

State Requirements and the Federal Voting System Testing and Certification Program





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How to Use This Guide

Introduction:

Section 311 of the Help America Vote Act of 2002 (HAVA) requires the U.S. Election Assistance Commission (EAC) to periodically adopt standards for voting systems in the form of Voluntary Voting System Guidelines (VVSG). Section 231 of HAVA further requires the EAC to provide for the testing, certification, decertification, and recertification of voting system hardware and software to these Federal standards. To accomplish this mandate, HAVA requires the EAC to develop a program that provides for the accreditation of independent, non-federal laboratories to test voting systems. Thus, the EAC's Testing and Certification Program provides (1) voluntary voting system standards, (2) voting system testing by accredited laboratories, and (3) voting system certification.

Participation in EAC's Testing and Certification Program is strictly voluntary. However, some states, through legislation or administrative rules, mandate participation to varying degrees. Currently, 35 states mandate at least one element of the Testing and Certification Program.

This document consists of a summary table, a fact sheet for each state, and an appendix of corresponding statutes and administrative regulations.

For more information about the Federal Testing and Certification Program, visit www.eac.gov.

Methodology:

This document provides a broad overview of the state voting system certification process, including the degree states have mandated (through statutes or administrative regulations) the use of EAC's Testing and Certification Program. The term "state" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.¹ As demonstrated by the research of the requirements in this area, states utilize varying approaches for both the type of testing required and the language used to require testing. Because of the diversity of approaches taken by each state, EAC staff classified each state's requirements into one of four groups: (1) No Federal Requirements, (2) Requires Testing to Federal Standards, (3) Requires Testing by a Federally Accredited Laboratory, and (4) Requires Federal Certification.

Staff reviewed each state's statute and code of regulations to make a plain language interpretation. The language of the reviewed statutes and regulations is provided in the Appendix to allow readers to make their own determination about the regulatory effect. Please note that this document is intended to provide a general understanding regarding the relationship between each state and voluntary Federal certification. **This document is not intended to provide an authoritative interpretation of State and local law.** The EAC recognizes such an interpretation is not the purview of the Federal government.

¹ The Help America Vote Act of 2002 defines states to include the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands. 42 U.S.C. §15541 (2002).

In viewing each category, it is important to note the classification only reflects state and local statutes and regulations, and does not address either policy or practice. The fact that a state has not statutorily mandated the use of EAC's Testing and Certification Program does not mean the state does not utilize the program. For example, while some states have historically relied on a national certification program, their state's statutes or regulations may not require it. It is also important to remember classification is based upon a narrow interpretation of the state's requirements, and not necessarily on a state's intent. For example, when a state required voting systems to be *certified* by an accredited laboratory (versus the EAC), staff read this requirement only as requiring testing by Federal laboratories and not requiring Federal certification.

Description of Categories:

EAC staff reviewed statutes and administrative regulations for all states, territories, and the District of Columbia to determine what level of participation each may require regarding EAC's Testing and Certification Program. The following is a description of each category:

- 1) **No Federal Requirements:** Relevant state statutes and/or regulations make no mention of any Federal agency, certification program, laboratory, or standard.
- 2) **Requires Testing to Federal Standards:** Relevant state statutes and/or rules require testing to Federal voting system standards. (States reference standards drafted by the Federal Election Commission (FEC), National Institute of Standards and Technology, or the EAC).
- 3) **Requires Testing by a Federally Accredited Laboratory:** Relevant state statutes and/or regulations require testing by a federally or nationally accredited laboratory to Federal standards.
- 4) **Requires Federal Certification:** Relevant state statutes and/or rules require that voting systems be certified by a federal agency.

Fielded Voting Systems:

After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. Specifically, readers will find a list of the name, version and type of voting system used. In the meantime, readers will find a link to a state website where information on the voting systems may be found (if available).

Synopsis of 2009 Update:

Since the first publication in 2007, this document has been updated to reflect the following:

- Two states (Ohio and Wyoming) changed statutes or regulations to require Federal certification, bringing the total number of states listed in Category 4 (requiring Federal certification) to 12;
- Further review of Michigan's statute led to a determination to move the state from Category 3 to Category 1, because the language does not reference Federal standards;
- Each state's fact sheet will soon include a list of voting systems used in the field;
- Each state's fact sheet also includes internal hyperlinks to the full text of statutes and regulations in the Appendix to enhance navigation within the document; and
- All statutes and regulations reflect updated versions as of April 30, 2009.



Categories of State, Territory, and District of Columbia Participation in Federal Voting Standards Last Updated 4/30/2009

<i>1.) No Federal Requirements</i>	<i>2.) Requires Testing to Federal Standards</i>	<i>3.) Requires Testing by a Federally Accredited Laboratory</i>	<i>4.) Requires Federal Certification</i>
20	10	13	12
AK	CT	AL	CA
AS	DC	AZ	CO
AR	IN	IL	DE
FL	KY	IA	GA
GU	MN	LA*	ID**
HI	NV	MA	NC**
KS	NY	MD	ND
ME	OR	MO	OH
MI***	TX	NM	SC
MS	VA	PA	SD
MT		RI*	WA
NE		UT*	WY
NH		WI*	
NJ			
OK			
PR			
TN			
VT			
VI			
WV			

* Statutes/regulations require testing by an independent testing authority or NASED accredited laboratory according to standards adopted by either the FEC or EAC.

** Statute allows for either NASED or EAC certification.

*** Statutes/regulations prescribe testing by an independent testing authority accredited by NASED, with no mention of Federal standards.



ALABAMA

State Participation: **Requires Testing by a Federally Accredited Laboratory.** AL requires that its voting systems are tested according to FEC and state requirements by an independent test authority.

Applicable Statute(s): “The vote counting system shall be certified after a satisfactory evaluation and testing has been performed to determine that the equipment meets the requirements of this article and performance and test standards for electronic voting systems issued by the Federal Election Commission.” [ALA. CODE § 17-7-23 \(2008\)](#).

Applicable Regulation(s): Alabama does not have a regulation regarding the federal certification process.

State Certification Process: The Alabama Electronic Voting Committee selects an independent test authority, or successor entity to verify that the state requirements of and the standards issued by the FEC have been met. The committee can employ no more than three additional individuals to assist in the examination process who are experts in any or all of the following fields; data processing, mechanical engineering, and/or public administration. These individuals can be either state or non-state employees, and are also required to provide a written report of their examination to the committee. The committee may only approve the electronic vote counting systems (EVCS) that are certified by the authorized independent testing authority, or successor entity, as meeting the performance and test standards for EVCS. Any change/improvement in the EVCS will be certified by the committee prior to the adoption of any change or improvement by any county. [ALA. CODE § 17-7-23 \(2008\)](#).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.al.us/Elections/Default.aspx>



- State Participation:*** **No Federal Requirements.** AK does not require that federal standards are used for the certification of its voting systems. However, during the approval process AK takes into consideration whether or not the voting systems were compliant with the voting system standards mandated by HAVA and approved by the FEC.
- Applicable Statute(s):*** “The director may approve a voting system for use in an election in the state upon consideration of factors related to the administration of state elections, including whether the FEC has certified the voting machine to be in compliance with the voting system standards approved by the FEC and required by HAVA. The director may only approve a voting machine or vote tally system if the machine or system satisfies the requirements of AS 15.15.032(c).” [ALASKA STAT. § 15.20.910](#) (2008).
- Applicable Regulation(s):*** “Before an election, the Accu-Vote counting program must be tested as follows: (1) the state ballot counting review board is responsible for certifying the initial logic and accuracy test of the Accu-Vote counting program and memory cards; (2) the regional Accu-Vote review board or Accu-Vote coordinator is responsible for verifying the logic and accuracy test of the Accu-Vote counting program and preparing the memory cards for election use; (3) before the opening of the polls on election day at locations where there is an Accu-Vote precinct tabulator, the election board is responsible for certifying that the precinct tabulator prints a zero totals report; (4) before counting absentee or questioned ballots, the regional Accu-Vote review board will verify that a zero totals report is printed before each memory card is used; if the same memory card is used in a subsequent count, the board will print a totals report before resuming count, and verify that it matches the totals report from the subsequent count.” [6 ALASKA ADMIN. CODE § 25.045](#) (2009).
- State Certification Process:*** The Lieutenant Governor appoints a Director of Elections who adopts regulations for the certification of voting systems. The state ballot counting review board tests the voting systems to certify their accuracy in accordance with these regulations. [ALASKA STAT. § 15.20.900](#) (2008).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.elections.alaska.gov/votingequip.php>



AMERICAN SAMOA

State Participation: **No Federal Requirements.** There is no mention of the federal or state process in either the March 2007 version of the *American Samoa Code Annotated* or the May 2005 version of the *American Samoa Administrative Code*.
<http://www.asbar.org/>

Applicable Statute(s):

*Applicable
Regulation(s):*

*State Certification
Process:*

*Fielded Voting
Systems:* [After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].
<http://americansamoa.gov/departments/agencies/election.htm>



ARIZONA

State Participation: **Requires Testing by a Federally Accredited Laboratory.** AZ requires that its voting systems are HAVA compliant and approved by a laboratory that is accredited pursuant to HAVA.

Applicable Statute(s): “On completion of acquisition of machines or devices that comply with HAVA, machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with HAVA and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to HAVA.” [ARIZ. REV. STAT. § 16-442\(B\)](#) (2008).

Applicable Regulation(s): AZ does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State appoints a committee of three people that test different voting systems. This committee is required to submit their recommendations to the Secretary of State who then makes the final decision on which voting system(s) to adopt. [ARIZ. REV. STAT. § 16-442\(A\) and \(C\)](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.azsos.gov/election/equipment/default.htm>



ARKANSAS

State Participation: **No Federal Requirements.** AR requires that its voting systems are HAVA compliant.

Applicable Statute(s): “No marking device or electronic vote tabulating device shall be approved unless it fulfills the requirements of this section and HAVA” (see state certification process). [ARK. CODE ANN § 7-5-606\(e\)](#) (West 2008).

Applicable Regulation(s): AR does not have a regulation regarding the federal certification process.

State Certification Process: Voting systems are approved by the State Board of Election Commissioners. Written applications are accepted by the board from persons/companies requesting an opportunity to present their voting systems for use in Arkansas. The board will then examine the voting system and then file a report with the office of the Secretary of State stating the accuracy, efficiency and capacity of the proposed voting system. The board will include any reason for rejecting the voting system in this report. After the approval of the voting system, the board will not need to approve the voting system again unless the voting system is modified. [ARK. CODE ANN § 7-5-606\(b\)-\(d\)](#) (West 2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sosweb.state.ar.us/elections.html>



CALIFORNIA

State Participation: **Requires Federal Certification.** The Secretary of State adopts the regulations for the certification of voting systems in CA but cannot certify a direct electronic voting system unless it has received federal qualification.

Applicable Statute(s): “The Secretary of State shall establish the specifications for and the regulations governing voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. The criteria for establishing the specifications and regulations shall include, but not be limited to, the following: (a) the machine or device and its software shall be suitable for the purpose for which it is intended, (b) the system shall preserve the secrecy of the ballot, (c) the system shall be safe from fraud or manipulation.” [CA ELEC CODE § 19205](#) (West 2009). On and after January 1, 2005, the Secretary of State shall not approve a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail. [CA ELEC CODE § 19250](#) (West 2009).

Applicable Regulation(s): CA does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State accepts applications from persons and/or companies requesting an opportunity to present their voting systems for use in California. The Secretary of State will complete an examination of the voting system and send a report of the findings of the examining engineers to the Governor and the Attorney General. The Secretary of State can hire up to three expert electronic technicians to assist in the examination process. Before approving a voting system the Secretary of State will hold a public hearing to give interested parties the opportunity to express their opinions on the voting system. Within thirty days after completing the examination, the Secretary of State must file a report that states whether the voting system is safe for use in elections. The voting system is deemed to be approved if the filed report states that the voting system is safe for use in elections. [CA ELEC CODE §§ 19202-19204, 19206-19208](#). (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.sos.ca.gov/elections/vs_election.htm



COLORADO

State Participation: **Requires Federal Certification.** CO requires that its voting systems meet EAC voting system standards and are tested by an EAC accredited independent testing authority that conducts all of the tests required by the EAC.

Applicable Statute(s): “All voting systems and voting equipment offered for sale on or after May 28, 2004, shall meet the voting systems standards that were promulgated in 2002 by the federal election commission and that may thereafter be promulgated by the federal election assistance commission”. [COLO. REV. STAT. § 1-5-601.5](#) (2009). “A recognized independent testing authority may test, approve, and qualify electronic and electromechanical voting systems for sale and use in the state of Colorado, if: (a) The independent testing authority has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the federal election assistance commission; (b) The independent testing authority conducts any and all tests required by the federal election assistance commission for granting certification to independent testing authorities to verify the integrity of the electronic and electromechanical voting systems to be used in Colorado”. [COLO. REV. STAT. § 1-5-608.5](#) (2009).

Applicable Regulation(s): “The Secretary of State hereby adopts the April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems.” [8 COLO. CODE REGS. § 1505-1.37.3.1](#) (2009). “Upon any revision or new release of Voting Systems Standards by the Election Assistance Commission, the Secretary of State hereby automatically adopts such standards as may be promulgated, and any vendor seeking state certification shall follow such adopted voting systems standards and the processes mandated by state law in order to be certified by the Secretary of State.” [8 COLO. CODE REGS. § 1505-1.37.3.2](#) (2009).

State Certification Process: Once the voting system has been tested according to EAC standards, the voting system provider can submit the voting system to the Secretary of State for certification. The Secretary of State will examine the voting system to determine whether all state requirements have been met and make a decision on whether to certify the voting system within ninety days of the initial submission for certification. The Secretary of State shall appoint one or more experts in the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of voting systems and to produce a written report on each system. [COLO. REV. STAT. § 1-5-617](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.elections.colorado.gov/DDefault.aspx?tid=499>



CONNECTICUT

State Participation: **Requires Testing to Federal Standards.** CT requires that its voting systems are tested to the most current FEC or EAC standards.

Applicable Statute(s): “[T]he Secretary of the State may approve a voting machine which requires the elector in the polls to place his ballot into the recording device and which meets the voluntary performance and test standards for voting systems adopted by (1) the Federal Election Commission on January 25, 1990, as amended from time to time, or (2) the Election Assistance Commission pursuant to the Help America Vote Act of 2002, P.L. 107-252, 42 USC 15481-85, as amended from time to time, whichever standards are most current at the time of the Secretary of the State’s approval”. [CONN. GEN. STAT. ANN. § 9-242\(c\)](#) (West 2008).

Applicable Regulation(s): “The Secretary of the State may approve only those direct recording electronic voting machines which have been certified by an independent test authority, accredited by the National Association of State Election Directors, as meeting the voluntary performance and test standards for voting systems adopted by the Federal Election Commission on January 25, 1990, as amended from time to time, and which meet the standards specified in Sections 9-241-1 to 9-241-36, inclusive, of these regulations and the requirements of the Connecticut constitution and the general statutes.” [CONN. AGENCIES REGS. § 9-241-1](#) (2008).

State Certification Process: The Secretary of State accepts applications to examine and certify voting systems and then determines whether the voting systems; (1) meet state requirements, (2) can be used at elections, primaries and referenda, and (3) comply with the standards adopted by the Voting Technology Standards Board. [CONN. GEN. STAT. ANN. § 9-241\(a\)](#) (West 2008). The Secretary of State may enter into an agreement with The University of Connecticut or a member of the Connecticut State University System to perform or assist in developing standards to protect the integrity of voting equipment. [CONN. GEN. STAT. ANN. § 9-241\(b\)](#) (West 2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.ct.gov/sots/cwp/view.asp?a=3&q=415810>



DELAWARE

State Participation: **Requires Federal Certification.** DE requires that its voting systems are certified by either the EAC or NASED as meeting either the FEC or EAC's voluntary systems standards or guidelines.

Applicable Statute(s): “Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the voluntary voting systems standards or guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State”.
[DEL.CODE ANN tit. 15 § 5001](#) (2009).

Applicable Regulation(s): DE does not have a regulation regarding the federal certification process.

State Certification Process: Before any voting system is acquired by Delaware, the owner or manufacturer must; (1) state in writing a guarantee, (2) post a bond with a satisfactory surety with the department of elections guaranteeing and securing that such machines comply fully with all state requirements and (3) will correctly, accurately and continuously register and record every vote cast and further guaranteeing such machine against defects in labor and materials for a period of 5 years from the date of acquisition thereof, or, in the case of rented machines, for the period of rental. [DEL.CODE ANN tit. 15 § 5002](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://elections.delaware.gov/information/technology/electronicmachine.shtml>



DISTRICT OF COLUMBIA

State Participation: **Requires Testing to Federal Standards.** DC requires that its voting systems are tested to FEC standards.

Applicable Statute(s): “Each voting system used in an election in the District shall meet or exceed the voting system standards set forth in the Help America Vote Act of 2002. The Board may implement additional standards provided they do not conflict with those set forth in the Help America Vote Act of 2002.” [D.C. CODE § 1-1001.09](#) (2009).

Applicable Regulation(s): “All voting systems offered to the Board and used in the District of Columbia by the Board shall meet or exceed the minimum requirements of the Federal Election Commission Voting System Standards. Where there is a conflict between those standards and these regulations, such voting systems must test to the higher standard.” [D.C. MUN. REGS. tit. 3, § 817](#) (2009).

State Certification Process: Neither DC statutes nor DC regulations outline a specific state certification process.

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.dcboee.org/voter_info/gen_info/voting_equipment.asp



FLORIDA

- State Participation:*** **No Federal Requirements.** The Department of State adopts voting system standards for FL.
- Applicable Statute(s):*** “The Department of State shall adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems. Such rules shall contain standards for: (a) Functional requirements; (b) Performance levels; (c) Physical and design characteristics; (d) Documentation requirements; and (e) Evaluation criteria.” [FLA. STAT. § 101.015](#) (2009).
- Applicable Regulation(s):*** “The Department of State, Division of Elections, is required to establish minimum standards for certification and provisional approval of hardware and software for electronic and electromechanical voting systems. The Division shall establish minimum levels of voting systems capability and certify voting system equipment in accordance with the requirements contained in Florida Voting Systems Standards, Form DS-DE-101, eff. 1-12-05, which is hereby incorporated by reference and available from the Division upon request. The publication contains the minimum standards, procedures for testing to determine if those standards have been met, and procedures for certifying and provisionally certifying compliance with the minimum standards. Where initiated by a county Supervisor of Elections or the Department of State, modifications to previously certified systems which are designed to remedy system anomalies, which do not introduce new functions and do not introduce additional hardware components into the system configuration, may be certified under the Florida Voting Systems Standards, Form DS-DE-101, eff. 1-12-05.” [FLA. ADMIN. CODE ANN. r. 1S-5.001](#) (2009).
- State Certification Process:*** The Department of State adopts rules that establish minimum security standards for voting systems. The Supervisor of Elections for each county establishes written procedures to assure accuracy and security in voting systems. These procedures are reviewed in each odd-numbered year by the Department of State. Any revisions to these procedures are submitted by the Supervisor of Elections in each county to the Department of State at least 45 days before early voting begins in an election in which the revisions are to take effect. [FLA. STAT. § 101.015](#) (2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://election.dos.state.fl.us/voting-systems/certified-voting-system.shtml>



GEORGIA

State Participation: **Requires Federal Certification.** GA requires that its voting systems are tested to EAC standards by EAC accredited labs and certified by the EAC.

Applicable Statute(s): “Any person or organization owning, manufacturing, or selling, or being interested in the manufacture or sale of, any voting machine may request the Secretary of State to examine the machine. Any ten or more electors of this state may, at any time, request the Secretary of State to reexamine any voting machine previously examined and approved by him or her. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall pay to the Secretary of State the reasonable expenses of such examination; provided, however, that in the case of a request by ten or more electors the examination fee shall be \$ 250.00. The Secretary of State may, at any time, in his or her discretion, reexamine any voting machine.” [GA CODE ANN. § 21-2-324](#) (2008).

Applicable Regulation(s): “Prior to submitting a voting system for certification by the State of Georgia, the proposed voting system’s hardware, firmware, and software must have been issued Qualification Certificates from the EAC. These EAC Qualification Certificates must indicate that the proposed voting system has successfully completed the EAC Qualification testing administered by EAC approved ITAs. If for any reason, this level of testing is not available, the Qualification tests shall be conducted by an agency designated by the Secretary of State. In either event, the Qualification tests shall comply with the specifications of the *Voting Systems Standards* published by the EAC.” [GA. COMP. R. & RES. 590-8-1-.01](#) (2009).

State Certification Process: After the voting system has passed EAC Qualification testing, the vendor of the voting system submits a letter to the Office of the Secretary of State requesting certification for the voting system along with a technical data package to the certification agent. An evaluation proposal is created by the certification agent after a preliminary view of the Technical Data Package and sent to the vendor. Any additional EAC ITA testing identified in the evaluation proposal is arranged by the vendor and the certification agent will perform all other tests identified in the evaluation proposal. The certification agent submits a report of their findings to the Secretary of State. Based on these findings the Secretary of State will make a final determination on whether to certify the voting system. [GA. COMP. R. & RES. 590-8-1-.01](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.georgia.gov/Elections/>



GUAM

State Participation: **No Federal Requirements.** All of the rules and regulations for the conduct of elections in GU are located in an Election Manual that is not readily available.

Applicable Statute(s): “It shall be the duty and responsibility of the Commission to prepare a public manual of administrative procedures, rules, regulations and forms to be used in the conduct of elections. After January 1, 2001, all manuals and publications shall be prepared pursuant to the Administrative Adjudication Law. The manual shall set forth the regulations to be followed by all election officials, as well as the descriptions of the necessary equipment and forms to be used in election procedures.” [GUAM CODE ANN. tit. 3, § 2104](#) (2008).

Applicable Regulation(s): Guam does not have a regulation regarding the federal certification process.

State Certification Process:

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://gec.guam.net/index.html>



HAWAII

State Participation: **No Federal Requirements.** The Chief Election Officer adopts voting systems for use in HI elections.

Applicable Statute(s): “The chief election officer may adopt, experiment with, or abandon any voting system authorized under this chapter or to be authorized by the legislature. These systems shall include, but not be limited to voting machines, paper ballots, and electronic voting systems. All voting systems approved by the chief election officer under this chapter are authorized for use in all elections for voting, registering, and counting votes cast at the election.” [HAW. REV. STAT. § 16-1](#) (2008). “All voting systems adopted under this chapter by the chief election officer of the legislature shall satisfy the following requirements: (1) It shall secure to the voter secrecy in the act of voting; (2) It shall provide for voting for all candidates of as many political parties as may make nominations, nonpartisans, and for or against as many questions as are submitted; (3) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions.” [HAW. REV. STAT. § 16-2](#) (2008).

Applicable Regulation(s): “The chief election officer or designated representative shall approve all necessary forms, supplies, and procedures used in the operation of any voting system after consultation with the respective clerks.” [HAW. CODE R. § 2-54-1](#) (Weil 2008).

State Certification Process: The chief election officer determines whether a voting system may be used in state elections. During the examination, the chief elections officer must verify that the voting systems are safe, secure, and accurate. [HAW. REV. STAT. § 16-2](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://hawaii.gov/elections/info/> (under “State of Hawaii – HAVA State Plan”)



IDAHO

State Participation: **Requires Federal Certification.** ID requires that its voting systems meet FEC voting system standards and be certified by either an independent testing authority authorized by NASED or certified by the FEC.

Applicable Statute(s): “The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED) or be certified by the federal election assistance commission.” [IDAHO CODE ANN. § 34-2409](#) (2009).

Applicable Regulation(s): ID does not have a regulation regarding the federal certification process.

State Certification Process: Once the voting system has been tested according to FEC standards, the voting system provider can submit the voting system to the Secretary of State for certification. The Secretary of State will examine the voting system to determine whether all state requirements have been met and file a report on whether to certify the voting system within thirty days after the system was examined. The Secretary of State will appoint no more than three experts in one or more of the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of voting systems. [IDAHO CODE ANN. § 34-2409](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.idsos.state.id.us/elect/eleindex.htm>



ILLINOIS

State Participation: **Requires Testing by a Federally Accredited Laboratory.** IL requires that its voting systems are tested to FEC or EAC standards by an approved independent testing authority.

Applicable Statute(s): “The State Board of Elections shall approve all Direct Recording Electronic Voting Systems that fulfill the functional requirements provided by Section 24C-11 of this Code, the mandatory requirements of the federal voting system standards pertaining to Direct Recording Electronic Voting Systems promulgated by the Federal Election Commission or the Election Assistance Commission, the testing requirements of an approved independent testing authority and the rules of the State Board of Elections.” [10 ILL. COMP. STAT. ANN 5/24C-16](#) (West 2009).

Applicable Regulation(s): IL does not have a regulation regarding the federal certification process.

State Certification Process: The State Board of Elections accepts applications to approve voting systems. The Board staff prepares and performs a test of the proposed voting system; this test is conducted under the simulation of election day conditions. After a review of the proposed voting system, the Board Staff writes a report to the Board which is followed by a hearing to consider the staff’s report. If the Board determines that the proposed voting system is safe, accurate, and efficient it will approve the use of the system on an interim basis not to exceed two years. After the interim period, the applicant may submit an application requesting final approval of the proposed voting system. Upon receiving the final application, the Board will make a determination based upon the staff’s findings, information submitted by the applicant, and the performance of the system during the interim approval period. See [10 ILL. COMP. STAT. ANN. 5/24A-16](#) (West 2009) and [ILL. ADMIN. CODE tit. 26, § 204.40-100](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.elections.state.il.us/VotingInformation/VotingSystems.aspx>



INDIANA

State Participation: **Requires Testing to Federal Standards.** IN requires that its voting systems meet the 2002 Voting System Standards adopted by the FEC.

Applicable Statute(s): “(a) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002. (b) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system: (1) was: (A) approved by the commission for use in elections in Indiana before October 1, 2005; and (B) purchased by the county before October 1, 2005; and (2) otherwise complies with the applicable provisions of HAVA and this article. However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.” [IND. CODE § 3-11-15-13.3](#) (2009).

Applicable Regulation(s): IN does not have a regulation regarding the federal certification process.

State Certification Process: The State Board of Elections accepts applications to approve voting systems. The Commission can approve a voting system only after the vendor ensures that the voting system is HAVA compliant and adheres to state requirements. [IND. CODE § 3-11-7.5-4](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.in.gov/sos/elections/voters/vot_sys.html



IOWA

- State Participation:** **Requires Testing by a Federally Accredited Laboratory.** IA requires that all voting systems be certified by an independent testing authority accredited by the EAC to determine that the systems satisfy the 2002 Voting System Standards adopted by the FEC.
- Applicable Statute(s):** “The rules shall provide that all optical scan voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, section 222.” [IOWA CODE § 52.5](#) (2009).
- Applicable Regulation(s):** “All electronic voting systems and machines approved for use by the Board of Examiners after April 9, 2003 shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.” [IOWA ADMIN. CODE r. 721-22.2\(52\)](#) (2009). “Accredited independent test authority” means a person or agency that was formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software. “‘Accredited independent test authority’ also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.” [IOWA ADMIN. CODE r. 721-22.1\(52\)](#) (2009).
- State Certification Process:** Within a week of receiving a request for an examination of an electronic voting system, the state commissioner notifies the board of examiners to examine the system. With the assistance of the examiners, the state commissioner adopts rules governing the examination of the system. The state commissioner employs additional experts to assist the examiners in their examination. Following the examination, the examiners report to the state commissioner describing the examination of the system, including the system’s accuracy, efficiency, and security. If the report states that the system can be used, then it may be adopted for use in elections. Before its actual use, the state commissioner and examiners shall also make rules for tallying votes using that particular voting system. [IOWA CODE § 52.5](#) (2009).
- Fielded Voting Systems:** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.ia.us/elections/votingep/index.html>



KANSAS

State Participation: **Requires Testing to Federal Standards.** KS requires that its voting systems meet the 2002 Voting System Standards adopted by the FEC.

Applicable Statute(s): “The secretary of state shall examine and approve the kinds or makes of electronic or electromechanical voting systems, and no kind or make of such system shall be used at any election unless and until it received approval by the secretary of state and a statement thereof is filed in the office of the secretary of state.” [KAN. STAT. ANN. § 25-4404](#) (2008). “Electronic or electromechanical voting systems approved by the secretary of state shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.” [KAN. STAT. ANN. § 25-4406\(k\)](#) (2008).

Applicable Regulation(s): KS does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State accepts written requests from persons/corporations wishing to have their voting system examined. The requestor must provide the Secretary of State with a certified check for \$250.00 to defray a portion of the costs of the examination and the actual voting system to be examined. The Secretary of State may employ a person to assist in the examination process as well as require the requestor to furnish a person to explain and demonstrate that the voting system complies with state and federal laws. After the Secretary of State has approved the voting system s/he shall make a certificate of approval with a description of the machine. Once a certificate had been issued for a particular make or model of voting system, any other voting system that matches this description can be used in subsequent elections as long as there are no substantial changes made to the make or model described in the certificate of approval. [KAN. STAT. ANN. § 25-4405](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.kssos.org/elections/elections_reform_standards.html



KENTUCKY

State Participation: **Requires Testing to Federal Standards.** KY requires that voting systems are tested by an independent test authority approved by the State Board of Elections, demonstrating that the voting systems meet FEC standards.

Applicable Statute(s): “Any person or corporation owning, manufacturing or selling any electronic voting system, may request the State Board of Elections to examine the system. Before requesting an examination or reexamination, any person, persons, or corporation shall pay to the State Treasurer an examination fee of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections. The report shall demonstrate that the system meets all Federal Election Commission voting system standards. The State Board of Elections may, at any time, reexamine any system already approved. The State Board of Elections shall approve or disapprove any voting system within sixty (60) days after the date of its initial submission.” [KY. REV. STAT. ANN. § 117.379](#) (West 2008).

Applicable Regulation(s): KY does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State accepts requests from persons/corporations wishing to have their voting system examined. Prior to this request, the requestor must pay the State Treasurer an examination fee of \$500.00 and submit a report from an independent testing authority verifying that the voting system meets all of the FEC requirements. The State Board of Elections appoints three examiners to examine the voting systems: an expert in computer science or electronic voting systems, an individual who is knowledgeable in KY law and election procedures, and a present or former county clerk. These examiners then submit one written report on the voting system to the State Board of Elections. The State Board of Elections will approve or disapprove voting system within 60 days of its initial submission. [KY. REV. STAT. ANN. § 117.379](#) (West 2007).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.elect.ky.gov/voting_equipment.htm



LOUISIANA

State Participation: **Requires Testing by a Federally Accredited Laboratory.** LA requires that voting systems are certified by NASED Independent Testing Authorities according to the voting systems standards adopted by the FEC.

Applicable Statute(s): “In addition, any electronic voting machine acquired or used in the state must have been certified by NASED Independent Testing Authorities according to the voting systems standards adopted by the Federal Election Commission. This certificate, together with any relevant reports, drawings, and photographs, shall be a public record.” [LA. REV. STAT. ANN. § 18:1361](#) (2006).

Applicable Regulation(s): LA does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State accepts requests to examine voting systems and may employ experts in order to assist in the examination process. If a voting system is acceptable to the Secretary of State regarding durability, accurate, efficiency, and capacity, it will be certified. A certificate of approval made by the Secretary of State shall be signed by any and all of the experts involved in the examination process. [LA. REV. STAT. ANN. § 18:1361](#) (2006).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.louisiana.gov/tabid/619/Default.aspx>



MAINE

State Participation: **No Federal Requirements.** The Secretary of State and the Attorney General adopt the regulations for the certification of voting systems in ME.

Applicable Statute(s): “The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 813 and electronic tabulating systems under section 844. The Secretary of State may adopt rules requiring independent testing of voting machines and electronic tabulating systems in use or proposed for use in the State and indicating which voting machines and electronic tabulating systems are approved for use by municipalities.” [ME. REV. STAT. ANN. tit. 21-A, § 809](#) (2009).

Applicable Regulation(s): ME does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State adopts rules regarding the independent testing of voting systems and determines which voting systems to approve. Voting systems approved by the Secretary of State can be used in any municipality in a state election. [ME. REV. STAT. ANN. tit. 21-A, § 809](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*

<http://www.maine.gov/sos/cec/elec/>



MARYLAND

State Participation: **Requires Federal Certification.** MD requires that all voting systems be certified by an independent testing authority accredited by the EAC to determine that the systems satisfy standards adopted by the FEC or the EAC.

Applicable Statute(s): “The State Board may not certify a voting system unless the State Board determines that... the voting system has been: (i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission.” [MD. CODE ANN., \[ELEC. LAW\] § 9-102\(d\)](#) (West 2008).

Applicable Regulation(s): “A local board may not use a voting system, in whole or part, unless: ... That model or version of the voting system, including all parts and components, has successfully completed: (1) Qualification testing by an independent test agency, as required by Election Law Article, §9-102(c)(2), Annotated Code of Maryland; (2) Certification evaluation and testing by the State Board, as specified in COMAR 33.09.03 and 33.09.04; and (3) Acceptance testing by the local board, as specified in COMAR 33.09.05.” [MD. CODE REGS. 33.09.01.03](#) (2009).

State Certification Process: The State Board of Elections adopts regulations for reviewing, certifying, and decertifying voting systems. [MD. CODE ANN., \[ELEC. LAW\] § 9-102\(b\)](#) (West 2008). A State Administrator appoints either a specialist or a member of the State Administrator’s staff to coordinate the evaluation process. [MD. CODE REGS. 33.09.01.05](#) (2009). The State Board may not certify a voting system unless the State Board determines that... the voting system has been: (i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission. [MD. CODE ANN., \[ELEC. LAW\] § 9-102\(b\)](#) (West 2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.elections.state.md.us/voting_system/index.html



MASSACHUSETTS

State Participation: **Requires Testing by a Federally Accredited Laboratory.** MA requires that voting systems are certified by an independent testing authorities according to the voting systems standards adopted by the FEC.

Applicable Statute(s): “The state secretary shall examine all types of voting equipment including ballot boxes, counting apparatus, and voting machines and determine whether such equipment complies with the minimum requirements for such equipment imposed by law and whether the use of such equipment would further the efficient administration of elections.” [MASS. GEN. LAWS. ANN. ch. 54, § 32](#) (West 2009).

Applicable Regulation(s): “The Secretary shall decide whether to approve all types of voting equipment according to the following schedule ... (3) No electronic voting system and no direct electronic voting machine may be approved after January 1, 1992 that does not meet the voting system standards adopted by the Federal Election Commission on February 5, 1990, as they may be amended from time to time, and that has not been tested by an independent test authority to confirm compliance.” [MASS. CODE. REGS. 50.03](#) (2009).

State Certification Process: The Secretary of State accepts requests from persons/corporations wishing to have their voting system examined. The State Board of Elections may appoint no more than three examiners to examine the voting systems; 1.) an expert in data processing, 2.) mechanical engineering and 3.) public administration. Within thirty days of the examination and approval of the voting system the Secretary of State shall file his final report on the voting system including a written or printed description and a drawing or photograph of the voting system. [MASS. GEN. LAWS. ANN. ch. 54, § 32](#) (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sec.state.ma.us/ele/eleidx.htm>



MICHIGAN

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

Applicable Statute(s): “An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers ... and unless it meets 1 of the following conditions: (a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers. (b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.” [MICH. COMP. LAWS ANN § 168.795a](#) (2009).

Applicable Regulation(s): MI does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State accepts requests from persons/corporations wishing to have their voting system examined. The requestor must pay the Secretary of State an application fee of \$1,500.00, file a report listing all of the states in which the voting system has been approved and any reports that these states have made regarding the performance of the voting system. The Board of State Canvassers conducts a field test involving Michigan electors and election officials in simulated election day conditions. The Board of State Canvassers shall approve the voting system if it meets all of the state requirements. [MICH. COMP. LAWS ANN § 168.795a](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.michigan.gov/sos/0,1607,7-127-1633_8716_45458---,00.html



MINNESOTA

- State Participation:*** **Requires Testing to Federal Standards.** MN requires its voting system to be certified by an independent testing authority approved by the Secretary of State according to the voting systems standards adopted by either the FEC or EAC.
- Applicable Statute(s):*** “In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority approved by the secretary of state and conform to current standards for voting equipment issued by the Federal Election Commission or its successor, the Election Assistance Commission. [MINN. STAT. ANN. § 206.57](#) (West 2009).
- Applicable Regulation(s):*** “After an electronic voting system has been certified by the secretary of state, the software necessary to operate the voting system, tabulate votes, and prepare ballot styles must be reexamined and recertified under part 8220.0650, subpart 1, by the secretary of state or an independent testing authority approved by the secretary of state at least once every four years and at any time that, in the opinion of the secretary of state, the voting system no longer complies with Minnesota election law.” [MINN. R. 8220.0700](#) (2009).
- State Certification Process:*** The Secretary of State accepts applications to examine and to issue a report as to the compliance of voting systems with the state law. Either the Secretary of State or a designee shall examine the voting system in regards to its; ballot programming, electronic ballot marking, assistive technologies to be used with the system, vote counting, and vote accumulation functions. An examination is not required for each individual voting system but only for the different types of voting systems. The Secretary of State will approve and adopt a voting system for use at elections once the voting system has been determined to be safe and compliant with state law. [MINN. STAT. ANN. § 206.57](#) (West 2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.mn.us/home/index.asp?page=537>



MISSISSIPPI

State Participation: **No Federal Requirements.** The Board of Supervisors of any county and the governing authorities of any municipality acquire voting systems used in MS elections that comply with state requirements.

Applicable Statute(s): “The board of supervisors of any county in the State of Mississippi and the governing authorities of any municipality in the State of Mississippi are hereby authorized and empowered, in their discretion, to purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system which meets the requirements of Section 23-15-465, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots in any election or primary.” [MISS. CODE ANN. § 23-15-463](#) (2009). “The Secretary of State shall have the power to issue supplementary instructions and procedures for the safe and efficient use of electronic voting systems and to carry out the purpose of this chapter. Subject to such instructions and procedures and the provisions of this chapter, the commissioners of elections shall have the power to make all necessary and desirable provisions for the conduct of elections with approved electronic voting systems.” [MISS. CODE ANN. § 23-15-485](#) (2009).

Applicable Regulation(s): MS does not have a regulation regarding the federal certification process.

State Certification Process: The Board of Supervisors in each county and the governing authorities of each municipality are authorized to purchase voting systems that meet the state requirements. [MISS. CODE ANN. § 23-15-463](#) (2009). “The Secretary of State shall have the power to issue supplementary instructions and procedures for the safe and efficient use of electronic voting systems and to carry out the purpose of this chapter. Subject to such instructions and procedures and the provisions of this chapter, the commissioners of elections shall have the power to make all necessary and desirable provisions for the conduct of elections with approved electronic voting systems.” [MISS. CODE ANN. § 23-15-485](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.touchandvote.ms.gov/index.htm>



MISSOURI

- State Participation:*** **Requires Testing by a Federally Accredited Laboratory.** MO requires that voting systems are certified by independent testing authorities according to the voting systems standards adopted by the FEC.
- Applicable Statute(s):*** “No electronic voting system shall be approved unless it; Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.” [MO. REV. STAT. §115.225](#) (West 2008).
- Applicable Regulation(s):*** “As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall have completed and submitted to the secretary of state ... and shall have received certification from an independent testing authority approved by the secretary of state.” [MO. CODE REGS. ANN. tit. 15 § 30-10.020](#) (2009).
- State Certification Process:*** The Secretary of State accepts applications from voting system manufacturers. Prior to approval from the Secretary of State, each manufacturer must receive certification from an independent testing authority approved by the Secretary of State. Voting manufacturers must file two affidavits stating that (1) the voting machine complies with all state rules and (2) if any changes are made in the system the ability to comply with state rules will not be affected. An electronic voting system may be used if it has been approved by the Secretary of State and complies with state law. MO. REV. STAT. §115.225 (2008); [MO. CODE REGS. ANN. tit. 15, § 30-10.020](#) (2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.mo.gov/elections/qualsystems.asp>



MONTANA

State Participation: **No Federal Requirements.** The Secretary of State determines the regulations for the certification of voting systems in MT.

Applicable Statute(s): "The secretary of state may prescribe rules for the submission of voting systems for examination and additional requirements for approval of voting systems." [MONT. CODE ANN. § 13-17-107](#) (2008).

Applicable Regulation(s): "The Secretary of State is empowered under 13-17-101, MCA, to approve voting machines and devices." [MONT. ADMIN. R. 44.3.1701](#) (2008).

State Certification Process: The Secretary of State accepts requests to examine voting systems and enlists qualified technicians to assist in the examination process. After inspecting the voting system, the Secretary of State files a report within thirty days of the examination that approves or disapproves of the system. The Secretary of State must approve the voting system sixty days prior to the election in which it will be used. [MONT. CODE ANN. §§ 13-17-101, 13-17-102](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://sos.mt.gov/Elections/Voting_Tech.asp



NEBRASKA

State Participation: **No Federal Requirements.** The Secretary of State determines the rules and regulations for the certification of voting systems, notwithstanding any other provisions in the state Election Act.

Applicable Statute(s): “Any new voting or counting system shall be approved by the Secretary of State prior to use by an election commissioner or county clerk.” [NEB. REV. STAT. § 32-1041](#) (2008).

Applicable Regulation(s): NE does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State must approve any new voting system before it is used in an election. Notwithstanding the Election Act, the Secretary of State may make rules and regulations to establish procedures that ensure the election is conducted in a fair manner on the newly approved voting system. [NEB. REV. STAT. § 32-1041](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.ne.gov/elec/>



NEVADA

State Participation: **Requires Federal Certification.** NV requires that all voting systems be certified by an independent testing authority accredited by the EAC to determine that the systems satisfy standards adopted by the EAC.

Applicable Statute(s): “No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems established by the Federal Election Commission pursuant to federal law.” [NEV. REV. STAT. § 293B.063](#) (2008).

Applicable Regulation(s): ”Before each election cycle for federal office, in accordance with procedures established by the Secretary of State, each county clerk shall certify that: (a) The software used to tabulate ballots; and (b) The operating systems, including, without limitation, software and firmware, installed on each mechanical recording device, have been certified by the Voting System Certification and Laboratory Accreditation Program of the Election Assistance Commission established pursuant to 42 U.S.C. § 15321.” [NEV. ADMIN. CODE § 293B.110](#) (2008).

State Certification Process: The Secretary of State accepts applications from an individual seeking to have his/her voting system examined for use in future state elections. The Secretary of State approves the selection of an examiner to report whether a voting system can be used safely and properly during an election under the conditions prescribed by state and federal election laws. If the examiner’s report states that the system can be used safely and meets all state and federal requirements then the voting system is approved by the Secretary of State. [NEV. REV. STAT. § 293B.105](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://sos.state.nv.us/elections/>



NEW HAMPSHIRE

State Participation: **No Federal Requirements.** The Ballot Law Commission determines the rules for the certification of voting systems in NH.

Applicable Statute(s): “The ballot law commission shall act as a board to examine voting machines and devices for computerized casting and counting of ballots. The commission shall, whenever requested, examine any voting machine or device which may be capable of meeting the requirements for elections held in this state. The commission shall approve such voting machine or device in its discretion, and no voting machine or device shall be used in any election in this state unless it reads the voter’s choice on a paper ballot and is of a type so approved by the ballot law commission. Any voting machine or device that is altered must be re-approved before it is used in any election in this state. For the purposes of this section, a machine shall be considered altered if any mechanical or electronic part, hardware, software, or programming has been altered.” [N.H. REV. STAT. ANN. § 656:41](#) (2009).

Applicable Regulation(s): “Any person desiring to have the ballot law commission approve the use of a voting machine or other device not previously approved may submit a written application for approval to the commission. The request shall include the name of the manufacturer, model number and other information to identify the device. The commission shall approve the request following a public hearing if the commission finds that adequate safeguards have been provided to ensure the integrity of election results and the machine or device complies with these rules and the election laws of the State of New Hampshire.” [N.H. CODE R. Bal. 608.01](#) (Weil 2009).

State Certification Process: The Ballot Commission accepts all applications from persons seeking to use a voting system in New Hampshire elections. The commission will approve the application if it finds that 1) adequate safeguards have been provided to ensure fairness and accuracy in elections; and 2) the voting system complies with state law. [N.H. CODE R. Bal. 608.01](#) (Weil 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.nh.gov/register%20and%20run.html>



NEW JERSEY

State Participation: **No Federal Requirements.** The Secretary of State determines the regulations for the certification of voting systems in NJ.

Applicable Statute(s): “The Secretary of State within a period of thirty days shall examine the machine and shall make and file in the office of the Secretary of State his report of the examination, which report shall state whether in his opinion the kind of machine so examined can be safely used by the voters at elections under the conditions prescribed in this subtitle. If the report states the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided.” [N.J. REV. STAT. § 19:48-2](#) (2009).

Applicable Regulation(s): NJ does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State has thirty days to examine and issue a report either approving or denying a voting system. The Secretary of State appoints three persons to examine voting systems; one expert in patent law and two mechanical experts. The experts are required to submit a report on the voting system which is attached to the report made by the Secretary of State. The voting system is approved for use at elections, if the final report released by the Secretary of State declares that the voting system is safe for use by voters and is compliant with state requirements. [N.J. REV. STAT. § 19:48-2](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.state.nj.us/state/elections/voting_equipment_doe.html



NEW MEXICO

State Participation: **Requires Testing by a Federally Accredited Laboratory.** NM requires that its voting systems meet federal election standards, be tested by an independent authority, and conform to additional state requirements.

Applicable Statute(s): “All voting systems approved for use in New Mexico shall meet federal election standards, conform to state information technology rules, standards and practices and be tested by an independent authority.” [N.M. STAT. § 1-9-2](#) (2009).

Applicable Regulation(s): “directs the Secretary of State to study, examine, and approve all voting machines used in elections for public office in New Mexico.” [N.M. CODE R. § 1.10.20.3](#) (Weil 2009).

State Certification Process: The Secretary of State accepts applications for the examination of voting systems. The applicant is required to instruct an independent testing authority to submit a report on the system to the Secretary of State. Once this report is received, the Secretary of State examines the voting system and writes a report informing the applicant of either the approval or disapproval of the voting system. [N.M. STAT. § 1-9-2](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.nm.us/Implementation/index.htm>



NEW YORK

State Participation: **Requires Testing To Federal Standards.** NY requires that its voting systems comply with the 2005 EAC Voluntary Voting System Guidelines to the extent that the standards are consistent with state law.

Applicable Statute(s): “Such a report shall state an opinion as to whether the kind of machine or system so examined can safely and properly be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act.” [N.Y. ELEC. LAW § 7-201](#) (McKinney 2009).

Applicable Regulation(s): “In order for a polling place voting system to be considered by the State Board for certification, it must comply with the mandates of New York State Election Law, and meet the Election Assistance Commission’s 2005 Voluntary Voting System Guidelines, to the extent that they are consistent with State law and this part.” [N.Y. COMP. CODES R. § REGS. tit. 9, § 6209.2](#) (2009).

State Certification Process: The State Board of Elections accepts applications to examine voting systems, completes the examination of voting systems and writes a report determining whether the voting systems are compliant with federal and state standards. The Boards approves the voting systems that meet state and federal requirements and can be safely and properly used by voters during elections. [NY. ELEC. LAW § 7-201](#) (McKinney 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.elections.state.ny.us/INDEX.html>



NORTH CAROLINA

State Participation: **Requires Federal Certification.** NC requires that its voting systems are compliant with section 301 of HAVA and certified by an independent testing authority approved by NASED or Federal Agency.

Applicable Statute(s): “The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title of the Help America Vote Act of 2002, with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002.” “[T]he State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following ... (11) Compliance with section 301 of the Help America Vote Act of 2002.” [N.C. GEN. STAT. § 163-165.7](#) (West 2009).

Applicable Regulation(s): “Any voting system used in any election in North Carolina shall be constructed to...meet current Federal voting System Standards or other applicable Federal Standards.” 08 N.C. ADMIN. CODE 04.0301 (2004). “Before approving a voting system for use in North Carolina, the State Board of Elections shall ... obtain a copy of [an] independent testing authority certification as authorized by the National Association of State Election Directors or Federal Agency.” [08 N.C. ADMIN. CODE 04.0302](#) (2009).

State Certification Process: In order to complete the approval process the State Board of Elections; (1) obtains a financial statement from the vendor along with contact information for the manufacturer, (2) requests staff to evaluate the voting system, (3) witnesses a demonstration of the voting system, (4) receives a copy of Independent Testing Authority certification as authorized by NASED or Federal Agency, (5) ensures that a copy of the voting systems source code in held in escrow, (6) discusses propriety information in closed session in accordance with the open meetings requirements of North Carolina law, (7) guarantees voting system compliance with state requirements and (8) attains a copy of the manufacturers instructions, maintenance manual and a list of all jurisdictions using the voting system. [N.C. GEN. STAT. § 163-165.7](#) (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sboe.state.nc.us/content.aspx?id=30>



NORTH DAKOTA

State Participation: **Requires Federal Certification.** ND requires that its voting systems are tested by an EAC accredited independent testing authority as fulfilling the requirements of the EAC voluntary voting system guidelines.

Applicable Statute(s): “The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying electronic counting machines authorized in section 16.1-06-10.1 and electronic voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of an electronic voting system or electronic counting machine for use and procurement in the state.” [N.D. CENT. CODE § 16.1-06-26](#) (2008).

Applicable Regulation(s): “Prior to procurement and subsequent use in this state, a company supplying electronic voting systems shall give written notice to the secretary of state and provide a demonstration certifying that its system complies with applicable laws and is certified by a voting system test laboratory accredited by the EAC. If the secretary of state approves the voting system, the secretary of state shall issue a certificate of approval. Any substantive changes or modifications in electronic voting systems may be certified by the secretary of state with or without the demonstration described in this section for initial approval provided that the modified system has been certified by a voting system test laboratory accredited by the EAC.” [N.D. ADMIN. CODE 72-06-01-02](#) (2009).

State Certification Process: A company supplying electronic voting systems will given written notice to the Secretary of State and provide a demonstration certifying that the voting systems comply with applicable laws and is certified by an independent testing authority accredited by the EAC as fulfilling the requirements of the EAC voluntary voting system guidelines. If the Secretary of State approves the voting system, the Secretary of State shall issue a certificate of approval. [N.D. ADMIN. CODE 72-06-01-02](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.nd.gov/sos/electvote/>



- State Participation:*** **Requires Federal Certification.** OH requires that its voting systems are tested by an independent testing authority and compliant with EAC standards.
- Applicable Statute(s):*** “The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code.” “Except as otherwise provided in division (H)(4)(c) of this section, any voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, shall have the most recent federal certification number issued by the election assistance commission.” [OHIO REV. CODE ANN. § 3506.05](#) (2009).
- Applicable Regulation(s):*** “No voting machine shall be approved by the board of voting machine examiners or certified by the secretary of state, or be purchased, rented, or otherwise acquired, or used, except when specifically allowed for experimental use, unless...the equipment has been certified by an independent testing authority as meeting or exceeding the minimum requirements of the federal election commission voting system standards.” [OHIO ADMIN. CODE 111:3-3-01\(C\)](#) (2009).
- State Certification Process:*** The Secretary of State accepts applications to certify voting systems. The applicant must submit all applicable hardware, all current related procedural manuals, a current description of all related support arrangements for the equipment, an application fee, a detailed explanation of the construction and method of operation of the equipment, a full statement of the equipment’s advantages, and a list of applicable patents and copyrights on the equipment to the board of voting machine examiners for examination and testing. The board of voting machine examiners prepares and files a report to the Secretary of State recommending whether or not the equipment and related materials can be used safely by the voters. The Secretary of State makes the final determination as to whether the equipment is certified. [OHIO ADMIN. CODE 111:3-3-01\(C\)](#) (2009). [OHIO REV. CODE ANN. § 3506.05](#) (2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.oh.us/SOS/votingsystems.aspx?page=361>



OKLAHOMA

State Participation: **No Federal Requirements.** The Secretary of State Election Board determines the regulations for the certification of voting systems in OK.

Applicable Statute(s): “The Secretary of the State Election Board is hereby authorized beginning July 1, 1989, to purchase equipment for and implement a unitary, unified, integrated system of election administration for the State of Oklahoma that includes an electronic data processing system for maintenance of voter registration records, certification of election results and other election-related applications, and the installation of electronic, optical scanning voting devices compatible with the same system in every precinct polling place. The Secretary of the State Election Board is authorized to adopt procedures consistent, insofar as practicable, with existing law for implementation of the system.” [OKLA. STAT. tit. 26, § 21-101](#) (West 2009).

Applicable Regulation(s): OK does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of the State Election Board purchases voting systems and adopts the procedures to implement the purchased voting systems. [OKLA STAT. tit. 26, § 21-101](#) (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.ok.gov/~elections/hava_shl.html



OREGON

- State Participation:*** **Requires Testing to Federal Standards.** OR requires that its voting system testing is consistent with the rules in the FEC publication: *Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems*, as revised in April 2002.
- Applicable Statute(s):*** Any voting machine or vote tally system approved by the secretary may be used for conducting elections. A machine or system rejected by the secretary may not be used at any election. If a machine or system is changed after the machine or system has been approved by the secretary, the secretary is not required to reexamine or reapprove the machine or system if the secretary determines that the change does not impair the accuracy, efficiency or capacity of the machine or system. [OR. REV. STAT. ANN. § 246.550](#) (West 2009).
- Applicable Regulation(s):*** “In addition to, and not in lieu of, any other election processes contained in OAR chapter 165, the Division [Election Division] adopts by reference the federal rules as printed in the Federal Election Commission publication: *Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems*, revised April 2002, and any appendices, tables and relevant accompanying documents. All vote tally systems approved for use in Oregon must conform to the Federal Election Commission’s voting systems standards adopted by this rule.” [OR. ADMIN. R. 165-007-0250](#) (2009).
- State Certification Process:*** Voting machines are submitted to the Secretary of State for examination. The Secretary of State can enlist the help of no more than three individuals to assist in the examination process who are experts in one or more of the fields; data processing, mechanical engineering, and public administration. After completing the examination, the Secretary State shall approve or reject the voting machine or tally system no later than thirty days after the examination. Any voting machine approved by the Secretary of State may be used in elections; a machine or system rejected by the Secretary of State may not be used in elections. [OR. REV. STAT. ANN. § 246.550](#) (West 2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
- <http://www.sos.state.or.us/elections/HAVA/faqs.shtml>



PENNSYLVANIA

- State Participation:*** **Requires Testing by a Federally Accredited Laboratory.** PA requires that its voting systems are approved by a federally recognized independent testing laboratory as meeting federal voting system standards.
- Applicable Statute(s):*** “Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any electronic voting system, may request the Secretary of the Commonwealth to examine such system if the voting system has been examined and approved by a federally recognized independent testing authority and if it meets any voting system performance and test standards established by the Federal Government.” [25 PA. CONS. STAT. ANN. Code § 3031.5](#) (West 2008).
- Applicable Regulation(s):*** PA does not have a regulation regarding the federal certification process.
- State Certification Process:*** The Secretary of State examines voting systems, upon request, once the voting systems have received approval by a federally recognized independent testing authority. The person(s) requesting the examination of the voting system are responsible for the cost of the examination. After the examination, the Secretary of State issues a report stating whether or not the voting systems are safe and compliant with state and federal requirements. If the voting systems are deemed safe and compliant by the Secretary of State then the systems may be adopted and approved for use in elections by each county through a majority vote of its qualified electors. [25 PA. CONS. STAT. ANN. Code §§ 3031.5, 3031.2](#) (West 2008).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.votespa.com/HowtoVote/tabid/74/language/en-US/Default.aspx>



PUERTO RICO

- State Participation:*** **No Federal Requirements.** PR requires that its voting systems comply with the standards set in the Commonwealth Resolution.
- Applicable Statute(s):*** “The Commonwealth Commission shall determine, through a resolution, the voting system to be used at the polls at least sixty (60) days prior to the date of a general or by-election, referendum or plebiscite.” [P.R. LAWS ANN. tit. 16, § 3033](#) (2006).
- Applicable Regulation(s):*** PR does not have a regulation regarding the federal certification process.
- State Certification Process:*** The Commonwealth Commission determines through a resolution which voting systems to use at the polls at least sixty days prior to the date of a general or by-election, referendum or plebiscite. Once the Commission approves the voting system has been approved, the political parties, independent candidates or participating organizations are notified through their Representatives. The Commonwealth Commission then holds public hearings so citizens can state their views on the proposed voting systems. [P.R. LAWS ANN. tit. 16, § 3033](#) (2006).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.gobierno.pr/gprportal/inicio>



RHODE ISLAND

State Participation: **Requires Testing by a Federally Accredited Laboratory.** RI requires that its voting systems are compliant with FEC standards and verified by an independent testing authority.

Applicable Statute(s): “The vendor of the optical scan precinct count system shall provide written proof of compliance with Federal Election Commission standards from an independent testing company and this written proof must be on file with the officer of the secretary of state and the state board of elections.” [R.I. GEN. LAWS § 17-19-3](#) (2008).

Applicable Regulation(s): RI does not have a regulation regarding the federal certification process.

State Certification Process: The Secretary of State and the State Board of Elections submit voting system specifications to the Department of Administration (DOA). The DOA consults these specifications in the development of a request for proposal and a full service contract to obtain electronic voting equipment. The DOA then seeks bids from vendors for the options of purchasing, leasing to own and renting optical scan precinct count voting systems that meet the state and federal requirements and for the full services of the vendor. [R.I. GEN. LAWS § 17-19-3](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.elections.ri.gov/>



SOUTH CAROLINA

State Participation: **Requires Federal Certification.** SC requires that its voting systems are approved by an EAC accredited testing laboratory as meeting federal voting system standards.

Applicable Statute(s): “A voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of federal voting system standards.” [S.C. CODE UNANN. § 7-13-1620](#) (2008).

Applicable Regulation(s): SC does not have a regulation regarding the federal certification process.

State Certification Process: The State Election Commission examines voting systems and writes a report stating whether the kind of voting system examined may be accurately and efficiently used at elections. A person or company who requests an examination of a voting system shall 1) pay a nonrefundable examination fee; 2) file with the State Election Commission a list of all states or jurisdictions in which that voting system has been approved for use; 3) file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system; 4) conduct a field test under the supervision of the State Election Commission and any County Election Commission; 5) place all source codes for the system in escrow at his/her expense with the authority approved by the Election Assistance Commission; and 6) shall report to the Director of the State Election Commission any violations issued against the voting system that have occurred prior to or during the time the vendor seeks approval of the voting system. [S.C. CODE UNANN. § 7-13-1620](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.scvotes.org/>



SOUTH DAKOTA

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

Applicable Statute(s): “Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state.” [S.D. CODIFIED LAWS § 12-17B-2](#) (2008).

Applicable Regulation(s): “Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating, direct recording electronic, or electronic ballot marking systems shall given written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17B-2 and §5:02:09:02.01, 5:02:09:02.02, or 5:02:09:02.03 and is certified as fulfilling the requirements of the Election Assistance Commission 2002 voting system standards by an independent test authority accredited by the Election Assistance Commission.” [S.D. ADMIN. R. 5:02:09:02](#) (2009).

State Certification Process: The Board may only approve voting system that is certified by an EAC authorized testing authority, as fulfilling the requirements of the EAC 2002 Voting System Standards. Any changes in an approved electronic voting system are certified by the State Board of Elections provided that the modified system is certified as satisfying EAC standards by an EAC accredited independent authority. [S.D. ADMIN. R. 5:02:09:02](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.sdsos.gov/electionsvoteregistration/electionsvoteregistration_overview.shtm



TENNESSEE

- State Participation:*** **No Federal Requirements.** TN requires that its voting systems are approved by the State Coordinator of Elections and the State Election Commission.
- Applicable Statute(s):*** “The state coordinator of elections and the state election commission shall approve any voting machine before a county election commission purchases such machine.” [TENN. CODE ANN. § 2-9-117](#) (West 2008).
- Applicable Regulation(s):*** “No county election commission or county governing body shall purchase any electronic voting device not certified by the Coordinator of Elections with the approval of the State Election Commission.” [TENN. COMP. R. & REGS. 1360-2-13.09](#) (2008).
- State Certification Process:*** The Coordinator of Elections and the State Election Commission accept and either approve or deny applications for the certification of voting systems. Until approval is given, no county election commission and/or county governing body can purchase that voting system. [TENN. COMP. R. & REGS. 1360-2-13.06](#) (2008).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.tennessee.gov/sos/election/voting_systems/index.htm



TEXAS

- State Participation:*** **Requires Testing to Federal Standards.** TX requires that its voting systems meet the current FEC standards as well as state requirements.
- Applicable Statute(s):*** “A voting system may not be used in an election unless the system... operates safely, efficiently, and accurately and complies with the error rate standards of the voting system standards adopted by the Federal Election Commission...” [TEX. ELEC. CODE ANN. §122.001\(3\)](#) (Vernon 2007).
- Applicable Regulation(s):*** “For any voting machine ... to be certified for use in Texas elections, the system shall have been certified, if applicable, by means of a qualified testing by a Nationally Recognized Test Laboratory (NTRL) and shall meet or exceed the minimum requirements set forth in the Performance and Test Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document developed and promulgated by the FEC.” [1 TEX. ADMIN. CODE § 81.61](#) (2009).
- State Certification Process:*** The Secretary of State accepts applications to examine and certify voting systems and appoints four people to examine the voting system. While the Attorney General appoints two people as examiners. Each examiner inspects the voting system and submits a report to the Secretary of State. The Secretary of State will conduct a public hearing to provide interested persons an opportunity to express their views for or against the approval of the voting system. Following the public hearing, the Secretary of State shall prepare a written report stating why the voting system was approved or denied. [1 TEX. ADMIN. CODE § 81.61](#) (2009).
- Fielded Voting Systems:*** *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.sos.state.tx.us/elections/laws/votingsystems.shtml>



State Participation: **Requires Testing by a Federally Accredited Laboratory.** UT requires that its electronic voting systems are compliant with Federal Voting Systems Standards established by the FEC and certified by an independent testing authority approved by NASED.

Applicable Statute(s): “Each election officer shall ensure that: the voting equipment [automatic tabulating equipment, electronic voting systems, voting devices, and voting machines] meets the Federal Voting Systems Standards established by the Federal Election Commission; the voting equipment used by the election office is certified to meet those Federal Voting System Standards by an Independent Testing Authority approved by the National Association of State Election Directors....”
[UTAH CODE ANN. § 20A-5-402.5](#) (West 2008).

Applicable Regulation(s): UT does not have a regulation regarding the federal certification process.

State Certification Process: Before selecting or purchasing new voting systems, the Lieutenant Governor will appoint a Voting Equipment Selection Committee and provide for a public review and comment period on new voting equipment systems. This committee will evaluate new voting systems proposed for purchase by the state and provide information to assist the Lieutenant Governor with the selection of new voting systems. [UTAH CODE ANN. § 20A-5-402.7](#) (West 2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://elections.utah.gov/votingequipment.htm>



VERMONT

State Participation: **No Federal Requirements.** The Secretary of State determines the regulations for the certification of voting systems in VT.

Applicable Statute(s): “The secretary of state shall adopt rules governing the use and the selection of any voting machine in the state.” [VT. ST. ANN. tit. 17, § 2493](#) (2008).

Applicable Regulation(s): “As yet unapproved voting machines, devices, or systems may be approved by the secretary of state, pursuant to 17 V.S.A. § 2492(a), if they meet the standards and specifications established by these rules. Applicants for approval must arrange for a demonstration of equipment at least 60 days before an election is to be held at which the machines, devices, or systems are to be used. Approval, approval with conditions, or denial shall be issued by the secretary of state in writing within ten days of the submission of sufficient information and assurances that the equipment can meet the needs of the community in which it is to be used and the standards set by state statutes and these rules.” [04-010-001 VT. CODE R. § 6](#) (2009).

State Certification Process: Municipalities can vote to use electronic systems in subsequent elections. If this vote takes place within six months of the next general or primary election the voting systems rented or purchased by the legislative body must be approved by the Secretary of State. The municipality is responsible for all expenses acquired due to the rental or purchase of voting systems and the Secretary of State provides the ballots. [VT. ST. ANN. tit. 17, §§ 2491, 2492, 2493](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://vermont-elections.org/elections1/votingsystems.html>



VIRGIN ISLANDS

State Participation: **No Federal Requirements.** The Joint Boards of Elections and the Supervisor of Elections approve the voting systems in VI.

Applicable Statute(s): “The Joint Boards of Elections and the Supervisor of Elections shall approve or disapprove any voting system submitted to them within 20 days after the date of its initial submission.” [V.I. CODE ANN. tit. 18, § 20-522](#) (2008).

Applicable Regulation(s): VI does not have a regulation regarding the federal certification process.

State Certification Process: The Joint Board of Elections, the Supervisor of Elections and/or the Department of Property and Procurement of the Government of the U.S. Virgin Islands accept applications for voting system examination. The Joint Boards can hire no more than three experts in one or more of the following fields to assist in the examination process; data processing, mechanical engineering, and public administration. These experts are required to submit a report to the Joint Boards following their examination. The Joint Board of Elections, the Supervisor of Elections will either approve or disapprove the voting system within twenty days after the date of its submission. [V.I. CODE ANN. tit. 18, § 20-522](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.vivote.gov/index.htm>



VIRGINIA

State Participation: **Requires Testing to Federal Standards.** VA requires that its electronic voting systems meet federal requirements.

Applicable Statute(s): “After its examination of the equipment, ballots, and other materials submitted by the vendors, the Board shall prepare and file in its office a report of its finding as to...(viii) whether the system meets federal requirements; and (ix) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.” [VA. CODE ANN. §24.2-629\(C\)](#) (2008).

Applicable Regulation(s): VA does not have a regulation regarding the federal certification process.

State Certification Process: The State Board of Election accepts applications for the examination and approval of voting systems. The Board prepared a report stating whether the voting systems meet the state and federal requirements and can be used at elections. If the voting systems meet these requirements, then the Board will approve the voting systems for use at elections. [VA. CODE ANN. § 24.2-629](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
http://www.sbe.virginia.gov/cms/Election_Information/Voting_Systems_Ballots/In dex.asp



WASHINGTON

State Participation: **Requires Federal Certification.** WA requires that its voting systems are tested and certified by an EAC accredited independent testing authority.

Applicable Statute(s): “No voting device shall be approved by the secretary of state unless it: (1) Secures to the voter secrecy in the act of voting; (2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for; (3) Permits the voter to vote for all the candidates of one party; (4) Correctly registers all votes cast for any and all persons and for or against any and all measures; (5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States; and (6) Except for functions or capabilities unique to this state, has been tested and certified by an independent testing authority designated by the United States election assistance commission.” [WASH. REV. CODE § 29A.12.080](#) (West 2009).

Applicable Regulation(s): “[A]ll voting systems, voting devices, and vote tallying systems must meet applicable federal standards and be certified and approved by the secretary of state before they can be used in Washington state pursuant to RCW 29A.12.020.” WASH. ADMIN. CODE 434-335-010 (2007). “No voting device or its component software may be certified by the secretary of state unless it...has been tested and approved by the appropriate independent testing authority approved by the United States election assistance commission...” [WASH. ADMIN. CODE 434-335-040\(1\)\(f\)](#) (2009).

State Certification Process: The Secretary of State accepts applications for voting system certification and will inspect, evaluate, and publicly test all voting systems that are submitted for review. The Secretary of State determines whether or not the voting system meets all of the state, federal and safety requirements. This report is submitted by the Secretary of State to the county auditor of each county within thirty days of the completion of the examination. [WASH. REV. CODE § 29A.12.020](#) (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].* <http://www.secstate.wa.gov/elections/votingsystems.aspx>



WEST VIRGINIA

State Participation: **No Federal Requirement.** The State Election Commission approves voting systems in WV. Although, County Commissioners can apply for funds from the state loan program only to replace lever voting systems with HAVA compliant voting systems and the County Commission can replace voting systems six months prior to a primary or general election if the systems are HAVA compliant and approved by a majority vote of the Commission.

Applicable Statute(s): “A voting machine of particular make and design shall not be approved by the state election commission or be purchased, leased, or used, by any county court unless it shall fulfill the following requirements...[none of which mention federal voting system certification].” [W. VA. Code § 3-4-8](#) (West 2009). “The county commission may discontinue the use of voting machines and replace them with a different voting system meeting the requirements of “The Help America Vote Act of 2002”, 42 U.S.C. 15302, *et seq.*, six months prior to a primary or general election by majority vote of the commission.” [W. VA. Code § 3-4-3](#) (West 2009).

Applicable Regulation(s): “Any county commission that makes the choice after January 1, 2006 to replace its punch card or lever voting system is eligible to apply for funds from this loan program for the purpose of replacing its voting system with a HAVA-compliant system; Provided that the maximum aggregate amount of loan proceeds available to any such county shall be reduced by the amount of federal funding that was forfeited and returned to the federal government as a result of such county’s failure to replace its punch card or lever system by January 1, 2006. [W. Va. Code R. § 153-10-10](#) (2009).

State Certification Process: The State Election Commission accepts applications to examine voting systems and appoints two mechanical experts (who are not members of the same political party) to prepare a report on the accuracy, efficiency, capacity and safety of the voting systems. The report must determine whether or not the voting systems comply with the state requirements and are safe to be used by voters. If the voting machines meet these requirements, they can be approved by the State Election Commission. [W. VA. CODE §3-4-7](#) (West 2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://www.wvsos.com/elections/ballots/votingsystems.htm>



WISCONSIN

State Participation: **Requires Testing by a Federally Accredited Laboratory.** WI requires that its voting systems receive approval from an independent testing authority accredited by NASED verifying that the voting systems meet all of the recommended FEC standards.

Applicable Statute(s): “No ballot, voting device, automatic tabulating equipment or relating equipment and materials to be used in an electronic voting system may be utilized in this state unless it is approved by the board [of election commissioners].” [WIS. STAT.ANN. § 5.91](#) (West 2009).

Applicable Regulation(s): “An application for approval of an electronic voting system shall be accompanied by all of the following ... [r]eports from an independent testing authority accredited by the national association of state election directors (NASED) demonstrating that the voting system conforms to all the standards recommended by the federal elections commission.” [WIS. ADMIN. CODE GAB § 7.01](#) (2009).

State Certification Process: The Board of Election Commissioners accepts applications for the approval of electronic voting systems. Once the application is completed, the vendor must set up the voting system for three mock elections using; (1) offices, (2) referenda questions and (3) candidates. A panel of local election officials can assist the Board in the review of the voting system. The Board conducts the test using a mock election for the partisan primary, general election, and nonpartisan election. The Board may also require that the voting system be used in an actual election as a condition of the approval. [WIS. ADMIN. CODE GAB §§ 7.01, 7.02](#) (2009).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://elections.state.wi.us/section.asp?linkid=643&locid=47>



WYOMING

State Participation: **Requires Federal Certification.** WY requires that its voting systems are tested and certified by an EAC accredited independent testing authority.

Applicable Statute(s): “Every electronic voting system adopted for use in Wyoming shall....be certified by the secretary of state.” [WYO. STAT. ANN. § 22-11-103](#) (2008).

Applicable Regulation(s): “Before any equipment or software is sold or upgraded, the vendor shall certify in writing to the Wyoming Secretary of State that the equipment or software: (i) Meets the Voting Systems Performance and Test Standards, as adopted by the National Association of State Election Directors (NASED) April 30, 2002. The report of an accredited independent testing authority, together with the NASED or the Election Assistance Commission (EAC) certification number, certifying that the system is in compliance with the standards shall be submitted with the application for examination; and (ii) Has been tested and certified under standards separately adopted and implemented in at least two states for use in federal elections in those states.” [002-040-012 WYO. CODE R. § 4](#) (Weil 2009)

State Certification Process: The Secretary of State establishes rules for the certification of voting systems. These rules cannot prevent the county clerks from following the recommendations of vendors regarding routine maintenance and management of voting systems, as long as these recommendations do not violate the requirements of the Election Code and/or these rules. [WYO. STAT. ANN. § 22-11-103](#) (2008).

Fielded Voting Systems: *[After the EAC completes and issues the 2008 Election Administration and Voting Survey, information about fielded voting systems will be added to this document. In the meantime, readers may find information on the voting systems at the following website (if available)].*
<http://soswy.state.wy.us/Elections/VoteSystem.aspx>



Appendix I: State Statutes and Rules Last Updated 4/30/2009

ALABAMA

ALA. CODE § 17-7-23 (2008): Examination and certification of equipment.

It shall be the duty of the committee to ensure the examination and certification of electronic vote counting systems in the following manner:

- (1) By publicly examining all makes of electronic vote counting systems submitted and certifying whether such systems comply with the requirements of this section.
- (2) By inviting any vendor or company interested in selling an electronic vote counting system in Alabama to submit such equipment for examination. The vote counting system shall be certified after a satisfactory evaluation and testing has been performed to determine that the equipment meets the requirements of this article and performance and test standards for electronic voting systems issued by the Federal Election Commission. The committee may use certification of the equipment by an authorized independent testing authority, or successor entity, as evidence that the equipment meets the requirements of Section 17-7-21 and this section, where certification by the independent testing authority, or successor entity, is applicable. For the purpose of assisting in examining such system, the committee may employ not more than three individuals who are expert in one or more fields of data processing, mechanical engineering, and public administration, who may or may not be state employees and shall require from them a written report of their examination. The vendor submitting a system for certification shall pay to the State of Alabama by depositing with the State Treasury for distribution to reimburse the committee in an amount equal to the actual costs, if any, incurred in examining the system. Such reimbursement shall be made whether or not the system is certified. No member of the committee nor any examiner shall have any pecuniary interest in any voting equipment.
- (3) The committee shall approve only those electronic vote counting systems that are certified by an authorized independent testing authority, or successor entity, as meeting the performance and test standards for electronic voting systems issued by the Federal Election Commission.
- (4) After certification of any electronic vote counting system, the Secretary of State shall make and maintain a report on the system, and as soon as practicable shall send a notice of certification and, upon request, a copy of the report to all governing bodies of the counties of the state. Any electronic vote counting system that does not receive certification shall not be adopted or used at any election.
- (5) After an electronic vote counting system has been certified, any change or improvement in the system shall be certified by the committee prior to the adoption of such change or improvement by any county. The committee shall re-examine the electronic vote counting system to the extent necessary to determine that it, as changed or improved, is in compliance with the requirements of this article. If the system, as changed or improved, is not in compliance, the committee shall suspend all sales of the equipment or system in the state until such equipment or system complies with the requirements of this article.
- (6) The adoption of an electronic vote counting system in which votes are recorded on an electronic ballot as authorized in this article is hereby validated. It is the legislative intent of this subsection to declare that the use of electronic vote counting systems in which votes are recorded on an electronic ballot has, since the enactment of the Election Reform Act of 1983, been an acceptable method of electronic vote counting.

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ALASKA

ALASKA STAT. § 15.20.900 (2008): Optically scanned or electronically generated ballots.

- (a) Notwithstanding any other provisions of this title, the director may adopt regulations that provide procedures for the tabulation of electronically generated ballots or optically scanned ballots, including procedures for: (1) tests of the counting programs developed for each precinct tabulator to ensure that the system is functioning properly; (2) security for the voting and tabulation of ballots; (3) the transmission and accumulation of vote totals to assure the integrity of the vote counting process; (4) observation by the public of the counting process in the regional offices; and (5) the disposition of ballots.
- (b) The state ballot counting review board established under AS 15.10.180 shall test the counting programs for the tabulation of electronically generated ballots or optically scanned ballots and certify their accuracy in accordance with the regulations adopted under (a) of this section.

ALASKA STAT. § 15.20.910 (2008): Standards for voting machines and vote tally systems.

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

6 ALASKA ADMIN. CODE 25.045 (2009): Accu-Vote tests and security.

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

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AMERICAN SAMOA

No statutes or regulations regarding elections.

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ARIZONA

ARIZ. REV. STAT. § 16-442 (2008): Committee approval; adoption of vote tabulating equipment; experimental use; emergency

A. The secretary of state shall appoint a committee of three persons, to consist of a member of the engineering college at one of the universities, a member of the state bar of Arizona and one person familiar with voting processes in the state, no more than two of whom shall be of the same political party, who shall investigate and test the various types of vote recording or tabulating machines or devices which may be used under this article. They shall submit their recommendations to the secretary of state who shall make final adoption of the type or types, make or makes, model or models to be certified for use in this state. The committee shall serve without compensation.

B. On completion of acquisition of machines or devices that comply with the help America vote act of 2002 (P.L. 107-252), machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.

C. After consultation with the committee prescribed by subsection A, the secretary of state shall adopt standards that specify the criteria for loss of certification for equipment used at any election for federal, state or county offices and that was previously certified for use in this state. On loss of certification, machines or devices used at any election may not be used for any election for federal, state or county offices in this state unless recertified for use in this state.

D. The secretary of state may revoke the certification of any voting system or device for use in a federal, state or county election in this state or may prohibit for up to five years the purchase, lease or use of any voting system or device leased, installed or used by a person or firm in connection with a federal, state or county election in this state, or both, if either of the following occurs: 1. The person or firm installs, uses or permits the use of a voting system or device that is not certified for use or approved for experimental use in this state pursuant to this section. 2. The person or firm uses or includes hardware, firmware or software in a version that is not certified for use or approved for experimental use pursuant to this section in a certified voting system or device.

E. The governing body of a city or town or the board of directors of an agricultural improvement district may adopt for use in elections any kind of electronic voting system or vote tabulating device approved by the secretary of state, and thereupon the voting or marking device and vote tabulating equipment may be used at any or all elections for voting, recording and counting votes cast at election.

F. The secretary of state or the governing body may provide for the experimental use of a voting system or device without a final adoption thereof, and its use at the election is as valid as if the machines had been permanently adopted.

G. After consultation with the committee prescribed by subsection A, the secretary of state may approve for emergency use an upgrade or modification to a voting system or device that is certified for use in this state if the governing body establishes in an open meeting that the election cannot be conducted without the emergency certification. Any such emergency certification shall be limited to no more than six months. At the conclusion of the certification period the voting system or device shall be decertified and unavailable for future use unless certified in accordance with this section.

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ARKANSAS

ARK. CODE ANN § 7-5-606 (West 2008). Approval of equipment--Specifications

(a) The State Board of Election Commissioners may promulgate rules for the administration of this subchapter and shall approve the marking devices and electronic vote tabulating devices.

(b)(1) Any person or company wishing to exhibit marking devices and electronic vote tabulating devices may file written application with the board and request an opportunity to exhibit and demonstrate devices. (2) The board shall examine the electronic vote tabulating device and file a report in the office of the Secretary of State of its accuracy, efficiency, and capacity. (3) If the board shall reject any device, the reasons shall be stated in the report filed with the Secretary of State. (4) Any person or company aggrieved by any finding or ruling of the board may appeal to the Pulaski County Circuit Court within sixty (60) days from the date the report of the board is filed with the Secretary of State.

(c) After any device has been approved, it shall not be necessary that it be exhibited and approved again by the board unless there is a change or modification in the device that renders it incapable of marking ballots or tabulating votes in the same method of procedure approved by the board.

(d) Electronic vote tabulating devices not approved by the board may not be used in any lawful election in this state.

(e) No marking device or electronic vote tabulating device shall be approved unless it fulfills the requirements of this section and the federal Help America Vote Act of 2002.

[\(back to Arkansas summary\)](#)

CALIFORNIA

CA ELEC CODE § 19202 (West 2009): Examination; application; completion

Any person or corporation owning or being interested in any voting system or part of a voting system may apply to the Secretary of State to examine it and report on its accuracy and efficiency to fulfill its purpose. The Secretary of State shall complete his or her examination without undue delay.

CA ELEC CODE § 19203 (West 2009): Examination of proposed voting equipment; report

The Secretary of State may make all arrangements for the time and place to examine voting equipment proposed to be sold in this state. He or she shall furnish a complete report of the findings of the examining engineers to the Governor and the Attorney General.

CA ELEC CODE § 19204 (West 2009): Hearings; notice; decisions

Prior to giving its decision approving or withholding approval of any voting machine, voting device, or vote tabulating device, the Secretary of State shall hold a public hearing to give persons interested an opportunity to express their views for or against the machine or device.

The Secretary of State shall give notice of the hearing in the manner prescribed in Section 6064 of the Government Code in a newspaper of general circulation published in Sacramento County. The Secretary of State shall also transmit written notice of the hearing, at least 30 days prior to the hearing, to each county elections official, to any person that the Secretary of State believes will be interested in the hearing, and to any person who requests, in writing, notice of the hearing.

The decision of the Secretary of State, either approving or withholding approval of a voting machine, voting device, or vote tabulating device, shall be in writing and shall state the findings of the secretary. The decision shall be open to public inspection.

CA ELEC CODE § 19205 (West 2009): Specifications; regulations

The Secretary of State shall establish the specifications for and the regulations governing voting machines, voting devices, vote

tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. The criteria for establishing the specifications and regulations shall include, but not be limited to, the following: (a) The machine or device and its software shall be suitable for the purpose for which it is intended. (b) The system shall preserve the secrecy of the ballot. (c) The system shall be safe from fraud or manipulation.

CA ELEC CODE § 19206 (West 2009): Employment of technicians assisting in examination; authorization; payment of costs

For the purpose of assistance in examining a voting system the Secretary of State may employ not more than three expert electronic technicians at a cost to be set by the Secretary of State. The compensation of the electronic technicians shall be paid by the person or corporation submitting the machine or device.

The Secretary of State may require the person or corporation submitting the machine or device to deposit sufficient funds to guarantee the payment of the examination charges. The Secretary of State may deposit the funds in an appropriate treasury trust account and, within 30 days after his or her report of examination, draw a refund check to the credit of the person or corporation for any amount in excess of costs.

CA ELEC CODE § 19207 (West 2009): Examination report

Within 30 days after completing the examination of any voting system, the Secretary of State shall place on file a report stating whether in his or her opinion the kind of voting system examined can safely be used. The report shall also contain a written or printed description and drawings and photographs clearly identifying the machine or device and its mechanical operation.

CA ELEC CODE § 19208 (West 2009): Approval of voting system; use of machines or devices at elections

If the report states that the voting system can be used, it shall be deemed approved by the Secretary of State and machines or devices of its kind may be adopted for use at elections.

CA ELEC CODE § 19250 (West 2009): Necessity of federal qualification and paper audit trail for approval and purchase of electronic voting systems

(a) On and after January 1, 2005, the Secretary of State shall not approve a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(b) On and after January 1, 2006, a city or county shall not contract for or purchase a direct recording electronic voting system unless the system has received federal qualification and includes an accessible voter verified paper audit trail.

(c) As of January 1, 2006, all direct recording electronic voting systems in use on that date, regardless of when contracted for or purchased, shall have received federal qualification and include an accessible voter verified paper audit trail. If the direct recording electronic voting system does not already include an accessible voter verified paper audit trail, the system shall be replaced or modified to include an accessible voter verified paper audit trail.

(d) All direct recording electronic voting systems shall include a method by which a voter may electronically verify, through a nonvisual method, the information that is contained on the paper record copy of that voter's ballot.

(e) A paper record copy that is printed by a voter verified paper audit trail component shall be printed in the same language that the voter used when casting his or her ballot on the direct recording electronic voting system. For languages that lack a written form, the paper record copy shall be printed in English.

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COLORADO

COLO. REV. STAT. § 1-5-601.5 (2009): Compliance with federal requirements

All voting systems and voting equipment offered for sale on or after May 28, 2004, shall meet the voting systems standards that were promulgated in 2002 by the federal election commission and that may thereafter be promulgated by the federal election assistance commission. Subject to section 1-5-608.2, nothing in this section shall be construed to require any political subdivision to replace a voting system that is in use prior to May 28, 2004.

COLO. REV. STAT. § 1-5-608.5 (2009): Electronic and electromechanical voting systems--independent testing

(1) A recognized independent testing authority may test, approve, and qualify electronic and electromechanical voting systems for sale and use in the state of Colorado, if: (a) The independent testing authority has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the federal election assistance commission.

(b) The independent testing authority conducts any and all tests required by the federal election assistance commission for granting certification to independent testing authorities to verify the integrity of the electronic and electromechanical voting systems to be used in Colorado.

(2) No electronic or electromechanical voting system shall be used in any public election in this state unless it has been certified by the secretary of state following successful qualification testing conducted by a recognized independent testing authority pursuant to this section.

COLO. REV. STAT. § 1-5-617 (2009): Examination--testing--certification

(1)(a) After an electronic or electromechanical voting system is tested in accordance with section 1-5-608.5, the voting system provider may submit the system to the secretary of state for certification. (b) The secretary of state shall examine each electronic or electromechanical voting system submitted for certification and determine whether the system complies with the requirements of section 1-5-615 and the standards established under section 1-5-616. (c) The secretary of state shall decide whether to certify an electronic or electromechanical voting system within ninety days after the system is submitted for certification.

(2) The secretary of state shall appoint one or more experts in the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of electronic or electromechanical voting systems submitted for certification and to produce a written report on each system.

(3) Neither the secretary of state nor any examiner shall have any pecuniary interest in any voting equipment.

(4) Within thirty days after deciding to certify an electronic or electromechanical voting system, the secretary of state shall make a report on the system containing a description of the system and its operation, with drawings or photographs showing the system. The secretary of state shall send a notice of certification and a copy of the report to the voting system provider that submitted the system for certification. The secretary of state shall notify the governing bodies of the political subdivisions of the state of the certification and make the notice of certification and report available to them upon request.

(5) The designated election official of a political subdivision that plans to use an electronic or electromechanical voting system that has been certified in accordance with this section shall apply to the secretary of state for approval of the purchase, installation, and use of the system. The secretary of state shall prescribe the form and procedure of the application by rule adopted in accordance with article 4 of title 24, C.R.S.

(6) The secretary of state may provide technical assistance to designated election officials on issues related to the certification of the purchase, installation, and use of electronic and electromechanical voting systems by a political subdivision.

8 COLO. CODE REGS. § 1505.1 (2009)

Rule 37: The Acquisition, Purchase or Lease of Voting Systems.

37.1 Declaration of Intent.

37.1.1 The federal Help America Vote Act of 2002 ("HAVA") established uniform voting systems standards used in elections. The following rules seek to conform Colorado requirements to federal HAVA requirements pertaining to voting systems.

37.1.2 Voting systems (including optical scanning voting systems or direct recording electronic systems) certified by the secretary of state and acquired, purchased or leased by counties pursuant to state law shall: (a) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted; (b) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and (c) if the voter selects votes for more than one candidate for a single office: (i) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot; (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted. (d) Ensure that any notification required under this paragraph preserves the privacy of the vote and the confidentiality of the ballot.

37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count voting system (including mail-in ballots and mail ballots), may meet the requirements of this rule by: (a) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and (b) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any errors).

37.1.4 The voting systems described in the foregoing paragraphs shall produce a record with an audit capacity for such system. (a) The voting system shall produce a permanent paper record with a manual audit capacity for such system. (b) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is

produced. (c) The paper record produced under subparagraph (a) shall be available as an official record for any recount conducted with respect to any election in which the system is used. (d) The paper record shall be accessible for individuals with disabilities including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

37.1.5 The voting system shall: (a) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; (b) satisfy the requirements of paragraph 37.1.5(a) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and (c) be installed in each polling place in the state by the first federal election held after January 1, 2006.

37.1.6 The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965.

37.2 Prohibition of lease, purchase, or acquisition of voting systems pending action by the Election Assistance Commission (EAC) and certification through the Secretary of State.

37.2.1 No voting system may be leased, purchased, or acquired by any county or political subdivision of this state until the EAC and the Secretary of State have promulgated voting systems standards that address these concerns. This rule shall not apply to voting systems that have been certified by the Secretary of State and purchased by the political subdivisions pursuant to state law prior to the effective date of this rule.

37.3 Adoption of April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems.

37.3.1 The Secretary of State hereby adopts the April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for voting systems. Therefore, all voting systems, including, but not limited to, optical scan voting systems, direct record electronic voting systems, and touch screens, purchased by the political subdivisions of the State of Colorado are required to meet the qualifications of the Voting Systems Standards promulgated by the Federal Election Commission on April 30, 2002 and be certified by an independent testing authority certified by the National Association of Election Directors until such time, and subsequently thereto, at each time, as the Election Assistance Commission promulgates new Voting Systems Standards.

37.3.2 Upon any revision or new release of Voting Systems Standards by the Election Assistance Commission, the Secretary of State hereby automatically adopts such standards as may be promulgated, and any vendor seeking state certification shall follow such adopted voting systems standards and the processes mandated by state law in order to be certified by the Secretary of State.

37.3.3 Any voting system or equipment submitted to the Secretary of State for certification shall meet the federal voting system standards in effect at the time the voting system or equipment is submitted to the Secretary of State. The adoption of any new or amended voting system standards by the Election Assistance Commission after a voting system or equipment is submitted to the Secretary of State for certification shall not preclude certification or sale of the voting system or equipment under the standards in effect at the time the system or equipment was submitted for certification.

37.3.4 On and after December 13, 2007 (the effective date of the 2005 Voluntary Voting System Guidelines of the Election Assistance Commission), the governing body or designated election official of a political subdivision may purchase any voting system that was previously certified under the 2002 Voting Systems Guidelines.

37.4 The Secretary of State requires all voting systems and all individual parts of voting systems to pass certification criteria as outlined in the State of Colorado Voting Systems Certification Program. The designated election official shall retain records of all certification procedures pertaining to voting systems and parts of voting systems.

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CONNECTICUT

CONN. GEN. STAT. ANN. § 9-241 (West 2008). Examination and approval of machines by secretary. Subsequent alteration made by voting machine companies. Use of hole-punch voting machines prohibited. Agreement with The University of Connecticut or Connecticut State University system.

(a) Any person owning or holding an interest in any voting machine, as defined in subsection (w) of section 9-1, may apply to the Secretary of the State to examine such machine and report on its accuracy and efficiency. The Secretary of the State shall examine the machine and determine whether, in the Secretary's opinion, the kind of machine so examined (1) meets the requirements of section 9-242, (2) can be used at elections, primaries and referenda held pursuant to this title, and (3) in the case of an electronic voting machine examined by the Secretary after the Voting Technology Standards Board submits the report required under section 9-242c, complies with the standards adopted by said board under section 9-242c. If the Secretary of the State determines that the machine can be so used, such machine may be adopted for such use. No machine not so approved shall be so used. Each application shall be accompanied by a fee of one hundred dollars and the Secretary of the State shall not

approve any machine until such fee and the expenses incurred by the Secretary in making the examination have been paid by the person making such application. Any voting machine company that has had its voting machine approved and that subsequently alters such machine in any way shall provide the Secretary of the State with notice of such alterations, including a description thereof and a statement of the purpose of such alterations. If any such alterations appear to materially affect the accuracy, appearance or efficiency of the machine, or modify the machine so that it can no longer be used at elections, primaries or referenda held pursuant to this title, at the discretion of the Secretary of the State, the company shall submit such alterations for inspection and approval, at its own expense, before such altered machines may be used. The Secretary of the State may adopt regulations, in accordance with the provisions of chapter 54, concerning examination and approval of voting machines under this section. No voting machine that records votes by means of holes punched in designated voting response locations may be approved or used at any election, primary or referendum held pursuant to this title.

(b) The Secretary of the State may enter into an agreement with The University of Connecticut or a member of the Connecticut State University system to perform or assist in performing the following functions: (1) Any technical review, testing or research associated with the certification of voting equipment, (2) any technical review, testing or research associated with the decertification of voting equipment, (3) the development of standards for the use of voting equipment during any election, primary or referenda, (4) the development of standards to ensure the accuracy of voting equipment, (5) the development of standards and procedures for the security, set-up and storage of voting equipment, (6) the development of standards, procedures and oversight of post-election audits, (7) the development of standards for recanvass procedures to ensure the accuracy and reliability of any such recanvass, (8) the development of standards and procedures for the testing, security and use of an election management system, (9) the development of standards and procedures for the programming of ballots and voting equipment, (10) research and analysis of data formats for ballot programming and election-related electronic data, and (11) the development of any other standards necessary to protect the integrity of voting equipment.

CONN. GEN. STAT. ANN. § 9-242 (West 2008): Voting machine and direct recording electronic voting machine construction requirements

(a) A voting machine approved by the Secretary of the State shall be so constructed as to provide facilities for voting for the candidates of at least nine different parties or organizations. It shall permit voting in absolute secrecy. It shall be provided with a lock by means of which any illegal movement of the voting or registering mechanism is absolutely prevented. Such machine shall be so constructed that an elector cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote.

(b) It shall be so constructed as to prevent an elector from voting for more than one person for the same office, except when he is lawfully entitled to vote for more than one person for that office, and it shall afford him an opportunity to vote for only as many persons for that office as he is by law entitled to vote for, at the same time preventing his voting for the same person twice. It shall be so constructed that all votes cast will be registered or recorded by the machine.

(c) Notwithstanding the provisions of subsection (b) of this section, the Secretary of the State may approve a voting machine which requires the elector in the polls to place his ballot into the recording device and which meets the voluntary performance and test standards for voting systems adopted by (1) the Federal Election Commission on January 25, 1990, as amended from time to time, or (2) the Election Assistance Commission pursuant to the Help America Vote Act of 2002, P.L. 107-252, 42 USC 15481-85, as amended from time to time, whichever standards are most current at the time of the Secretary of the State's approval, and regulations which the Secretary of the State may adopt in accordance with the provisions of chapter 54, provided the voting machine shall (A) warn the elector of overvotes, (B) not record overvotes, and (C) not record more than one vote of an elector for the same person for an office.

(d) Any direct recording electronic voting machine approved by the Secretary of the State for an election or primary held on or after July 1, 2005, shall be so constructed as to:

(1) (A) Contemporaneously produce an individual, permanent, paper record containing all of the elector's selections of ballot preferences for candidates and questions or proposals, if any, prior to the elector's casting a ballot, as set forth in this subsection, and (B) produce at any time after the close of the polls a voting machine generated, individual, permanent, paper record of each such elector's selections of ballot preferences for candidates and questions or proposals, if any. Both the contemporaneously produced paper record and the voting machine generated paper record of each elector's selections of ballot preferences shall include a voting machine generated unique identifier that can be matched against each other and which preserves the secrecy of the elector's ballot as set forth in subdivision (4) of this subsection;

(2) Provide each elector with an opportunity to verify that the contemporaneously produced, individual, permanent, paper record accurately conforms to such elector's selection of ballot preferences, as reflected on the electronic summary screen, and to hear, if desired, an audio description of such electronic summary screen, for the purpose of having an opportunity to make any corrections or changes prior to casting the ballot. If an elector makes corrections or changes prior to casting the ballot, the voting machine shall void such contemporaneously produced paper record, contemporaneously produce another paper record containing such corrections or changes and provide the elector with another opportunity to verify ballot preferences in accordance with the provisions of this subdivision. As used in this section, "electronic summary screen" means a screen generated by a direct

recording electronic voting machine that displays a summary of an elector's selections of ballot preferences for candidates and questions or proposals, if any, at an election or primary;

(3) Provide that a ballot shall be deemed cast on the voting machine at the time that an elector's contemporaneously produced, individual, permanent, voter-verified paper record, containing all of the elector's final selections of ballot preferences, is (A) deposited inside a receptacle designed to store all such paper records produced by such voting machine on the day of the election or primary, and (B) the elector's selection of ballot preferences is simultaneously electronically recorded inside the voting machine for the purpose of (i) being electronically tabulated immediately after the polls are closed on the day of the election or primary, and (ii) producing, on such other day as required under section 9-242b, a voting machine generated, individual, permanent, paper record of each such elector's selections of ballot preferences for candidates and questions or proposals, if any;

(4) Except as otherwise provided in subdivision (1) of section 9-242b, secure the secrecy of each such elector's ballot by making it impossible for any other individual to identify the elector in relationship to such elector's selection of ballot preferences at the time that the elector (A) selects ballot preferences; (B) verifies the accuracy of the electronic summary screen by comparing it to the contemporaneously produced, individual, permanent, paper record or the audio description of such electronic summary screen, prior to casting a ballot; (C) makes corrections or changes by reselecting ballot preferences and verifies the accuracy of such preferences in accordance with the provisions of subdivision (2) of this subsection prior to casting a ballot; and (D) casts the ballot; and at the time that all electors' ballots are canvassed, recanvassed or otherwise tallied to produce a final count of the vote for candidates and questions or proposals, if any, whether through the electronic vote tabulation process or through the manual count process of each elector's contemporaneously produced, individual, permanent, voter-verified paper record, as set forth in section 9-242b; and

(5) (A) Be accessible to blind or visually impaired persons by providing each elector, if desired by the elector, an audio description of the contemporaneously produced individual, permanent, paper record containing all of the elector's selections of ballot preferences, in addition to an audio description of the electronic summary screen and comply with such additional standards of accessibility included in regulations that the Secretary of the State may adopt in accordance with the provisions of chapter 54.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, on or before June 30, 2007, the Secretary of the State may approve an electronic voting machine that does not comply with the provisions of said subparagraph if (i) the Secretary determines that there are no electronic voting machines available for purchase or lease at the time of such approval that are capable of complying with said subparagraph (A), (ii) the electronic voting machine complies with the provisions of subdivisions (1) to (4), inclusive, of this subsection, and (iii) the person applying to the Secretary for approval of the electronic voting machine agrees to include a provision in any contract for the sale or lease of such voting machines that requires such person, upon notification by the Secretary that modifications to such machines that would bring the machines into compliance said subparagraph (A) are available, to (I) so modify any electronic voting machines previously sold or leased under such contract in order to comply with said subparagraph (A), and (II) provide that any electronic voting machines sold or leased after receipt of such notice comply with said subparagraph (A). No voting machine approved under this subparagraph shall be used on or after July 1, 2007, unless it has been modified to comply with the provisions of subparagraph (A) of this subdivision.

CONN. AGENCIES REGS. § 9-241-1 (2008): General standards

The secretary of the state may approve only those direct recording electronic voting machines which have been certified by an independent test authority, accredited by the National Association of State Election Directors, as meeting the voluntary performance and test standards for voting systems adopted by the Federal Election Commission on January 25, 1990, as amended from time to time, and which meet the standards specified in Sections 9-241-1 to 9-241-36, inclusive, of these regulations and the requirements of the Connecticut constitution and the general statutes.

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DELAWARE

DEL.CODE ANN tit. 15 § 5001 (2009): Requirements

(a) Any voting machine may be adopted, purchased or used which shall be so constructed as to fulfill the following requirements: (1) Each voting machine shall have a serial number permanently attached to or stamped on the machine; (2) It shall secure to the voter secrecy in the act of voting for or against as many questions as may be submitted; (3) It shall permit the voter to vote for the candidates of 1 or more parties, or to write in the name of any candidate of that voter's choice for any office; (4) It shall permit the voter to vote for as many persons for an office as the voter is lawfully entitled to vote for, but no more; (5) It shall prevent the voter from voting for the same person more than once for the same office; (6) It shall permit the voter to vote for or against any question the voter may have the right to vote upon, but no other; (7) If used in primary elections, it shall be so equipped that the election officials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine; (8) It shall correctly register or record and accurately count all votes cast for any and all candidates of a political party, and for or against any and all questions, and correctly register or record the names of all candidates written in by voters; (9) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be

detected; (10) It shall be provided with a counter which will show at all times during any election the total number of persons who have voted; (11) It shall be so equipped that it shall prevent the voter from voting for all the candidates of 1 party by the use of a single lever; however, it shall be provided with 1 device for each party, for voting for all presidential electors of that party by 1 operation. (12) It shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted. (13) It shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast a ballot if the voter was otherwise unable to change the ballot or correct any error).

(b) Every voting machine shall be furnished with a means of providing sufficient light to enable voters while in the voting booth to read the ballots and suitable for use by the election officers in examining the counters. All voting devices used in any election shall provide the voter the opportunity to make selections and cast a ballot in secrecy through placement of the devices in the polling place or through the use of curtains or other devices.

(c) Voting machines of different kinds may be adopted for use in different districts of the same county.

(d) Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the voluntary voting systems standards or guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State.

DEL.CODE ANN tit. 15 § 5002 (2009): Compliance guarantee

Before any voting machine is purchased, rented or otherwise acquired, or used, the person owning or manufacturing such machine must give an adequate guarantee in writing and post a bond accompanied by satisfactory surety with the department of elections guaranteeing and securing that such machines comply fully with the requirements contained in § 5001 of this title and will correctly, accurately and continuously register and record every vote cast and further guaranteeing such machine against defects in labor and materials for a period of 5 years from the date of acquisition thereof, or, in the case of rented machines, for the period of rental.

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DISTRICT OF COLUMBIA

D.C. CODE § 1-1001.09 (2009). Secrecy required; place of voting; watchers; challenged ballots; assistance in marking ballot or operating voting machine; more than 1 vote prohibited; unopposed candidates; availability of regulations at polling place; deposit, inspection, and destruction of ballots.

(a) Voting in all elections shall be secret.

(b)(1) Except as provided in paragraph (2) of this subsection, the vote of a person who is a registered qualified elector of the District shall be valid only if the vote is cast in the voting precinct that serves his or her current residence address. (2) The Board shall permit any duly registered voter to vote by absentee ballot who may be absent from the District on election day, or, who, as a condition of his or her employment with the Board on any election day, is required to be absent from the voting precinct in which he or she is registered to vote, or who because of his or her physical condition, is unable to vote in person at the polling place in his or her voting precinct on election day, or any other reason the Board, by regulation, may authorize.

(c) Any candidate or group of candidates may, not less than 2 weeks prior to such election, petition the Board for credentials authorizing watchers at 1 or more polling places and at the place or places where the vote is to be counted for the next election during voting hours and until the count has been completed. The Board shall formulate rules and regulations not inconsistent with this chapter to prescribe the form of watchers' credentials, to govern the conduct of such watchers, and to limit the number of watchers so that the conduct of the election will not be unreasonably obstructed. Such rules and regulations should provide fair opportunity for watchers for all candidates or groups of candidates to challenge prospective voters whom the watchers believe to be unqualified to vote, to question the accuracy in the vote count, and otherwise to observe the conduct of the election at the polling place and the counting of votes.

(d)(1) A registered voter may challenge another voter's status as a qualified elector of the District of Columbia by stating in writing the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge. The challenger shall sign an affidavit, declaring under penalty of perjury, that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District. After receiving a challenge or making a challenge on his or her own initiative, the precinct captain or other official in charge of the polling place shall give the challenged voter an opportunity to respond. (2) Notwithstanding paragraph (1) of this subsection, a voter shall not be challenged solely on the basis of characteristics or perceived characteristics not directly related to the challenged voter's status as a registered qualified elector, including race, color, religion, sex, personal appearance, sexual orientation, gender identity or

expression, matriculation status, political affiliation, or physical disability. The Board may remove a precinct captain or void the credentials of an authorized watcher, or refer the matter for prosecution as a violation of § 1-1001.12, if the Board determines that the precinct captain or the watcher has violated the provisions of this paragraph. (3) The precinct captain shall review the evidence presented and shall affirm the challenge if he or she finds that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The precinct captain shall deny the challenge if he or she finds that the challenge is not based on substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The precinct captain shall record the decision and the rationale for the decision on a form provided by the Board. (4) If the precinct captain denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the rules regarding challenges and appeals to the Board. Any appeal of the precinct captain's decision to deny the challenge shall be made either before the challenged voter casts a regular ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier. If the challenger does not appeal the precinct captain's decision to deny the challenge, the challenged voter shall cast a regular ballot. (5) If the challenger appeals the precinct captain's decision to deny the challenge, the precinct captain shall state the facts of the case to the Board's hearing officer, who is authorized to rule on the appeal for the Board. A Board member, the Board's Executive Director, or the Board's chief voter registration official may serve as the Board's hearing officer for the appeal. The precinct captain shall contact the hearing officer by telephone. The hearing officer shall ensure that the hearing is recorded, and shall take testimony under oath from the challenger, the person challenged, the precinct captain, and any witnesses to the challenge who wish to testify. Each person who testifies before the hearing officer shall state for the record their: (A) Name as recorded on the Board's voter registration list; (B) Residence address, mailing address, and telephone number; and (C) Role in the challenge. (6) The hearing officer shall receive evidence and testimony pursuant to paragraph (5) of this subsection and then shall close the hearing. The hearing officer shall review all of the evidence presented pertaining to the challenge and make a decision regarding the appeal, based on his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The recording of the hearing shall be transcribed and shall serve as the official case record along with the written documentation of the precinct captain's initial decision to deny the challenge. (7) The hearing officer shall notify the precinct captain of his or her decision on the appeal of the unsuccessful challenge, and the precinct captain shall notify each party of the hearing officer's decision. If the hearing officer affirms the precinct captain's decision to deny the challenge, the challenged voter shall cast a regular ballot. The precinct captain shall inform the challenger of his or her right to appeal the decision of the Board hearing officer to the Superior Court of the District of Columbia. If the hearing officer overturns the precinct captain's decision to deny the challenge, the challenged voter shall be allowed to vote only by casting a paper ballot marked "challenged" in accordance with the procedures set forth in paragraph (8) of this subsection. (8) If the precinct captain affirms the challenge made at the polling place, or if the Board's hearing officer overturns the decision of the precinct captain to deny a challenge, the precinct captain shall allow the person to vote only by casting a paper ballot marked "challenged" and shall provide the voter with written notification of his or her right of appeal pursuant to subsection (e) of this section. Challenged ballots shall be segregated, and no challenged ballot shall be counted until the challenge has been removed pursuant to subsection (e) of this section. The precinct captain shall not allow the challenged voter to cast a "challenged" ballot unless the voter signs an affidavit swearing or affirming, under penalty of perjury, that he or she is a registered qualified elector in the District of Columbia who resides in the precinct in which the ballot is to be cast, and if applicable, the Advisory Neighborhood Commission single-member district in which the ballot is to be cast.

(d-1) Any individual who alleges that their name has been erroneously omitted from the list of registered voters, or alleges that their name, address or party affiliation is erroneously printed on the list of registered voters, shall be permitted to cast a ballot. Ballots so cast shall be placed in a sealed envelope. The outside of the envelope shall contain the signature of the voter and such information as the Board deems necessary to determine that the individual is qualified to have the vote counted. The official in charge of the polling place shall provide the voter with written notification of appeal rights as provided in subsection (e) of this section, should the Board determine that the voter is not qualified to vote in the election.

(d-2) Any individual who votes in a federal election as a result of a court order or other order that extends the time established for closing the polls by a District law in effect 10 days before the date of that election shall vote in that election by casting a special ballot. Any ballot cast under this subsection shall be separated and held apart from other special ballots not affected by the order.

(e)(1) A voter's signing of a challenged or special ballot envelope shall be deemed as the filing of an appeal by the voter of the refusal by the Board's chief voter registration official to permit the voter to vote on election day by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or special ballot. The Board shall review all available evidence pertaining to the eligibility of each voter casting a challenged or special ballot, and shall make a preliminary decision about whether to count or to reject each challenged or special ballot based on its review of the available evidence. (2) Not later than the Tuesday following the election, the Board shall maintain a toll-free telephone service during regular business hours for any person who has voted by a challenged or special ballot to learn the Board's preliminary decision whether to count or reject his or her ballot and the reason for each decision. (3) If the Board has made a preliminary determination that a challenged ballot shall not be counted, it shall afford the challenged voter an opportunity to contest that determination in a hearing before the Board. The hearings authorized pursuant to this paragraph shall take place not earlier than 8 days and not later than 10 days after that election. The Board shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn the Board's final decision to count or reject the voter's challenged ballot. The notice shall be in writing and shall be provided to the voter at the time of voting. At the hearing, the voter may appear and testify. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the

Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable. (4) If the Board has determined that a special ballot shall be not be counted, it shall afford the voter an opportunity to contest that determination in a hearing before the Board no earlier than 8 days and not later than 10 days after any election held pursuant to this subchapter. The Board shall inform the voter in writing, at the time of voting, of the date scheduled for the hearing and the manner by which the voter may learn whether the Board has decided to count or reject his or her special ballot. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable.

(f) If a qualified elector is unable to record his or her vote by marking the ballot or operating the voting machine an official of the polling place shall, on the request of the voter, enter the voting booth and comply with the voter's directions with respect to recording his or her vote. Upon the request of any such voter, a second official of the polling place shall also enter the voting booth and witness the recodation of the voter's directions. The official or officials shall in no way influence or attempt to influence the voter's decisions, and shall tell no one how the voter voted. The official in charge of the voting place shall make a return of all such voters, giving their names and disabilities.

(g)(1) No person shall vote more than once in any election nor shall any person vote in a primary or party election held by a political party other than that to which he or she has declared himself or herself to be a member. (2) A name written on a ballot in any election shall not be counted as valid unless the individual whose name is written on the ballot has complied with the requirements of § 1-1001.08(r).

(h) In the event that the total number of candidates of one party nominated to an office or group of offices of that party pursuant to § 1-1001.08(a) or § 1-1001.17(i) does not exceed the number of such offices to be filled, the Board may, prior to election day and, notwithstanding the provisions of § 1-1001.08(c) or § 1-1001.17(i), declare the candidates so nominated to be elected without opposition, in which case the fact of their election pursuant to this subsection shall appear for the information of the voters on any ballot prepared by the Board for their party for the election of other candidates in the same election.

(i) Copies of the regulations of the Board with respect to voting shall be made available to prospective voters at each polling place.

(j) The Board shall receive the ballots cast and deposit them in a secure place where they shall be safely kept for 12 months. Inspection of such ballots shall be made in accordance with regulations of the Board. Whenever the ballots shall have remained in the custody of the Board for 12 months, and no election contest or other proceeding is pending in which the ballots may be needed as evidence, the Board may destroy such ballots.

(k) Each voting system used in an election in the District shall meet or exceed the voting system standards set forth in the Help America Vote Act of 2002. The Board may implement additional standards provided they do not conflict with those set forth in the Help America Vote Act of 2002.

D.C. MUN. REGS. tit. 3, § 817 (2009). Voting System Standards

817.1 All voting systems offered to the Board and used in the District of Columbia by the Board shall meet or exceed the minimum requirements of the Federal Election Commission Voting System Standards. Where there is a conflict between those standards and these regulations, such voting systems must test to the higher standard.

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FLORIDA

FLA. STAT. § 101.015 (2009): Standards for voting systems

(1) The Department of State shall adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems. Such rules shall contain standards for: (a) Functional requirements; (b) Performance levels; (c) Physical and design characteristics; (d) Documentation requirements; and (e) Evaluation criteria.

(2) Each odd-numbered year the Department of State shall review the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial.

(3) The Department of State shall adopt rules to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting, including write-in voting, and of counting, tabulating, and recording votes by voting systems used in this state.

(4)(a) The Department of State shall adopt rules establishing minimum security standards for voting systems. (b) Each supervisor of elections shall establish written procedures to assure accuracy and security in his or her county, including

procedures related to early voting pursuant to s. 101.657. Such procedures shall be reviewed in each odd-numbered year by the Department of State. (c) Each supervisor of elections shall submit any revisions to the security procedures to the Department of State at least 45 days before early voting commences pursuant to s. 101.657 in an election in which they are to take effect.

(5)(a) The Department of State shall adopt rules which establish standards for provisional approval of hardware and software for innovative use of electronic and electromechanical voting systems. Such rules shall contain standards for: 1. Functional requirements; 2. Performance levels; 3. Physical and design characteristics; 4. Documentation requirements; 5. Evaluation criteria; 6. Audit capabilities; and 7. Consideration of prior use of a system. (b) A voting system shall be provisionally approved for a total of no more than 2 years, and the Department of State has the authority to revoke such approval. Provisional approval of a system shall not be granted by the Department of State to supersede certification requirements of this section. (c) 1. No provisionally approved system may be used in any election, including any municipal election, without the authorization of the Department of State. 2. An application for use of a provisionally approved system shall be submitted at least 120 days prior to the intended use by the supervisor of elections or municipal elections official. Such application shall request authorization for use of the system in a specific election. Each application shall state the election, the number of precincts, and the number of anticipated voters for which the system is requested for use. 3. The Department of State shall authorize or deny authorization of the use of the provisionally approved system for the specific election and shall notify the supervisor of elections or municipal elections official in writing of the authorization or denial of authorization, along with the reasons therefor, within 45 days after receipt of the application. (d) A contract for the use of a provisionally approved system for a specific election may be entered into with the approval of the Department of State. No contract for title to a provisionally approved system may be entered into. (e) The use of any provisionally approved system shall be valid for all purposes.

(6) All electronic and electromechanical voting systems purchased on or after January 1, 1990, must meet the minimum standards established under subsection (1). All electronic and electromechanical voting systems in use on or after July 1, 1993, must meet the minimum standards established under subsection (1) or subsection (5).

(7) The Division of Elections shall review the voting systems certification standards and ensure that new technologies are available for selection by boards of county commissioners which meet the requirements for voting systems and meet user standards. The Division of Elections shall continuously review the voting systems certification standards to ensure that new technologies are appropriately certified for all elections in a timely manner. The division shall also develop methods to determine the will of the public with respect to voting systems.

FLA. ADMIN. CODE ANN. r. 1S-5.001 (2009): Voting System Equipment Regulations.

The Department of State, Division of Elections, is required to establish minimum standards for certification and provisional approval of hardware and software for electronic and electromechanical voting systems. The Division shall establish minimum levels of voting systems capability and certify voting system equipment in accordance with the requirements contained in Florida Voting Systems Standards, Form DS-DE-101, eff. 1-12-05, which is hereby incorporated by reference and available from the Division upon request. The publication contains the minimum standards, procedures for testing to determine if those standards have been met, and procedures for certifying and provisionally certifying compliance with the minimum standards. Where initiated by a county Supervisor of Elections or the Department of State, modifications to previously certified systems which are designed to remedy system anomalies, which do not introduce new functions and do not introduce additional hardware components into the system configuration, may be certified under the Florida Voting Systems Standards, Form DS-DE-101, eff. 1-12-05.

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GEORGIA

GA CODE ANN. § 21-2-324 (2008): Examination and approval of voting machines by Secretary of State

(a) Any person or organization owning, manufacturing, or selling, or being interested in the manufacture or sale of, any voting machine may request the Secretary of State to examine the machine. Any ten or more electors of this state may, at any time, request the Secretary of State to reexamine any voting machine previously examined and approved by him or her. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall pay to the Secretary of State the reasonable expenses of such examination; provided, however, that in the case of a request by ten or more electors the examination fee shall be \$ 250.00. The Secretary of State may, at any time, in his or her discretion, reexamine any voting machine.

(b) The Secretary of State shall thereupon require such machine to be examined or reexamined by three examiners whom he or she shall appoint for the purpose, of whom one shall be an expert in patent law and the other two shall be experts in mechanics, and shall require of them a written report on such machine, attested by their signatures; and the Secretary of State shall examine the machine and shall make and file, together with the reports of the appointed examiners, his or her own report, attested by his or her signature and the seal of his or her office, stating whether, in his or her opinion and in consideration of the reports of the examiners aforesaid, the kind of machine so examined can be safely and accurately used by electors at primaries and elections as provided in this chapter. If his or her report states that the machine can be so used, the machine shall be deemed approved; and

machines of its kind may be adopted for use at primaries and elections as provided in this chapter.

(c) No kind of voting machine not so approved shall be used at any primary or election and if, upon the reexamination of any voting machine previously approved, it shall appear that the machine so reexamined can no longer be safely or accurately used by electors at primaries or elections as provided in this chapter because of any problem concerning its ability to accurately record or tabulate votes, the approval of the same shall immediately be revoked by the Secretary of State; and no such voting machine shall thereafter be purchased for use or be used in this state.

(d) At least ten days prior to any primary or election, including special primaries, special elections, and referendum elections, the election superintendent shall verify and certify in writing to the Secretary of State that all voting will occur on equipment certified by the Secretary of State.

(e) Any vendor who completes a sale of voting machines that have not been certified by the Secretary of State to a governmental body in this state shall be subject to a penalty of \$ 100,000.00, payable to the State of Georgia, plus reimbursement of all costs and expenses incurred by the governmental body in connection with the sale. The State Election Board shall have authority to impose such penalty upon a finding that such a sale has occurred.

(f) When a machine has been so approved, no improvement or change that does not impair its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval of the machine or of its kind.

(g) Neither the Secretary of State, nor any examiner appointed by him or her for the purpose prescribed by this Code section, nor any superintendent, nor the governing authority of any municipality or a member of such authority, nor any other person involved in the examination process shall have any pecuniary interest in any voting machine or in the manufacture or sale thereof.

(h) The compensation of each examiner appointed under this Code section shall be fixed and paid by the Secretary of State.

GA. COMP. R. & RES. 590-8-1-.01 (2009): Certification of Voting Systems.

(a) Purpose. 1. These Rules establish performance requirements and characteristics for voting systems and their components used in the State of Georgia and identify performance characteristics of these systems and components. 2. Compliance with the requirements of these Rules shall be assessed by means of code analysis, formal tests, and documentation review. 3. The intent of these Rules is to assure that hardware, firmware, and software have been shown to be reliable, accurate, and capable of secure operation before they are used in elections in the State. Hardware, firmware, and software products with performance proven in commercial applications are deemed inherently acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Products not in wide commercial use, regardless of their performance histories, shall require Qualification, Certification, and Acceptance tests before they can be used. 4. These rules are intended to assist local jurisdictions in identifying products and provide a standardized terminology which shall facilitate the specification and demonstration of system requirements.

(b) Applicability. 1. These Rules are applicable to voting systems first used in the State of Georgia on or after the effective date of these Rules. These Rules are waived for all voting systems in use in the State of Georgia as of the effective date of these Rules. Successful performance during past elections are deemed sufficient evidence of adequate design. These Rules shall apply to systems developed by non-governmental third parties and those developed in-house by a local government. 2. These Rules apply to all equipment and computer programs used in a voting system including, but not limited to, the hardware, firmware, and software required for defining an election, formatting ballots, setting up precincts for voting, recording votes, tallying the results, and producing all reports. 3. These Rules apply to any agency, group, or individual responsible for the analysis, design, manufacture, procurement, or use of voting systems, their subsystems, or their components. 4. Any modification to the hardware, firmware, or software of a voting system which has completed Qualification, Certification, or Acceptance testing in accordance with these Rules shall invalidate the State certification unless it can be shown that the modification does not affect the overall flow of program control or the manner in which the ballots are recorded and the vote data are processed, and the modification falls into one of the following classifications listed below. The Secretary of State shall be the sole judge of whether or not a modification requires additional testing. (i) The modification is made for the purpose of correcting a defect and procedural and test documentation is provided which verifies that the installation of the hardware change or corrected code does not result in any consequence other than the elimination of the defect. (ii) The modification is made for the purpose of enabling interaction with other general purpose or approved equipment or computer programs and databases, and procedural and test documentation is provided which verifies that such interaction does not involve or adversely affect vote counting and data storage. 5. The addition or alteration of utility software and device handlers which do not interact with vote counting software except through the intended input/output channels in the manner originally intended does not constitute a requirement for a mandatory retest.

(c) Reciprocity. The Secretary of State may accept the results of the Qualification tests and/or Certification tests from another state or testing agency that has performed the tests described in these Rules. This reciprocity does not extend to the Acceptance tests or any portion of the Certification tests, which are considered to be unique to the State of Georgia.

(d) Procedure. This review and approval procedure is limited to those voting systems and equipment that have passed the prototype stage and are in full production and available for immediate installation and use. Qualification tests shall be performed

to evaluate the degree to which a system complies with the requirements of the Voting Systems Standards issued by the Election Assistance Commission (EAC). Whenever possible, Qualification tests shall be conducted by Independent Test Agencies (ITA) certified by the EAC. In the event that tests by an ITA are not feasible, these tests shall be conducted by a Georgia Certification Agent designated by the Secretary of State. Certification tests shall be performed to certify that the voting system complies with the Georgia Election Code, the Rules of the Georgia State Election Board, and the Rules of the Secretary of State. A Georgia Certification Agent designated by the Secretary of State shall conduct certification tests. The Qualification and Certification testing of a voting system for use in the State of Georgia shall proceed in the following steps. 1. Qualification. Prior to submitting a voting system for certification by the State of Georgia, the proposed voting system's hardware, firmware, and software must have been issued Qualification Certificates from the EAC. These EAC Qualification Certificates must indicate that the proposed voting system has successfully completed the EAC Qualification testing administered by EAC approved ITAs. If for any reason, this level of testing is not available, the Qualification tests shall be conducted by an agency designated by the Secretary of State. In either event, the Qualification tests shall comply with the specifications of the Voting Systems Standards published by the EAC. 2. Letter of Request. After the voting system has completed EAC Qualification testing, the evaluation procedure to obtain certification for use of the voting system in the State of Georgia shall be initiated by letter from the vendor of the voting system to the Office of the Secretary of State requesting certification for a specific voting system. The Secretary of State or her representative shall notify the vendor of the earliest date after which the requested evaluation may begin and provide the vendor with the name and telephone number of the designated Georgia Certification Agent. 3. Submission of Complete Technical Data Package. The vendor shall submit the Technical Data Package described in section (g) to the Certification Agent designated by the State. The Certification Agent shall review the submission of the Technical Data Package and notify the vendor of any deficiencies. Certification of the voting system shall not proceed until the Technical Data Package is complete. 4. Preliminary Review. The Georgia Certification Agent shall conduct a preliminary analysis of the Technical Data Package and prepare an Evaluation Proposal containing the following information: (i) Components of the voting system requiring evaluation. (ii) Identification of any hardware or software components requiring additional testing by the EAC ITAs. (iii) Description of the activities required to complete that portion of the evaluation which is to be performed by the Georgia Certification Agent. (iv) Estimate of time required to complete the portion of the evaluation, which is to be performed by the Georgia Certification Agent. (v) Estimate of cost of tests which are to be performed by the Georgia Certification Agent. 5. Authorization to Proceed. The vendor shall review the Evaluation Proposal and notify the Secretary of State, in writing, of the desire to continue or terminate the evaluation process. The evaluation of the system shall not begin until the manufacturer or vendor notifies the Secretary of State to proceed. A copy of this notification shall be sent to the Georgia Certification Agent. A decision to continue shall obligate the vendor to the cost of the evaluation contained in the Evaluation Proposal. 6. Evaluation. The vendor shall arrange with the EAC ITAs for any additional required ITA testing identified in the Evaluation Proposal. After any required ITA tests have been successfully completed, the Georgia Certification Agent shall conduct the tests described in the Evaluation Proposal and submit a report of the findings to the Secretary of State. 7. Certification. Based on the information contained in the report from the Georgia Certification Agent, and any other information in her possession, the Secretary of State shall determine whether the proposed voting system shall be certified for use in the State of Georgia and so notify the vendor. 8. Local Jurisdiction Acceptance. After a voting system is delivered to a local jurisdiction, acceptance tests shall be performed in the user's environment to demonstrate that the voting system as delivered and installed is identical to the system that was certified by the State and satisfies the requirements specified in the procurement documents.

(e) Proprietary Information. The State of Georgia shall make every effort to protect the proprietary nature of information provided to the State or its agents during the course of these evaluations in accordance to Georgia law for protecting proprietary information. Any proposed non-disclosure agreements shall be of the type and form in common commercial usage appropriate to similar situations and shall be subject to review and approval by the Georgia Attorney General.

(f) Audit and Validation of Certification. 1. It shall be the responsibility of the vendor to ensure that any voting system or component of a voting system that it markets or supplies for use in the State of Georgia has been certified by the Secretary of State. It is also the responsibility of the vendor to submit any modifications to a previously certified system or component to the Secretary of State for re-certification and to update the Technical Data Package on file in the Office of the Secretary of State to accurately reflect the modifications. 2. If any question arises involving the certification of a voting system or a component of a voting system in use in the State, the Technical Data Package and Certification documentation on file in the Office of the Secretary of State shall be used to verify that the system or component in question is identical to the system or component that was submitted for certification.

(g) Technical Data Package. Before evaluation can begin, the vendor must submit to the Georgia Certification Agent the Technical Data Package required to complete the evaluation of the proposed voting system. Each item in the Technical Data Package must be clearly identified. If the Technical Data Package is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and the evaluation of the voting system rescheduled. In most cases, the Technical Data Package submitted to the ITAs shall be sufficient for State certification. The Technical Data Package shall contain the following items in hard copy and in electronic form when available. (i) Customer Maintenance Documentation. Documentation describing any maintenance that the vendor recommends that can be performed by a customer with minimal knowledge of the system. (ii) Operations Manual. Operations documentation that is normally supplied to the customer for use by the person(s) who shall operate the equipment. (iii) Software Source Code. Source code of all software and firmware in the voting system. The source code shall be supplied in the form of a listing and in a machine readable form on media that is acceptable to the Georgia Certification Agent. If there is any chance of ambiguity, the required compiler(s) and/or development environment must be specified. (iv) Software System Design. Documentation describing the logical design of the software. This

documentation should clearly indicate the various modules of the software, their functions, and their interrelationships. The minimum acceptable documentation is a system flowchart. Deviation of the source code from the system design may be cause for rejection of the voting system. (v) Customer Documentation. A complete set of all documentation which is available to the purchaser/user of the voting system. Clearly identify that documentation which is included in the cost of the system and that documentation which is available for an additional charge. (vi) ITA Qualification Reports. Copies of the ITA reports for the hardware and software qualification of the voting system. These reports must be sent directly from the ITA to the Georgia Certification Agent. (vii) Formal Complaints and Decertification Notices. Copies of any formal complaints and/or decertification notices that have been filed against the proposed system. This documentation must clearly identify the jurisdiction filing the complaint or decertification notice and give the details of the resolution. (viii) Test Data/Software (Optional). Any available test data, ballot decks, and/or software that can be used to demonstrate the various functions of the voting system. Although optional, these items can significantly reduce the effort, and hence the time and cost, involved in the evaluation of the system.

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GUAM

GUAM CODE ANN. TIT. 3, § 2104 (2008): Election Manual.

It shall be the duty and responsibility of the Commission to prepare a public manual of administrative procedures, rules, regulations and forms to be used in the conduct of elections. After January 1, 2001, all manuals and publications shall be prepared pursuant to the Administrative Adjudication Law. The manual shall set forth the regulations to be followed by all election officials, as well as the descriptions of the necessary equipment and forms to be used in election procedures.

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HAWAII

HAW. REV. STAT. § 16-1 (2008): Voting systems authorized.

The chief election officer may adopt, experiment with, or abandon any voting system authorized under this chapter or to be authorized by the legislature. These systems shall include, but not be limited to voting machines, paper ballots, and electronic voting systems. All voting systems approved by the chief election officer under this chapter are authorized for use in all elections for voting, registering, and counting votes cast at the election.

Voting systems of different kinds may, at the discretion of the chief election officer, be adopted for different precincts within the same district. The chief election officer may provide for the experimental use at any election, in one or more precincts, of a voting system without a formal adoption thereof and its use at the election shall be as valid for all purposes as if it had been permanently adopted; provided that if a voting machine is used experimentally under this paragraph it need not meet the requirements of section 16-12.

HAW. REV. STAT. § 16-2 (2008): Voting system requirements.

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

HAW. REV. STAT. § 16-42 (2008): Electronic voting requirements.

(a) When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or nonpartisans. In all elections, the equipment shall reject all votes for an office when the number of votes therefor exceeds the number that the voter is entitled to cast. No electronic voting system shall be used in any election unless it generates a paper ballot or voter verifiable paper audit trail that may be inspected and corrected by the voter before the vote is cast, and unless every paper ballot or voter verifiable paper audit trail is retained as the definitive record of the vote cast.

(b) The chief election officer may rely on electronic tallies created directly by electronic voting systems, in lieu of counting the paper ballots by hand or with a mechanical tabulation system if: (1) The electronic voting system is subject to inspection, audit, and experimental testing, by qualified observers, before and after the election, pursuant to administrative rules adopted by the chief election officer under chapter 91; (2) No upgrades, patches, fixes, or alterations shall be applied to the system through thirty days after the election; (3) The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts; and (4) If discrepancies appear in the pre-certification audits in paragraph (3), the chief election officer, pursuant to administrative rules, shall immediately conduct an expanded audit to determine the extent of misreporting in the system.

HAW. CODE R. § 2-54-1 (Weil 2008): Approval of all voting equipment, materials, and procedures.

The chief election officer or designated representative shall approve all necessary forms, supplies, and procedures used in the operation of any voting system after consultation with the respective clerks.

HAW. CODE R. § 2-54-4 (Weil 2008): Testing computer programs and related equipment; electronic voting system.

(a) Prior to election day, the programs prepared for tabulating the votes shall be tested in the presence of all the following persons: (1) The chief election officer, clerk, or designated representative; (2) The official observers; and (3) Other authorized interested persons, as space permits.

(b) The official logic and accuracy test shall include a predetermined number of votes for each candidate and for and against each question and a predetermined number of excess or "over" votes and blank votes for each candidate or question. (1) Each official observer and other authorized persons may also prepare a logic and accuracy test to test the ballot counting program; (2) A program shall not be approved unless it produces the exact count of all votes, rejects all improper votes, and meets all other test criteria; (3) After the official logic and accuracy test has been conducted satisfactorily, all test votes, test results, and the computer programs tested shall be kept in sealed containers and shall not be removed from such containers except in the presence of two or more official observers not of the same political party or organizational affiliation; (4) The official observers at the test shall sign a certification stating that the program was tested, found accurate, and approved; (5) The official logic and accuracy test shall be performed on all computers to be used for elections; and (6) In the case of punchcard ballots, the logic and accuracy test shall also be conducted on election day before the counting of ballots, during the day at the request of official observers, and after the counting of all ballots.

(c) In the event of a computer malfunction, the logic and accuracy test shall be rerun upon completion of the maintenance or corrective work. No further computer processing shall be processed until the test indicates that the computer is working properly.

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IDAHO

IDAHO CODE ANN. § 34-2409 (2009): Examination of machines by secretary of state prior to adoption.

(1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED) or be certified by the federal election assistance commission.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the "Help America Vote Act of 2002," Public Law 107-252. [FN1]

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

IDAHO CODE ANN. § 34-2410 (2009): Specifications for voting machines or vote tally systems

(1) No voting machine or vote tally system shall be approved by the secretary of state unless it is constructed so that it: (a) Secures to the voter secrecy in the act of voting. (b) Provides facilities for voting for the candidates of as many political parties or organizations as may make nominations and for or against as many measures as may be submitted. (c) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for. (d) Permits the voter, except at primary elections, to vote for all the candidates of one (1) party or in part for the candidates of one (1) party and in part for the candidates of one or more other parties. (e) Permits the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more. (f) Prevents the voter from voting for the same person more than once for the same office. (g) Correctly registers or records all votes cast for any and all persons and for or against any and all measures. (h) Can be adjusted so that the counting mechanism rejects any vote cast on the tabulating card in excess of the number which the voter is entitled to vote. (i) Provides that a vote for more than one (1) candidate cannot be cast by one (1) single operation of the machine or vote tally system.

(2) A vote tally system shall be: (a) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted. (b) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot card. (c) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by a candidate for each office; and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct. (d) Capable of tallying votes from ballots or ballot cards of different political parties, from the same precinct, in the case of a primary election. (e) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one (1) precinct shall be of the same rotation sequence. (f) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof.

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ILLINOIS

10 ILL. COMP. STAT. ANN 5/24C-11 (West 2009): Functional requirements.

A Direct Recording Electronic Voting System shall, in addition to satisfying the other requirements of this Article, fulfill the following functional requirements:

(a) Provide a voter in a primary election with the means of casting a ballot containing votes for any and all candidates of the party or parties of his or her choice, and for any and all non-partisan candidates and public questions and preclude the voter from voting for any candidate of any other political party except when legally permitted. In a general election, the system shall provide the voter with means of selecting the appropriate number of candidates for any office, and of voting on any public question on the ballot to which he or she is entitled to vote.

(b) If a voter is not entitled to vote for particular candidates or public questions appearing on the ballot, the system shall prevent the selection of the prohibited votes.

(c) Once the proper ballot has been selected, the system devices shall provide a means of enabling the recording of votes and the casting of said ballot.

(d) System voting devices shall provide voting choices that are clear to the voter and labels indicating the names of every candidate and the text of every public question on the voter's ballot. Each label shall identify the selection button or switch, or the active area of the ballot associated with it. The system shall be able to incorporate minimal, easy-to-follow on-screen instruction for the voter on how to cast a ballot.

(e) Voting devices shall (i) enable the voter to vote for any and all candidates and public questions appearing on the ballot for which the voter is lawfully entitled to vote, in any legal number and combination; (ii) detect and reject all votes for an office or upon a public question when the voter has cast more votes for the office or upon the public question than the voter is entitled to cast; (iii) notify the voter if the voter's choices as recorded on the ballot for an office or public question are fewer than or exceed the number that the voter is entitled to vote for on that office or public question and the effect of casting more or fewer votes than legally permitted; (iv) notify the voter if the voter has failed to completely cast a vote for an office or public question appearing on the ballot; and (v) permit the voter, in a private and independent manner, to verify the votes selected by the voter, to change the ballot or to correct any error on the ballot before the ballot is completely cast and counted. A means shall be provided to indicate each selection after it has been made or canceled.

(f) System voting devices shall provide a means for the voter to signify that the selection of candidates and public questions has been completed. Upon activation, the system shall record an image of the completed ballot, increment the proper ballot position registers, and shall signify to the voter that the ballot has been cast. The system shall then prevent any further attempt to vote until it has been reset or re-enabled by a judge of election.

(g) Each system voting device shall be equipped with a public counter that can be set to zero prior to the opening of the polling place, and that records the number of ballots cast at a particular election. The counter shall be incremented only by the casting of a ballot. The counter shall be designed to prevent disabling or resetting by other than authorized persons after the polls close. The counter shall be visible to all judges of election so long as the device is installed at the polling place.

(h) Each system voting device shall be equipped with a protective counter that records all of the testing and election ballots cast since the unit was built. This counter shall be designed so that its reading cannot be changed by any cause other than the casting of a ballot. The protective counter shall be incapable of ever being reset and it shall be visible at all times when the device is configured for testing, maintenance, or election use.

(i) All system devices shall provide a means of preventing further voting once the polling place has closed and after all eligible voters have voted. Such means of control shall incorporate a visible indication of system status. Each device shall prevent any unauthorized use, prevent tampering with ballot labels and preclude its re-opening once the poll closing has been completed for that election.

(j) The system shall produce a printed summary report of the votes cast upon each voting device. Until the proper sequence of events associated with closing the polling place has been completed, the system shall not allow the printing of a report or the extraction of data. The printed report shall also contain all system audit information to be required by the election authority. Data shall not be altered or otherwise destroyed by report generation and the system shall ensure the integrity and security of data for a period of at least 6 months after the polls close.

(k) If more than one voting device is used in a polling place, the system shall provide a means to manually or electronically consolidate the data from all such units into a single report even if different voting systems are used to record absentee ballots. The system shall also be capable of merging the vote tabulation results produced by other vote tabulation systems, if necessary.

(l) System functions shall be implemented such that unauthorized access to them is prevented and the execution of authorized functions in an improper sequence is precluded. System functions shall be executable only in the intended manner and order, and only under the intended conditions. If the preconditions to a system function have not been met, the function shall be precluded from executing by the system's control logic.

(m) All system voting devices shall incorporate at least 3 memories in the machine itself and in its programmable memory devices.

(n) The system shall include capabilities of recording and reporting the date and time of normal and abnormal events and of maintaining a permanent record of audit information that cannot be turned off. Provisions shall be made to detect and record significant events (e.g., casting a ballot, error conditions that cannot be disposed of by the system itself, time-dependent or programmed events that occur without the intervention of the voter or a judge of election).

(o) The system and each system voting device must be capable of creating, printing and maintaining a permanent paper record and an electronic image of each ballot that is cast such that records of individual ballots are maintained by a subsystem independent and distinct from the main vote detection, interpretation, processing and reporting path. The electronic images of each ballot must protect the integrity of the data and the anonymity of each voter, for example, by means of storage location scrambling. The ballot image records may be either machine-readable or manually transcribed, or both, at the discretion of the election authority.

(p) The system shall include built-in test, measurement and diagnostic software and hardware for detecting and reporting the system's status and degree of operability.

(q) The system shall contain provisions for maintaining the integrity of memory voting and audit data during an election and for a period of at least 6 months thereafter and shall provide the means for creating an audit trail.

(r) The system shall be fully accessible so as to permit blind or visually impaired voters as well as physically disabled voters to exercise their right to vote in private and without assistance.

(s) The system shall provide alternative language accessibility if required pursuant to Section 203 of the Voting Rights Act of 1965.

(t) Each voting device shall enable a voter to vote for a person whose name does not appear on the ballot.

(u) The system shall record and count accurately each vote properly cast for or against any candidate and for or against any public question, including the names of all candidates whose names are written in by the voters.

(v) The system shall allow for accepting provisional ballots and for separating such provisional ballots from precinct totals until authorized by the election authority.

(w) The system shall provide an effective audit trail as defined in Section 24C-2 in this Code.

(x) The system shall be suitably designed for the purpose used, be durably constructed, and be designed for safety, accuracy and efficiency.

(y) The system shall comply with all provisions of federal, State and local election laws and regulations and any future modifications to those laws and regulations.

10 ILL. COMP. STAT. ANN 5/24C-16 (West 2009): Approval of Direct Recording Electronic Voting Systems; Requisites.

The State Board of Elections shall approve all Direct Recording Electronic Voting Systems that fulfill the functional requirements provided by Section 24C-11 of this Code, the mandatory requirements of the federal voting system standards pertaining to Direct Recording Electronic Voting Systems promulgated by the Federal Election Commission or the Election Assistance Commission, the testing requirements of an approved independent testing authority and the rules of the State Board of Elections.

The State Board of Elections shall not approve any Direct Recording Electronic Voting System that includes an external Infrared Data Association (IrDA) communications port.

The State Board of Elections is authorized to withdraw its approval of a Direct Recording Electronic Voting System if the System, once approved, fails to fulfill the above requirements.

The vendor, person, or other private entity shall be solely responsible for the production and cost of: all application fees; all ballots; additional temporary workers; and other equipment or facilities needed and used in the testing of the vendor's, person's, or other private entity's respective equipment and software.

Any voting system vendor, person, or other private entity seeking the State Board of Elections' approval of a voting system shall, as part of the approval application, submit to the State Board a non-refundable fee. The State Board of Elections by rule shall establish an appropriate fee structure, taking into account the type of voting system approval that is requested (such as approval of a new system, a modification of an existing system, the size of the modification, etc.). No voting system or modification of a voting system shall be approved unless the fee is paid.

No vendor, person, or other entity may sell, lease, or loan, or have a written contract, including a contract contingent upon State Board approval of the voting system or voting system component, to sell, lease, or loan, a Direct Recording Electronic Voting System or system component to any election jurisdiction unless the system or system component is first approved by the State Board of Elections pursuant to this Section.

ILL. ADMIN. CODE tit. 26, § 204.40 (West 2009): Criteria for Approval of Voting Systems

a) A full review of each voting system shall be conducted to ensure that no voting system shall be approved unless it fulfills the following requirements as set forth in Section 24A-16 of the Election Code: 1) It enables a voter to vote in absolute secrecy; 2) It enables a voter to vote a ticket selected in part from the nominees of one party, and in part from the nominees of any or all parties, and in part from independent candidates and in part of candidates whose names are written in by the voter; 3) It enables a voter to vote a written or printed ticket of his own selection for any person for any office for whom he may desire to vote; 4) It will reject all votes for an office or upon a proposition when the voter has cast more votes for such office or upon such proposition than he is entitled to cast; 5) It will accommodate all propositions to be submitted to the voters in the form provided by law or, where no form is provided, then in brief form, not to exceed 75 words.

b) Any review of a voting system shall consist of an evaluation of the characteristics of the system in order to determine what set of characteristics are needed to enable the system to fulfill the requirements set forth in subsection (a), such as: 1) Physical characteristics, including design, engineering, materials and ability to communicate; 2) Software performance, including, to the maximum extent possible, a review of application programs, audit trails of overvotes and undervotes, duplicate programs, object code, source code, support software, data integrity, media security, and multi-programming; 3) Ballot and voting characteristics, such as the capacity of the ballot to contain multiple configurations; 4) Ballot processing characteristics, including the preparation, accurate tabulation for both primary and general election ballots and transportation of ballots; 5) Function and service characteristics, including the interaction and relationship, if any, of non-election related system functions with election related functions; 6) Human performance standards, such as extent of training and degree of manual dexterity needed; 7) Management standards, including setup, maintenance and security procedures.

ILL. ADMIN. CODE tit. 26, § 204.50 (2009): Application for Approval of Voting Systems.

- a) In order to obtain Board approval of a voting system, a written application must be made to the Board. The application shall, at a minimum, contain the following: 1) A general description of the proposed system. 2) The description, nomenclature, specifications and intended use or uses of all voting system components comprising the proposed voting system. 3) A description of all contemplated and possible uses of the voting system software components. 4) A description of support services provided for the proposed voting system. 5) Applicant's primary address, telephone number and e-mail address and the names, addresses, e-mail addresses and telephone numbers of individuals and/or corporations who will be responsible for marketing the proposed voting system. 6) The time period in which the applicant has actively engaged in marketing the proposed voting system. 7) A complete list of election jurisdictions currently using the proposed voting system, including the size of the jurisdiction and the names and addresses of the election authorities. 8) A complete list of jurisdictions currently contracting with the applicant for voting system components. 9) A complete list of election jurisdictions in Illinois in which the applicant is seeking to market the proposed voting system. 10) If known, a complete list of election jurisdictions in Illinois in which the applicant proposes to experimentally use the proposed voting system.
- b) The Computer Code as defined in Section 204.20 shall be submitted as part of the completed application for approval.
- c) No vendor or user shall offer to sell, lease, loan, give or otherwise supply to any user or potential user any voting system or voting system component, and no user shall place in operation any voting system or voting system component, without first submitting to the Illinois State Board of Elections the application for approval identified in subsection (a). A completed application for approval shall be submitted not less than six months prior to any election in which a voting system or support component is proposed for use.
- d) Failure to provide the application in accordance with subsection (b) shall result in the denial of any application or request for emergency approval of an electronic voting system that might otherwise be appropriate under Section 204.160 of this Part.
- e) The reasonable expenses incurred, except those expenses related to escrow of submitted Computer Code, by the State Board of Elections in conducting the approval process of the voting system shall be borne by the applicant for approval of the voting system or system component. Expenses for which the applicant shall be liable shall be limited to goods and materials necessary for the review process, necessary travel in accord with State travel regulations (80 Ill. Adm. Code 2800), use of contract consultants, and the actual cost of any computer support. Expenses shall be documented and submitted to the applicant at the end of full review prior to interim approval as defined in Section 204.90, and within 10 days after the completion of any testing conducted between interim and final approval as defined in Section 204.100. Payment of the costs shall be made by the applicant within 10 days after receipt. The Board shall not grant interim approval or full approval of a voting system or system component until the applicant has fully satisfied the monetary obligation incurred by the Board during the review process. Reasonable expenses are those customary and usual charges for goods and services of value and quality acceptable in the computer science industry. Board staff shall determine in the first instance what expenses are reasonable, and an applicant who believes that the staff determination is incorrect may ask for review of the determination by the State Board of Elections.

[\(back to Illinois summary\)](#)

INDIANA

IND. CODE § 3-11-7.5-4 (2009): Testing of system; approval

- (a) The commission shall: (1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and (2) have the results of the tests evaluated by the person designated under IC 3-11-16; before determining whether to approve the application for certification of an electronic voting system.
- (b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses under this section.
- (c) If the commission finds that an electronic voting system complies with this article, the commission may approve the system. The approved system then may be adopted for use at an election.
- (d) An electronic voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.
- (e) An approval of an electronic voting system under this chapter expires on the date specified by section 28(a) of this chapter.

IND. CODE § 3-11-15-13.3 (2009): Voting systems; standards.

- (a) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

(b) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system: (1) was: (A) approved by the commission for use in elections in Indiana before October 1, 2005; and (B) purchased by the county before October 1, 2005; and (2) otherwise complies with the applicable provisions of HAVA and this article. However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(c) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(d) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (c) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(e) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (d), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

[\(back to Indiana summary\)](#)

IOWA

IOWA CODE § 52.5 (2009): Testing and examination of voting equipment.

1. A person or corporation owning or being interested in a voting machine or optical scan voting system may request that the state commissioner call upon the board of examiners to examine and test the machine or system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

2. The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or optical scan voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all optical scan voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, § 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

3. The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the voting machine or system, the examiners shall report to the state commissioner describing the testing and examination of the machine or system and upon the capacity of the machine or system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine or system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the machine or system can be so used, it shall be deemed approved by the examiners, and machines or systems of its kind may be adopted for use at elections as provided in this section. Any form of voting machine or system not so approved cannot be used at any election. Before actual use by a county of a particular optical scan voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

IOWA ADMIN. CODE r. 721-22.1(52) (2009): Definitions for certification of voting equipment.

“Accredited independent test authority” means a person or agency that was formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software.

“Accredited independent test authority” also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.

IOWA ADMIN. CODE r. 721-22.2(52) (2009): Voting system standards.

All electronic voting systems and machines approved for use by the Board of Examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002. The report of an

accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

[\(back to Iowa summary\)](#)

KANSAS

KAN. STAT. ANN. § 25-4404 (2008): Same; approval by secretary of state; statement required.

The secretary of state shall examine and approve the kinds or makes of electronic or electromechanical voting systems, including operating systems, firmware and software, and no kind or make of such system shall be used at any election unless and until it receives certification by the secretary of state and a statement thereof is filed in the office of the secretary of state.

KAN. STAT. ANN. § 25-4405 (2008): Request for examination; fee; machines and operators; employment of advisers; return of unused deposit.

(a) Any person, firm or corporation desiring to sell any kind or make of electronic or electromechanical voting system to political subdivisions in Kansas may in writing request the secretary of state to examine the kind or make of the system which it desires to sell and shall accompany the request with a certified check in the sum of \$250 payable to the secretary of state to be used to defray a portion of the costs of such examination, and shall furnish at its own expense such system to the secretary of state at the capitol for use in examining such system. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system that it complies with state and federal laws. The secretary of state may employ a competent person or persons to assist in the examination and to advise the secretary as to the sufficiency of such machine and to pay such persons reasonable compensation therefor. The costs of employment and any other costs associated with the approval of such system shall be paid in advance by the applicant.

(b) The secretary of state may require a review of any theretofore approved electronic or electromechanical voting system and the equipment and operation thereof. Such review shall be commenced by the secretary of state giving written notice thereof to the person, firm or corporation which sought approval of the system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system or equipment thereof. Such notice shall fix a time and place of hearing at which those persons wishing to be heard may appear and give oral or written testimony and explanation of the system, its equipment and operation and experience had therewith. After such hearing date and after such review as the secretary of state deems appropriate, the secretary of state may renew approval of the system, require changes therein for continued approval thereof or rescind approval previously given on either a conditioned or permanent basis.

(c) The secretary of state may appoint persons to assist county election officers or county commissioners in the testing of any electronic or electromechanical voting system and its equipment or the programs of such system.

KAN. STAT. ANN. § 25-4406 (2008): Electronic and Electromechanical Voting Systems.

Electronic or electromechanical voting systems approved by the secretary of state: (a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto; (b) shall permit a voter to vote for any independent candidate for any office; (c) shall provide for voting on constitutional amendments or other questions submitted; (d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated and amendments thereto; (e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office; (f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action; (g) shall provide for "write-in" votes; (h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language; (i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast; (j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; and (k) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

[\(back to Kansas summary\)](#)

KENTUCKY

KY. REV. STAT. ANN. § 117.379 (West 2008): Examination of electronic voting system by State Board of Elections

(1) Any person or corporation owning, manufacturing or selling any electronic voting system, may request the State Board of Elections to examine the system. Before requesting an examination or reexamination, any person, persons, or corporation shall

pay to the State Treasurer an examination fee of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections. The report shall demonstrate that the system meets all Federal Election Commission voting system standards. The State Board of Elections may, at any time, reexamine any system already approved. The State Board of Elections shall approve or disapprove any voting system within sixty (60) days after the date of its initial submission.

(2) Upon receipt of a request for examination or reexamination of an electronic voting system, the State Board of Elections shall require that such system be examined or reexamined by three (3) examiners. The State Board of Elections shall appoint one (1) examiner who is an expert in computer science or electronic voting systems, one (1) person who is knowledgeable in election procedures and law in Kentucky, and one (1) person who is a present or former county clerk. The three (3) examiners shall submit one (1) written report on each system examined or reexamined to the State Board of Elections. The members of the State Board of Elections shall also examine or reexamine the system. A system shall be approved if the examiners' report states that the system meets all the requirements of KRS 117.381 and the State Board of Elections finds that the system meets all of the requirements of KRS 117.381. The report and a letter of approval shall be filed in the office of the State Board of Elections.

(3) Any electronic voting system not approved by the State Board of Elections shall not be used at any election.

(4) When an electronic voting system has been approved any improvement or changes in the system shall render necessary the examination or approval of such system or improvement.

(5) Neither the members of the State Board of Elections, nor any examiner appointed by the State Board of Elections, nor any member of a county board of elections shall have any pecuniary interest in any electronic voting system.

(6) Each examiner appointed by the State Board of Elections shall receive fair compensation to be established by the State Board of Elections.

[\(back to Kentucky summary\)](#)

LOUISIANA

LA. REV. STAT. ANN. § 18:1353 (2008): Secretary of state; powers and duties; voting machines; voter registration

A. The secretary of state shall administer the laws relating to the custody of voting machines and relating to voter registration.

B. The secretary of state shall prescribe uniform rules and regulations with respect to matters pertaining to the purchase, preparation, and use of voting machines and absentee by mail and early voting counting equipment in the conduct of elections and the duties of each category of persons charged with responsibility for any matter relating to voting machines or absentee by mail and early voting counting equipment. The rules and regulations shall be approved by the attorney general and thereafter shall be distributed by the secretary of state to the election officials having responsibilities relating to elections. The rules and regulations shall be applied uniformly throughout the state.

C. In addition to any other duties and functions now or hereafter provided by law, the secretary of state shall: (1) Determine general policy and supervise the administration and execution of the laws relating to voting machines. (2) Be responsible for all purchases, sales, and transfers of voting machines and absentee by mail and early voting counting equipment and for all matters in connection with the advertising for and opening of bids for or in connection therewith. (3)(a) Maintain, repair, and store, as provided by law, all voting machines and have custody of them, except when, in accordance with law, the machines are placed in the direct charge and supervision of the parish custodian or of the election commissioners, except as otherwise provided in Subparagraph (b) of this Paragraph. (b) Maintain and repair all voting machines used for early voting and absentee by mail and early voting counting equipment and designate the registrar of voters in each parish to store all such voting machines and absentee by mail and early voting counting equipment, except when, in accordance with law, such voting machines and absentee by mail and early voting counting equipment are placed in the direct charge and supervision of the parish custodian. (4) Prepare all machines necessary for each election and deliver the machines and other election supplies, in addition to those supplies he is required to supply to the parish custodian under R.S. 18:552, to the custody of the parish custodian in complete readiness for use at the polls. (5) Repealed by Acts 2006, No. 403, § 3, eff. Jan. 1, 2007.

D. The secretary of state may appoint or employ mechanics, experts, and other assistants when necessary in order to assume the maintenance, upkeep, and proper functioning and operation of the machines, or when necessary in order to explain and demonstrate to the election officials or to the public the proper method of operation of the machines.

E. On the day of each election the secretary of state shall have mechanics and experts available at suitable and convenient places for the purpose of repairing or adjusting any machine which needs repair or adjustment during election day. During this time each of them shall be under the supervision and control of the parish custodian of voting machines.

LA. REV. STAT. ANN. § 18:1361 (2008): Approval of machines and equipment; certificate; expenses of examination

A. The secretary of state may examine any type or make of voting machine upon the request of a representative of the maker or supplier thereof, and if he determines that the machine complies with the requirements of this Chapter and that it meets standards acceptable to him as to durability, accuracy, efficiency, and capacity, he shall approve that type or make of machine for use in this state and shall issue his certificate of approval thereof. In addition, any electronic voting machine acquired or used in the state must have been certified by NASED Independent Testing Authorities according to the voting systems standards adopted by the Federal Election Commission. This certificate, together with any relevant reports, drawings, and photographs, shall be a public record.

B. Any absentee by mail and early voting counting equipment to be acquired for use in this state shall be certified by the secretary of state as meeting standards acceptable to him as to durability, accuracy, efficiency, and capacity.

C. The secretary of state may employ experts to assist him in making the examination provided for in this Section. The expenses of the services of such experts, not to exceed a total of five hundred dollars, shall be paid prior to the examination by the person requesting examination of the machine. Experts employed in the examination shall sign the certificate of approval made by the secretary of state. No machine shall be used at any election which has not been approved by the secretary of state as herein provided.

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MAINE

ME. REV. STAT. ANN. tit. 21-A, § 809 (2009): Approval of voting devices

1. Rules. The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section 813 and electronic tabulating systems under section 844. The Secretary of State may adopt rules requiring independent testing of voting machines and electronic tabulating systems in use or proposed for use in the State and indicating which voting machines and electronic tabulating systems are approved for use by municipalities.

2. Use of approved voting machines and systems. Voting machines and systems approved and recommended pursuant to rules adopted under subsection 1 may be used by any municipality in a state election. Voting machines and electronic tabulating systems that have not been approved for use may not be used by any municipality.

3. Repealed. Laws 1995, c. 459, § 86.

3-A. Proscribed voting machines. The following types of voting machines may not be used in the conduct of state elections: A. Mechanical lever voting machines; and B. Punch card voting machines.

4. Application. This section applies only to those voting devices in use by the municipality after October 1, 1987.

ME. REV. STAT. ANN. tit. 21-A, § 812 (2009):

A voting machine used in the conduct of state elections must meet the following requirements.

1. Secrecy. It must be constructed so that each voter may vote in secrecy.

2. Voting limited. It must permit a voter to vote once and only once for each candidate and each question for whom or on which he is entitled to vote. It must prevent a voter from voting for more persons for an office than there are offices to be filled.

3. Write-in vote. It must permit a voter to vote for a write-in candidate.

4. Form and content of ballot label. The titles of offices may be arranged horizontally with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically with the names of candidates for an office arranged horizontally opposite the title of the office, or the titles of offices and the names of candidates for an office may be arranged in any horizontal and vertical combination as may be determined advisable by the Secretary of State. The names of candidates must be printed in the order provided by law and, in general elections, the party designation of each candidate, which may be abbreviated, must be printed following the candidate's name. If there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked that the list of candidates is continued on the following column or page and, so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

4-A. Repealed. Laws 2003, c. 651, § 6.

5. Voting restricted at primary. It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

6. Unauthorized voting prohibited. It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.
7. Change of vote permitted. It must permit a voter to change or retract a vote he has attempted to cast for any person, or on any question, before his vote has been completed and registered.
8. Device for printing or photographing candidate or question counters. It may be provided with a device or devices for printing and photographing candidate and question counters which will provide a record before the polls open and after the polls close.
9. Official approval required. It must be of an identical type approved by the Secretary of State and the Attorney General.
10. Paper audit trail. Except for an accessible voting system that must be provided by 2006 in compliance with the federal Help America Vote Act of 2002 as provided in section 812-A, subsection 1, it must produce or employ permanent paper records of the votes cast that are able to be verified by individual voters before their votes are cast and that provide a manual audit capacity for the machine. In the case of direct recording electronic voting machines, those records must also identify the individual machines that produced them without revealing the identities of the voters who cast the ballots. In all cases, these records must be reviewed in the event of a recount and considered in conjunction with the machine-produced tally.

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MARYLAND

MD. CODE ANN., [ELEC. LAW] § 9-102 (West 2008): Certification of voting systems

Voter-verifiable systems

(a) In this section, a “voter-verifiable paper record” includes: (1) a paper ballot prepared by the voter for the purpose of being read by a precinct-based optical scanner; (2) a paper ballot prepared by the voter to be mailed to the applicable local board, whether mailed from a domestic or an overseas location; and (3) a paper ballot created through the use of a ballot marking device.

Adoption of regulations

(b) The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

Periodic review

(c) The State Board shall periodically review and evaluate alternative voting systems.

Standards for certification

(d) The State Board may not certify a voting system unless the State Board determines that: (1) the voting system will: (i) protect the secrecy of the ballot; (ii) protect the security of the voting process; (iii) count and record all votes accurately; (iv) accommodate any ballot used under this article; (v) protect all other rights of voters and candidates; (vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, including a manual recount; and (vii) provide a voter-verifiable paper record that: 1. is an individual document that is physically separated from any other similar document and not part of a continuous roll; 2. is sufficiently durable to withstand repeated handling for the purposes of mandatory random audits and recounts; and 3. uses ink that does not fade, smear, or otherwise degrade and obscure or obliterate the paper record over time; (2) the voting system has been: (i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission; and (3) the public interest will be served by the certification of the voting system.

Consideration for certification

(e) In determining whether a voting system meets the required standards, the State Board shall consider: (1) the commercial availability of the system and its replacement parts and components; (2) the availability of continuing service for the system; (3) the cost of implementing the system; (4) the efficiency of the system; (5) the likelihood that the system will malfunction; (6) the system’s ease of understanding for the voter; (7) the convenience of voting afforded by the system; (8) the timeliness of the tabulation and reporting of election returns; (9) the potential for an alternative means of verifying the tabulation; (10) accessibility for all voters with disabilities recognized by the Americans with Disabilities Act; and (11) any other factor that the State Board considers relevant.

Certified voting systems

(f) A voting system selected, certified, and implemented under this section shall: (1) provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities; (2) ensure the independent, private casting, inspection, verification, and correction of secret ballots by voters with disabilities in an accessible media by both visual and nonvisual means, including synchronized audio output and enhanced visual display; and (3) comply with both the Americans with Disabilities Act, P.L. 101-336, and the Help America Vote Act, P.L. 107-252, including accessibility standards adopted as part of the Voluntary Voting System Guidelines pursuant to the Help America Vote Act.

Voters with disabilities

(g)(1) At least one voting system in each polling place on election day shall provide access for voters with disabilities in compliance with subsection (f) of this section. (2) The State Board shall ensure that adequate backup equipment is available and contingency plans are established to ensure compliance with paragraph (1) of this subsection.

Voluntary Voting System Guidelines

(h) Before the selection of a voting system, the State Board shall: (1) ensure that an accessible voting system conforms to the access requirements of the Voluntary Voting System Guidelines developed in accordance with the Help America Vote Act in effect at the time of selection; and (2) conduct an accessibility and usability evaluation of the voting system to assess its accessibility and usability by voters with disabilities, including: (i) a public demonstration of the system; and (ii) an evaluation by individuals representing a cross-section of voters with disabilities.

Regulations for each voting system

(i)(1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle. (2) The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including: (i) a description of the voting system; (ii) a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county; (iii) local election officials' responsibility for management of the system; (iv) the actions required to assure the security of the voting system; (v) the supplies and equipment required; (vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system; (vii) standards for training election officials in the operation and use of the voting system; (viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties; (ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place; (x) the practices and procedures in each polling place appropriate to the operation of the voting system; (xi) assuring ballot accountability in systems using a document ballot; (xii) the actions required to tabulate votes; and (xiii) postelection review and audit of the system's output. (3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.

MD. CODE REGS. 33.09.01.01 (2009): Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Federal Standards" means either the Federal Voting Systems Standards established by the Federal Election Commission or the Voluntary Voting System Guidelines adopted by the U.S. Election Assistance Commission.

(2) "Independent test agency (ITA)" means a testing facility certified by the Voting System Board of the National Association of State Election Directors to do qualification testing or a laboratory accredited by the U.S. Election Assistance Commission.

(3) "Qualification testing" means testing to determine a system's compliance with the Federal Voting Systems Standards or Voluntary Voting System Guidelines.

(4) Voting System. (a) "Voting system" means all or any component of any system for casting and tabulating ballots or votes. (b) "Voting system" includes any model or version of: (i) A voting system; (ii) A voting machine, voting device, tabulating equipment, vote-counting program, or other equipment, hardware, firmware, or software used by or with a voting system; (iii) Election management software or hardware used by or with a voting system; and (iv) Any other component of a voting system.

MD. CODE REGS. 33.09.01.03 (2009): Overview of Required Process.

A local board may not use a voting system, in whole or part, unless:

A. The State Board is satisfied that the local board: (1) Has or will acquire the necessary expertise in computer technology to use

this particular voting system in performing the functions required by Election Law Article, Annotated Code of Maryland, and this subtitle; and (2) Will not need to rely primarily on vendors to perform those functions;

B. That model or version of the voting system, including all parts and components, has successfully completed: (1) Qualification testing by an independent test agency, as required by Election Law Article, §9-102(c)(2), Annotated Code of Maryland; (2) Certification evaluation and testing by the State Board, as specified in COMAR 33.09.03 and 33.09.04; and (3) Acceptance testing by the local board, as specified in COMAR 33.09.05;

C. The State Board has adopted regulations for the use of that model or version, as specified in COMAR 33.09.04;

D. The local board has adopted an implementation plan approved by the State Board, as specified in COMAR 33.09.06; and

E. All other requirements of Election Law Article, Annotated Code of Maryland, and this subtitle have been met.

MD. CODE REGS. 33.09.01.04 (2009): Standards and Considerations.

A. Standards. The State Board may not certify a voting system unless it meets the standards imposed by Election Law Article, §9-102(c), Annotated Code of Maryland.

B. Factors To Be Considered. In determining whether a voting system meets the required standards, the State Board shall consider the factors set forth in Election Law Article, §9-102(d), Annotated Code of Maryland.

MD. CODE REGS. 33.09.01.05 (2009): Specialists; Evaluation Agent.

A. Employment of Specialists. (1) The State Administrator may contract with one or more specialists to assist the State Board in evaluating a voting system for which certification is sought under this subtitle. (2) The specialists may include: (a) An election director; (b) A lawyer; (c) An accountant; (d) A specialist in mechanical or electromechanical systems; and (e) A specialist in automatic data processing resources. (3) The compensation and expenses of all specialists employed to evaluate a voting system shall be paid by the person applying for that system's certification.

B. Evaluation Agent. (1) On receipt of an application for certification of a voting system, the State Administrator shall designate an evaluation agent to coordinate the evaluation process. (2) The individual so designated shall be: (a) One of the specialists employed under §A of this regulation; or (b) A member of the State Administrator's staff.

[\(return to Maryland summary\)](#)

MASSACHUSETTS

MASS. GEN. LAWS. ANN. ch. 54, § 32 (West 2009): Examination and approval of voting equipment

The state secretary shall examine all types of voting equipment including ballot boxes, counting apparatus, and voting machines and determine whether such equipment complies with the minimum requirements for such equipment imposed by law and whether the use of such equipment would further the efficient administration of elections.

Any person owning or interested in such equipment may submit it to the state secretary for examination. For the purpose of assistance in examining such new equipment, the secretary, subject to appropriation, may employ not more than three individuals who are experts in one or more of the fields of data processing, mechanical engineering and public administration.

Within thirty days after completing the examination and approval of any such equipment the state secretary shall make and file in his office his report on the equipment together with a written or printed description and drawings and photographs clearly identifying the equipment. As soon as practicable after such filing, the state secretary upon request shall send a copy of the report to any governing body within the state.

Any voting equipment that receives the approval of the state secretary may be used for conducting elections. Any voting equipment that does not receive such approval shall not be adopted for or used at any election. After such equipment has been approved by the state secretary, any change or improvement in the equipment that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the equipment.

All voting equipment being used upon the effective date of this act shall within twelve months of said effective date be submitted to the state secretary for his approval. Within twenty-four months of the effective date of this act the secretary shall approve or disapprove of such equipment and promulgate uniform regulations for such equipment in accordance with section thirty-seven.

MASS. CODE. REGS. 50.03 (2009): Submission and Approval Schedule

The Secretary shall decide whether to approve all types of voting equipment according to the following schedule:

- (1) Equipment must be approved by the Secretary before it may be used.
- (2) The Secretary shall make and file his report in his office, together with a written or printed description and drawings and photographs clearly identifying the equipment, within 30 days after the time of submission.
- (3) No electronic voting system and no direct electronic voting machine may be approved after January 1, 1992 that does not meet the voting system standards adopted by the Federal Election Commission on February 5, 1990, as they may be amended from time to time, and that has not been tested by an independent test authority to confirm compliance.
- (4) Only voting equipment approved by the Secretary at least 180 days before a state primary or state election shall be used at such primary or election, unless it is to be used in a field test (950 CMR 50.04(3)) before final approval of the equipment.
- (5) Any additional printing cost incurred by the Secretary as a result of final approval or field testing of new voting equipment, after receipt by the State Purchasing Agent of the proposed state ballot printing contract, shall be the responsibility of the vendor.

[\(return to Massachusetts summary\)](#)

MICHIGAN

MICH. COMP. LAWS ANN § 168.795a (2009): Electronic voting systems; approval by board of state canvassers; field tests; improvements or changes to systems; intent to purchase statement; instructions for local officials; disapproval of systems by board.

- (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 [FN1] and 795 [FN2] and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c [FN3] has been complied with, and unless it meets 1 of the following conditions: (a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers. (b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.
- (2) The vendor or representative seeking approval of an electronic voting system shall do all of the following: (a) Deposit with the secretary of state a nonrefundable application fee of \$1,500.00 for a new voting system and a fee of \$500.00 for an upgrade to any existing system. (b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis. (c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state. (d) Pay the cost for any field test required by the board of state canvassers. (e) State the number of voters each component of the voting system can process per hour under each of the following circumstances: (i) An election in which there are 10 or fewer items to be voted on the ballot by each voter. (ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.
- (3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).
- (4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.
- (5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).
- (6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.
- (7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information

concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the “intent to purchase statement”.

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a [FN4] and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

[\(back to Michigan summary\)](#)

MINNESOTA

MINN. STAT. ANN. § 206.57 (West 2009): Examination of new voting systems

Subdivision 1. Examination and report by secretary of state; approval. A vendor of an electronic voting system may apply to the secretary of state to examine the system and to report as to its compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters. The secretary of state or a designee shall examine the system submitted and file a report on it in the Office of the Secretary of State. Examination is not required of every individual machine or counting device, but only of each type of electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved system. The examination must include the ballot programming; electronic ballot marking, including all assistive technologies intended to be used with the system; vote counting; and vote accumulation functions of each voting system. If the report of the secretary of state or the secretary’s designee concludes that the kind of system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the system shall be deemed approved by the secretary of state, and may be adopted and purchased for use at elections in this state. A voting system not approved by the secretary of state may not be used at an election in this state. The secretary of state may adopt permanent rules consistent with sections 206.55 to 206.90 relating to the examination and use of electronic voting systems.

Subd. 2. Examination fee. The secretary of state may assess a fee to accompany the application to cover the actual and necessary costs for the examinations and licenses provided for in this section. The fee must be deposited in the state treasury. The expenses of administering this section must be paid from appropriations to the secretary of state.

Subd. 3. Repealed by Laws 1993, c. 337, § 20, eff. July 1, 1993.

Subd. 4. Vendor bonds. Vendors of electronic voting systems shall certify to the secretary of state that they will not offer for sale a system which is not certified for use in Minnesota elections. The vendor shall furnish a bond in the amount of \$5,000 along with the certification to the secretary of state conditioned on offering the equipment for sale in accordance with Minnesota election laws and any conditions of the approval of the equipment granted as provided in this section.

Subd. 5. Voting system for disabled voters. In federal and state elections held after December 31, 2005; in county, city, and school district elections held after December 31, 2007; and, except as provided in subdivision 5a, in township elections held after December 31, 2009, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Subd. 5a. Limited town exemptions. (a) A town conducting an election not held in conjunction with any federal, state, county, or school district election is exempt from the requirements of subdivision 5 if the town has fewer than 500 registered voters, as determined by the secretary of state by June 1 of each year. (b) A town that would otherwise satisfy the requirements of this subdivision is still required to comply with subdivision 5 at its next general town election if the voters at the preceding year’s annual town meeting instruct the town to conduct elections in compliance with subdivision 5. (c) If the secretary of state, after consultation with the Minnesota Association of Townships, county auditors, or other interested parties, determines that a town’s share of the cost of compliance with subdivision 5 will not exceed \$150 for an election, the town may not use the exemption under paragraph (a) and shall conduct elections under subdivision 5. In determining the town’s cost of compliance, the secretary shall include any expense associated with programming, ballot preparation and printing, and the equipment costs directly related to compliance with subdivision 5.

Subd. 5b. Township voting equipment study. (a) Beginning in 2009 and at least once every other year until 2016, the secretary of state shall consult with interested parties, including, but not limited to, members of the legislature, town officers, county election officials, the National Federation of the Blind, the Minnesota State Council on Disability, and the Disability Law Center regarding: (1) options for full compliance with subdivision 5; and (2) ongoing costs of compliance with subdivision 5, and methods of reducing those costs. (b) Beginning January 15, 2010, and until January 15, 2017, the secretary of state shall report to

the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over elections policy and finance regarding the findings, discussions, and developments under paragraph (a).

Subd. 6. Required certification. In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority approved by the secretary of state and conform to current standards for voting equipment issued by the Federal Election Commission or its successor, the Election Assistance Commission.

Subd. 7. Election assistance commission standards. If the federal Election Assistance Commission has not established by January 1, 2006, standards for an electronic ballot marker or other voting system component that is required to enable a voting system to meet the requirements of subdivision 5, the secretary of state may certify the voting system on an experimental basis pending the completion of federal standards, notwithstanding subdivision 6. Within two years after the Election Assistance Commission issues standards for a voting system component used in a voting system authorized under this subdivision, the secretary of state must review or reexamine the voting system to determine whether the system conforms to federal standards.

MINN. R. 8220.0700 (2009): PERIODIC REEXAMINATION OF SOFTWARE.

After an electronic voting system has been certified by the secretary of state, the software necessary to operate the voting system, tabulate votes, and prepare ballot styles must be reexamined and recertified under part 8220.0650, subpart 1, by the secretary of state or an independent testing authority approved by the secretary of state at least once every four years and at any time that, in the opinion of the secretary of state, the voting system no longer complies with Minnesota election law. The certification or approval of a significant change to a voting system's software satisfies the requirements of this part. The secretary of state may waive the reexamination and reapproval requirement in this part if no changes have been made to a voting system's software or if the software continues to operate in conformance with Minnesota election law.

[\(back to Minnesota summary\)](#)

MISSISSIPPI

MISS. CODE ANN. § 23-15-463 (2009): Acquisition and use; laws applicable

The board of supervisors of any county in the State of Mississippi and the governing authorities of any municipality in the State of Mississippi are hereby authorized and empowered, in their discretion, to purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system which meets the requirements of Section 23-15-465, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots in any election or primary. It may enlarge, consolidate or alter the boundaries of precincts where an electronic voting system is used. The provisions of Sections 23-15-461 through 23-15-485 shall be controlling with respect to elections where an electronic voting system is used, and shall be liberally construed so as to carry out the purpose of this chapter. The provisions of the election law relating to the conduct of elections with paper ballots, insofar as they are applicable and not inconsistent with the efficient conduct of elections with electronic voting systems, shall apply. Absentee ballots shall be voted as now provided by law.

MISS. CODE ANN. § 23-15-485 (2009): Secretary of State, commissioners, power

The Secretary of State shall have the power to issue supplementary instructions and procedures for the safe and efficient use of electronic voting systems and to carry out the purpose of this chapter. Subject to such instructions and procedures and the provisions of this chapter, the commissioners of elections shall have the power to make all necessary and desirable provisions for the conduct of elections with approved electronic voting systems.

[\(back to Mississippi summary\)](#)

MISSOURI

MO. REV. STAT. §115.225 (West 2008): Automated equipment to be approved by secretary of state--standards to be met--promulgation of rules, effective date

1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it: (1) Permits voting in absolute secrecy; (2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for; (3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled to vote on, and no more; (4) Provides facilities for each voter to cast as many write-in votes for each office as a voter is lawfully entitled to cast; (5) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance; (6) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for president, vice president and their presidential

electors; (7) Accurately counts all proper votes cast for each candidate and for and against each question; (8) Is set to reject all votes, except write-in votes, for any office and on any question when the number of votes exceeds the number a voter is lawfully entitled to cast; (9) Permits each voter, while voting, to clearly see the ballot label; (10) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.

3. The secretary of state shall promulgate rules and regulations to allow the use of a computerized voting system. The procedures shall provide for the use of a computerized voting system with the ability to provide a paper audit trail. Notwithstanding any provisions of this chapter to the contrary, such a system may allow for the storage of processed ballot materials in an electronic form.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

MO. CODE REGS. ANN. tit. 15 § 30-10.020 (2009): Certification Statements for New or Modified Electronic Voting Systems.

PURPOSE: This rule provides that voting machine manufacturers file an initial affidavit stating that the voting machine complies with all applicable rules and laws and a second affidavit stating that when any changes are made in the system the voting machine's ability to continue to comply with the applicable rules and laws will not be affected and that voting machine manufacturers deposit into an escrow account the source code for each version of their voting system qualified for sale and use in Missouri.

(1) As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall have completed and submitted to the secretary of state a certification statement in substantially the same form as contained in section (5), and shall have received certification from an independent testing authority approved by the secretary of state.

(2) Beginning on July 1, 2006, when no amendments have been made to an approved system or machine subsequent to qualification, the manufacturer or supplier shall notify the secretary of state that no amendments have been made on a semi-annual basis on January 1 and July 1 starting on the notification date immediately following approval.

(3) As a prerequisite to approval from the secretary of state, each manufacturer or supplier of electronic voting systems or equipment shall execute an escrow agreement with an escrow agent for the manufacturer's source code for each system fully qualified by the Office of the Secretary of State. At a minimum, the agreement must: (A) Identify an escrow agency; (B) Provide the software source code for all voting system components in a minimum of two (2) formats (one (1) human readable and one (1) machine readable) to the escrow agent; (C) Provide the software documentation to the escrow agent; (D) Contain a statement confirming that the state of Missouri will, within seven (7) days of the occurrence of one of the following events, receive full access to the source code and unlimited rights to continue using and supporting the software at no cost to the state or the agency should the manufacturer: 1. Become insolvent; or 2. Make a general assignment for the benefit of creditors; or 3. File a voluntary petition of bankruptcy; or 4. Suffer or permit the appointment of a receiver for its business or assets; or 5. Become subject to any proceeding of bankruptcy or insolvency law, whether foreign or domestic; or 6. Wind up or liquidate its business voluntarily or otherwise and the state has reason to believe that the vendor will fail to meet future obligations; or 7. Discontinue support of the provided products or fail to support the products in accordance with its maintenance obligations and warranties; (E) Contain a statement agreeing to notify in writing the Independent Testing Authority (ITA) that certified the system, giving the state of Missouri full access to "final build," records and test results related to the certification tests at no charge to the state; and (F) Contain a statement agreeing that the escrow will stay in place as long as the system is used in Missouri, at no cost to the state.

(4) If any modification, deletion or improvement to approved voting or tabulating equipment, procedures or systems is made, the manufacturer, programmer or supplier shall notify the secretary of state and a certification amendment statement shall be submitted. (A) No certification need be submitted if one (1) of the following conditions are met: 1. The equipment is not a device which-- A. Converts the intent of the voter into a data string, as an example, a card reader or scanner; B. Changes, interprets, converts, modifies or records the data string being transmitted from the ballot counter; or C. Manipulates data or the results of any data conversion into a report exclusive of the printer; or 2. The software only monitors system operation. (B) Certificates from the software supplier or programmer shall always be submitted in the following cases when the additions could be used during the tabulating process: 1. Installation of a new release of system software, utilities software, or both; 2. Installation of new or expanded central processing units; 3. Installation of additional random access or read only memory (RAM or ROM); and 4. Installation of additional magnetic, electronic or optical data storage units. (C) All systems installed as of January 1, 1987 are approved in the configuration that existed as of that date.

(5) Manufacturer's certification statement shall be completed substantially as the example which follows:

SAMPLE OMITTED

(6) Compliance with this certification statement will assist this office when approval is requested for use of electronic voting systems in this state. After receiving this information, the secretary of state will schedule a meeting with the election official making the request to use electronic equipment and representatives of the voting equipment company to discuss approval of its use in Missouri.

(7) The certification amendment statement shall be completed substantially as the example which follows:

SAMPLE OMITTED

(8) No change in system software, utilities software, or both, may be made within six (6) weeks prior to an election in which the automated tabulating equipment will be used for the tabulating of ballots. In the event that system software, utilities software, or both, is to be changed within thirty (30) days after any election in which the automated tabulating equipment is used for the tabulating of ballots, the election authority shall have copies made of the original system software, utilities software, or both, and those copies shall be stored in the same manner as the ballots counted in that election.

[\(back to Missouri summary\)](#)

MONTANA

MONT. CODE ANN. § 13-17-101 (2008): Secretary of state to approve voting systems

(1) A voting system may not be used for any election in this state unless the system is approved by the secretary of state as provided in this section.

(2) The secretary of state shall: (a) examine a voting system proposed for use to determine if it complies with the requirements of 13-17-103; (b) within 30 days after examining the voting system, file a report of the examination in the secretary of state's office; (c) include in the report the reasons for the voting system's approval or disapproval and the secretary of state's opinion about the economic and procedural impact that the voting system's use or nonuse may have on the various classes of counties of this state; and (d) within 5 days after filing the report, transmit to each election administrator, including school election administrators for elections under Title 20, chapter 20, a copy of the report.

(3) Voting systems may not be used in an election unless approved by the secretary of state 60 days or more prior to the election at which they will be used.

MONT. CODE ANN. § 13-17-102 (2008): Use of qualified technicians and advisers

(1) To the extent that funds are available, the secretary of state may compensate qualified technicians and advisers to assist in carrying out the secretary of state's duties required by 13-17-101.

(2) An entity submitting a voting system for examination shall pay to the secretary of state certain costs connected with the examination based on an agreement reached between the two parties.

MONT. CODE ANN. § 13-17-107 (2008): Secretary of state to prescribe rules

(1) The secretary of state may prescribe rules for the submission of voting systems for examination and additional requirements for approval of voting systems.

(2) The secretary of state shall prescribe rules for the complete procedures necessary to use each type of voting system now approved for use in this state and for each type of system approved for use under the provisions of this chapter.

MONT. ADMIN. R. 44.3.1701 (2008): EXAMINATION OF VOTING MACHINES AND DEVICES

(1) The Secretary of State is empowered under 13-17-101, MCA, to approve voting machines and devices.

[\(back to Montana summary\)](#)

NEBRASKA

NEB. REV. STAT. § 32-1041 (2008): Voting and counting methods and locations authorized; approval required; when.

The election commissioner or county clerk may use optical-scan ballots or voting systems approved by the Secretary of State to allow registered voters to cast their votes at any election. The election commissioner or county clerk may use vote counting devices and voting systems approved by the Secretary of State for tabulating the votes cast at any election. Vote counting devices

shall include electronic counting devices such as optical scanners. Any new voting or counting system shall be approved by the Secretary of State prior to use by an election commissioner or county clerk. Notwithstanding any other provision of the Election Act, the Secretary of State may adopt and promulgate rules and regulations to establish different procedures and locations for voting and counting votes pursuant to the use of any new voting or counting system. The procedures shall be designed to preserve the safety and confidentiality of each vote cast and the secrecy and security of the counting process, to establish security provisions for the prevention of fraud, and to ensure that the election is conducted in a fair manner.

[\(back to Nebraska summary\)](#)

NEVADA

NEV. REV. STAT. § 293B.063 (2008): System to meet or exceed standards established by Federal Election Commission pursuant to federal law

No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems established by the Federal Election Commission pursuant to federal law.

NEV. REV. STAT. § 293B.105 (2008): Purchase, adoption and use of mechanical voting system and mechanical recording device by local officers; approval of system or device by secretary of state; change or improvement of system or device; regulations

1. The board of county commissioners of any county or the city council or other governing body of any city may purchase and adopt for use at elections any mechanical voting system and mechanical recording device if the system or device is: (a) Approved by the Secretary of State pursuant to subsection 2; or (b) Specifically authorized by law. The system or device may be used at any or all elections held in the county or city, for voting, registering and counting votes cast.
2. A person who owns or has an interest in a mechanical voting system or mechanical recording device may submit an application to the Secretary of State to have the system or device examined for approval for use during the elections of this State. The Secretary of State shall approve or disapprove the use of such a system or device not later than 120 days after the application is submitted.
3. As a condition to approval, the person shall have the system or device independently examined by a person approved by the Secretary of State. The examiner shall: (a) Review and analyze any electronic or computerized features of the system or device; and (b) Prepare a report of the results of the examination for the Secretary of State which includes a statement of his opinion regarding the feasibility of using such a system or device during the elections of this State with consideration for the safe and proper operation of the system or device under the conditions prescribed by the applicable election laws.
4. Any cost for the independent examination of a system or device must be paid by the person who submits an application to have the system or device approved by the Secretary of State.
5. The Secretary of State shall approve a mechanical voting system or mechanical recording device for use during the elections of this State if: (a) The report prepared pursuant to subsection 3 states that the system or device can be used safely and properly in this State; and (b) He determines after he independently examines the system or device that it can be used safely and properly in this State.
6. Before a city or county may change or improve a system or device that has been approved by the Secretary of State, it must obtain approval from the Secretary of State. If any change or improvement does not comply with the requirements of this section, the Secretary of State shall not approve the use or sale of any system or device that incorporates the change or improvement in this State.
7. The Secretary of State may reexamine a system or device or any part thereof at any time for the purpose of approving a change or improvement or to ensure that the system or device continues to comply with the election laws of this State.
8. The Secretary of State and any examiner of a system or device must not have any pecuniary interest in the system or device examined.
9. The Secretary of State may establish regulations to carry out the provisions of this section.

NEV. ADMIN. CODE § 293B.110 (2008): Certification of software and operating systems before each federal election; maintenance of audit trail.

1. Before each election cycle for federal office, in accordance with procedures established by the Secretary of State, each county clerk shall certify that: (a) The software used to tabulate ballots; and (b) The operating systems, including, without limitation, software and firmware, installed on each mechanical recording device, have been certified by the Voting System Certification

and Laboratory Accreditation Program of the Election Assistance Commission established pursuant to 42 U.S.C. § 15321.

2. The county clerk shall certify the operating systems, including, without limitation, software and firmware, pursuant to subsection 1 by confirming that each component of such operating systems used pursuant to subsection 1 matches the identity registered with the National Software Reference Library.

3. The date and time that the operating systems of each mechanical recording device are certified pursuant to subsection 2 must be recorded, and, subject to the provisions of subsection 4, an audit trail must be maintained from that date which sets forth each instance that the mechanical recording device is accessed.

4. The audit trail required pursuant to subsection 3 must include, without limitation: (a) The name of the supervisor responsible for accessing the mechanical recording device; (b) The reason for accessing the mechanical recording device; and (c) The date and time that the accessing of the mechanical recording device was completed.

[\(back to Nevada summary\)](#)

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 656:41 (2009): Approval by Ballot Law Commission.

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

N.H. CODE R. Bal. 608.01 (Weil 2009): Approval.

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

[\(back to New Hampshire summary\)](#)

NEW JERSEY

N.J. REV. STAT. § 19:48-2 (2009): Examination of voting machines by secretary of state

Any person or corporation owning or being interested in any voting machine may apply to the Secretary of State to examine such machine. Before the examination the applicant shall pay to the Secretary of State an examination fee of four hundred fifty dollars (\$450.00). The Secretary of State within a period of thirty days shall examine the machine and shall make and file in the office of the Secretary of State his report of the examination, which report shall state whether in his opinion the kind of machine so examined can be safely used by the voters at elections under the conditions prescribed in this subtitle. If the report states the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided.

Before making such report the Secretary of State shall require the voting machine to be examined by three examiners to be appointed for such purpose by him, one of whom shall be an expert in patent law and the other two mechanical experts, and shall require of them a written report on such machine, which the Secretary of State shall attach to his own report on the machine. Each examiner shall receive one hundred fifty dollars (\$150.00) for his compensation and expenses in making an examination and report as to each voting machine examined by him from and out of the examination fee of four hundred fifty dollars (\$450.00). Neither the Secretary of State nor any examiner shall have any pecuniary interest in any voting machine. When the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency, or capacity, shall not render necessary a re-examination or reapproval thereof. Any form of voting machine not so approved cannot be used at any election.

The certificate of approval, or a certified copy thereof, shall be conclusive evidence that the kind of machine so examined complies with the provisions of this subtitle, except that the action of the Secretary of State in approving such machine may be reviewed by the Superior Court in a proceeding in lieu of prerogative writ.

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NEW MEXICO

N.M. STAT. § 1-9-1 (2009): Secretary of state; duties

A. The secretary of state shall study, examine and approve all voting systems used in elections for public office in New Mexico. Any type of voting systems not approved by the secretary of state shall not be used in any election for public office in New Mexico.

B. As used in Chapter 1, Article 9 NMSA 1978, “voting system” means a combination of mechanical, electromechanical or electronic equipment, including the software and firmware required to program and control the equipment, that is used to cast and count votes; equipment that is not an integral part of a voting system, but that can be used as an adjunct to it, is considered to be a component of the system.

N.M. STAT. § 1-9-2 (2006): Secretary of state; manner of approval

A. All voting systems approved for use in New Mexico shall meet federal election standards, conform to state information technology rules, standards and practices and be tested by an independent authority.

B. A person desiring to have a type of voting system approved for use in New Mexico may apply to the secretary of state to have the system examined and approved. At the time application is made, the applicant shall direct the independent testing authority to submit its report on the system to the secretary of state.

C. Upon receipt of the report from the independent testing authority, the secretary of state shall examine and study the system. As part of the examination, the secretary of state shall require the system to be independently inspected by two voting system experts and shall require from each of them a written report on the results of their inspection.

D. Upon completion of his examination, the secretary of state shall make a written report on the result of his examination and findings and shall file such report, together with the inspection reports of the two voting system experts, in the office of the secretary of state. Such reports and findings are public records.

E. The secretary of state shall inform the applicant in writing of the findings. If the findings show that the voting system type is adequate for the election needs of New Mexico, it shall be deemed approved for use at elections in the state.

N.M. CODE R. § 1.10.20.3 (Weil 2009): STATUTORY AUTHORITY.

A First, Section 1-9-1 NMSA 1978 directs the Secretary of State to study, examine, and approve all voting machines used in elections for public office in New Mexico.

B. Second, Section 1-9-14 NMSA 1978 directs the Secretary of State to

(1) test and evaluate internal computers designed for the purpose of recording and tabulating votes within polling places in New Mexico;

(2) upon completion of all tests and examinations of all test reports, the Secretary of State shall make a written report of the results of the Findings of the Secretary of State’s recommendations regarding the suitability and reliability of such equipment in the conduct of elections under the Election Code and the report shall be a public record; and

(3) the Secretary of State shall prescribe by regulation promulgated under the provisions of the State Rules Act specifications for internal computers designed for the purpose of providing a uniform system of internal computers for recording and tabulating votes within polling places.

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NEW YORK

N.Y. ELEC. LAW § 7-201 (McKinney 2009): Voting machines and systems; examination of

1. Any person or corporation owning or being interested in any voting machine or system may apply to have the state board of

elections examine such machine or system. Such applicant shall pay to the board before the examination a fee equal to the cost of such examination. The state board of elections shall cause the machine or system to be examined and a report of the examination to be made and filed in the office of the state board. Such examination shall include a determination as to whether the machine or system meets the requirements of section 7-202 of this title and a thorough review and testing of any electronic or computerized features of the machine or system. Such report shall state an opinion as to whether the kind of machine or system so examined can safely and properly be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act. If the report states that the machine or system can be so used, and the board after its own examination so determines, in accordance with subdivision four of section 3-100 of this chapter, the machine or system shall be deemed approved, and machines or systems of its kind may be adopted for use at elections as herein provided. The voting machine or system shall be examined by examiners or testing laboratories to be selected for such purpose by the state board. Each examiner or laboratory shall receive compensation and expenses for making an examination and report as to each voting machine or system examined by him or it. Neither any member of the state board of elections nor any examiner or owner or employee of any testing laboratory, shall have any pecuniary interest in any voting machine or system. Any form of voting machine or system not so approved, cannot be used at any election.

1-a. [Expires and deemed repealed July 1, 2010, pursuant to L.2007, c. 397, § 2.] A citizens' election modernization advisory committee is hereby established within the state board of elections. Such committee shall consist of the co-executive directors of the state board of elections, two local board of election commissioners appointed by the state board of election commissioners of one major party, two local board of election commissioners appointed by the state board of elections commissioners of the other major party, five members of disability rights' organizations, who shall be appointed by the state board of elections in accordance with subdivision four of section 3-100 of this chapter, at least one of whom shall be a representative from the Commission on Quality of Care and Advocacy for Persons with Disabilities and the New York State Independent Living Council, Inc., and the Disabled American Veterans, Department of New York, one member appointed by the temporary president of the senate and one member appointed by the speaker of the assembly and one member who shall be a representative of the New York State League of Women Voters. Such appointments shall be made within thirty days of the effective date of this subdivision and the state board of elections shall immediately convene the committee. The committee shall have access to each machine or system submitted for examination and assist the state board of elections in the examination of the voting machines or systems pursuant to this section by recommending which machines or systems meet the requirements of section 7-202 of this title and the federal Help America Vote Act. The committee shall meet four times per year. The state board of elections shall take such recommendation into consideration when determining whether a machine or system meets the requirements of section 7-202 of this title and the federal Help America Vote Act.

2. When any change is made in the operation or material of any feature or component of any machine or system which has been approved pursuant to the provisions of this section, such machine or system must be submitted for such re-examination and reapproval pursuant to the provisions of subdivision one of this section as the state board of elections deems necessary.

3. If at any time after any machine or system has been approved pursuant to the provisions of subdivision one or two of this section, the state board of elections has any reason to believe that such machine or system does not meet all the requirements for voting machines or systems set forth in this article, it shall forthwith cause such machine or system to be examined again in the manner prescribed by subdivision one of this section. If the opinions in the report of such examinations do not state that such machine or system can safely and properly be used by voters at elections under the conditions prescribed by this article, the state board of elections shall forthwith rescind its approval of such machine or system. After the date on which the approval of any machine or system is rescinded, no machines or systems of such type may be purchased for use in this state. The state board of elections shall examine all machines or systems of such type which were previously purchased, to determine if they may continue to be used in elections in this state.

4. The state board of elections may authorize, for use on an experimental basis, one or more types of voting machine, system or equipment not previously approved by such board pursuant to the provisions of this section and may authorize a local board of elections to rent or borrow a limited number of one such type of machine, system or equipment for use in a primary, special, general or village election. Authorization for such use of such a machine, system or equipment may be given for all or part of any city, town or village for any such election.

5. The board shall deposit all fees collected pursuant to the provisions of subdivision one of this section to the credit of the voting machine and system examination fund established pursuant to section ninety-two-p of the state finance law.

N.Y. COMP. CODES R. § REGS. tit. 9, § 6209.2 (2009): Polling place voting system requirements.

(a) In order for a polling place voting system to be considered by the State Board for certification, it must comply with the mandates of New York State Election Law, and meet the Election Assistance Commission's 2005 Voluntary Voting System Guidelines, to the extent that they are consistent with State law and this Part. Such polling place voting systems shall meet the following requirements: (1) Provide a full ballot display on a single surface, except that proposals may appear on the reverse side of any paper ballot, and that such ballot display is easily visible under typical lighting found in a poll site. (2) For jurisdictions within the State of New York that have been identified by the U.S. Department of Justice, as requiring that ballots be provided in alternate languages, pursuant to section 203 of the Voting Rights Act, 42 USC 1973aa-1a. Voting systems must be able to recognize and interpret alternate language ballots. (3) Provide a device that produces and retains a voter-verifiable permanent

paper record, pursuant to statute, which the voter can review and/or correct prior to the casting of their vote. In the case of a paper-based voting system, the ballot marked by the voter shall constitute the paper record referred to in subdivision (f) of this section. The paper record shall allow a manual audit and allow for preservation in accordance with the provisions of Election Law, section 3-222. (4) Provide a device or means by which the record of the votes cast on the machine can be printed and visually reviewed after the polls are closed. (5) Provide a battery power source in the event that the electric supply used to make the voting system equipment function, is disrupted. The battery power source shall operate the system and allow for the casting of votes for a period not less than two hours, to ensure that the system can shut down and preserve the integrity of votes cast prior to the power failure, and can resume functionality when power is provided or restored without significant or intrusive power-up procedures. Such batteries must be rechargeable and have minimum five-year life when used under normal conditions. In the event of a power failure, the equipment shall perform a normal shut-down not less than one hour before battery power is depleted, and shall notify the election inspector that the system will do so. (6) The system shall contain software and hardware required to perform a diagnostic test of system status, and a means of simulating the random selection of candidates and casting of ballots in quantities sufficient to demonstrate that the system is fully operational and that all voting positions are operable. (7) The system shall incorporate multiple memories, including resident vote tabulation, storage of results and ballot images in resident memory, serving as a redundant means of verifying or auditing election results and ballot images, and further, the system shall be required to alert the election day worker that memory capacity is about to be reached. (8) In a DRE voting system, the system must prevent voters from overvoting and indicate to the voter specific contests or ballot issues for which no selection or an insufficient number of selections has been made. In a paper-based voting system, the system must indicate to the voter specific contests or ballot issues for which an overvote or undervote is detected. (9) The voting system shall provide a method for write-in voting and shall report the number of votes cast in each contest in write-in voting positions. (10) The voting system shall be capable of accumulating and reporting a count of the number of ballots tallied for an election district and votes cast for each candidate, and the total vote for or against each ballot proposal, and shall be capable of separating and tabulating those election district totals to produce a report of the total of ballots tallied by groups of election districts such as legislative districts or wards.

(b) In addition to the requirements of subdivision (a) of this section, fully-accessible voting equipment certified by the State Board shall meet the following requirements for usability by voters who are disabled: (1) The voting system or equipment shall be equipped with a voting device with tactile discernible controls, pursuant to Election Law, section 7-202. Such controls shall allow persons with limited reach and/or hand dexterity, the ability to cast their vote, and shall include, for example: raised buttons of different shapes and colors, large or raised numbers or letters, and light pressure switches. (2) The voting system or equipment shall be equipped with an audio voting feature, pursuant to Election Law, section 7-202. The audio feature shall be able to be used either independently or simultaneously with the on-screen display. (3) The voting system or equipment shall be capable of being equipped with a pneumatic switch, pursuant to Election Law, section 7-202.

(c) Standards for noise level. (1) Voting systems or equipment to be certified by the State Board shall be constructed in a manner so that noise levels of the system or equipment during operation will not interfere with the duties of the election inspectors or the voting public. (2) The noise level of write-in components of the system or equipment shall be so minimal that it will be virtually impossible under normal conditions for someone at the table used by the inspectors of elections to determine that a write-in vote is being cast or has been cast.

(d) Standards for voter privacy. (1) Voting systems or equipment shall be constructed so that no one within the polling site will be able to see how a voter is casting a vote. (2) Curtains, screens, shields or other privacy devices shall be designed so as to allow any voter, either electronically or manually, to open, close or otherwise use the device with ease when entering and exiting the system or equipment.

(e) Environmental standards. The voting system shall be designed to protect against dust and moisture during storage and transportation. Testing shall be similar to the procedure of MIL-STD-810F, Method 510.4, for dust, and MIL-STD-810F, Method 506.4 for moisture. These tests are intended to evaluate exposure to these elements when the system or equipment is in a non-operating configuration and the equipment or system's required protective cover is in place.

(f) Voter verified paper audit trails (VVPAT). (1) The voting system shall print and display a paper record of the voter's ballot choices prior to the voter making the ballot choices final. In the case of a paper-based voting system, the ballot marked by the voter shall constitute the paper record referred to in this subdivision. (i) The paper record shall constitute a complete record of ballot choices that can be used in audits of the accuracy of the voting systems electronic records, in audits of the election results, and in full recounts. (ii) In the case of a DRE voting system, the paper record shall contain all information stored in the electronic record. (iii) The voting system shall be capable of showing the information on both the display screen and the paper in a font size of 3.0mm, and should be capable of showing the information in at least two font ranges: (a) 3.0-4.0 mm; and (b) 6.3-9.0 mm, under control of the voter. (iv) In the case of a DRE voting system, the paper and electronic display of the voter's selections shall be presented and positioned so as to allow the voter to easily read and compare the two. (v) If the paper record cannot be displayed in its entirety, a means for moving the paper to show all paper record contents shall be provided. (2) There shall be instructions for performing the verification process made available to the voter in a location on the voting system. (3) The voting system shall display, print, and store a paper record in any of the alternative languages chosen for making ballot selections. Candidate names and other markings not related to the ballot selection on the paper record shall appear in English. (4) The voting system shall allow the voter to approve or reject the paper record, in the case of DRE systems, marking the ballot as such in the presence of the voter. (i) Any DRE voting system shall provide a means to reconcile the number of rejected paper records with the number of occurrences of rejected electronic selections, and procedures shall be in place to address any

discrepancies. (ii) Prior to reaching the maximum number of ballots allowed pursuant to statute, any DRE voting system shall display a warning message to the voter indicating the voter may reject only one more ballot, and that the third ballot shall become the ballot of record. (5) In case of conditions that prevent voter review of the paper record, there shall be a means for the voter to notify an election official, and in the case of a DRE voting system, shall cause an error message to be displayed and shall prevent the recording of the electronic record. (6) In the case of a DRE voting system, procedures by which an election official can be notified and prescribed actions can be taken to address discrepancies if a voter indicates that the electronic and paper records do not match, shall be documented. (7) The voting system shall not record the electronic record as being approved by the voter until the paper record has been stored. (8) Vendor documentation shall include procedures for returning a voting system to correct operation after a voter has used it incompletely or incorrectly; this procedure shall not cause discrepancies between the tallies of the electronic and paper records. (9) The voter's privacy and anonymity shall be preserved during the process of recording, verifying, and auditing ballot choices. (i) The privacy and anonymity of the voter's verification of ballot choices and the creation and storage of these choices, both electronically and on paper record, shall be maintained. (ii) The privacy and anonymity of voters whose paper records contain any of the alternative languages chosen for making ballots selections shall be maintained. (iii) Information for the purposes of auditing the electronic or paper records that may permit a voter to reveal his or her ballot choices shall be displayed so as not to be memorable to the voter. (10) The voting system's ballot records shall be structured and contain information so as to support highly precise audits of their accuracy. (i) All cryptographic software in the voting system shall have been approved by the U.S. Government's Crypto Module Validation Program (CMVP) as applicable. (ii) This information shall contain, but not be limited to, the voting site/election district, type of election, ballot style, and whether the system is operating in a "test" mode. (11) In the case of a DRE voting system, the electronic and paper records shall be linked by including a unique identifier within each record that can be used to identify each record uniquely and correspond the two accordingly. (12) The voting system shall generate and store a digital signature for each electronic record. (13) The electronic records shall be able to be exported for auditing or analysis on standards-based and/or information technology computing platforms. (i) The exported electronic records shall be in an open, non-proprietary format. (ii) The voting system shall export the records accompanied by a digital signature of the collection of records, which shall be calculated on the entire set of electronic records and their associated digital signatures. (iii) The voting system vendor shall provide documentation as to the structure of the exported records and how they shall be read and processed by software. (iv) The vendor shall provide a software program that will display the exported records and such software may include other capabilities, such as providing vote tallies and indications of undervotes. (14) The voting system printers shall be physically secure from tampering. (i) The voting system shall communicate with its printers over a standard, publicly documented printer port using a standard communication protocol. (ii) The paper path between the printing, viewing and storage of the paper record shall be protected and sealed from access except by authorized election officials. (iii) The printer shall not be permitted to communicate with any other system or machine other than the single voting system to which it is connected. (iv) The printer shall only be able to function as a printer: it cannot store information or contain or provide any services that are not essential to system function, (e.g., provide copier or fax functions) or have network capability. (v) Printer access to replace consumables such as ink or paper shall only be granted if it does not compromise the sealed printer paper path. (vi) Prior to the opening of polls on election day, poll workers shall demonstrate that the ballot storage devices are empty. The storage devices shall then be sealed and no further access shall be provided to polling place workers. (vii) Tamper-evident seals or physical security measures shall protect the connection between the printer and the voting machine, so that the connection cannot be broken or interfered with without leaving extensive and obvious evidence. (15) The voting system's printers shall be highly reliable and easily maintained. (i) The voting system should include a printer port to which a commercial off-the-shelf printer which complies with paragraph (14) of this subdivision, could be attached for the purposes of printing paper records and any additional records. (ii) The voting system shall detect errors and malfunctions such as paper jams or low supplies of consumables such as paper and ink that may prevent paper records from being correctly displayed, printed and stored. (iii) If an error or malfunction occurs, the voting equipment attached to the defective printer shall suspend voting operations and shall present a clear indication to the voter and election workers of the error or malfunction. (iv) There shall be adequate supplies of consumable items such as paper and printer ink on hand to operate from opening to closing of polls. (a) Printing devices should contain paper and ink of sufficient capacity so as not to require reloading or opening equipment covers or enclosures and circumvention of security features, or reloading shall be able to be accomplished with minimal disruption to voting and without circumvention of security features such as seals. (b) Printer consumables shall be stored within the temperature and humidity ranges specified by the manufacturer and shall be stored in State Board-approved containers to protect them from sustaining any damage. (v) The vendor shall make recommendations as to appropriate numbers of printers to be used in conjunction with the number of voting systems being utilized. A sufficient number of replacement printers shall be available. (16) Vendor documentation shall include procedures for investigating and resolving malfunctions including but not limited to misreporting of votes, unreadable paper records, paper jams, low ink, mis-feeds and power failures. (17) Vendor documentation shall include procedures for ensuring, in the case of malfunctions, that electronic and paper records are correctly recorded and stored. (18) Protective coverings intended to be transparent on voting system devices shall be maintainable via a predefined cleaning process. If the coverings become damaged such that they obscure the paper record, they shall be replaced. (19) The paper record shall be sturdy, clean, and of sufficient durability to be used for manual auditing and recounts conducted manually. The paper record shall be able to be stored and remain fully readable without degradation for 22 months within the temperature and humidity ranges specified by the manufacturer, but at a minimum temperature range of at least from -20° to 140° F, and at a humidity as high as 98 percent.

(g) Any submitted voting system's software shall not contain any code, procedures or other material which may disable, disarm or otherwise affect in any manner, the proper operation of the voting system, or which may damage the voting system, any hardware, or any computer system or other property of the State Board or county board, including but not limited to "viruses", "worms", "time bombs", and "drop dead" devices that may cause the voting system to cease functioning properly at a future time.

(h) Any submitted voting system shall provide methods through security seals or device locks to physically secure against attempts to interfere with correct system operations. Such physical security shall guard access to machine panels, doors, switches, slots, ports, peripheral devices, firmware, and software.

(i) The system shall provide a means by which the ballot definition code may be positively verified to ensure that it corresponds to the format of the ballot face and the election configuration.

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NORTH CAROLINA

N.C. GEN. STAT. § 163-165.7 (West 2009): Voting systems: powers and duties of State Board of Elections

(a) Only voting systems that have been certified by the State Board of Elections in accordance with the procedures and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify additional voting systems only if they meet the requirements of the request for proposal process set forth in this section and only if they generate either a paper ballot or a paper record by which voters may verify their votes before casting them and which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems. In consultation with the Office of Information Technology Services, the State Board shall develop the requests for proposal subject to the provisions of this Chapter and other applicable State laws. Among other requirements, the request for proposal shall require at least all of the following elements: (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages shall include, among other items, any costs of conducting a new election attributable to those defects. (2) That the voting system comply with all federal requirements for voting systems. (3) That the voting system must have the capacity to include in voting tabulation district returns the votes cast by voters outside of the voter's voting tabulation district as required by G.S. 163-132.5G. (4) With respect to electronic voting systems, that the voting system generate a paper record of each individual vote cast, which paper record shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement. (5) With respect to DRE voting systems, that the paper record generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper record before the vote is cast. (6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163-165.9A for review and examination by the State Board of Elections; the Office of Information Technology Services; the State chairs of each political party recognized under G.S. 163-96; the purchasing county; and designees as provided in subdivision (9) of subsection (d) of this section. (7) That the vendor must quote a statewide uniform price for each unit of the equipment. (8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code. In its request for proposal, the State Board of Elections shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system. If a voting system was acquired or upgraded by a county before August 1, 2005, the county shall not be required to go through the purchasing process described in this subsection if the county can demonstrate to the State Board of Elections compliance with the requirements in subdivisions (1) through (6) and subdivision (8) of this subsection, where those requirements are applicable to the type of voting system involved. If the county cannot demonstrate to the State Board of Elections that the voting system is in compliance with those subdivisions, the county board shall not use the system in an election during or after 2006, and the county shall be subject to the purchasing requirements of this subsection.

(a1) Federal Assistance. -- The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002.

(b) The State Board may also, upon notice and hearing, decertify types, makes, and models of voting systems. Upon decertifying a type, make, or model of voting system, the State Board shall determine the process by which the decertified system is discontinued in any county. A county may appeal a decision by the State Board concerning the process by which the decertified

system is discontinued in that county to the Superior Court of Wake County. The county has 30 days from the time it receives notice of the State Board's decision on the process by which the decertified system is discontinued in that county to make that appeal.

(c) Prior to certifying a voting system, the State Board of Elections shall review, or designate an independent expert to review, all source code made available by the vendor pursuant to this section and certify only those voting systems compliant with State and federal law. At a minimum, the State Board's review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system. Any portion of the report containing specific information related to any trade secret as designated pursuant to G.S. 132-1.2 shall be confidential and shall be accessed only under the rules adopted pursuant to subdivision (9) of subsection (d) of this section. The State Board may hear and discuss the report of any such review under G.S. 143-318.11(a)(1).

(d) Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following: (1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county. (2) Form of official ballot labels to be used on voting systems. (3) Operation and manner of voting on voting systems. (4) Instruction of precinct officials in the use of voting systems. (5) Instruction of voters in the use of voting systems. (6) Assistance to voters using voting systems. (7) Duties of custodians of voting systems. (8) Examination and testing of voting systems in a public forum in the county before and after use in an election. (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163-165.9A by only the following persons: a. State Board of Elections. b. Office of Information Technology Services. c. The State chairs of each political party recognized under G.S. 163-96. d. The purchasing county. Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2. (10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper record. Those procedures shall at a minimum include procedures to protect against the alteration of the paper record after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record. (11) Compliance with section 301 of the Help America Vote Act of 2002. Any rules adopted under this subsection shall be in conjunction with procedures and standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General Statutes, and are subject to the same procedures for notice and publication set forth in G.S. 163-182.1.

(e) The State Board of Elections shall facilitate training and support of the voting systems utilized by the counties.

08 N.C. ADMIN. CODE 04.0301 (2009): REQUIREMENTS OF VOTING SYSTEMS

Any voting system used in any election in North Carolina shall be constructed to fulfill the following requirements:

- (1) It shall be designed to reasonably secure secrecy of the voter in the act of voting;
- (2) It shall enable the voter to vote a straight party ticket in a general election;
- (3) It shall require the voter to vote for the candidates for president and vice-president separately from the straight party vote;
- (4) It shall provide capacity for listing of all nominees of all recognized political parties and other lawful candidates;
- (5) It shall, except in primary elections, permit the voter to vote for all the candidates of one party, or in part for the candidates of one or more other parties;
- (6) It shall permit the voter to vote for only as many persons for an office as the voter chooses and is lawfully entitled to vote for;
- (7) It shall prevent the voter from voting for the same persons more than once for the same office;
- (8) It shall permit the voter to vote for or against only the question(s) the voter may have the right to vote;
- (9) It shall permit each voter in a general election but not in a primary, to write in the name of persons for whom he desires to vote, whose names do not appear upon the ballot, except where prohibited by G.S. 163-123 or other statutes;
- (10) It shall be equipped for use in primary elections so that the voter may vote only in the primary election to which the voter is entitled to vote;
- (11) When properly operated, it shall correctly register or record, and accurately count all votes cast for all ballot items;

- (12) It shall contain a visible public counter that shall show at all times during an election the number of persons who have voted;
- (13) It shall clearly indicate to the voter during the act of voting the ballot items the voter has selected;
- (14) Vote totals for each ballot item shall be contained by a method that is locked and concealed at all times during the time the polls are open;
- (15) It shall meet current Federal Voting System Standards or other applicable Federal Standards;
- (16) It shall be suitably designed and durably constructed for the conduct of elections; and
- (17) It shall be equipped to provide retrievable ballots during absentee voting where an absentee voter's ballot is linked to that voter for possible retrieval if it becomes necessary to take action as to that cast ballot.

08 N.C. ADMIN. CODE 04.0302 (2009): APPROVAL AND OPERATION OF OF VOTING SYSTEMS

(a) Before approving a voting system for use in North Carolina, the State Board of Elections shall do all of the following: (1) Obtain a current financial statement from the proposed vendor and manufacturer's contact information (mail address, telephone and fax numbers, email address); (2) Cause staff to review and appraise the voting system; (3) Witness a demonstration of the voting system by the proposed vendor; (4) Obtain a copy of Independent Testing Authority certification as authorized by National Association of State Elections Directors or Federal Agency; (5) Ensure that a copy of the system's source code is held in escrow by a third party approved by the State Board of Elections for the purpose of taking custody of all source codes, including all revisions or modifications of source codes. Proprietary information is not subject to North Carolina Public Records laws; (6) Any discussion of proprietary information by the State Board of Elections shall take place in Closed Session as authorized by the Open Meetings requirements of North Carolina law; (7) Ensure performance of system complies with North Carolina laws and rules related to voting systems; (8) Obtain a copy of the manufacturer's instructions and maintenance manual; (9) Obtain a list of all jurisdictions currently using the voting system; and (10) Review any other information made available to the Board.

(b) Modifications or Enhancement of Voting Systems. A change to any voting system or unit, including software and hardware modification, shall be submitted in writing for the review of the Executive Director of the State Board of Elections. Following the review, the Executive Director shall determine whether the change is a modification of the voting system as certified by the State Board of Elections. If it is determined to be a modification, the voting system as modified shall be submitted to the State Board of Elections for approval. If the Executive Director shall determine the change is an enhancement that does not substantially alter the voting system as certified by the State Board of Elections, the Executive Director may approve the enhancement and the review of the State Board of Elections shall not be required.

(c) Disapproval of Voting System. The State Board of Elections shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a voting system or vendor marketing a system to comply with any part of the election laws of the State of North Carolina or for any other satisfactory cause, including but not limited to, performance of the system in an election setting. Before exercising this power, the State Board of Elections shall notify the voting system vendor and/or county boards of elections affected and give opportunity to be heard at a hearing to be set by the State Board of Elections..

[\(back to North Carolina summary\)](#)

NORTH DAKOTA

N.D. CENT. CODE § 16.1-06-26 (2008): Secretary of state to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines.

The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying electronic counting machines authorized in section 16.1-06-10.1 and electronic voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of an electronic voting system or electronic counting machine for use and procurement in the state. The rules may: 1. Establish criteria and standards with which all electronic voting systems and electronic counting machines must comply. 2. Describe the procedures for electronic voting systems and electronic counting machines, any single device of an electronic voting system and electronic counting machine, and any update and enhancement made to them, to be certified and decertified for procurement and use in the state. 3. Define what constitutes a vote on each electronic voting system and electronic counting machine which has been certified for procurement in the state. 4. Describe the procedures for the secretary of state to follow when defining what constitutes a vote on any new electronic voting system and electronic counting machine, any single device of an electronic voting system and electronic counting machine, and any update and enhancement made to them.

An electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to them, in use by a county prior to August 1, 2003, must be reviewed by the secretary of state according to rules adopted under this section by April 1, 2004, and must meet the requirements of the

rules, or must be replaced by another electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to them, that meets the requirements of the rules by January 1, 2006.

N.D. ADMIN. CODE 72-06-01-02 (2009): Certification by secretary of state of electronic voting systems.

Prior to procurement and subsequent use in this state, a company supplying electronic voting systems shall give written notice to the secretary of state and provide a demonstration certifying that its system complies with applicable laws and is certified by a voting system test laboratory accredited by the EAC. If the secretary of state approves the voting system, the secretary of state shall issue a certificate of approval.

Any substantive changes or modifications in electronic voting systems may be certified by the secretary of state with or without the demonstration described in this section for initial approval provided that the modified system has been certified by a voting system test laboratory accredited by the EAC.

[\(back to North Dakota summary\)](#)

OHIO

OHIO REV. CODE ANN. § 3506.05 (2009): Certification of voting machines, marking devices, and tabulating equipment; board of voting machine examiners fund.

(A) As used in this section, except when used as part of the phrase “tabulating equipment” or “automatic tabulating equipment”:
(1) “Equipment” means a voting machine, marking device, automatic tabulating equipment, or software. (2) “Vendor” means the person that owns, manufactures, distributes, or has the legal right to control the use of equipment, or the person’s agent.

(B) No voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, except for experimental use as provided in division (B) of section 3506.04 of the Revised Code, unless it, a manual of procedures governing its use, and training materials, service, and other support arrangements have been certified by the secretary of state and unless the board of elections of each county where the equipment will be used has assured that a demonstration of the use of the equipment has been made available to all interested electors. The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and its related manuals and support arrangements. The board shall consist of four members, who shall be appointed as follows: (1) Two members appointed by the secretary of state. (2) One member appointed by either the speaker of the house of representatives or the minority leader of the house of representatives, whichever is a member of the opposite political party from the one to which the secretary of state belongs. (3) One member appointed by either the president of the senate or the minority leader of the senate, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the board shall submit the matter in controversy to the secretary of state, who shall summarily decide the question, and the secretary of state’s decision shall be final. Each member of the board shall be a competent and experienced election officer or a person who is knowledgeable about the operation of voting equipment and shall serve during the secretary of state’s term. Any vacancy on the board shall be filled in the same manner as the original appointment. The secretary of state shall provide staffing assistance to the board, at the board’s request.

For the member’s service, each member of the board shall receive three hundred dollars per day for each combination of marking device, tabulating equipment, and voting machine examined and reported, but in no event shall a member receive more than six hundred dollars to examine and report on any one marking device, item of tabulating equipment, or voting machine. Each member of the board shall be reimbursed for expenses the member incurs during an examination or during the performance of any related duties that may be required by the secretary of state. Reimbursement of these expenses shall be made in accordance with, and shall not exceed, the rates provided for under section 126.31 of the Revised Code.

Neither the secretary of state nor the board, nor any public officer who participates in the authorization, examination, testing, or purchase of equipment, shall have any pecuniary interest in the equipment or any affiliation with the vendor.

(C)(1) A vendor who desires to have the secretary of state certify equipment shall first submit the equipment, all current related procedural manuals, and a current description of all related support arrangements to the board of voting machine examiners for examination, testing, and approval. The submission shall be accompanied by a fee of eighteen hundred dollars and a detailed explanation of the construction and method of operation of the equipment, a full statement of its advantages, and a list of the patents and copyrights used in operations essential to the processes of vote recording and tabulating, vote storage, system security, and other crucial operations of the equipment as may be determined by the board. An additional fee, in an amount to be set by rules promulgated by the board, may be imposed to pay for the costs of alternative testing or testing by persons other than board members, record-keeping, and other extraordinary costs incurred in the examination process. Moneys not used shall be returned to the person or entity submitting the equipment for examination. (2) Fees collected by the secretary of state under this section shall be deposited into the state treasury to the credit of the board of voting machine examiners fund, which is hereby

created. All moneys credited to this fund shall be used solely for the purpose of paying for the services and expenses of each member of the board or for other expenses incurred relating to the examination, testing, reporting, or certification of voting machine devices, the performance of any related duties as required by the secretary of state, or the reimbursement of any person submitting an examination fee as provided in this chapter.

(D) Within sixty days after the submission of the equipment and payment of the fee, or as soon thereafter as is reasonably practicable, but in any event within not more than ninety days after the submission and payment, the board of voting machine examiners shall examine the equipment and file with the secretary of state a written report on the equipment with its recommendations and its determination or condition of approval regarding whether the equipment, manual, and other related materials or arrangements meet the criteria set forth in sections 3506.07 and 3506.10 of the Revised Code and can be safely used by the voters at elections under the conditions prescribed in Title XXXV of the Revised Code, or a written statement of reasons for which testing requires a longer period. The board may grant temporary approval for the purpose of allowing experimental use of equipment. If the board finds that the equipment meets the criteria set forth in sections 3506.06, 3506.07, and 3506.10 of the Revised Code, can be used safely and can be depended upon to record and count accurately and continuously the votes of electors, and has the capacity to be warranted, maintained, and serviced, it shall approve the equipment and recommend that the secretary of state certify the equipment. The secretary of state shall notify all boards of elections of any such certification. Equipment of the same model and make, if it provides for recording of voter intent, system security, voter privacy, retention of vote, and communication of voting records in an identical manner, may then be adopted for use at elections.

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that certification of the equipment may be withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following: (a) The reasons why the certification may be withdrawn; (b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant. (2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section. (3) Not later than fifteen days after receiving a written description or explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section. (4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code. The guidelines shall establish procedures requiring vendors or computer software developers to place in escrow with an independent escrow agent approved by the secretary of state a copy of all source code and related documentation, together with periodic updates as they become known or available. The secretary of state shall require that the documentation include a system configuration and that the source code include all relevant program statements in low- or high-level languages. As used in this division, "source code" does not include variable codes created for specific elections. (2) Nothing in any rule adopted under division (H) of this section shall be construed to limit the ability of the secretary of state to follow or adopt, or to preclude the secretary of state from following or adopting, any guidelines proposed by the federal election

commission, any entity authorized by the federal election commission to propose guidelines, the election assistance commission, or any entity authorized by the election assistance commission to propose guidelines. (3)(a) Before the initial certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the secretary of state shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following: (i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections; (ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information; (iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation; (iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation; (v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes; (vi) A requirement, for office-type ballots, that the voter verified paper audit trail include the name of each candidate selected by the voter; (vii) A requirement, for questions and issues ballots, that the voter verified paper audit trail include the title of the question or issue, the name of the entity that placed the question or issue on the ballot, and the voter's ballot selection on that question or issue, but not the entire text of the question or issue. (b) The secretary of state, by rule adopted under Chapter 119. of the Revised Code, may waive the requirement under division (H)(3)(a)(v) of this section, if the secretary of state determines that the requirement is cost prohibitive. (4)(a) Except as otherwise provided in division (H)(4)(c) of this section, any voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, shall have the most recent federal certification number issued by the election assistance commission. (b) Any voting machine, marking device, or automatic tabulating equipment certified for use in this state on the effective date of this amendment shall meet, as a condition of continued certification and use, the voting system standards adopted by the federal election commission in 2002. (c) A county that acquires additional voting machines, marking devices, or automatic tabulating equipment on or after December 1, 2008, shall not be considered to have acquired those machines, devices, or equipment on or after December 1, 2008, for the purpose of division (H)(4)(a) of this section if all of the following apply: (i) The voting machines, marking devices, or automatic tabulating equipment acquired are the same as the machines, devices, or equipment currently used in that county. (ii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment does not replace or change the primary voting system used in that county. (iii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment is for the purpose of replacing inoperable machines, devices, or equipment or for the purpose providing additional machines, devices, or equipment required to meet the allocation requirements established pursuant to division (I) of section 3501.11 of the Revised Code..

OHIO ADMIN. CODE 111:3-3-01(C)(15) (2009): EQUIPMENT APPROVAL STANDARDS; EQUIPMENT CERTIFICATION

(C) No voting machine shall be approved by the board of voting machine examiners or certified by the secretary of state, or be purchased, rented, or otherwise acquired, or used, except when specifically allowed for experimental use, unless it fulfills the following requirements: ... (15) The equipment has been certified by an independent testing authority as meeting or exceeding the minimum requirements of the federal election commission voting system standards.

OHIO ADMIN. CODE 111:3-2-01 (2009): Application requirements; generally.

(A) In order to request examination, testing, and approval of equipment, the vendor shall submit the following to the board of voting machine examiners: (1) All applicable hardware; (2) All related procedural manuals; (3) A current description of all related support arrangements for the equipment; (4) An application fee; (5) A detailed explanation of the construction and method of operation of the equipment; (6) A full statement of the advantages of the equipment; (7) A list of applicable patents and copyrights on the equipment.

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OKLAHOMA

OKLA. STAT. tit. 26, § 21-101 (West 2009): Unitary, unified, integrated system of election administration--Implementation--Procedures

A. The Secretary of the State Election Board is hereby authorized beginning July 1, 1989, to purchase equipment for and implement a unitary, unified, integrated system of election administration for the State of Oklahoma that includes an electronic data processing system for maintenance of voter registration records, certification of election results and other election-related applications, and the installation of electronic, optical scanning voting devices compatible with the same system in every precinct polling place.

B. The Secretary of the State Election Board is authorized to adopt procedures consistent, insofar as practicable, with existing law for implementation of the system.

C. Except as provided in subsection A, no electronic data processing applications shall be implemented by a county election board, nor shall voting devices be purchased by a county, except for those electronic data processing applications and voting devices already in use or for which a contract had been signed by no later than March 31, 1986.

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OREGON

OR. REV. STAT. ANN. § 246.550 (West 2009): Examination and approval of equipment by Secretary of State.

(1) The Secretary of State shall publicly examine all makes of voting machines or vote tally systems submitted to the secretary and determine whether the machines or systems comply with the requirements of ORS 246.560, and can safely be used by electors.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary for examination. For the purpose of assistance in examining the machine or system the secretary may employ not more than three individuals who are expert in one or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or system.

(3) Not later than the 30th day after completing the examination, the secretary shall approve or reject the voting machine or vote tally system. If the secretary approves the machine or system, the secretary shall make a report on the machine or system, together with a written or printed description, drawings and photographs clearly identifying the machine or system and its operation. Upon request, the secretary shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system approved by the secretary may be used for conducting elections. A machine or system rejected by the secretary may not be used at any election. If a machine or system is changed after the machine or system has been approved by the secretary, the secretary is not required to reexamine or reapprove the machine or system if the secretary determines that the change does not impair the accuracy, efficiency or capacity of the machine or system.

(5) If, after consulting with county clerks, the secretary determines that a voting machine or vote tally system approved by the secretary does not comply with the requirements of ORS 246.560, the secretary may revoke the approval. If the secretary revokes approval, the machine or system may not be used in any election. [Formerly 258.155; 2005 c.731 §2; 2005 c.797 §65]

OR. ADMIN. R. 165-007-0250 (2009): Voting System Certification

Adoption by Reference:

(1) In addition to, and not in lieu of, any other election processes contained in OAR chapter 165, the Division adopts by reference the federal rules as printed in the Federal Election Commission publication: Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems, revised April 2002, and any appendices, tables and relevant accompanying documents. All vote tally systems approved for use in Oregon must conform to the Federal Election Commission's voting systems standards adopted by this rule.

(2) All Vote Tally Systems approved before the effective date of this rule, are unaffected by this rule.

(3) Notwithstanding any other provision of this rule, the Inspire Vote-by-Phone (IVS) voting system is approved for use and must be used by counties in the 2006 general election to accommodate individuals with disabilities pursuant to section 301(a)(3) of the Help America Vote Act of 2002 (42 USC § 15481(a)(3)).

NOTE: These rules are on file with Oregon Secretary of State, Elections Division and the Federal Elections Commission.

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PENNSYLVANIA

25 PA. CONS. STAT. ANN. Code § 3031.2 (West 2008): Authorization of electronic voting systems for use at polling places

Any county or municipality may, by a majority vote of its qualified registered electors voting thereon cast at any primary or election, authorize and direct the use of an electronic voting system for registering or recording and computing the vote at all elections and primaries held at polling places in such county or municipality.

25 PA. CONS. STAT. ANN. Code § 3031.5 (West 2008): Examination and approval of electronic voting systems by the Secretary of the Commonwealth

(a) Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any electronic

voting system, may request the Secretary of the Commonwealth to examine such system if the voting system has been examined and approved by a federally recognized independent testing authority and if it meets any voting system performance and test standards established by the Federal Government. The costs of the examination shall be paid by the person requesting the examination in an amount set by the Secretary of the Commonwealth. Any ten or more persons, being qualified registered electors of this Commonwealth, may, at any time, request the Secretary of the Commonwealth to reexamine any electronic voting system theretofore examined and approved by him. Before any reexamination, the person, persons, or corporation, requesting such reexamination, shall pay to the Treasurer of the Commonwealth a reexamination fee of four hundred fifty dollars (\$450). The Secretary of the Commonwealth may, at any time, in his discretion, reexamine any such system theretofore examined and approved by him. The Secretary of the Commonwealth may issue directives or instructions for implementation of electronic voting procedures and for the operation of electronic voting systems.

(b) Upon receipt of a request for examination or reexamination of an electronic voting system as herein provided for or in the event he determines to reexamine any such system, the Secretary of the Commonwealth shall examine the electronic voting system and shall make and file in his office his report, attested by his signature and the seal of his office, stating whether, in his opinion, the system so examined can be safely used by voters at elections as provided in this act and meets all of the requirements hereinafter set forth. If his report states that the system can be so used and meets all such requirements, such system shall be deemed approved and may be adopted for use at elections, as herein provided. With respect to any electronic voting system approved for use in this Commonwealth by the secretary, the report of the secretary shall specify the capacity of the components of that system, the number of voters who may reasonably be accommodated by the voting devices and automatic tabulating equipment which comprise such system and the number of clerks and machine inspectors, if any, required based on the number of registered electors in any election district in which the voting system is to be used, such specifications being based upon the secretary's examination of the system. Any county which thereafter may adopt any such approved system shall provide the components of such system in a number no less than that sufficient to accommodate the voters of that county or municipality in accordance with the minimum capacity standards so prescribed by the secretary. The county board shall comply with the requirements for the use of the electronic voting system as set forth in the report by the Secretary of the Commonwealth.

(c) No electronic voting system not so approved shall be used at any election, and if, upon the reexamination of any such system previously approved, it shall appear that the system so reexamined can no longer be used safely by voters at elections as provided in this act or does not meet the requirements hereinafter set forth, the approval of that system shall forthwith be revoked by the Secretary of the Commonwealth, and that system shall not thereafter be used or purchased for use in this Commonwealth.

(d) When an electronic voting system has been so approved, no improvement or change that does not impair its accuracy, efficiency or capacity or its compliance with the requirements hereinafter set forth, shall render necessary the reexamination or reapproval of such system.

(e) Neither the Secretary of the Commonwealth nor any member of a county board of elections shall have any pecuniary interest in any electronic voting system or in any of the components thereof, or in the design, manufacture or sale thereof.

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PUERTO RICO

P.R. LAWS ANN. tit. 16, §3033 (2006): Voting systems

The Commonwealth Commission shall determine, through a resolution, the voting system to be used at the polls at least sixty (60) days prior to the date of a general or by-election, referendum or plebiscite. Said resolution shall include the rules which may have been adopted by the Commission, subject to the pertinent provisions of § 3156a of this title, to be applicable to the authorized voting system or systems, except for the provisions of § 3156a of this title regarding alternate candidate selection methods, by which all electoral events held pursuant to this title, including interparty primaries, shall be carried out in open polls. Once the voting system and the rules to implement it have been approved, the Commission shall proceed without delay to notify the political parties, independent candidates or participating organizations through their Representatives, of these facts. It shall also publish and post said resolutions and rules for the information of the electors in every Local Commission, as well as in every City Hall and Internal Revenue Collection Office, and in no less two (2) newspapers of general circulation, at least two (2) times within a period of between sixty (60) and thirty (30) days prior to the date of voting.

(a) The Commonwealth Commission shall notify the political parties, organizations and independent candidates that shall participate in the election, and supply them with a receipted copy, of any proposed rules for the voting system that are to be considered for approval, as provided above, and will hold public hearings so that the citizens in general shall have the opportunity to state their views thereon. Said hearings shall be called through notices published in the above-stated manner, and will inform the public that there will be copies of the rules to be considered at said public hearings, available in the Commissions office, for everyone.

(b) The rules adopted by the Commission to implement any of the voting systems deemed suitable shall provide for secret ballot, and shall not unduly favor or hinder any political party or candidate, nor produce onerous conditions for any elector or group of electors. Likewise, if the handwritten ballot is used, it must guarantee that the elector may vote by making any affirmative mark

in the space under the printed insignia or device of the party, or within the square in which a candidate's name appears. The Commission shall give the utmost respect to the elector's intention so that his vote may be counted.

(c) The voting systems, and the rules which will implement them, shall only provide for polling places that will be open to receive the electors to cast their votes from eight o'clock (8:00) in the morning to three o'clock (3:00) in the afternoon of the election day. The Commission shall evaluate, from time to time, the machine voting systems available for their possible adoption in Puerto Rico, and shall file its recommendations to this effect with the Secretary's office of each Legislative House no later than July 1, of the year following each general election, commencing with the 1980 general election. The Commission shall not adopt any mechanized voting system to be used in the polling places without the prior approval of the Legislature.

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RHODE ISLAND

R.I. GEN. LAWS § 17-19-3 (2008): Voting equipment and services – Specifications.

(a) The office of secretary of state and the state board of elections shall submit specifications to the department of administration, which the department of administration shall consult in developing a request for a proposal, as set forth in § 17-19-2.1. These specifications must be submitted to the department of administration within thirty (30) days of the passage of this bill. These specifications and the request for a proposal for the options of purchasing, leasing to own or renting an optical scan precinct count voting system, and for a full service contract for an optical scan precinct count voting system, shall propose an optical scan precinct count system that shall be constructed and shall operate in a manner that meets the following minimum requirements:

(1) It shall enable the voter to: (i) Mark his or her ballot and cast his or her vote in secrecy; (ii) Vote for all candidates of political parties or organizations, and for or against questions as submitted; (iii) Vote for all the candidates of one party or in part for the candidates of one or more other parties; (iv) Vote for as many persons for an office as the voter is lawfully entitled to vote for, but no more; and (v) Vote on any question the voter may have the right to vote on;

(2) It shall prevent the voter from voting for the same person more than once for the same office;

(3) The voting equipment shall allow the voter to cast one vote, thereby allowing the voter to vote for all the presidential electors of a party by marking one mark on the ballot, and a ballot containing only the words "presidential electors for" preceded by the name of that party and followed by the names of the candidates of that party for the offices of president and vice-president; provided, that means shall be furnished by which the voter can cast a vote in part for the candidates for presidential electors of one party, and in part for those of one or more other parties or in part or in whole for persons not nominated by any party;

(4) The optical scan precinct counting system shall meet the following specifications: (i) Vote counting, including absentee ballots, shall be performed through the use of automated electronic equipment; (ii) All vote counting shall be performed on equipment supplied as part of the bid. The system shall not require the use of non-supplied equipment to count ballots or tabulate results; (iii) There shall be privacy enclosures in which a voter may mark his or her ballot or otherwise cast his or her vote in secret; (iv) There shall be a device located in each polling place that can record the vote count and tally the vote count in that polling place and which can produce a printed tally of all races contained on said ballot in human readable form. The device shall automatically print a "zero report" at the beginning of the day when the device is activated. The device that receives ballots for counting shall have an external counter indicating the number of ballots received. The actual vote tally shall be capable of being performed only by election officials and shall not be visible during the actual voting process. Each recording device shall rest on a ballot box which must have compartments with doors that lock for security of voted ballots and ease of access; (v) As part of the voting process, there shall be created a physical ballot showing the votes cast by an individual voter which is capable of being hand counted so that electronic recorded device totals can be checked for accuracy. The device must be able to accept a one, two (2) or three (3) column ballot which can be printed on one or both sides; (vi) There shall be a device at each polling place to receive the physical audit trail of ballots cast and which shall securely store the ballots and have the capability of restricting access to the ballots only to authorized officials; (vii) In the event of loss of electrical power, the polling place vote count shall be stored on an ongoing basis in media which will retain the count of the votes cast to that point in time for a period of no less than five (5) years; (viii) The polling place vote counts shall be stored on a stable media which may be easily transported and which may be accessed and counted by an electronic device so that state, city and/or town vote totals can be electronically calculated by combining individual polling place totals. It shall not be necessary to enter individual polling place totals by and into a central computer or device for the purpose of producing the state, city and/or town totals, but rather the electronic media on which the polling place totals are stored shall be directly readable and accessible by a regional or central device; (ix) There shall be a device which has the capability to electronically read the storage device upon which the individual polling place totals are stored and which shall produce a combined total for all races, which total can be printed in easily readable and legible form in a format prescribed by the state board of elections; (x) The system provided shall allow the secretary of state to have the capability to design the ballot format; (xi) The system shall provide a capability for the state, without the use of outside services, to set up and prepare the counting devices to total an election; and (xii) The system must be capable of receiving voted ballots without counting when without power, and must provide for securely storing uncounted ballots;

(5) The following minimum equipment shall be required for the state: (i) There shall be six hundred (600) units to permit

counting to be conducted in each polling place within the state with a reserve of equipment on hand; (ii) There shall be sufficient voting booths to allow one voting booth for approximately every one hundred seventy-five (175) voters as determined in this title; (iii) The number of polling place units and voting booths must be sufficient to permit the election to run smoothly without excessive waiting of voters; (iv) If there is an increase in the number of polling places statewide during the term of the contract, the vendor will supply additional polling place units and voting booths at a cost proportional to the cost of the initial units pro rated for the balance of the agreement years; (v)(A) There shall be high speed absentee vote tabulating equipment. These tabulators as a whole must be capable of counting a minimum of four hundred (400) absentee ballots per minute. The tabulators shall utilize the same ballots used in the polling place; (B) This system shall have the following capabilities in connection with the counting of ballots and producing results: (I) This system shall be able to read the media from the polling place units on which polling place results are stored and shall be able to compile polling place results producing a ballot total for each race; and (II) This system shall be capable of producing and printing out ballot totals on a polling place by polling place basis for each race, and shall be capable of producing a final total and subtotals of all races from all races and polling places in the state. All totals must be able to be produced at any time based upon the number of polling places counted up to that point in time, and these printout results shall state the number of precincts counted and the percentage of precincts reporting; (vi) There shall be all equipment necessary to program the system and erase the memory devices; (vii) Regional tabulating equipment shall be located in each of the thirty-nine (39) local boards of canvassers and the central tabulation equipment shall be located at the state board of elections. The state board of elections, thirty (30) days prior to an election, shall determine which regional and/or central tabulation sites are to be utilized for the election. The tabulation system shall have the following capabilities in connection with the counting of ballots and producing results: (A) This system shall be able to read the media from the polling place units on which polling place results are stored and shall be able to compile polling place results producing a ballot total for each race; (B) This system shall be capable of producing and printing out ballot totals on a polling place by polling place basis for each race and shall be capable of producing a final total and subtotal of all races from all races and polling places in the state; (C) All totals must be able to be produced at any time based upon the number of polling places counted up to that point in time, and the printout results shall state the number of precincts counted and the percentage of precincts reporting; and (D) This system shall be capable of transferring information gathered at each regional site to the central site, and shall also be capable of transferring information gathered at the central site to a specific regional site;

(6) All necessary programming and accumulation software shall be provided to run the election system in accordance with the required specifications as well as all necessary and required modules. Any software updates during the term of the agreement shall not be charged to the state;

(7) The vendor of the optical scan precinct count system shall provide written proof of compliance with Federal Election Commission standards from an independent testing company and this written proof must be on file with the office of the secretary of state and the state board of elections;

(8) The vendor shall also provide the following information to be included in the vendor's bid proposal: (i)(A) An audited financial statement covering the previous five (5) years, and if the vendor is not the manufacturer of the equipment, both the agent and manufacturer must submit an audited financial statement covering the previous five (5) years with the bid; (B) In the event that either the vendor, agent, or manufacturer has been in existence for less than five (5) years, that entity must submit an audited financial statement for each and every full year that they have been in existence; (ii) Proof of experience in the field of elections including, but not limited to, years of experience in this field, and experience with a jurisdiction having the same needs as the state of Rhode Island; and (iii) Names and addresses of the support organizations that will provide support of all equipment.

(b) The full service plan shall include the following services, but, at the discretion of the department of administration, shall not be limited to the following services:

(1) Computer coding and layout of all ballots to be used in each election under contract in conjunction with the office of the secretary of state, including the printing of the ballot and the preparation of the device to ensure that the ballots are compatible with the device. Subsequent thereto, the state board of elections shall be responsible for the following:

(2) Testing of each unit for logic and accuracy;

(3) Testing of each programmed memory cartridge;

(4) Set up of each optical scan precinct count unit at each polling place;

(5) Maintenance of all optical precinct count units;

(6) Training of poll workers;

(7) On-site election night staff at the central tabulation location and any other locations as may be determined by the state board to receive and transmit election results;

(8) On-site election day field technicians to respond to repair calls;

(9) Providing the following equipment and supplies: (i) Secrecy covers for voted ballots; (ii) Demonstration ballots; (iii) Precision cut shell program ballots ready for printing with timing marks; (iv) Marking pens; (v) Ballot transfer cases; (vi) Envelopes for mailing and receiving absentee ballots; and (vii) Printer ribbons, paper tape rolls and seals.

(c) Any bid specifications for an optical scan precinct count system and a full service agreement for an optical scan precinct count system that do not conform in all respects to the requirements of subdivisions (a)(1)--(b)(9)(vii) of this section shall not be submitted to the office of the department of administration; provided, that the director of administration may waive any one of the requirements with respect to the full service agreement portion of the bid, after consultation with the chairperson of the state board of elections and the secretary of state, in order to preserve an otherwise acceptable bid.

(d) Upon expiration of the initial full service agreement as set forth in the provisions of § 17-19-2.1, the state board shall conduct a review of the election system, provide a report to the general assembly and shall subsequently assume responsibility for establishing minimum requirements and specifications for the procurement of voting equipment and services.

[\(back to Rhode Island summary\)](#)

SOUTH CAROLINA

S.C. CODE UNANN. § 7-13-1620 (2008): Voting system approval process.

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

(B) A person or company who requests an examination of any type of voting system shall pay a nonrefundable examination fee of one thousand dollars for a new voting system. A nonrefundable examination fee of five hundred dollars must be paid for an upgrade to any existing system. The State Election Commission may reexamine any voting system when evidence is presented to the commission that the accuracy or the ability of the system to be used satisfactorily in the conduct of elections is in question.

(C) A person or company who seeks approval for any type of voting system in this State shall file with the State Election Commission a list of all states or jurisdictions in which that voting system has been approved for use. This list must state how long the system has been used in the state; contain the name, address, and telephone number of that state or jurisdiction's chief election official; and disclose any reports compiled by state or local government concerning the performance of the system. The vendor is responsible for filing this information on an ongoing basis.

(D) A person or an individual who seeks approval for any type of voting system shall file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements must be filed with the State Election Commission.

(E) A person or company who seeks approval for any voting system shall conduct, under the supervision of the State Election Commission and any county election commission, a field test for any new voting system, as part of the certification process. The field test must involve South Carolina voters and election officials, and must be conducted as part of a scheduled primary, general, or special election. This test must be held in two or more precincts, and all costs relating to the use of the voting system must be borne by the vendor. The test must be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of units required for the efficient operation of an election. The test also must demonstrate the accuracy of votes reported on the system.

(F) Before a voting system may be used in elections in the State, all source codes for the system must be placed in escrow by the manufacturer at the manufacturer's expense with the authority approved by the Federal Election Assistance Commission. These source codes must be available to the State Election Commission in case the company goes out of business, pursuant to court order, or if the State Election Commission determines that an examination of these source codes is necessary. The manufacturer shall place all updates of these source codes in escrow, and notify the State Election Commission that this requirement has been met.

(G) After a voting system is approved, an improvement or change in the system must be submitted to the State Election Commission for approval pursuant to this section. This requirement does not apply to the technical capability of a general purpose computer, reader, or printer used for election preparation or ballot tallying.

(H) If the State Election Commission determines that a voting system that was approved no longer meets the requirements of Title 7, the commission shall decertify that system. A decertified system must not be used in an election unless it is reapproved by the commission pursuant to the provisions of Title 7.

(I)(1) A vendor of any voting system that has been approved by the State Election Commission shall report in writing to the Director of the State Election Commission any decertification, ethical, or technical violations against the voting system in any state within ninety days after the decertification, ethical, or technical violations are issued by the other state. If the vendor does not provide evidence to the State Election Commission's satisfaction that the voting system deficiencies have been corrected to comply with the provisions of South Carolina law, then the voting system may be decertified. (2) A vendor seeking the approval of a voting system by the State Election Commission shall report in writing to the Director of the State Election Commission any decertification, ethical, or technical violations issued against the voting system in any state that have occurred prior to or during the time the vendor seeks approval of the voting system by the State Election Commission. If the vendor does not provide evidence to the State Election Commission's satisfaction that the voting system deficiencies have been corrected to comply with the provisions of South Carolina law, then the voting system may not be approved.

(J) A member of the State Election Commission, county election commission, custodian, or member of a county governing body may not have a pecuniary interest in any voting system or in the manufacture or sale of any voting system.

[\(back to South Carolina summary\)](#)

SOUTH DAKOTA

S.D. CODIFIED LAWS § 12-17B-2 (2008): Capabilities required of automatic tabulating, direct recording electronic, or electronic ballot marking systems--Approval of changes or modifications

Any automatic tabulating, direct recording electronic, or electronic ballot marking system used in an election shall enable the voter to cast a vote for all offices and on all measures on which the voter is entitled to vote. Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an approved system shall be approved by the State Board of Elections prior to distribution and use.

S.D. ADMIN. R. 5:02:09:02 (2009) Approval of automatic tabulating systems required before distribution.

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

Any changes or modifications in an approved electronic voting system may be certified by the State Board of Elections with or without the demonstration described in this section for initial approval provided that the modified system has been certified as fulfilling the requirements of the Election Assistance Commission voting system standards by an independent test authority accredited by the Election Assistance Commission.

S.D. ADMIN. R. 5:02:09:02.02 (2009). Criteria for approving direct recording electronic voting machines.

Before the State Board of Elections grants a certificate of approval, the following capabilities of the direct recording electronic voting machine must be demonstrated to the board or its designee. As used in this section the term, system, means direct recording electronic voting machine. The board may grant a certificate of approval for a system, if the system fulfills the following requirements:

- (1) Enables the voter to vote in absolute secrecy;
- (2) Presents the entire ballot to the voter in a series of sequential screens that include methods to ensure the voter sees all ballot options on all screens before completing the vote and allows the voter to review all ballot choices before casting a ballot;
- (3) Prevents any voter from selecting more than the allowable number of candidates for any office to prevent overvoting, alerts the voter on the screen if the voter attempts to overvote, and provides information on how to correct the overvote;
- (4) Accurately counts each vote for each position voted;
- (5) Is an electronic computer-controlled voting system that provides for direct recording and tabulating of votes cast;
- (6) Has a battery back-up system that, at a minimum, allows voting to continue uninterrupted for two hours without external power;

- (7) Along with any activating and vote recording devices and components, has a unique embedded internal serial number for audit purposes;
- (8) Is designed to accommodate multiple ballot styles in each election precinct and have an option to handle multiple precincts;
- (9) Has a real-time clock capable of recording and documenting the total time polls are open in a precinct and capable of documenting the opening and closing of polls;
- (10) Complies with the disability voting requirements of the Help America Vote Act;
- (11) For security purposes, along with each associated activating and recording device and component, employs a unique, electronically implanted election specific internal security code such that the absence of the security code prevents substitution of any unauthorized system or related component;
- (12) Has a color touch-screen that is at least fifteen inches in diagonal measure;
- (13) Has an option to accommodate a wheelchair voter without intervention of the poll worker other than a minor adjustment such as the angle of the display, and the voter must be able to vote in a face-first position so that privacy is maintained with the ballot surface adjusted to a vertical position;
- (14) Has wheels so that the system may be easily rolled by one person on rough pavement and rolled through a standard thirty-inch door frame if the net weight of the system, or aggregate of voting device parts, is over twenty pounds;
- (15) Has a smart card type device to activate the system for each individual voter. The poll worker shall be able to activate the card at the poll table with an activation device and hand the card to the voter to use on any open voting system. The card shall be rendered unusable by the voting system after the voter has cast a ballot and after a period of time has expired. There shall be a manual solution available in the event the smart card activation device, or the smart card reading unit on the machine, fails;
- (16) Prints an alphanumeric printout of the contest, candidates, position numbers, and vote totals when the polls are open so that the poll workers may verify that the counters for each candidate are on zero. These printouts shall contain the system serial number and the counter total. The poll worker must be able to request as many copies as needed. The system shall include a feature to allow reports to be sent to a printer or to an Excel compatible file;
- (17) The system central processing unit is designed so that no executable code may be launched from random access memory. If the operating system is open or widely used, it must be an embedded system;
- (18) Provides an electronic, redundant storage of both the vote totals and randomized individual ballot images. These randomized images must be able to be printed after the polls close;
- (19) Allows a comparison of the multiple locations of totals and ballot images to detect any errors or discrepancies. In the event of a data discrepancy, an appropriate error message shall be displayed in a text format, in order to either correct the data error or prohibit voting from continuing;
- (20) Has a programmable memory device that plugs into the system. This programmable memory device shall contain the ballot control information, the summary vote totals, maintenance log, operator log, and the randomized ballot images;
- (21) Maintains all vote totals, counter totals, audit trail ballot images, and the internal clock time in both the main memory and the removable programmable memory devices in the event the main power and battery back-up power fail;
- (22) Has a self-contained, internal back-up battery that powers all components of the system that are powered by alternating current power. In the event of a power outage in the precinct the self-contained, internal back-up battery power shall engage with no disruption of operation or loss of data. The system shall maintain all vote totals, counter totals, and audit trail ballot images, and the internal clock time in both the main memory and the removable programmable memory devices in the event the main power and battery back-up fail;
- (23) Has software that is able to run in a networked or stand-alone environment and support absentee in-person voting;
- (24) Has as a standard or as an option, software and hardware provisions for remote transmission of election results to a central location;
- (25) Has internal operating system software or firmware, that: (a) Is specifically designed and engineered for the election application; (b) Is contained within each touch-screen voting device; (c) Is stored in a nonvolatile memory within each terminal; (d) Includes internal quality checks such as parity or error detection and correction codes; and (e) Include comprehensive diagnostics to ensure that failures do not go undetected;

(26) Has a mandatory pre-election testing of the ballot control logic and accuracy. The logic and accuracy test results must be stored into the memory of the main processor (central processing unit) and into the same programmable memory device that is used on election day for future reference. The test results must be stored by vote total summaries and by each individual ballot image randomly. The system must be capable of printing a zero-results printout prior to these tests and results printout after the test; and

(27) Stores tabulation of votes, ballot by ballot, in two or more memory locations on separate integrated circuit chips and shall be electronically compared throughout the election. Any differences between votes tabulated and votes stored in multiple storage locations shall be detected immediately and generate an error message defining required maintenance on the electronic voting system before the system continues to be used in the election.

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TENNESSEE

TENN. CODE ANN. § 2-9-117 (West 2008): Approval of voting machines

The state coordinator of elections and the state election commission shall approve any voting machine before a county election commission purchases such machine. Before the 2002 election cycle and at least every eight (8) years thereafter, the state coordinator of elections and the state election commission shall reexamine all voting machines to ensure such machines still meet the minimum criteria for certification. If a particular machine is not recertified by the coordinator of elections and the state election commission, the affected county election commission shall have two (2) years to purchase and implement machines that are properly certified.

TENN. COMP. R. & REGS. 1360-2-13-.06 (2008): CERTIFICATION OF VOTING MACHINES.

(1) No electronic voting machine or device will be approved for use in the State of Tennessee that does not: (a) Provide facilities for voting for any candidates at both primary and general elections or at nonpartisan elections or at a combination of a nonpartisan and partisan primary and general elections. (b) Permit a voter to vote for any person for any office, whether or not nominated as a candidate by a political party. (c) Insure voting in absolute secrecy. (d) Permit a voter to vote for any candidate or on any special measure for whom or on which such voter is lawfully entitled to vote. (e) Provide sufficient illumination to enable the voters while in the voting booth to read the ballot. (f) Permit each voter, at presidential elections, by pushing one button to vote for the candidates of any party for president, vice-president and their presidential electors. (g) Clearly indicate, through the use of ballot heading, proper differentiation and identification of the various primaries being voted on in any election.

TENN. COMP. R. & REGS. 1360-2-13-.09 (2008): PURCHASE BY COUNTIES.

No county election commission or county governing body shall purchase any electronic voting device not certified by the Coordinator of Elections with the approval of the State Election Commission. No county election commission and no county governing body shall purchase any electronic voting device certified by the Coordinator of Elections with the approval of the State Election Commission until application has been made to, and approval given by, the Coordinator of Elections and the State Election Commission.

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TEXAS

TEX. ELEC. CODE ANN. § 122.001(3) (Vernon 2007): Voting System Standards

(a) A voting system may not be used in an election unless the system: (1) preserves the secrecy of the ballot; (2) is suitable for the purpose for which it is intended; (3) operates safely, efficiently, and accurately and complies with the error rate standards of the voting system standards adopted by the Federal Election Commission; (4) is safe from fraudulent or unauthorized manipulation; (5) permits voting on all offices and measures to be voted on at the election; (6) prevents counting votes on offices and measures on which the voter is not entitled to vote; (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote; (8) prevents counting a vote on the same office or measure more than once; (9) permits write-in voting; (10) is capable of permitting straight-party voting; and (11) is capable of providing records from which the operation of the voting system may be audited.

(b) A voting system may not be used in an election in which straight-party voting is permitted unless the system permits or prevents, as applicable, counting votes in accordance with Sections 65.007(c) and (d).

(c) The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including operation procedures, or to voting systems generally.

(d) Effective January 1, 2006, a voting system may not be used in an election if the system uses: (1) mechanical voting machines; or (2) a punch-card ballot or similar form of tabulating card.

(e) For an election for federal office in which a state or federal court order has extended the time for voting beyond the time allowed by Subchapter B, Chapter 41, a voting system must provide a separate count of the votes cast after the time allowed by that subchapter.

1 TEX. ADMIN. CODE § 81.61 (2009): Condition for Approval of Electronic Voting Systems

For any voting machine, voting device, voting tabulation device and any software used for each, including the programs and procedures for vote tabulation and testing, or any modification to any of the above, to be certified for use in Texas elections, the system shall have been certified, if applicable, by means of qualification testing by a Nationally Recognized Test Laboratory (NRTL) and shall meet or exceed the minimum requirements set forth in the Performance and Test Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document developed and promulgated by the Federal Election Commission. This section applies only to systems and modifications to previously certified systems submitted after the effective date of this rule.

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UTAH

UTAH CODE ANN. § 20A-5-402.5 (West 2008): Certification of voting equipment

(1) As used in this section, “voting equipment” means automatic tabulating equipment, electronic voting systems, voting devices, and voting machines.

(2) Each election officer shall ensure that: (a) the voting equipment meets the Federal Voting Systems Standards established by the Federal Election Commission; (b) the voting equipment used by the election officer is certified to meet those Federal Voting Systems Standards by an Independent Testing Authority approved by the National Association of State Election Directors; and (c) the voting equipment is certified by the Lieutenant Governor of Utah as having met the requirements of this section.

(3) The lieutenant governor, as chief election officer, shall ensure that all voting equipment used in Utah complies with the requirements of this section.

UTAH CODE ANN. § 20A-5-402.7 (West 2008): Voting Equipment Selection Committee

(1) As used in this section, “new voting equipment system” means voting equipment that is operated in a materially different way or that functions in a materially different way than the equipment being replaced.

(2) Before selecting or purchasing a new voting equipment system after January 1, 2007, the lieutenant governor shall: (a) appoint a Voting Equipment Selection Committee; and (b) ensure that the committee includes persons having experience in: (i) election procedures and administration; (ii) computer technology; (iii) data security; (iv) auditing; and (v) access for persons with disabilities.

(3)(a)(i) A member of the committee who is not a government employee shall receive no compensation or benefits for the member’s services, but may receive per diem and expenses incurred in the performance of the member’s official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107. (ii) A member may decline to receive per diem and expenses for the member’s services. (b)(i) A state government officer or employee member who does not receive salary, per diem, or expenses from the member’s agency for the member’s service may receive per diem and expenses incurred in the performance of the member’s official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107. (ii) A state government officer or employee member may decline to receive per diem for the member’s service.

(4) The lieutenant governor shall select a chair from the committee membership.

(5) The lieutenant governor may fill any vacancies that occur on the committee.

(6) The lieutenant governor’s office shall provide staffing for the committee.

(7) The Voting Equipment Selection Committee shall: (a) evaluate new voting equipment systems proposed for purchase by the state; and (b) provide information and recommendations to assist the lieutenant governor with the purchase of new voting equipment systems.

(8) The lieutenant governor may designate individuals, including committee members, to inspect and review proprietary software as part of an evaluation of new voting equipment systems under consideration for purchase.

(9) Before making any selection or purchase, the lieutenant governor shall provide for a period of public review and comment on new voting equipment systems under consideration for purchase by the state.

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VERMONT

VT. ST. ANN. tit. 17, § 2491 (2008): Political subdivision may use voting machines

A town may vote at any annual or special meeting to employ electronic devices (“voting machines”) for the registering and counting of votes in subsequent elections. Voting machines may be used in combination with the paper ballots described in the preceding subchapter, so that each voter may choose whether to use a paper ballot or a voting machine to cast his or her vote, if the town so votes.

VT. ST. ANN. tit. 17, § 2492 (2008): Legislative branch to obtain voting machines

If a town votes to use voting machines at least six months prior to the next primary or general election, the legislative body shall rent or purchase voting machines approved by the secretary of state. The town shall be responsible for all expenses attendant upon the purchase or rental of voting machines and the secretary of state shall furnish the ballots. Other election materials which are not particular to voting machines shall be prepared at state expense, under the direction of the secretary of state, except for local elections, which shall be governed by section 2682 of this title.

VT. ST. ANN. tit. 17, § 2493 (2008): Rules for use of voting machines

(a) The secretary of state shall adopt rules governing the use and the selection of any voting machine in the state. These rules shall include requirements that: (1) All municipalities that have voted to use a voting machine shall use a uniform voting machine approved by the secretary of state. (2) The secretary of state shall provide for the security of voting machines at all times. Voting machines, not including the ballot box portion, shall be locked in a vault or a secure location at all times when not in use. The secretary of state may conduct a random post election audit of any polling place election results for a primary or general election within 30 days of the election. If the secretary determines that a random audit shall be conducted of the election results in a town or city, the town clerk shall direct two members of the board of civil authority to transport the ballot bags to the office of the secretary of state not later than 10:00 a.m. on the morning when the secretary has scheduled the audit. The secretary shall open the ballot bags and conduct the audit in the same manner as ballots are counted under sections 2581 through 2588 of this title. The secretary of state shall publicly announce the results of the audit as well as the results from the original return of the vote. If the secretary finds that the audit indicates that there was possible fraud in the count or return of votes, the secretary shall refer the results to the attorney general for possible prosecution. (3) All voting machines shall be set to reject a ballot that contains an overvote and provide the voter the opportunity to correct the overvote, have the ballot declared spoiled, and obtain another ballot. If an early voter absentee ballot contains an overvote, the elections official shall override the voting machine and count all races except any race that contains an overvote. (4) All voting machines shall be set not to reject undervotes. (5) Establish a process for municipalities using voting machines, whereby markings on ballots that are unreadable by a machine may be transferred by a pair of election officials, who are not members of the same political party, to ballots that are readable by the machine.

(b) Each voting machine shall be tested using official ballots that are marked clearly as “test ballots” at least ten days prior to an election.

04-010-001 VT. CODE R. § 6 (2009): Rules on Voting Machines

RULES ON VOTING MACHINES

Section 1 (Introduction). This rule applies to towns using voting machines or devices to cast, count and tally votes in elections using the Australian ballot system of voting. It applies to lever, punch and electronic voting systems or devices. Where this rule and Subchapter 3, Chapter 51 of Title 17 are silent, other sections of Title 17, relating to the use of the Australian ballot system of voting in Vermont, prevail.

Section 2 (Format of machine programs and/or ballots). The format and standards for paper ballots described in 17 V.S.A. §§ 2472 and 2473 shall be followed as closely as possible for each of the different types of voting machines. Each machine or device shall be programmed or designed so that every voter can: (a) vote in private; (b) cast a ballot without disclosing the vote; (c) change a vote or votes before casting a ballot or completing the process of voting, either by revoting or by using a new ballot; and (d) write-in the name of a candidate, where appropriate, and have that vote counted for the appropriate office and/or party.

Each machine shall also be programmed or designed so that no voter can: (a) vote for more than the required number of candidates, without having the vote for that race rejected, and the overvote indicated to the election officials; or (b) vote in more

than one party in the primary, without having the vote rejected and the crossover vote not counted in the total of votes cast in the primary.

Section 3 (The content of summary sheets). Summary sheets must be designed and used so that the votes cast, spoiled and blank for each ballot or machine are clearly identified. Each summary sheet shall provide spaces for election officials to indicate: (1) the machine's serial or identification number; (2) its seal number, if applicable; (3) the number of ballots cast or times the machine was used for that election; (4) the names of the election officials who filled out the sheets; (5) the voting district and polling place; (6) the candidates' written in for each race; and (7) all votes cast, spoiled and blank, by race or question.

A town may use computer printouts, its own sheets or those provided by the secretary of state as summary sheets.

Section 4 (The content of all voter instruction materials provided by the town): The secretary of state shall supply all voter instruction materials used by towns with voting machines or devices.

Section 5 (Before, during and after the election). In addition to the provisions of Subchapter 3, Chapter 51 of Title 17, the presiding officer shall ensure that voting machines or devices are well-maintained, reliable and secure. A test run shall be made on each machine at least 24 hours before the polls open to ensure it is capable of performing adequately on election day.

In no case shall absentee or other ballots be counted, nor election officials attempt to discover the results of voting or how any voter has voted, before the polls close. For the purposes of this section, tabulation by machine after a voter threads a ballot into a machine shall not be considered counting, so long as no person learns or attempts to learn the results of the vote before the polls close. In towns using computer-type voting systems, security envelopes or other means may be provided to ensure that voters cast their ballots so that no person can see how the voter voted or, in the case of a primary, which party's ballot was selected by a voter.

Once the polls have closed, the presiding officer shall assign politically-balanced pairs of election officials to prepare the summary sheets, by reading and recording machine totals for each machine and by listing write-in candidates for each respective race.

In towns with computer voting machines, officials shall check each ballot for write-ins, and record the votes on the summary sheet, after the polls have closed. In towns with computer voting systems that require election officials to feed the ballots into a tabulator after the polls have closed, pairs of officials shall do the feeding. In towns with machines that require pairs of officials to feed absentee ballots during polling hours, the officials shall take care not to look at the ballot to learn the votes on those ballots.

In towns with punch-type voting machines, ballots which are rejected by the counting device or machine shall be counted by hand, by pairs of election officials.

No otherwise valid ballot shall be considered spoiled or voided because it is not compatible with a counting or tabulating machine.

Once the counting is completed, voting machines and devices shall be sealed and locked until the period for a recount or contest has passed.

Section 6 (Approval of voting machines, devices, or systems). As yet unapproved voting machines, devices, or systems may be approved by the secretary of state, pursuant to 17 V.S.A. § 2492(a), if they meet the standards and specifications established by these rules. Applicants for approval must arrange for a demonstration of equipment at least 60 days before an election is to be held at which the machines, devices, or systems are to be used. Approval, approval with conditions, or denial shall be issued by the secretary of state in writing within ten days of the submission of sufficient information and assurances that the equipment can meet the needs of the community in which it is to be used and the standards set by state statutes and these rules.

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VIRGIN ISLANDS

V.I. CODE ANN. tit. 18, § 522 (2008): Examination and approval of equipment

Any person or company interested in selling an electronic voting system may submit its proposal to the Government of the United States Virgin Islands, through the Joint Boards of Elections, the Supervisor of Elections and/r the Department of Property and Procurement of the Government of the United States Virgin Islands, for examination. The vote counting segment shall be certified after a satisfactory evaluation testing has been performed according to electronic industry standards. The testing shall

include, but not be limited to, the basic source program and its security; the ballot reader; the vote processor, especially in its logic and memory components; the digital printer; the fail-safe operations; the counting center environmental requirements; and the equipment reliability estimate. For the purpose of assisting in examining the system, the Joint Boards may employ not more than three individuals who are expert in one or more fields of data processing, mechanical engineering, and public administration and shall require from them a written report of their examination. No officer of the Government of the United States Virgin Islands, no member of the Legislature of the Virgin Islands, no member of the Board of Elections, the Supervisor of Elections, no employee of the Election System of the Virgin Islands, nor any examiner shall have any pecuniary interest in any voting equipment. The Joint Boards of Elections and the Supervisor of Elections shall approve or disapprove any voting system submitted to them within 20 days after the date of its initial submission.

[\(back to Virgin Islands summary\)](#)

VIRGINIA

VA. CODE. ANN. § 24.2-629 (2008): Authorized use of electronic systems and ballots

A. Any person, firm, or corporation hereinafter referred to as the “vendor,” manufacturing, owning, or offering for sale any electronic voting or counting system and ballots designed to be used with such equipment may apply to the State Board, in the manner prescribed by the Board, to have examined a production model of such equipment and the ballots used with it. The Board may require the vendor to pay a reasonable application fee when he files his request for testing or certification of new or upgraded voting equipment. Receipts from such fees shall be credited to the Board for reimbursement of testing and certification expenses. In addition to any other materials that may be required, a current statement of the financial status of the vendor, including any assets and liabilities, shall be filed with the Board; if the vendor is not the manufacturer of the equipment for which application is made, such a statement shall also be filed for the manufacturer. These statements shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The Board shall require, at a site of its choosing, a demonstration of such system and ballots and may require that a production model of the system and a supply of ballots be provided to the Board for testing purposes. The Board shall also require the vendor to provide documentation of the practices recommended by the vendor to ensure the optimum security and functionality of the system.

B. The provisions of this title pertaining to mechanical voting devices and ballots shall be deemed applicable to such equipment and ballots provided that (i) the counting equipment used with punchcard or mark sense ballots shall not be required to prevent a voter from voting for a greater number of candidates than he is lawfully entitled to; (ii) the provisions of this title pertaining to ballot squares shall not be applicable to punchcard or mark sense ballots; and (iii) any system approved pursuant to this title shall segregate ballots containing write-in votes from all others. Every electronic voting system shall ensure voting in absolute secrecy, and systems requiring the voter to vote a ballot that is inserted in an electronic counting device shall provide for secrecy of the ballot and a method to conceal the voted ballot. Systems requiring the voter to vote a ballot that is inserted in an electronic counting device shall report, if possible, the number of ballots on which a voter voted for a lesser number of candidates for an office than the number he was lawfully entitled to vote and the number of ballots on which a voter voted for a greater number of candidates than the number he was lawfully entitled to vote. Electronic voting devices shall be programmable, if possible, to allow such undervoted and overvoted ballots to be separated when necessary.

B1. The system shall provide the voter with an opportunity to correct any error before a permanent record is preserved.

C. After its examination of the equipment, ballots, and other materials submitted by the vendors, the Board shall prepare and file in its office a report of its finding as to (i) the apparent capability of such equipment to accurately count, register, and report votes; (ii) whether the system can be conveniently used without undue confusion to the voter; (iii) its accessibility to voters with disabilities; (iv) whether the system can be safely used without undue potential for fraud; (v) the ease of its operation and transportation by voting equipment custodians and officers of election; (vi) the financial stability of the vendor and manufacturer; (vii) whether the system meets the requirements of this title; (viii) whether the system meets federal requirements; (ix) whether issues of reliability and security identified with the system by other state governments have been adequately addressed by the vendor; and (x) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

D. If the Board determines that there is such potential and prior to its final determination as to approval or disapproval of such system, the Board shall obtain a report by an independent electronics or engineering consultant as to (i) whether the system accurately counts, registers, and reports votes; (ii) whether it is capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the election; (iii) the number of separate memory capabilities for the storage of recorded votes; (iv) its mechanical and electronic perfections and imperfections; (v) the audit trail provided by the system; (vi) the anticipated frequency of repair; (vii) the ease of repair; (viii) the anticipated life of the equipment; (ix) its potential for fraudulent use; (x) its accessibility to voters with disabilities; (xi) the ease of its programming, transportation, and operation by voting equipment custodians and officers of election; and (xii) any other matters deemed necessary by the Board. Failure by an applicant to cooperate with the consultant by furnishing information and production equipment and ballots requested shall be deemed a withdrawal of the application, but nothing in this section shall require the disclosure of trade secrets by the applicant. If such trade secrets are essential to the proper analysis of the system and are provided for that reason, the

consultant shall subscribe to an oath subject to the penalty for perjury that he will neither disclose nor make use of such information except as necessary for the system analysis. The report of the consultant shall be filed in the office of the Board.

D1. In preparing the reports cited in subsections C and D, the Board shall require, as a condition of certification, that the system is comprehensively examined by individuals including at least one expert in election management and one in computer system security. The Board shall develop, in conjunction with the above listed individuals, a specific set of items to be examined and tested as part of the certification process to further elaborate on the requirements identified in this section.

E. If the Board determines that there is potential for approval of the system and prior to its final determination, the Board shall also require that the system be tested in an actual election in one or more counties or cities. Its use at such election shall be as valid for all purposes as if it had been legally approved by the Board and adopted by the counties or cities.

F. If, following testing, the Board approves any electronic system and its ballots for use, the Board shall so notify the electoral boards of each county and city. Systems so approved may be adopted for use at elections as herein provided. No form of electronic system and ballots not so approved shall be adopted by any county or city. Any electronic system and ballots approved for use by the Board shall be deemed to meet the requirements of this title and any applicable federal laws, and their use in any election shall be valid.

G. A vendor whose electronic system is approved for use shall provide annual updates to the State Board concerning its recommended practices for optimum security and functionality of the system. Any product for which annual updates are not provided shall be deemed non-compliant and may be decertified at the discretion of the Board.

H. The Board shall have the authority to investigate, at its discretion, any voting system certified in Virginia to ensure that it continues to meet the standards outlined in subsections C and D. The Board may, at its discretion, decertify any voting system based on significant problems detected with the voting system in Virginia or on reports provided by federal authorities or other state election officials.

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WASHINGTON

WASH. REV. CODE § 29A.12.020 (West 2009): Inspection and test by secretary of state--Report

The secretary of state shall inspect, evaluate, and publicly test all voting systems or components of voting systems that are submitted for review under RCW 29A.12.030. The secretary of state shall determine whether the voting systems conform with all of the requirements of this title, the applicable rules adopted in accordance with this title, and with generally accepted safety requirements. The secretary of state shall transmit a copy of the report of any examination under this section, within thirty days after completing the examination, to the county auditor of each county.

WASH. REV. CODE § 29A.12.080 (West 2009): Requirements for approval

No voting device shall be approved by the secretary of state unless it:

- (1) Secures to the voter secrecy in the act of voting;
- (2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- (3) Permits the voter to vote for all the candidates of one party;
- (4) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States; and
- (6) Except for functions or capabilities unique to this state, has been tested and certified by an independent testing authority designated by the United States election assistance commission.

WASH. ADMIN. CODE 434-335-040 (2009): Voting system requirements.

(1) No voting device or its component software may be certified by the secretary of state unless it: (a) Secures to the voter secrecy in the act of voting; (b) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for; (c) Correctly registers all votes cast for any and all persons and for or against any and all measures; (d) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for President and Vice-President of the United States; (e) Produces a machine countable and human readable

paper record for each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper record of an electronic vote may not be removed from the device by the voter. If the voting device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter; and (f) Has been tested and approved by the appropriate independent testing authority approved by the United States election assistance commission; and.

(2) No vote tabulating system may be certified by the secretary of state unless it: (a) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue; (b) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot; (c) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each ballot measure on the ballot in that precinct; (d) Produces precinct and cumulative totals in printed form; and (e) Produces legislative and congressional district totals for statewide races and issues in electronic and printed form.

(3) A vote tabulating system must: (a) Be capable of being secured with lock and seal when not in use; (b) Be secured physically and electronically against unauthorized access; (c) Not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web. A network may be used as an internal, integral part of the vote tabulating system but that network must not be connected to any other network, the internet, or the world wide web; and (d) Not use wireless communications in any way.

(4) Transfer of information from a remote tabulating system may be made by telephonic transmission only after the creation of a disk, paper tape, or other physical means of recording ballot results.

(5) The source code of electronic voting system software that has been placed in escrow must be identical to the source code of software that has been tested and certified by the federal independent testing authority and installed in the county. The applicant must place in escrow both the human-readable source code and the working or compiled version. In lieu of placing them in escrow, the source code and the working or compiled version may be deposited with the national software reference library. The software may be verified by matching the system's digital software signatures with the digital signatures the elections assistance commission has on file, when available.

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WEST VIRGINIA

W. VA. Code § 3-4-3 (West 2009): Procedures for terminating use of voting machines

The county commission may discontinue the use of voting machines and replace them with a different voting system meeting the requirements of "The Help America Vote Act of 2002", 42 U.S.C. 15302, et seq., six months prior to a primary or general election by majority vote of the commission.

W. VA. CODE §3-4-7 (West 2009): Approval of voting machines by state election commission; compensation of experts examining machines

Any person or corporation owning or being interested in any voting machine may apply to the state election commission to the end that such machine may be examined and a report be made on its accuracy, efficiency, capacity, and safety. The state election commission shall appoint two mechanical experts who are not members of the same political party to examine the machine and make full report thereon to the commission. They shall state in the report whether or not the machine so examined complies with the requirements of this article and can be safely used by voters at elections under the conditions prescribed in this article. If the report be in the affirmative upon said question, the machine may be approved by the commission and, if approved by the commission, the machine of its make and design may be adopted for use at elections as herein provided. Any form of voting machine not so approved shall not be used at any election. Each of the two mechanical experts appointed by the commission shall be entitled to two hundred dollars for his compensation and expenses in making such examination and report, and such compensation shall be paid by the person or corporation applying for such examination, which sum shall be paid in advance of making the examination and which sum shall be the sole compensation to be received by any such expert for his work hereunder.

W. VA. Code § 3-4-8 (West 2009): Minimum requirements of voting machines

A voting machine of particular make and design shall not be approved by the state election commission or be purchased, leased, or used, by any county court unless it shall fulfill the following requirements:

(1) It shall secure or insure the voter absolute secrecy in the act of voting, or, at the voter's election, shall provide for open voting;

(2) It shall be so constructed that no person except in instances of open voting, as herein provided for, can see or know for whom any voter has voted or is voting, and that no voter or other person can, while the machine is unlocked for operation, see or otherwise ascertain the numerical total of votes cast for any candidate or for or against any question;

- (3) It shall permit each voter to vote at any election for all persons and offices for whom and which he is lawfully entitled to vote, whether or not the name of any such person appears on a ballot label as a candidate; and it shall permit each voter to vote for as many persons for an office as he is lawfully entitled to vote for; and to vote for or against any question upon which he is lawfully entitled to vote;
- (4) It shall preclude each voter from voting for any person or office or upon any question for whom or which and upon which he is not lawfully entitled to vote and from voting for more persons for any office than he is lawfully entitled to vote for, and from voting for any candidate for the same office and upon any question more than once;
- (5) It shall permit each voter to deposit, write in, or affix upon devices to be provided for that purpose, ballots containing the names of persons for whom he desires to vote whose names do not appear upon the machine ballot labels;
- (6) It shall permit each voter to change his vote for any candidate and upon any question appearing upon the ballot labels up to the time when he starts to register his vote;
- (7) It shall correctly register and accurately count all votes cast for each candidate and for and against each question appearing upon the ballot labels;
- (8) It shall permit each voter at any election other than primary elections, to vote a straight party ticket by one device, and by one device to vote for all candidates of one party for presidential electors; and to vote a mixed ticket selected from the candidates of any and all parties and from independent candidates;
- (9) It shall be capable of adjustment by election officers at a primary election so as to permit each voter to vote only for the candidates of the party with which he has declared his affiliation, and so as to preclude him from voting for any candidate seeking nomination by any other political party, and so as to permit each voter to vote for the candidates, if any, for nonpartisan nomination or election and on public questions;
- (10) It shall have separate voting devices for candidates and questions, which shall be arranged in separate rows or columns. It shall also be arranged so that one or more adjacent rows or columns may be assigned to the candidates of each political party at primary elections;
- (11) It shall have a public counter or other device, the register of which is visible on the outside of the machine and which shall show the total number of voters who have voted on that machine in the election; also candidate and question counters or other devices which shall not be visible on the outside of the machine when the machine is unlocked for operation, and upon which are registered numerically the total votes cast for each candidate and question appearing on the ballot labels; also a protective counter or other device which will record the cumulative total number of movements of the registering mechanism;
- (12) It shall be provided with locks and seals by the use of which all movement of the registering mechanism is prevented, both before the polls are open or before the operation of the machine for an election is begun and immediately after the polls are closed or after the operation of the machine for an election is completed;
- (13) It shall have the capacity to contain the names of candidates constituting the tickets of at least nine political parties, and to accommodate the wording of at least fifteen questions;
- (14) It shall be durably constructed of material of good quality and in a workmanlike manner and in a form which shall make it safely transportable;
- (15) It shall be so constructed with frames for the placing of ballot labels and with transparent devices for the protection of such labels, that the labels on which are printed the names of candidates and their respective parties, titles of offices, and wording of questions shall be reasonably protected from mutilation, disfigurement or disarrangement;
- (16) It shall bear a number that will identify it or distinguish it from any other machine;
- (17) It shall be so constructed that a voter may easily learn the method of operating it and may expeditiously cast his vote for all candidates of his choice; and
- (18) It shall be accompanied by a mechanically operated instruction model which shall show the arrangement of ballot labels, party columns or rows, and questions.

W. Va. Code R. § 153-10-10 (2009): Replacement of Punch Card and Lever Voting Systems.

Any county commission that makes the choice after January 1, 2006 to replace its punch card or lever voting system is eligible to apply for funds from this loan program for the purpose of replacing its voting system with a HAVA-compliant system; Provided that the maximum aggregate amount of loan proceeds available to any such county shall be reduced by the amount of federal

funding that was forfeited and returned to the federal government as a result of such county's failure to replace its punch card or lever system by January 1, 2006.

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WISCONSIN

WIS. STAT.ANN. § 5.91 (West 2009): Requisites for approval of ballots, devices and equipment

No ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is approved by the board. The board may revoke its approval of any ballot, device, equipment or materials at any time for cause. No such ballot, voting device, automatic tabulating equipment or related equipment or material may be approved unless it fulfills the following requirements:

- (1) It enables an elector to vote in secrecy and to select the party or the independent candidates for whom an elector will vote in secrecy at a partisan primary election.
- (2) Except at a primary election, it enables an elector to vote a straight party ticket, but the automatic tabulating equipment counts the vote of an elector who casts a vote for a candidate for an office outside the straight party ticket for that office only.
- (3) Except in primary elections, it enables an elector to vote for a ticket selected in part from the nominees of one party, and in part from the nominees of other parties, and in part from independent candidates and in part of candidates whose names are written in by the elector.
- (4) It enables an elector to vote for a ticket of his or her own selection for any person for any office for whom he or she may desire to vote whenever write-in votes are permitted.
- (5) It accommodates all referenda to be submitted to the electors in the form provided by law.
- (6) The voting device or machine permits an elector in a primary election to vote for the candidates of the recognized political party or the independent candidates of his or her choice, and the automatic tabulating equipment or machine rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party or independent candidate designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.
- (7) It permits an elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.
- (8) It permits an elector, at a presidential or gubernatorial election, by one action to vote for the candidates of a party for president and vice president or for governor and lieutenant governor, respectively.
- (9) It prevents an elector from voting for the same person more than once for the same office, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.
- (10) It is suitably designed for the purpose used, of durable construction, and is usable safely, securely, efficiently and accurately in the conduct of elections and counting of ballots.
- (11) It records correctly and counts accurately every vote properly cast and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.
- (12) It minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting device, automatic tabulating equipment or related equipment or materials.
- (13) The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.
- (14) It does not employ any mechanism by which a ballot is punched or punctured to record the votes cast by an elector.
- (15) It permits an elector to privately verify the votes selected by the elector before casting his or her ballot.

(16) It provides an elector with the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.

(17) Unless the ballot is counted at a central counting location, it includes a mechanism for notifying an elector who attempts to cast an excess number of votes for a single office that his or her votes for that office will not be counted, and provides the elector with an opportunity to correct his or her ballot or to receive and cast a replacement ballot.

(18) If the device consists of an electronic voting machine, it generates a complete, permanent paper record showing all votes cast by each elector, that is verifiable by the elector, by either visual or nonvisual means as appropriate, before the elector leaves the voting area, and that enables a manual count or recount of each vote cast by the elector.

WIS. ADMIN. CODE GAB § 7.01 (2009): Application for approval of electronic voting system.

(1) An application for approval of an electronic voting system shall be accompanied by all of the following: (a) A signed agreement that the vendor shall pay all costs, related to approval of the system, incurred by the board, its designees and the vendor. (b) Complete specifications for all hardware, firmware and software. (c) All technical manuals and documentation related to the system. (d) Complete instruction materials necessary for the operation of the equipment and a description of training available to users and purchasers. (e) Reports from an independent testing authority accredited by the national association of state election directors (NASED) demonstrating that the voting system conforms to all the standards recommended by the federal elections commission. (f) A signed agreement requiring that the vendor shall immediately notify the board of any modification to the voting system and requiring that the vendor will not offer, for use, sale or lease, any modified voting system, if the board notifies the vendor that the modifications require that the system be approved again. (g) A list showing all the states and municipalities in which the system has been approved for use and the length of time that the equipment has been in use in those jurisdictions.

(2) The board shall determine if the application is complete and, if it is, shall so notify the vendor in writing. If it is not complete, the board shall so notify the vendor and shall detail any insufficiencies.

(3) If the application is complete, the vendor shall prepare the voting system for three mock elections, using offices, referenda questions and candidates provided by the board.

WIS. ADMIN. CODE GAB § 7.02 (2009): Agency testing of electronic voting system.

(1) The board shall conduct a test of a voting system, submitted for approval under s. GAB 7.01, to ensure that it meets the criteria set out in s. 5.91, Stats. The test shall be conducted using a mock election for the partisan primary, a mock general election with both a presidential and gubernatorial vote, and a mock nonpartisan election combined with a presidential preference vote.

(2) The board may use a panel of local election officials and electors to assist in its review of the voting system.

(3) The board may require that the voting system be used in an actual election as a condition of approval.

[\(back to Wisconsin summary\)](#)

WYOMING

WYO. STAT. ANN. § 22-11-103 (2008): Capabilities required

(a) Every electronic voting system adopted for use in Wyoming shall: (i) Provide for voting in secrecy; (ii) Permit each voter to vote at any election for all candidates and offices, and on any question, for which he is lawfully entitled to vote; (iii) Permit voting either by paper ballot, by ballot card or by other mechanical, magnetic or electrical means by which a vote may be recorded; (iv) Permit each voter, at presidential elections, by one (1) mark or punch to vote for candidates of one (1) party for president, vice-president and presidential electors or to write in a name for president; (v) Provide for replacement of spoiled ballots; (vi) Permit both absentee and write-in voting; (vii) Provide automatic tabulating equipment which shall reject choices recorded on a ballot exceeding the number allowed, and at a primary election reject choices for candidates from a party other than the party for which a preference is expressed; (viii) Be suitably designed to function safely, efficiently and accurately, when properly operated, in recording, tabulating and counting every vote cast; (ix) Repealed by Laws 1998, Sp. & Bud. Sess., ch. 100, § 5. (x) Be certified by the secretary of state.

(b) Repealed by Laws 1998, Sp. & Bud. Sess., ch. 100, § 5.

(c) The secretary of state may from time to time as necessary promulgate rules and regulations consistent with subsection (a) of this section and with all other requirements of this Election Code to govern the characteristics of electronic voting systems that may be used in Wyoming. The rules shall ensure the fairness and accuracy of elections. The rules may govern both the characteristics of the systems and the procedures to be followed in using the systems. The rules shall allow the county clerks to

follow appropriate recommendations of the vendors of the systems for maintenance and management of the systems to the extent these recommendations are not inconsistent with this Election Code and with the rules. The rules shall be adopted following consultation with the county clerks.

002-040-012 WYO. CODE R. § 4 (Weil 2009): Application for Certification.

(a) Before any equipment or software is sold or upgraded, the vendor shall certify in writing to the Wyoming Secretary of State that the equipment or software: (i) Meets the Voting Systems Performance and Test Standards, as adopted by the National Association of State Election Directors (NASSED) April 30, 2002. The report of an accredited independent testing authority, together with the NASSED or the Election Assistance Commission (EAC) certification number, certifying that the system is in compliance with the standards shall be submitted with the application for examination; and (ii) Has been tested and certified under standards separately adopted and implemented in at least two states for use in federal elections in those states.

(b) The vendor shall provide the following documentation of the certification and testing in (a) above: (i) Verified statement that the equipment or software meets federal law; (ii) Verified statement that the equipment or software meets state law; (iii) Verified statements from various other states certifying that the equipment has been tested and certified under standards adopted by those states for certification of election equipment.

(c) Upon written request by the secretary of state, the vendor shall submit the report from an accredited independent testing authority certifying that the system is in compliance with the voting systems standards, as required by (a)(i) above. This report is a third party document and shall not be released by the secretary of state, but will be deemed confidential.

(d) Vendors shall also provide the following as part of the certification process: (i) All related manuals, including, but not limited to, technical manuals for repair and maintenance for the equipment or software, operations manuals for election officials, printer manuals for ballot production, and all other written documents prepared by the vendor that describe the operation, use, and maintenance of the equipment and software; (ii) A current description of all related support arrangements for the equipment or software to be provided in Wyoming; (iii) A list of applicable patents and copyrights on the equipment or software; (iv) A history of the equipment, including a complete description of the equipment or software, the date the equipment or software went into production, and a complete list of jurisdictions which have used the equipment or software; (v) A list of any written complaints or concerns made to the vendor by other jurisdictions including a description of the resolution of the complaints or concerns; and (vi) An escrow account containing the source codes for the system and/or system components requested for certification.

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