- ⁹⁰⁹ VA. CODE ANN. § 24.2-662 (2008).
- ⁹¹⁰ VA. CODE ANN. § 24.2-671 (2008).
- ⁹¹¹ E-mail Interview with Karen Danos, Gen. Registrar, Campbell County, Va. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁹¹² VA. CODE ANN. § 24.2-672 (2008).
- ⁹¹³ VA. CODE ANN. § 24.2-671 (2008).
- ⁹¹⁴ *See, e.g.*, E-mail Interview with Dawn Williams, Gen. Registrar, City of Petersburg, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with J. Kirk Showalter, Gen. Registrar, City of Richmond, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Tom Parkins, Gen. Registrar, Alexandria, Va. (Sept. 30, 2008) [hereinafter *Tom Parkins interview*]; E-mail interview with Carole Rendleman, , Lexington County, Va. (Oct. 1, 2008).
- ⁹¹⁵ Tom Parkins interview, *supra* note 912
- ⁹¹⁶ VA, CODE ANN. § 24.2-658 (2008).
- ⁹¹⁷ VA, CODE ANN. § 24.2-671 (2008).
- ⁹¹⁸ E-mail Interview with Lisa McDonald, Gen. Registrar, Shenandoah County, Va. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Tom Parkins, Gen. Registrar, City of Alexandria, Va. (Sept. 30, 2008) (on file with the Brennan Center); E-mail Interview with Douglas Geib, Voter Registrar, Rockingham County, Va. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁹¹⁹ WASH. REV. CODE § 29A.60.060 (2008).
- ⁹²⁰ WASH. REV. CODE § 29A.60.110 (2008).
- ⁹²¹ WASH. REV. CODE § 29A.60.120(2)-(3) (2008).
- ⁹²² WASH. REV. CODE § 29A.60.120(3) (2008).
- ⁹²³ WASH. REV. CODE §§ 29A.60.235, .44.280 (2008); E-mail Interview with Pat Gardner, County Auditor, Pacific County, Wash. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁹²⁴ WASH. ADMIN. CODE 434-250-130(1)-(2) (2008); *see also* E-mail Interview with Vicky Dalton, County Auditor, Spokane County, Wash. (Oct. 1, 2008) (on file with the Brennan Center) (reporting strict absentee Ballot Accounting and Reconciliation practices, from printers, to voters, through verification, and recording the number of ballots issued, returned, rejected, and accepted).
- ⁹²⁵ WASH. REV. CODE § 29A.60.070 (2008).
- ⁹²⁶ WASH. REV. CODE § 29A.60.200 (2008).
- ⁹²⁷ WASH. REV. CODE § 29A.60.210 (2008).
- ⁹²⁸ WASH. REV. CODE § 29A.60.070 (2008).
- ⁹²⁹ WASH. REV. CODE § 29A.60.235 (2008).
- ⁹³⁰ *Id.*; *See also* E-mail Interview with Beverly Lamm, Election Coordinator, Stevens County, Wash. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Sheilah Crider, County Auditor, Island County, Wash. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Tim Likness, Elections Dep't, Clark County, Wash. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁹³¹ W. VA. CODE § 3-4A-19(j) (2008).
- ⁹³² West Virginia Sec'y of State, Election Day Best Practices (2006 poll worker training presentation), *available at* <http://www.wvsos.com/elections/eday/PollWorkerTraining2006-iVotronicupdated.pdf>.

- ⁹³³ W. VA. CODE § 3-4A-19(g) (2008).
- ⁹³⁴ W. VA. CODE § 3-6-6(b) (2008).
- ⁹³⁵ W. VA. CODE § 3-6-6(c)(4) (2008).
- ⁹³⁶ W. VA. CODE § 3-5-15(c) (2008).
- ⁹³⁷ W. VA. CODE § 3-4A-19(j) (2008).
- ⁹³⁸ W. VA. CODE § 3-4A-27(c)(2) (2008).
- ⁹³⁹ W. VA. CODE § 3-4A-27(3) (2008).
- ⁹⁴⁰ W. VA. CODE § 3-4A-27(e) (2008).
- ⁹⁴¹ W. VA. CODE § 3-4A-19(k) (2008).
- ⁹⁴² W. VA. CODE § 3-6-6(b)-(c) (2008).
- ⁹⁴³ W. VA. CODE § 3-4A-19(f) (2008).
- ⁹⁴⁴ W. VA. CODE § 3-6-9(a) (2008).
- ⁹⁴⁵ *Id.*
- ⁹⁴⁶ W. VA. CODE § 3-4A-29(1) (2008).
- ⁹⁴⁷ *Id.*
- ⁹⁴⁸ W. VA. CODE § 3-6-9(a),(b) (2008).
- ⁹⁴⁹ W. VA. CODE § 3-6-10 (2008).
- ⁹⁵⁰ W. VA. CODE § 3-4A-27(e) (2008).
- ⁹⁵¹ WIS. STAT. § 7.51(2)(a) (2007).
- ⁹⁵² WIS. STAT. § 5.85(2) (2007).
- ⁹⁵³ WIS. STAT. § 7.51(2)(d) (2007).
- ⁹⁵⁴ WIS. STAT. § 7.51(4)(a) (2007).
- ⁹⁵⁵ WIS. STAT. § 5.89 (2007).
- ⁹⁵⁶ WIS. STAT. § 7.51(5)(a)(2)-(3) (2007).
- ⁹⁵⁷ WIS. STAT. § 7.51(5)(a)(4) (2007).
- ⁹⁵⁸ *See, e.g.*, E-mail Interview with Robert Ohlsen, County Clerk, Dane County, Wis. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Robert Ohlsen interview*]; E-mail Interview with Kathy Nickolaus, County Clerk, Waukesha County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Kathy Brandt, County Clerk, Marinette County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with County Clerk, Treampleau County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Bruce Strama, County Clerk, Taylor County, Wis. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Bruce Strama interview*]; E-mail Interview with David Alleman, County Clerk, Vilas County, Wis. (Sept. 30, 2008) (on file with the Brennan Center).
- ⁹⁵⁹ Robert Ohlsen interview, *supra* note 956
- ⁹⁶⁰ WIS. STAT. § 7.51(2)(c) (2007).
- ⁹⁶¹ E-mail Interview with Wanda Hinriches, County Clerk, Burnett County, Wis. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁹⁶² WIS. STAT. § 7.51(2)(e) (2007).
- ⁹⁶³ WIS. STAT. § 5.86(2) (2007); *see also* E-mail Interview with Cindy Cepress, County Clerk, Wood County, Wis. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Cindy Cepress interview*].
- ⁹⁶⁴ WIS. STAT. § 7.60(2) (2007).
- ⁹⁶⁵ Robert Ohlsen interview, *supra* note 956; Bruce Strama interview, *supra* note 956; E-mail Interview with Kathy Nickolaus, County Clerk, Waukesha County, Wis. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Kathy Nickolaus interview*]; E-mail Interview with Kathy Brandt, County Clerk, Marinette County, Wis. (Sept. 29, 2008) (on file with the Brennan Center) [hereinafter *Kathy Brandt interview*].
- ⁹⁶⁶ E-mail Interview with Sue Ertmer, County Clerk, Winnebago County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Karen Gibson, County Clerk, Dodge County, Wis. (Sept. 29, 2008) (on file with the Brennan Center).
- ⁹⁶⁷ WIS. STAT. § 7.60(4)(c) (2007).
- ⁹⁶⁸ WIS. STAT. § 7.60(5)(a) (2007).
- ⁹⁶⁹ WIS. STAT. § 7.51(4)(b) (2007); E-mail Interview with Nancy Christensen, County Clerk, Outagamie County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Lynn Hoepfner, County Clerk, Washburn County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); E-mail Interview with Sue Ertmer, County Clerk, Winnebago County, Wis. (Sept. 29, 2008) (on file with the Brennan Center); Cindy Cepress interview, *supra* note 961; Kathy Nickolaus interview, *supra* note 963; Kathy Brandt interview, *supra* note 963.
- ⁹⁷⁰ *See* WYO. STAT. ANN. § 22-14-104 (2008).

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- ⁹⁷¹ *Id.*
- ⁹⁷² WYO. STAT. ANN. § 22-14-106(a)-(b) (2008).
- ⁹⁷³ WYO. STAT. ANN. § 22-14-107 (2008).
- ⁹⁷⁴ WYO. STAT. ANN. § 22-14-111 (2008).
- ⁹⁷⁵ WYO. STAT. ANN. § 22-14-103 (2008).
- ⁹⁷⁶ WYO. STAT. ANN. § 22-16-103(a) (2008).
- ⁹⁷⁷ WYO. STAT. ANN. § 22-16-103(c)(ii) (2008).
- ⁹⁷⁸ WYO. STAT. ANN. § 22-16-103(c)(iii)-(v) (2008).
- ⁹⁷⁹ WYO. STAT. ANN. § 22-16-103(c)(v) (2008).
- ⁹⁸⁰ WYO. STAT. ANN. § 22-16-107 (2008).
- ⁹⁸¹ “Two weeks later, no final count in N.C. race,” Nov. 16, 2004, *The News and Observer*, by Lynn Bonner <http://www.verifiedvotingfoundation.org/article.php?id=5289>
- ⁹⁸² U.S. Election Assistance Commission, Technical Guidelines Development Committee, *TGDC Recommended Guidelines*, Part 1, Chapter 2, Section 7, available at: <http://www.eac.gov/vvsg/part1/chapter02.php/>.
- ⁹⁸³ While no voting system is perfect, the Verified Voting Foundation believes that a paper optical scan ballot system, used with an accessible ballot-marking system, offers significant advantages over DRE systems (with or without voter-verified paper audit trail printers), including reliability, auditability and ease of use for voters and poll workers alike, and that these systems should replace DREs. All three organizations agree that if DRE systems are in use, they should not be used without (1) a software-independent, voter-verifiable paper audit trail printer, (2) guidance to help voters check the paper records for accuracy when voting and (3) sufficient emergency paper ballots on hand in case of machine malfunctions.
- ⁹⁸⁴ ARK. CODE ANN. § 7-5-504(8) (West 2008)
- ⁹⁸⁵ COLO. REV. STAT. ANN. § 1-5-801(1) (West 2008)
- ⁹⁸⁶ http://laws.flrules.org/files/Ch_2007-030.pdf
- ⁹⁸⁷ MD. CODE ANN., [ELEC. LAW] § 9-102(3)(c)(1)(vi) (West 2008)
- ⁹⁸⁸ N.J. STAT. ANN. § 19:53A-3(3)(i) (West 2008)
- ⁹⁸⁹ “NY Board Chooses New Voting Machines for Handicapped, picks ballot markers over DREs” Jan. 24, 2008, *Newsday*, by Valerie Bauman. Available at <http://www.verifiedvotingfoundation.org/article.php?id=6547>
- ⁹⁹⁰ TENN. CODE ANN. § 2-20-101(a) (West 2008)
- ⁹⁹¹ Lawrence Norden *et al.*, *THE MACHINERY OF DEMOCRACY: PROTECTING ELECTIONS IN AN ELECTRONIC WORLD* (Brennan Center for Justice ed., 2006), *available at* http://www.brennancenter.org/dynamic/subpages/download_file_39288.pdf.
- ⁹⁹² *See* N.C. GEN. STAT. § 163-821.1(b) (2008).
- ⁹⁹³ *See* N.J. STAT. ANN. § 19:61-9 (West 2008).
- ⁹⁹⁴ *See* CAL. ELEC. CODE § 15360 (West 2008) (requirement of manual tally). Humboldt, Marin and Yolo Counties plan risk-based audits of at least one contest. E-mail from Philip Stark, PhD., Professor of Statistics, Univ. of Cal. at Berkeley, to Pamela Smith, Verified Voting Foundation (Oct. 9, 2008, 04:15 PM) (on file with Verified Voting).
- ⁹⁹⁵ *See* ARIZ. REV. STAT. ANN. § 16-602 (2008); Joe Kanefield, Ariz. Election Dir., Address at the Meeting of the National Association of Secretaries of State in Washington, D.C. (Feb. 8, 2007).
- ⁹⁹⁶ COLO. REV. STAT. § 1-7-509(b) (2008).
- ⁹⁹⁷ *See generally* CONN. GEN. STAT. § 9-242b(5) (2008).
- ⁹⁹⁸ *See* Mary M. Cheh *et al.*, Council of the District of Columbia, Restoring Confidence in the District’s Elections: Preliminary Report and Recommendations of the Council Board of Elections and Ethics Investigation Special Committee (Oct. 8, 2008) (describing the D.C. audit plan), *available at* <http://www.marycheh.com/Press%20Releases/Report.pdf>. Washington, D.C., uses both paper optical scan ballots and direct recording electronic (DRE) voting machines in every polling place at present. The DREs are paperless and will not be included in the audit.
- ⁹⁹⁹ *See* FLA. STAT. ANN. § 101.591 (West 2008).
- ¹⁰⁰⁰ *See* HAW. REV. STAT. § 16-42 (2008) (Hawaii audit requirements).
- ¹⁰⁰¹ *See* 10 ILL. COMP. STAT. 5/24C-15 (2008).
- ¹⁰⁰² *See* KY. REV. STAT. ANN. § 117.383 (West 2008) (enacted in 1986).
- ¹⁰⁰³ *See* Mo. Code Regs. Ann. tit. 15, § 30-10.010-.160 (2006).
- ¹⁰⁰⁴ *See* NEV. ADMIN. CODE § 293.255 (2008).
- ¹⁰⁰⁵ *See* N.J. STAT. ANN. § 19:61-9 (West 2008).

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- ¹⁰⁰⁶ See N.M. STAT. § 1-14-13.1 (2008).
- ¹⁰⁰⁷ See N.Y. ELEC. LAW § 9-221 (Consol. 2008).
- ¹⁰⁰⁸ See N.C. GEN. STAT. § 163-182.1(b)(1) (2008).
- ¹⁰⁰⁹ Email from Joyce McCloy, North Carolina Coalition for Verifiable Voting, to Pamela Smith, Verified Voting Foundation (Oct. 15, 2008) (confirming selection of random generator seed to occur November 5, 2008).
- ¹⁰¹⁰ See Ohio Secretary of State, Primary Election Report, at 22 (Mar. 4, 2008), <http://www.sos.state.oh.us/SOS/upload/elections/2008/pri/report/narrative.pdf>.
- ¹⁰¹¹ See OR. REV. STAT. § 254.529 (2007).
- ¹⁰¹² See 25 PA. CONS. STAT. § 3031.17 (West 2008).
- ¹⁰¹³ See TENN. CODE ANN. § 2-20-103 (2008).
- ¹⁰¹⁴ See Tex. Elec. Code Ann. § 127.201 (Vernon 2008).
- ¹⁰¹⁵ See Office of the Utah Lieutenant Governor, Election Policy (adopted Oct. 17, 2006), *available at* <http://verifiedvoting.org/downloads/UTAudit.pdf>.
- ¹⁰¹⁶ VT. STAT. ANN. tit. 17, § 2493(a)(2) (2007).
- ¹⁰¹⁷ Vermont Secretary of State, Procedures for the Random Post Election Manual Audit of Vermont Polling Places (2008), <http://vermont-elections.org/elections1/2008ProcRandomPostElectionAudit.pdf>.
- ¹⁰¹⁸ See WASH. REV. CODE § 29A.60.185 (2008).
- ¹⁰¹⁹ See WIS. STAT. § 7.08(6) (2008).
- ¹⁰²⁰ See Wisconsin Government Accountability Board, Voluntary Electronic Voting Equipment Audit Results, <http://elections.state.wi.us/category.asp?linkcatid=1847&linkid=643&locid=47>.
- ¹⁰²¹ Wisconsin Government Accountability Board, Voting System Audit Requirements, at 3 (Nov. 2006), *available at* <http://elections.state.wi.us/docview.asp?docid=9851&locid=47>.
- ¹⁰²² For example, in the past two years, Florida, Iowa, Maryland and Tennessee have passed requirements to move to paper-based systems; Kentucky's secretary of state has been effective in urging some counties to move to paper-based systems. Florida, New Jersey, Oregon and Tennessee have passed audit requirements. Vermont and the District of Columbia will conduct voluntary audits this November, and the District of Columbia has strongly recommended audits become a requirement. Ohio carried out pilot audits earlier this year and has committed to audits for the general election this November. California has taken steps to improve audits, and Missouri's secretary of state expanded the sample size of their audits for the 2008 election.

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