Election Funding for 2020 and Beyond

As jurisdictions across the country are preparing for 2016’s big election, many are already thinking of the next presidential election—2020 and beyond. This is especially true when it comes to the equipment used for casting and tabulating votes.

Voting machines are aging. A September report by the Brennan Center found that 43 states are using some voting machines that will be at least 10 years old in 2016. Fourteen states are using equipment that is more than 15 years old. The bipartisan Presidential Commission on Election Administration dubbed this an “impending crisis.”

To purchase new equipment, jurisdictions require at least two years lead time before a big election. They need enough time to purchase a system, test new equipment and try it out first in a smaller election. No one wants to change equipment (or procedures) in a big presidential election, if they can help it.

Even in so-called off-years, though, it’s tough to find time between elections to adequately prepare for a new voting system. As Merle King, executive director of the Center for Election Systems at Kennesaw State University, puts it, “Changing a voting system is like changing tires on a bus… without stopping.” So if election officials need new equipment by 2020, which is true in the majority of jurisdictions in the country, they must start planning now.

Here’s the catch: nationwide, officials report that they’re not quite sure where the money for new machines will come from. The machines that they’re replacing were mostly paid for in the mid-2000s by federal funds through the Help America Vote Act of 2002 (HAVA)—but there’s little hope of federal funding this time around.

HAVA drastically changed the landscape of voting technology. Not only did it shift the country away from lever and punch card voting machines by paying for replacement equipment, it also altered the elections equipment market. For one thing, because so much of the nation’s equipment was bought at the same time, a majority of the country’s machines will need replacement around the same time as well. HAVA also made local jurisdictions more dependent on funds coming from the feds rather than on their county coffers. A whole generation of county commissioners has come of age in an era when they haven’t had to budget for voting equipment, as was the norm in the pre-2000 era.

Elections are critical infrastructure, as important to the functioning of the country as roads. As such, what are some funding options? And what questions are states asking?

Should every jurisdiction in the state have the same equipment?

Even before HAVA, a few states moved to a uniform voting system, with every jurisdiction using the same equipment. For instance, this is required in Georgia by statute. In Georgia, having a uniform system allows machine testing and maintenance to be done on the state level by the Center for Election Systems at Kennesaw State University.

(cont. on page 2)
Georgia estimates that it saves about $1 million a year by doing its own maintenance, as opposed to paying for a voting system vendor to perform maintenance. Having a uniform system also helps with contingency planning. If a county has a large-scale problem with its machines—a fire in its warehouse, for example—machines can be borrowed from adjacent counties. Training for election officials can be done statewide, and the state can better assist with troubleshooting technical problems on Election Day.

Maryland also has a uniform system across the state and obtained new equipment in 2015. The state and counties split the cost of the system 50/50 and Maryland has chosen to lease its new system rather than purchase it outright.

New Mexico is the most recent state to choose a single system. Prior to HAVA, New Mexico had a variety of voting systems in use and provided a revolving fund in the secretary of state’s office that counties could draw on at no interest. The counties chose from a menu of options certified by the state. After HAVA, however, New Mexico moved to a statewide system. New machines were purchased last year, with funds allocated by the legislature in two appropriations. The state negotiated the contract with the vendor and machines are maintained at the state level. As New Mexico Senator Daniel Ivey-Soto notes, “If the state owns the rules governing elections, we thought it made sense to also own the hardware and software that implement those rules.”

Colorado does not yet have a uniform voting system, but may be moving to one. A working committee has been studying the issue for the last two years, and in November pilots of four different systems were conducted across the state. The state plans to decide which of these systems to choose for a statewide contract by the end of the year. Not all of Colorado’s 64 counties will purchase new equipment right away, but more than one-third have expressed interest in making a purchase and rolling out new equipment in 2016. Funds for the new equipment would come from individual counties, but they would be able to secure a low-interest loan from the state to make initial purchases, taking advantage of the purchasing power of the state.

In addition to the states mentioned above, Alabama, Connecticut, Delaware, Louisiana, Maine, Nevada, New Hampshire, North Dakota, Rhode Island, South Carolina, Utah and Vermont also use the same machines statewide.

**If the same machines aren’t used statewide, can the state still help its jurisdictions purchase new equipment?**

By contrast, Kansas, Minnesota and Wisconsin are highly decentralized. In Wisconsin, elections are run at the municipal level in 1,853 jurisdictions. Many of the smaller jurisdictions count paper ballots by hand. Within a given county, there may be different machines used in different municipalities, making the state a true hodge-podge of voting equipment. Even though elections are run at the municipal level, counties still play a role and may assist municipalities with purchasing new equipment. The state, however, does not play a role in funding voting equipment.

In Minnesota, counties own and purchase voting equipment, and many different systems are in use. A recent survey of counties showed that almost all of them need to replace equipment by 2020, and almost none know where the funding will come from. Some of the larger counties have made purchases already, but it is the counties with fewer resources that could most benefit from some state assistance.

The situation is similar in Kansas, where Senator Mitch Holmes notes a divide between urban and rural counties in the voting technology used, and the ability to find funds for new equipment. In a decentralized state like Kansas, the rural counties are at a disadvantage, and as Holmes says, “Change is tough in elections—there’s no room for errors!” Several of the larger counties in Kansas recently got together to issue an RFP for new equipment, in a regional collaboration that has also been discussed in other states.

If you’re going to go regional, some argue, why stop at the state line? Regional cooperatives could be made between states that are looking at buying similar equipment, increasing their purchasing power. Collaboration could also focus on services—counties that aren’t necessarily adjoining but have similar service or maintenance requirements could get together to share resources and negotiate favorable contracts with vendors.

**Where do the funds come from?**

Some states are discussing a statewide bulk purchase to take advantage of economies of scale and potentially get a better deal on new elections equipment. Others are telling the counties that they must continue to be responsible for funding new equipment.

States are looking at a variety of sources. Among the options being discussed are:

- A direct appropriation for voting equipment statewide. A variation on this theme would be to split the cost between the state and counties.
- Setting up a grant program or a low-interest loan program for counties that need to purchase equipment, with funds appropriated by the legislature and administered by the secretary of state or board of elections.
- Entering into agreements with counties to buy equipment in

*(cont. on page 3)*
bulk. In this scenario the counties would provide the funds, but the state would negotiate the contract.

- Leaving the purchasing and decision-making in the hands of local jurisdictions, where funding could come from local appropriations or through bonds. A few jurisdictions have a capital expense line item for elections equipment, and funds build up over a few years to make major purchases.

- Dedicated revenue through fees. In states where the secretary of state is the chief election official, this could be through fees administered by the business side of the office.

- Working with private firms to design brand new equipment or open source software that can be run on off-the-shelf devices. Some of the larger jurisdictions in the country such as Los Angeles, San Francisco and Travis County, Texas (where Austin is located) are exploring this option.

Or, jurisdictions may be able to carve out funds for new equipment by creating efficiencies elsewhere in the process. This is dependent on collecting good data—jurisdictions need to know where they are spending their money in order to identify potential areas for savings. As Amber McReynolds of the Denver Elections Division notes, “First you should eliminate waste and create efficiencies, and only then look at adding new technology and equipment.”

States are undoubtedly facing some changes in voting equipment in the coming years. As King notes, “States should see change as an opportunity to make elections more efficient.” And we’re in a better position to deal with this change than we were in 2000. Charles Stewart III, a professor at MIT who studies election administration, notes that the country has come a long way in developing professional standards and best practices in election administration: “We’re going to be able to dive into any problems that might arise more quickly and comprehensively than ever before.”

---

**Legislative Action Bulletin**

- 7 legislatures are in session.

- 2,355 election-related bills have been introduced.

- 241 bills in 45 states have been enacted.

- 17 bills in seven states have been vetoed.

Qualifications for poll workers got more attention than usual this year, with 124 bills introduced in 32 states. Many of these bills are intended to provide relief to election officials, who often say their biggest headache is finding enough poll workers.

Enactments of note: California AB 554 permits students to serve as election officials if they are lawful permanent residents. California already allows youth to serve as poll workers. New Hampshire HB 140 gives state party officials responsibility for appointing local election officials, instead of local party officials. Indiana HB 1140 allows counties to decide if one person can serve as an inspector for more than one precinct at the same location. Virginia HB 1333 allows state party officials to sign forms designating authorized representatives of political parties for elections, when local level party officials can’t do so. Montana HB 69 allows required training to be offered online or through teleconferences.

Vetoes were big, too. New Jersey’s governor vetoed New Jersey AB 2906, which would have excluded compensation paid to Election Day poll workers from inclusion in gross income for tax purposes. Virginia HB 1473 would have permitted general registrars to be appointed from adjacent jurisdictions and was vetoed by the governor who argued jurisdictions should intensify their recruitment search if they are having difficulties finding candidates for the position. Texas HB 2381, which related to the appointment and duties of election officers, was vetoed because of concerns about elected county clerks overriding the party’s selection of candidates.

---

**One big number**

75 percent. That is the approximate percentage of voters nationwide who cast their ballots in a designated polling place, either in a traditional precinct polling place or a vote center, in the 2014 elections according to Managing Polling Places Resources, the latest report from the Caltech/MIT Voting Technology Project. From that number it’s clear that all the attention to mail voting has not changed the fact that Americans are still voting in traditional brick and mortar polling places, not just on Election Day but in the days leading up to it. The report details basic facts about waiting to vote, what leads to lines at polling places and how election officials can gather and analyze data to prepare for the 2016 election. It also has a roadmap for reducing lines permanently. An essential read for the upcoming election season.
Federal Election Reform Falls Flat in the 114th Congress

We have not heard much about federal election reform efforts in 2015, though that does not mean Congress has been completely silent. In the 114th Congress, about 50 bills have been introduced that sought to address a wide range of elections issues. These bills range in their solutions to perceived problems, but seem to align in three main categories—ease of voting, voting rights protection and enfranchisement and general election administration issues such as funding.

Ease of voting had many takers in this Congress, although all of these bills were referred to committee and have not yet advanced.

H.R. 12, the "Voter Empowerment Act of 2015," has both an enfranchisement and voting accessibility provision. This bill sought to amend the federal criminal code by declaring that someone who has been previously convicted of a criminal offense has the right to vote, unless incarcerated at the time of the election. Currently the states establish how and when convicted felons are able to vote again. This bill would also require all states to offer online voter registration, and amends the Help Americans Vote Act of 2002 (HAVA) by establishing state requirements for individuals with disabilities, such as allowing them to register to vote privately and independently at their own residences.

Other bills had different goals. H.R.1618, the "Universal Right to Vote by Mail Act of 2015" would prohibit states from placing additional restrictions on voting by mail in federal elections. Its aim is to make the voting process easier for people with work or family commitments that may prevent them from voting in person on Election Day. H.R.411, the "Streamlined and Improved Methods at Polling Locations and Early (SIMPLE) Voting Act of 2015" would require states to hold early voting in a place which is accessible by public transportation, require states to provide sufficient election resources to reduce the likelihood of voting lines and require a two-week early voting period. Other bills seeking to increase voter participation are fairly self-explanatory:

- H.R. 2887, the "Time Off to Vote Act"—giving employees two hours of paid leave on any federal election day to vote.
- H.R. 3522, the "Pre-Registration of Voters Everywhere Act of 2015"—would require states to allow 16-year-olds to pre-register, so they are ready to vote when they turn 18.

In the area of voting rights protection and enfranchisement, H.R. 885, the "Voting Rights Amendment Act of 2015," sought to reinstate an updated Section 4 formula for preclearance under the Voting Rights Act of 1965 (VRA). H.R. 2867, the "Voting Rights Advancement Act of 2015," similarly called for a new standard for Section 4 of the VRA, but also sought to allow a representative of an Indian tribe with proper tribal authority to request the state or county place one or more polling places on tribal lands at no cost to the tribe. S.1912 "Native American Voting Rights Act of 2015" also aimed at protecting the rights of Native Americans in the voting system by prohibiting state and local governments from eliminating certain polling and registration sites on the Indian reservation, along with other provisions. Again, all of these bills were referred to committee, but none of them received a hearing or markup.

Despite these pending bills, only one has received a successful committee vote, or for that matter, any committee attention at all. This bill, H.R.195 the "Election Assistance Commission Termination Act," was voted out of the House Committee on House Administration last March. H.R.195 amends HAVA and calls for the termination of the Election Assistance Commission (EAC), which serves as a clearinghouse for information on election administration and is charged with developing voluntary standards for voting equipment.

States, however, continue to make progress in modernizing and reforming voting processes.

—Susan Parnas Frederick is a Senior Federal Affairs Counsel and staff to the NCSL Law, Criminal Justice and Public Safety Committee.

—Kasey Gonsalves is an intern with the NCSL Law, Criminal Justice and Public Safety Committee.
From the Chair

Senator Margaret Rose Henry chairs the Senate Administrative Services/Elections Committee in the Delaware Senate. She has represented the Second Senatorial District for 20 years, serves as majority whip, and is the first and only African-American woman to serve in the Delaware State Senate. Senator Henry spoke to The Canvass on Nov. 23.

• “Delaware is in the process of looking at options available for new voting equipment as ours is getting old and antiquated. I am also interested in exploring the feasibility of automatic voter registration which would establish procedures to register a person to vote by application made simultaneously with an application for a new or renewed motor vehicle driver’s license. I’m hoping it would be an easy next step with our current system.”

• “Delaware’s e-signature and iVOTE.de.gov projects have received national awards. Delaware and Michigan register more voters at the DMV, which puts us well ahead of any other states. Our e-signature process has a real-time, paperless interface between Elections and DMV, which allows same-day service in most cases for new registrants.”

• “Our website is more than an online voter registration system. It is a portal that allows voters access to their personal information. They can update their address, register to vote, request an absentee ballots, find their legislators, find their polling place, etc. online. E-signature has been replicated by other states.”

• “I am always proud of elections in Delaware. We keep it simple and transparent. Our ballots generally have no questions and shorter ballots mean that we do not have lines at our polling places. We generally report first in the nation.”

Read the full interview with Senator Henry.

The Election Administrator’s Perspective

Devra Smestad is the auditor/treasurer of Ward County, North Dakota. Ward County is the fourth most populous county in North Dakota, which is widely regarded as the fast growing state in the country. The city of Minot serves as the county seat. Smestad spoke to The Canvass on Nov. 16.

• “We are the only state in the Union that does not have voter registration. Voters need to show identification at the polls: a driver’s license, state issued ID, tribal ID or a long term care certificate. If you don’t have one of those four you can’t vote.”

• “There have been some issues with all the people who have moved here because of the oil boom. We try to make it clear that if you get a North Dakota ID you are giving up your residency in another state. If you vote here, you are a resident of North Dakota. If you don’t vote here then you must vote absentee from your home state. I wish there was a strong and clear definition of residency but I understand it’s more of a gray area.”

• “Voters love early voting in Ward County. Many like having a choice of which day to vote, rather than waiting until Election Day. We also process a lot of absentee ballots. Early voters are about a quarter or a third of votes in any election. Our goal is to get voters to cast their ballots, and the more options they have to vote, the better our turnouts. Believe it or not people are also asking for electronic voting but we aren’t there yet.”

• “All 53 counties in the states work closely with the Secretary of State’s office. It’s a great partnership. We all use the same technology so if I’m having problems with machines or software I can make a call to the next county for help or to pick up some replacements. Elections run smoothly with the state-wide system.”

Read the full interview with Smestad.
Worth Noting

- The Wisconsin Senate has advanced a sweeping election package that would change the way elections and campaign finance are governed in the Badger State. Most notably, one of the bills would split the Government Accountability Board into two separate entities equally governed by Democrats and Republicans. The measures now await action by the House of Representatives.

- Big news out of Michigan—the State Senate has voted to eliminate straight-ticket voting. Michigan is one of only 10 states that still allows the practice in which voters can simply choose to vote for all candidates from one party rather than each candidate individually.

- San Francisco has joined Los Angeles and Travis County, Tex. in taking initial steps toward developing an open source voting system.

- The Washington, D.C. city council is considering a bill that would give 16- and 17-year-olds the right to vote in federal elections. If it were to pass the bill would be on a collision course with Republicans in Congress who control the District’s budget.

- Former Speaker of the House John Boehner’s resignation at the end of October has led to an unusual ballot in Ohio. Governor Kasich has chosen to hold the special election to fill Boehner’s vacated seat for the remainder of the term on the very same day as the primary for the next two-year term. So, candidates who want to fill that seat will be listed twice. Unusual, but not unheard of.

- Heads I win, tails you lose—seven town council elections in North Carolina had to be settled by coin flips as the candidates remained tied days after the election. Mississippi also had a race for state representative end in a tie this fall. The candidates drew straws and the Democrat incumbent won but his Republican challenger can contest the results and put the race to a vote by the Republican controlled House of Representatives in the Magnolia State.

- Experts are predicting a ballot measure blockbuster next fall for California. The signature threshold for qualifying a citizens’ initiative for the ballot is determined by a formula based on turnout in the last general election. Since turnout in the 2014 election was abysmal, it will be easier than usual for measures to get on the ballot. It will be really interesting to see the voter pamphlet next November.

- Voter fraud happens. A Ventura, Calif. man was convicted of fraud after voting twice in the 2014 elections.

- Are you ready for the 2016 elections? Poll worker training is essential as election officials in some counties in Ohio learned when a technical glitch with new electronic poll-books caused delays at the polling places.

- Here’s a pretty convincing way to get people to the polls: a South Philadelphia woman won a $10,000 prize from the Philadelphia Citizen lottery for voting in the November elections.

Five states held legislative and executive elections this fall and seven states decided ballot measures on a variety of issues. NCSL’s StateVote 2015 page has post-election analysis, legislative partisan composition, ballot measure results and everything you need to know what happened.

It’s almost time to wrap up 2015 and we want to thank our dedicated Canvass readers for another great year. Next year is sure to be a busy one with the spotlight on election officials as they prepare for “The Presidential.” The Canvass will have plenty of coverage of preparing for 2016 and beyond. See you in the New Year!

Thanks for reading, and please stay in touch.

—Wendy Underhill, Katy Owens Hubler and Dan Diorio