



THE CANVASS

STATES AND ELECTION REFORM®



can•vass (n.)

Compilation of election returns and validation of the outcome that forms the basis of the official results by a political subdivision.

—U.S. Election Assistance Commission:

Glossary of Key Election Terminology

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Voting Technology: Current and Future Choices

In the next several years, new voting equipment will need to be begged, borrowed or bought in most of the nation's jurisdictions. This raises at least two questions: In an age of galloping technological advancement, what should we buy? And, who's going to pay for it? But first, a little history.

History

Preventing voting fraud with new and improved technology has been a consistent goal throughout [American history](#). Voting “technology” started long ago when dropping marbles in a box replaced oral yeas and nays. Over time, blanket ballots, Australian ballots, tabulators, gear-and-lever machines, and punch-card systems came on board. By the late 20th century, higher tech systems were taking hold.

This century opened with Americans “voting on an untidy landscape of flora and fauna,” says MIT's Charles Stewart III. Florida's punch card machines took the heat for vote counting difficulties in the 2000 presidential election. Yet the reliability of the rest of the nation's voting equipment varied as well.

The landscape has become quite a bit tidier since then. Nearly \$3 billion included in the Help America Vote Act of 2002 funded upgrades to voting equipment and other election-related improvements. “We've seen upwards of three quarters of the nation's jurisdictions change the type of equipment they

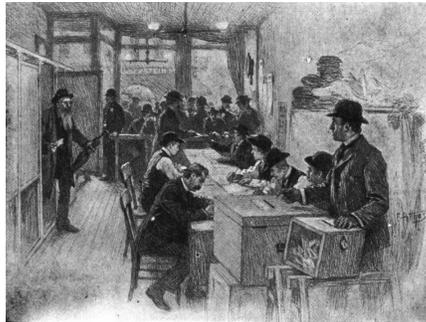
use since 2000,” says Kimball Brace, president of Election Data Services, Inc.

When levers and punch cards went out, what came in? Two systems, one based on electronics (often with a touch screen) and the other based on optical scanners that “score” hand-marked paper ballots in the same way that standardized tests are scored.

The electronic machines (aka DREs, short for “direct recording electronic” voting machines) dominated the market in the early part of the 2000s; but by 2008, optical scanning equipment had become more common. (See the [map](#) provided by Verified Voting.org for details.) A debate still rages between advocates of the two systems.

Those who distrust electronic machines say they make votes hard to recount when an election is contested. Additionally, “there should be a way that a voter can check on a hard copy— independent from the software—that their vote was captured as they intended it to be,” says Pam Smith of [Verified Voting.org](#), an organization that advocates for a voter-verifiable paper trail for elections.

Advocates for electronic systems say that they are faster, more accurate and far better at accommodating people with disabilities and providing ballots in different languages. “Touchscreen voting is absolutely the best way to make voting accessible to the greatest number of people with disabilities,” says James Dickson of [American Association of People with Disabilities](#). Fonts can be enlarged, audio recordings are easily integrated, (*cont. on p. 2*)





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and touch screens are easier to use for people with limited motor skills.

What do voters want? [Consistency](#). “We’ve asked people what their ideal voting machine would be, and they have answered that it would be the exact kind they are already using,” says Stewart.

And legislators? They like systems that make constituents happy, save money, and above all else, prevent fraud.

Market Choices

Since a perfect system doesn’t yet exist, what are the choices? In the 2000s, the options were paper or electronic. For this decade, the answer may be “paper, electronic, something that combines the best of both worlds, or maybe something entirely new.”

Finding the right answer is tough, in part because vendors are few and certification is tricky, if not impossible. The U.S. Election Assistance Commission oversees a [voluntary certification program](#) that states can use.

Assuming that vendors are available and certification is possible, DRE voting systems can be equipped with a voter-verifiable “paper trail.” After a voter makes his or her selections with the touch screen, a paper tape prints out the selections. The voter then hits a final button acknowledging the ballot is correct, before the vote is finally cast. When provided with a voter-verifiable paper

trail, an electronic system has one of the benefits otherwise associated with optical scan systems: a paper record of each vote, one that can be recounted if needed.

Likewise, optical scan systems can be tweaked to provide some of the benefits of electronic equipment. Optical Character Recognition (OCR) technology allows a visually impaired voter to hear his or her vote selections read out loud, so the voter can confirm it was recorded as desired. This would go a long way toward making paper-based technology accessible to people with disabilities.

Another approach is to use off-the-shelf technology to assist voters to mark their ballots. In 2011, [Oregon](#) voters in long-term health care facilities used iPads to select their choices. The iPad sent the selections to a portable wireless printer, and from there the printed ballot was handled like any other. The iPad is easier than paper for people with dexterity issues, and for those with poor vision. [Colorado](#) is running a similar experiment in its June primary.

And then there’s Internet voting, which many experts say is not ready to be rolled out now or even in the near future for the general population. (See sidebar below.)

With whatever new technology is on the table, security is always the big topic. “You have to be able to assure the public that it’s a system that has integrity and security, and that folks will be comfortable utilizing it in every day practice,” says Michael Winn, director of elections for Travis County, Texas, and also the director of (*cont. on p. 3*)

Internet Voting: Not Ready for Prime Time Yet

Americans can do just about all of life’s business over the Internet—bank, buy tickets, sign mortgage papers and take classes. But vote? In most places, not yet. Internet voting risks are serious and difficult to overcome, says a May [statement](#) from the National Institute for Standards and Technologies (NIST).

“Additional research and development is needed to overcome these challenges before secure Internet voting will be feasible,” wrote Belinda Collins, NIST senior adviser for voting standards. The institute has worked on issues related to sending and receiving ballots electronically for several years. Concerns center on security, auditability, and voter authentication.

Although caution is advised, states are beginning to experiment with Internet voting for military and overseas voters—those who may be unable to cast a vote any other way. The [Federal Voting Assistance Program](#) reported to *Election Administration Reports* that Arizona, Delaware, North Dakota, West Virginia and some counties in Washington allow completed ballots to be returned via the Internet; Mississippi will join this list of states this fall.

Editor’s Note: The June 4, 2012, issue of Election Administration Reports (EAR) goes into greater detail on Internet voting. EAR is a hard copy bimonthly newsletter; to subscribe, email nherdson@electionadminreports.com or call 866-888-9170.





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election officials for the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT).

Process Choices

Security may be the No. 1 goal for a voting system, but what else is required? The [Help America Vote Act](#) (HAVA) of 2002 requires that all voting systems used in federal elections: give people with disabilities the opportunity to vote privately and independently; provide minority language support as required by the Voting Rights Act; and calculate error rates.

Vendors must provide equipment that meets these standards, but there is no reason to stop there. States and localities can help set new directions for private vendors by envisioning the future as they'd like to see it.

[IACREOT](#) is devoting its June meeting to just such an effort; the roadmap developed there is intended to be broad enough to be used by decision makers around the country.

Local jurisdictions are forging ahead with their own projects, too. Travis County, Texas, where Austin lies, is using a process to develop "a future system that we all can agree on that will encompass all of our needs," says Winn. The participants include academics, advocacy groups and the media. For a starting point, see [Analysis of Travis County's Voting Systems and Recommendations for Future Systems](#). When the local process is complete, "we'll then go to our legislative group with what we've agreed upon, and say, how can we fund this and implement it?" says Winn.

A similar plan is underway in Los Angeles county with its [Voting Systems Assessment Project](#), a "new participatory approach that initiates the process through public input to ensure the 'people' element is well-balanced with those of 'technology' and 'regulations,'" according to its website. California lawmakers may be asked to pass enabling legislation, depending on the project's outcome.

Who's Going to Pay for New Voting Equipment?

Before 2002, local jurisdictions generally paid for voting equipment; then HAVA kicked in with its one-time pot of money. Looking ahead? There are no signs that federal money will become available, yet local jurisdictions

are ill-equipped to go it alone. A single voting machine costs \$3,000 to \$6,000; that's a lot of money in small towns with populations that can be measured in four figures.

States will be asked to kick in; some will say "yes" and others may say "no." [Arkansas](#) said "yes" this year, by appropriating funds for the Secretary of State's office to make grants to counties for voting systems.

In the meantime, local jurisdictions are squeezing their pennies. "This is a big expense coming for local jurisdictions everywhere, and they're trying to plan for it," says Brian Newby, the election commissioner for Johnson county, Kan. In his jurisdiction, with 600,000 people, "if we had to buy new equipment, it would cost \$10 million. If we spend \$10 million on voting equipment, that's \$10 million we don't have for firehouses and other local priorities," he says.

Newby recently bought 400 reconditioned DRE machines to get Johnson county through the next few years. After that, he's looking at a "bring-your-own-voting-machine" concept: voters use their own tablet or smart phone to render the ballot. It's then sent to a printer and scanned. You needn't worry about security, he says, because "it's your device; no one has monkeyed with it." (Voters without gadgets will continue to use county-provided equipment.)

Legislators' Role

If all that is for the future, what can state legislators do today to help election administrators with voting technology? Winn, of Texas, sums it up this way: "The legislative part is to lay down the law, but legislators must look to administrators for guidance because we're the ones with the expertise and the experience with voters and the process."
(cont. on p. 4)

One Big Number: 38 percent. This is how many Americans identify themselves as political independents, and it is higher than at any point in the last two decades. At the same time, the "partisan gap" stands at 18 percent, up from 10 percent in 1987. The "gap" refers to the difference between responses from Democrats and Republicans when asked about political values, as measured in a June [study](#) by the Pew Research Center.



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Legislators may choose to:

- Offer funding, as Arkansas did. Whatever technology gets adopted is likely to be in use for a decade to come, so it fits the “infrastructure” category, and is not an “operating budget” item. Hawaii shares the expenses of running elections with the counties under a multi-year contract. The funding is provided as a 50-50 split, and this year the legislature enacted an [appropriation](#) for its share.
- Require pre-Election Day testing for voting equipment. “Testing” usually refers to making sure that votes are counted correctly. It can also include [usability](#) for ballot design, polling place layout and instructions. As of this year, [Idaho](#) requires state certification of voting systems by the secretary of state and testing prior to certification.
- Establish post-election audits as half the states do, according to [Verified Voting](#). Audits recount a small percentage of ballots from selected precincts to ensure that the systems and procedures are working properly. Stewart, from MIT, calls them “a post mortem” and says that they should occur after the election is certified. Why then? Because “it’s important not to play gotcha,” he says. “Audits provide election officials and the public a chance to examine the degree to which the procedures were followed and that the machines ran properly.” For

more on audits, see the best practices offered by [ElectionAudits.org](#) or the white paper, [Post-Election Audits: Restoring Trust in Elections](#).

- Give local election commissions more choices by permitting the use of precinct-based optical scanners as well as electronic voting equipment, and open the door to ballot-on-demand printing technology, as [Tennessee](#) did this year.
- Allow paper ballots in the event of a failure of electronic voting equipment, as [Louisiana](#) did this year.
- Ask for a study, as South Carolina’s then-Senator Glenn F. McConnell (now lieutenant governor) did last year. The request to the Legislative Audit Council asked for a “review of the voting machines currently used toward possible replacement with voting machines that incorporate a paper trail or with a replacement process whereby we can have a confirmation that the results are accurate.”

Final Thoughts

Whatever the options, “we can’t stand still. We have to be open to change,” says Angie Rogers, commissioner of Elections for Louisiana. And that change will have to come sooner rather than later, if we want elections to continue running—not running amok.



Federal Updates

- The future of the [U.S. Election Assistance Commission](#) (EAC) was the theme of a May conference at Harvard’s Institute of Politics. NCSL’s [Susan Frederick](#) attended, along with a broad group of election administrators, policymakers and congressional and agency staff. Currently, the EAC has no sitting commissioners and no appointees in the wings. By all accounts, the EAC has moved away from being a clearinghouse of election-related material to one of support for elections purely at the local level. Local officials strongly advocated for a continued presence for the EAC while state officials were more ambivalent.
- Also in May, the National Association of Secretaries of State ([NASS](#)), in conjunction with the U.S. Department of Justice Office of Civil Rights (DOJ), began a working group to discuss the [DOJ’s proposed amendments](#) to the MOVE Act, which it submitted to Congress in 2011.
- The U.S. House of Representatives introduced the Voter Empowerment Act of 2012, [H.R. 5799](#). This is a comprehensive bill that would add additional requirements for states and localities with regard to voter registration, voter “caging” (challenging voters in the hopes of preventing them from voting), deceptive practices at the polling place, felon voting issues, provisional ballots and early voting.



From the Chair



Representative Russ Morin (D) is Connecticut's House co-chair of the Government Administration and Elections Committee; Senator Gayle Slossberg (D) is the Senate co-chair. On May 31, 2012, NCSL asked Representative Morin about his year, during which eight major elections-related bills were enacted. Highlights include permitting citizens to complete voter registration online; approval of Election Day registration; and the passage of a constitutional amendment to permit early voting and no-excuse absentee voting. Similar legislation will need to pass in the next legislative session as well before the amendment becomes part of the state constitution.

Excerpts:

- Connecticut is the land of steady habits, and trying to get people to change is not easy, so it was exciting to have these successes this year. Generally when you're in this job, you just have to be patient.
- Election Day registration was a huge win for Connecticut voters. Despite a long, mainly partisan, debate, we were able to pass this legislation with the goal of getting more people to the voting booths on Election Day.

Read the full interview [here](#) for Representative Morin's thoughts on early voting, the role of clerks and registrars in Connecticut, working on a joint legislative committee and his positive relationship with his ranking member, Representative Tony Hwang (R).

The Election Administrator's Perspective

Steve Rawlings, clerk/auditor for Davis County, Utah (pop. 312,000), was named Utah's Overall Outstanding Elected Official in 2011. According to peers, he is also an outstanding elections administrator, one of several responsibilities within the clerk/auditor's bailiwick. On May 31, 2012, NCSL asked him about his successes, his challenges and his hopes.



An excerpt:

- We have set a goal to have one-third of our voters vote early, one-third of voters vote by mail, and one-third of voters vote on Election Day. As we move toward achieving these goals we can more efficiently serve the voters, avoid long Election Day lines, utilize the same equipment during the early voting period as on Election Day and therefore have to buy only half as much, and have voting results available to the public in a timely fashion—often by 10 p.m. on Election Night.

Read the full interview [here](#) for Rawlings' thoughts on vote centers, budget constraints and his satisfaction with electronic voting machines and his staff.

Bookmark This

[The Green Papers](#), a trove of data on American politics and elections. Its header says "We Were Blogging Before It Was Cool," having begun operations in September 1999. This labor of love may be hard to navigate for newcomers, but it's filled with dates for upcoming elections, outcomes of previous elections, explanations of arcane procedures, histories and more—much, much more.



Worth Noting

- [What to Expect When You're Electing—Federal Courts and the Political Thicket in 2012](#) by Rick Hasen, from the June *Federal Lawyer*, describes the nature of election law disputes likely to come before federal courts this year. It closes with suggested steps federal courts can take to minimize the potential for subconscious judicial bias that could threaten the legitimacy of both the judiciary and the electoral process.
- South Dakota secretary of state Jason Gant is using “[the cloud](#)” to post election night results. The new software debuted in the June primary, and proved to be a big improvement. Election results were uploaded from local jurisdictions at the same time that users of all sorts were accessing those results.
- Georgia has its very own study center for elections, [The Center for Election Systems](#). The center helps maintain the state’s uniform statewide voting system. It provides services for Georgia election officials and poll managers to help with operating the voting system. Other states might like to consider stealing this good idea.
- [Colorado](#)’s controversial bill to establish open records standards for voted ballots was signed by Governor John Hickenlooper, after a [torturous trip](#) through the legislature. The April issue of [The Canvass](#) looked at the issues involved.
- The National Association for Public Health Statistics

and Information Systems provides a “State and Territorial Exchange of Vital Events” system ([STEVE](#)) that permits state election offices to obtain death records from throughout the nation. This should help states keep their voting records up to date. [Ohio](#) is among 20 participating states, although all states and territories are welcome to join.

- In May, the U.S. Court of Appeals for the District of Columbia Circuit issued an [opinion](#) in *Shelby County v Holder*, upholding the constitutionality of Section 5 of the Voting Rights Act. Section 5 requires certain states and jurisdictions to obtain federal approval of election changes before they can go into effect. The case is likely headed to the Supreme Court next year. This [Reuters](#) report gives all the background most of us will need.
- Are you wondering about a certain elections-related issue? Try looking for it in the topical index of [The Canvass](#). If that doesn’t get you what you need, you can always call or [email](#) us.
- [Khan Academy](#) produces easy-to-understand YouTube videos to explain statistics, math, economics and almost anything else. The [Primary and Caucuses](#) video fits in that last category. Try watching this 8 minute video to test your knowledge.

From NCSL’s Elections Team

We’ll be in Chicago for [NCSL’s Legislative Summit, August 6 – 9](#). Will you be there, too? The sessions on elections include: “Voter Registration: Keeping the Rolls Accurate” and “Voter ID: What’s Next?” The rest of the Summit is all about meeting colleagues from across the country, sharing ideas, talk with experts, learning from nationally renowned speakers and exploring policy solutions on every imaginable topic. We hope to see you there.

Thank you.

Jennie Bowser, Susan Frederick and Wendy Underhill



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