

THE U.S. ELECTION ASSISTANCE COMMISSION



State Requirements and the U.S. Election Assistance Commission Voting System Testing and Certification Program

August 3, 2023

Category Descriptions for State Voting System Certification Processes:

- 1) **Baseline HAVA Requirements:** State statutes and/or regulations do not explicitly state that voting systems must be tested to federal standards or be certified by a federal agency or federally accredited laboratory. However, voting systems must, at a minimum, meet standards for voting equipment set forth by the 2002 Help America Vote Act (HAVA).
- 2) **Requires Testing to Federal Standards:** State statutes and/or regulations require that voting systems are tested to federal voting system standards. They may include references to federal standards drafted by administrative bodies such as the Federal Election Commission (FEC), which formerly set federal voting standards, but HAVA transferred this authority to the EAC, the only government agency which formally adopts federal standards for voting systems.
- 3) **Requires Testing by a Federally Accredited Laboratory:** State statutes and/or regulations require that voting systems are tested by a federally or nationally accredited laboratory to federal standards. Older statutes may refer to Independent Testing Authorities (ITAs), but such test labs are now known as Voting System Test Laboratories (VSTLs) under the EAC's testing and certification program.
- 4) **Requires Federal Certification:** State statutes and/or regulations require that voting systems are certified by the appropriate federal agency responsible for testing and certification of compliance with federal voting system guidelines. Post-HAVA, the EAC is the only federal agency with this authority to test and certify voting systems, but older, unrevised statutes may not specify this.

***Some states may fall into multiple categories as a result of flexible statutory language that allows for one or more pathways to voting system certification.

Categories of State, Territory, and District of Colombia Participation in Federal Voting System Standards:

	1. Baseline HAVA Requirements	2. Requires Testing to Federal Standards	3. Requires Testing by a Federally Accredited Laboratory	4. Requires Federal Certification
<u>Alabama</u>		X	X	
<u>Alaska</u>	X			
<u>American Samoa</u>	X			
<u>Arizona</u>			X	
<u>Arkansas</u>			X	X
<u>California</u>	X			
<u>Colorado</u>		X		
<u>Connecticut</u>		X		
<u>Delaware</u>				X
<u>District of Columbia</u>		X		X
<u>Florida</u>	X			
<u>Georgia</u>				X
<u>Guam</u>	X			
<u>Hawaii</u>	X			
<u>Idaho</u>		X	X	
<u>Illinois</u>		X	X	
<u>Indiana</u>		X	X	
<u>Iowa</u>		X	X	
<u>Kansas</u>		X		
<u>Kentucky</u>		X		
<u>Louisiana</u>			X	
<u>Maine</u>	X			
<u>Maryland</u>		X	X	
<u>Massachusetts</u>		X	X	
<u>Michigan</u>			X	
<u>Minnesota</u>			X	X
<u>Mississippi</u>	X			
<u>Missouri</u>		X	X	
<u>Montana</u>	X			
<u>Nebraska</u>	X			
<u>Nevada</u>		X	X	
<u>New Hampshire</u>	X			
<u>New Jersey</u>	X			
<u>New Mexico</u>			X	
<u>New York</u>		X		
<u>North Carolina</u>			X	X

	1. Baseline HAVA Requirements	2. Requires Testing to Federal Standards	3. Requires Testing by a Federally Accredited Laboratory	4. Requires Federal Certification
<u>North Dakota</u>			X	
<u>Ohio</u>				X
<u>Oklahoma</u>	X			
<u>Oregon</u>			X	X
<u>Pennsylvania</u>			X	
<u>Puerto Rico</u>	X			
<u>Rhode Island</u>			X	X
<u>South Carolina</u>		X	X	
<u>South Dakota</u>			X	
<u>Tennessee</u>	X			
<u>Texas</u>				X
<u>Utah</u>			X	X
<u>Vermont</u>	X			
<u>Virginia</u>		X		
<u>Washington</u>			X	
<u>West Virginia</u>		X		
<u>Wisconsin</u>		X	X	
<u>Wyoming</u>				X

ALABAMA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** Alabama requires that its voting systems are tested and certified by an authorized ITA (independent testing authority), meeting the performance and test standards issued by the FEC.

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 (2022).

Applicable Regulation(s): N/A

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: (1) data processing, (2) mechanical engineering, and/or (3) 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. After certification, the Secretary of State makes and maintains a report on the system, sending a copy of the report to all governing bodies of state counties. 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 (2022).

ALASKA

State Participation: **Baseline HAVA requirements.** AK does not require that all EAC standards are used for the certification of its voting systems. However, the director may consider whether the FEC has certified a voting machine.

Applicable Statute(s): “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).” Alaska Stat. Ann. § 15.20.910 (2022).

“Software for voting by use of electronically generated ballots shall be tested and certified under AS 14.20.900.” Alaska Stat. Ann. § 15.15.032 (2022).

Applicable Regulation(s): “Before an election, the ballot counting program must be tested as follows: (1) the state ballot counting review board is responsible for performing and certifying the initial logic and accuracy test of the ballot counting program and memory cards;(2) the regional counting board or regional area coordinator is responsible for performing a second logic and accuracy test of the ballot counting program memory cards and preparing the memory cards for election use;(3) before the opening of the polls on election day at locations where there is a 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 counting board will verify that a zero totals report is printed before each tabulator is used.” 6 Alaska Admin. Code § 25.045 (2023).

State Certification Process: (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. Ann. § 15.20.900 (2022).

AMERICAN SAMOA

State Participation: **Baseline HAVA requirements.** There is no mention of the federal or state process in the American Samoa Code Annotated (A.S.C.A.). The American Samoa Bar Association hosts the A.S.C.A., including all pertinent election provisions, online [here](#).

Applicable Statute(s): N/A

Applicable Regulation(s): N/A

State Certification Process: N/A

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): “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.” Ariz. Rev. Stat. § 16-442(B), (2022).

Applicable Regulation(s): N/A

State Certification Process: 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, and at least one of whom shall have at least five years of experience with and shall be able to render an opinion based on knowledge of, training in or education in electronic voting systems, procedures and security. The committee shall investigate and test the various types of vote recording or tabulating machines or devices that may be used under this article. The committee shall submit its 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. Ariz. Rev. Stat. § 16-442(A)-(G), (2022).

ARKANSAS

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** AR also requires that its voting systems are HAVA-compliant.

Applicable Statute(s): “No make of voting machine shall be approved for use unless it is so constructed that: (21) It shall be: (A) Qualified by an authorized federal agency or national testing and standards laboratory which is acceptable to the Secretary of State; (B) Approved by the State Board of Election Commissioners; and (C) Selected by the Secretary of State.” Ark. Code Ann. § 7-5-504 21(A)-(C) (West 2023)

“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.” Ark. Code Ann. § 7-5-606(E) (West 2023)

Other relevant statues: Ark. Code Ann. § 7-5-301 (West 2023), Ark. Code Ann. § 7-5-503 (West 2023), Ark Code Ann. § 7-5-512 (West 2023), Ark Code Ann. §7-5-515 (West 2023), Ark Code Ann. § 7-5-517 (West 2023), Ark Code Ann. § 7-5-604, (West 2023), and Ark Code Ann. § 7-5-611 (West 2023)

Applicable Regulation(s): N/A

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 capability of the proposed voting system, ensuring it complies with the requirements of Ark Code Ann. § 7-5-504 (West 2023). 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, per Ark. Code Ann. § 7-5-606(b)-(d) (West 2023). *See* Ark. Code Ann. §7 Ch. 5 (2023) on Election Procedure Generally for more information on the preparation and testing of machines for election and ballot styles by county boards of election commissioners, as well as examination of the machines by representatives of candidates.

CALIFORNIA

State Participation: **Baseline HAVA requirements.** Refers to EAC standards, but the Secretary of State is ultimately responsible for adopting voting system standards. Testing standards must meet or exceed the federal voluntary standards by the EAC.

Applicable Statute(s): “It is the intent of the Legislature that: (a) All voting systems be certified or conditionally approved by the Secretary of State, independent of voluntary federal qualification or certification, before they are used in future elections to ensure that the voting systems have the ability to meet accuracy, accessibility, and security standards. (b) The Secretary of State adopt and publish testing standards that meet or exceed federal voluntary standards set by the United States Election Assistance Commission or its successor agency.” Cal. Elec. Code § 19006 (West 2023)

“The Secretary of State shall adopt standards that meet or exceed federal voluntary voting system guidelines set forth by the United States Election Assistance Commission or its successor agency. Until state standards are adopted, the Voluntary Voting System Guidelines Draft Version 1.1, as submitted to the United States Election Assistance Commission on August 31, 2012, shall be used as state standards to the extent that they do not conflict with this code.” Cal. Elec. Code § 19101(a) (West 2023)

Applicable Regulation(s): “In deciding whether to certify, decertify, or withhold certification of a voting system, voting system procedures, or part of a voting system under Division 19 of the Elections Code, the Secretary of State shall apply the standards entitled ‘California Voting System Standards (October 2014),’ which are hereby incorporated by reference.” Cal. Code Regs. Tit. 2 § 20700(a) (2023)

State Certification Process: The Secretary of State accepts applications from persons and/or companies owning or having an interest in the sale or acquisition of a voting system for certification in CA. Cal. Elec. Code § 19210 (2022). Certification includes testing and examination of the applicant’s system by either a state-approved testing agency or expert technicians providing a report on the accuracy and efficiency of the voting system. The Secretary of State holds a 30-day public review period so interested parties can express their opinions on the voting system. Within 14 days prior to the public review, the Secretary of State will transmit a written notice to each county official, to anyone the Secretary of State believes will be interested in the public review, and to those who requests, in writing, notice. Cal. Elec. Code § 19210-19211 (2022)

COLORADO

State Participation: **Requires testing to federal standards.** CO requires that its voting systems meet the EAC voting system standards. The systems can be tested by a federally accredited laboratory or by the agency of another state, and must be certified by the Secretary of State.

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.” Colo. Rev. Stat. Ann. § 1-5-601.5 (West 2023)

“(3)(a) If the electronic and electromechanical voting systems tested pursuant to this section satisfy the requirements of this part 6, the secretary of state shall certify such systems and approve the purchase, installation, and use of such systems by political subdivisions and establish standards for certification. (4) In undertaking the certification required by this section, the secretary of state may request a federally accredited laboratory to undertake the testing of an electronic or electromechanical voting system or may use and rely upon the testing of an electronic or electromechanical voting system already performed by another state...” Colo. Rev. Stat. Ann. § 1-5-608.5 (West 2023)

Applicable Regulation(s): “All voting systems must meet the requirements of the 2002 Voting System Standards. All voting system software, hardware, and firmware must also meet all requirements of federal law that address accessibility for voters including The Help America Vote Act, The Americans with Disabilities Act, and The Federal Rehabilitation Act.” Colo. Rev. Stat. Ann. § 1-5-608.5

State Certification Process: There are several phases to the certification process of a voting system in Colorado, including submission of a complete application, a documentation review, a public demonstration of the system, and functional testing. The Secretary of State ultimately reviews the test results and determines whether the voting system meets the requirements for certification. Within 30 days of his or her decision, the Secretary of State posts the certification test report for the voting system of its website, and will also send a notice of certification and copy of the report to the voting system provider that submitted the system for certification. The Secretary of State notifies governing bodies of political subdivisions of the state of the certification, and election officials which plan to use this system will apply to the Secretary of State for approval of the installation of the system. 8 Colo. Reg. § 1505-1:21 (July 2022), Colo. Rev. Stat. Ann. § 1-5-617 (West 2023)

CONNECTICUT

- State Participation:* **Requires testing to federal standards.** CT requires that its voting systems are tested to the most current FEC or EAC standards, but the Secretary of State makes the final determination in the certification process.
- Applicable Statute(s):* “[T]he Secretary of State may approve a voting tabulator which requires the elector in the polls to place the elector's 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 (West 2023)
- Applicable Regulation(s):* The Secretary of State can only approve voting systems which may 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 (amended from time to time) and which meet the standards specified in Sections 9-241-1 and 9-242 of these regulations and the requirements of the Connecticut constitution and the general statutes. These include standards for direct recording electronic voting machines, Marksense and punchcard voting machines, and Marksense voting tabulators. Conn. Agencies Regs. § 9-241-1 through § 9-242-1 (2023)
- State Certification Process:* The Secretary of State accepts applications to examine and certify voting systems and then determines whether the voting system: (1) meet the requirements of section 9-242, (2) can be used at elections, primaries and referenda, and (3) comply with applicable standards for electronic voting tabulators. 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 certification of voting equipment, developing voting system standards, research and analysis of data formats for ballot programming and election-related electronic data, and the development of any other standards to protect the integrity of voting equipment. Conn. Gen. Stat. § 9-241 (2023)

DELAWARE

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

Applicable Statute(s): "A voting device or system purchased by the State must be certified by the United States Election Assistance Commission, or designated federal authority, as meeting or exceeding the voluntary voting system standards or guidelines as promulgated by the United States Election Assistance Commission, or designated federal authority, before delivery to and acceptance by the State." Del. Code Ann. tit. 15, § 5001A (West 2023)

Applicable Regulation(s): N/A

State Certification Process: All voting systems must first be certified by the United States Election Assistance Commission or designated federal authority prior to delivery to Delaware. Before an electronic voting system is acquired or used in the state, the owner or manufacturer of the voting device must give an adequate guarantee in writing. They must also post a bond accompanied by satisfactory surety with the State Election Commissioner guaranteeing and securing that the voting device complies with the requirements of 15 DE Code § 5001A and will correctly and accurately record every vote cast, guaranteeing the device against defects for a period of 5 years from the date of acquisition or rental. Del. Code Ann. tit. 15, § 5001A (West 2023) and Del. Code Ann. tit. 15, § 5002A (West 2023)

DISTRICT OF COLUMBIA

- State Participation:* **Requires testing to federal standards / Requires federal certification.** DC requires that its voting systems must be tested to meet voting system standards set forth in the Help America Vote Act of 2002, or be federally certified.
- Applicable Statute(s):* “Each voting system used in an election in the District occurring after January 1, 2012, shall: (A) meet or exceed the voting system standards set forth in the Help America Vote Act of 2002, approved October 29, 2002, or be federally certified.” D.C. Code § 1-1001.09(k)(1) (2023)
- Applicable Regulation(s):* All voting systems used in the District of Columbia shall meet or exceed the voluntary voting system standards set in HAVA, and/or be federally certified. D.C. Mun. Regs. tit. 3 § 800 (2023)
- State Certification Process:* The Board of Elections adopts voting system standards provided that they do not conflict with the 2002 Help America Vote Act. It reviews the standards on a biennial basis and purchases voting system equipment under a competitive-bidding procedure. D.C. Code § 1-1001.09 (2023)

FLORIDA

State Participation: **Baseline HAVA requirements.** The Division of Elections under the FL Department of State adopts voting system standards. The Bureau of Voting Systems Certification in this division provides technical support.

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 (2022)

“There is created a Bureau of Voting Systems Certification within the Division of Elections of the Department of State which shall provide technical support to the supervisors of elections and which is responsible for voting systems standards and certification. The positions necessary for the bureau to accomplish its duties shall be established through the budgetary process.” Fla. Stat. § 101.017 (2022)

Applicable Regulation(s): The Department of State, Division of Elections, establishes minimum standards for certification and provisional approval for voting systems. Voting system equipment will be certified in accordance with requirements contained in Florida Voting Systems Standards, Form DS DE-101, eff. 1/12/05. Fla. Admin. Code Ann. R. § 1S-5.001 (2022)

State Certification Process: The Department of State adopts rules that establish minimum security standards for voting systems. The Division of Elections of the Department of State continuously reviews certification standards for voting systems and ensures that they are available for selection by boards of county commissioners, while also determining the will of the public with regard to the systems. Within the Division of Elections, there is a Bureau of Voting Systems Certification which is mainly responsible for system certification and for providing technical support to election supervisors. 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 and Fla. Stat. § 101.017 (2012)

GEORGIA

State Participation: **Requires federal certification.** GA requires that voting systems receive Qualification Certificates from the EAC before vendors submit them for further evaluation for use in Georgia. Voting machines must also be certified by the Secretary of State.

Applicable Statute(s):

(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. Code Ann. § 21-2-324 (West)

*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. & Regs. 590-8-1-.01

*State Certification
Process:*

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 vo

Ga. Comp. R. & Regs. 590-8-1-.01

GUAM

State Participation: **Baseline HAVA requirements.** Guam’s laws do not explicitly mention the role of federal agencies in certifying voting equipment. The Guam Election Commission approves vote tabulating devices.

Applicable Statute(s): “A vote tabulating device is a mechanical, electronic or electromechanical machine approved by the Commission to count cast ballots in an election on Guam.” 3 GCA § 1118 (2012)

Applicable Regulation(s): N/A

State Certification Process: N/A

HAWAII

State Participation: **Baseline HAVA 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.

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. Ann. § 16-1 (West)

No voting machine shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) 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;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;
- (3) It shall permit the voter to vote for or against any question the voter may have the right to vote on, but no other;
- (4) In special primary and primary elections it shall be so equipped that it will lock out all rows except those of the party or nonpartisan candidates selected by the voter;
- (5) 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;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.

Haw. Rev. Stat. Ann. § 16-12 (West)

*Applicable
Regulation(s):*

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.

*State Certification
Process:*

Haw. Rev. Stat. Ann. § 16-2 (West)

IDAHO

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** ID requires that its voting systems meet FEC voting system standards and be tested by an independent testing authority designated by the secretary of state prior to final state certification by the secretary of state.

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. Any voting machine or vote tally system shall be certified by the secretary of state for use in Idaho. Except for functions or capabilities unique to this state, voting machines and vote tally systems shall be tested and the results certified by an independent testing authority designated by the secretary of state prior to certification.

Idaho Code Ann. § 34-2409 (West)

Applicable Regulation(s):

(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 107-252.1

(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.

*State Certification
Process:*

Supra

ILLINOIS

State Participation: **Requires testing to federal standards/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

Applicable Regulation(s): N/A

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 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. 10 Ill. Comp. Stat. Ann. 5/24A-16 and Ill. Admin. Code tit. 26, § 204.40

No voting system shall be approved unless it fulfills the following requirements:

- (1) It enables a voter to vote in absolute secrecy;
- (2) (Blank);
- (3) 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;

(4) 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;

(5) 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;

(5.5) It will identify when a voter has not voted for all statewide constitutional offices;

(6) It will accommodate all propositions to be submitted to the voters in the form provided by law or, where no such form is provided, then in brief form, not to exceed 75 words;

(7) It will accommodate the tabulation programming requirements of Sections 24A-6.2, 24B-6.2, and 24C-6.2.

The State Board of Elections shall not approve any voting equipment or system that includes an external Infrared Data Association (IrDA) communications port.

The State Board of Elections is authorized to withdraw its approval of a voting system if the system 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.

10 Ill. Comp. Stat. Ann. 5/24A-16

INDIANA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** IN requires that its voting systems meet federal standards adopted by either the FEC or EAC, and electronic voting systems should also be tested by a federally-accredited laboratory.

Applicable Statute(s): (a) To be approved by the commission for use in Indiana, a voting system must meet one (1) of the following:
(1) The Voting System Standards adopted by the Federal Election Commission on April 30, 2002.
(2) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.
(3) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission, as amended on March 31, 2015.
(b) Except as provided in subsection (c), 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, 2021, if the voting system:
(1) was:
(A) approved by the commission for use in elections in Indiana before October 1, 2021; and
(B) purchased or leased by the county before October 1, 2021; and
(2) otherwise complies with the applicable provisions of HAVA and this article.

Ind. Code Ann. § 3-11-15-13.3 (West)

“The tests required under this section must be performed by an independent laboratory accredited under 52 U.S.C. 20971. However, if the commission determines that it is impossible or impractical to have an independent laboratory conduct tests on an electronic voting system, the commission may direct that the tests be conducted by any other entity approved by the commission.” Ind. Code Ann. § 3-11-7.5-4 (West)

Applicable Regulation(s): N/A

State Certification Process: Any person seeking approval of an electronic voting system may submit an application in the form prescribed by the election division of Indiana. Ind. Code Ann. § 3-11-7.5-2 (West) The commission may approve an electronic voting system only if the system complies with the requirements of this chapter and IC 3-11-15.

Ind. Code Ann. § 3-11-7.5-3 (West)

IOWA

State Participation: **Requires testing to federal standards/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):

1. A person or corporation owning or being interested in an optical scan voting system may request that the state commissioner call upon the board of examiners to examine and test the 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 optical scan voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the 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 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, § 222.¹ 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 is found not to comply with performance standards adopted by the state commissioner.

Iowa Code Ann. § 52.5 (West)

Applicable Regulation(s): All electronic voting systems 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, or the 2005 Voluntary Voting Systems Guidelines, as adopted by the U.S. Election Assistance Commission in December 2005. 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)

“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)

*State Certification
Process:*

1. A person or corporation owning or being interested in an optical scan voting system may request that the state commissioner call upon the board of examiners to examine and test the 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 optical scan voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the 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 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, § 222.¹ 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 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 optical scan voting system, the examiners shall report to the state commissioner describing the testing and examination of the system and upon the capacity of the 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 system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the system can be so used, it shall be deemed approved by the examiners, and systems of its kind may be adopted for use at elections as

provided in this section. Any form of system not so approved cannot be used at any election.

4. 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 Code Ann. § 52.5 (West)

KANSAS

State Participation: **Requires testing to federal standards.** KS requires that its voting systems are approved by the Secretary of State and that they are in compliance with voting system standards required by HAVA.

Applicable Statute(s): 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 electronic poll books, and no kind or make of such system or electronic poll book 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. § 25-4404 (West)

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;
- (k) shall provide a paper record of each vote cast, produced at the time the vote is cast;
- (l) shall have the ability to be tested both before an election and prior to the date of canvass. The test shall include the ability to match the paper records of such machines to the vote totals contained in the machines;
- (m) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment; and
- (n) shall not have the capability nor shall any component of an electronic or electromechanical voting system have the capability to be connected to the internet or to any other communications or computer network, including, but not limited to, a local area network, wireless network, cellular network or satellite network, or to use bluetooth or any other wireless communications technology.

Kan. Stat. Ann. § 25-4406 (West)

*Applicable
Regulation(s):*

N/A

*State Certification
Process:*

(a) Any person, firm or corporation desiring to sell any kind or make of electronic or electromechanical voting system or electronic poll book 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 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 or electronic poll book and demonstrate by the operation of such system or electronic poll book that it complies with any applicable state and federal laws and regulations. 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 voting system or electronic poll book 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 by the applicant.

(b) The secretary of state may require a review of any theretofore approved electronic or electromechanical voting system or electronic poll book 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 voting system or electronic poll book and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such voting system or electronic poll book 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 voting system or electronic poll book, 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 voting system or electronic poll book, 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 or electronic poll book and its equipment or the programs of such system or electronic poll book.

Kan. Stat. Ann. § 25-4405 (West)

KENTUCKY

State Participation: **Requires testing to federal standards.** KY requires that voting systems are tested by an independent testing authority approved by the State Board of Elections, demonstrating that the voting systems meet federal standards.

Applicable Statute(s): (1) (a) Any person or corporation owning, manufacturing, or selling any voting system or e-poll book product, may request the State Board of Elections to examine the voting system or e-poll book product. Before requesting an examination or reexamination, any person, persons, or corporation shall pay to the State Treasurer a nonrefundable deposit of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections.

(b) If the report concerns a voting system, the report shall demonstrate that the voting system meets all Election Assistance Commission standards. Notwithstanding any other provision of law to the contrary, if these Election Assistance Commission standards have been amended less than thirty-six (36) months prior to the request for examination under this subsection, the State Board of Elections may approve and certify a voting system that meets the prior standards after determining:

1. The effect that such approval would have on the integrity and security of elections; and
2. The procedure and cost involved to bring the voting system into compliance with the amended standards.

(c) The State Board of Elections may, at any time, reexamine any voting system or e-poll book product already approved. The State Board of Elections shall approve or disapprove any voting system or e-poll book product within sixty (60) days after the date of its initial submission. Any or all costs associated with the voting system or e-poll book product being examined or reexamined shall be paid to the State Treasurer by the person or corporation once the approval or disapproval is complete.

(2) (a) Upon receipt of a request for examination or reexamination of a voting system or e-poll book product, the State Board of Elections shall require that such voting system or e-poll book product 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, voting systems, or e-poll book products, whichever is applicable; one (1) person who is knowledgeable in election procedures, election security, and election 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 voting system or

- e-poll book product, examined or reexamined, to the State Board of Elections. The members of the State Board of Elections shall also examine or reexamine the voting system or e-poll book product.
- (b) A voting system shall be approved and certified if the examiners' report states that the voting system meets all the requirements of KRS 117.125 and applicable federal law, and the State Board of Elections finds that the voting system meets all of the requirements of KRS 117.125 and applicable federal law.
 - (c) Beginning September 1, 2022, an e-poll book product shall be approved and certified if the examiners' report and the State Board of Elections find that the e-poll book product meets the certification requirements promulgated by the State Board of Elections pursuant to KRS Chapter 13A and applicable federal law.
 - (d) Each report and letter of approval pertaining to a voting system or an e-poll book product shall be filed in the office of the State Board of Elections.
 - (3) Any voting system or e-poll book product not approved by the State Board of Elections shall not be used at any primary, regular election, or special election.
 - (4) When a voting system or e-poll book product has been approved, any improvement or changes in the voting system or e-poll book product shall render necessary the examination or approval of such voting 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 voting system or e-poll book product.
 - (6) Each examiner appointed by the State Board of Elections shall receive fair compensation to be established by the State Board of Elections.
 - (7) An e-poll book product approved under this section shall not be used in any primary, regular election, or special election held before May 11, 2023.

Ky. Rev. Stat. Ann. § 117.379 (West)

*Applicable
Regulation(s):*

N/A

*State Certification
Process:*

- (1) (a) Any person or corporation owning, manufacturing, or selling any voting system or e-poll book product, may request the State Board of Elections to examine the voting system or e-poll book product. Before requesting an examination or reexamination, any person, persons, or corporation shall pay to the State Treasurer a nonrefundable deposit of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections.
- (b) If the report concerns a voting system, the report shall demonstrate that the voting system meets all Election Assistance Commission standards. Notwithstanding any other provision of law to the contrary, if these Election Assistance Commission standards have been amended less than thirty-six (36) months prior to the request for examination under this subsection, the State Board of Elections may approve and certify a voting system that meets the prior standards after determining:
1. The effect that such approval would have on the integrity and security of elections; and
 2. The procedure and cost involved to bring the voting system into compliance with the amended standards.
- (c) The State Board of Elections may, at any time, reexamine any voting system or e-poll book product already approved. The State Board of Elections shall approve or disapprove any voting system or e-poll book product within sixty (60) days after the date of its initial submission. Any or all costs associated with the voting system or e-poll book product being examined or reexamined shall be paid to the State Treasurer by the person or corporation once the approval or disapproval is complete.
- (2) (a) Upon receipt of a request for examination or reexamination of a voting system or e-poll book product, the State Board of Elections shall require that such voting system or e-poll book product be examined or reex

Ky. Rev. Stat. Ann. § 117.379 (West)

LOUISIANA

State Participation: **Requires testing by a federally accredited laboratory.** LA requires that voting systems are certified by a test laboratory accredited by the U.S. Election Assistance Commission.

Applicable Statute(s): A. Prior to the solicitation of bids for any new voting system, the secretary of state shall examine any type or make of voting system or system component upon the request of a representative of the maker or supplier thereof for compliance with the certification standards promulgated pursuant to R.S. 18:1353. If the secretary of state determines that the voting system or system component complies with the certification standards, he shall approve that voting system or system component for use in this state and shall issue his certificate of approval thereof.

B. In addition to meeting any applicable certification standards, any voting system or system component procured or used in the state must have been certified according to the voluntary voting system guidelines developed and maintained by the United States Election Assistance Commission by a voting system test laboratory accredited by the United States Election Assistance Commission. This certificate, together with any relevant reports, drawings, and photographs, shall be a public record.

La. Stat. Ann. § 18:1361

Applicable Regulation(s): N/A

State Certification Process: C. The secretary of state shall contract with no fewer than three but no more than five qualified independent experts to assist him in performing the state certification examination provided for in this Section. The expenses of the services of such experts shall be paid prior to the examination by the person requesting examination of the voting system or system component. Experts contracted to assist with the examination shall sign the certificate of approval made by the secretary of state. No voting system or system component shall be used at any election which has not been approved and certified by the secretary of state as provided in this Section.

La. Stat. Ann. § 18:1361

MAINE

State Participation: **Baseline HAVA requirements.** The Secretary of State and the Attorney General adopt the regulations for certification of voting systems in ME.

Applicable Statute(s): **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.

Me. Rev. Stat. tit. 21-A, § 809

The Secretary of State may make reasonable rules governing the use of voting machines in accordance with the Maine Administrative Procedure Act.

Me. Rev. Stat. tit. 21-A, § 813

Applicable Regulation(s): N/A

State Certification Process: The clerk shall test the voting machines using a sample of the ballot cards furnished by the Secretary of State in the same manner as set forth in section 854 regarding the testing of electronic tabulating equipment.

Me. Rev. Stat. tit. 21-A, § 817-A

MARYLAND

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** 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 EAC.

Applicable Statute(s): (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

Md. Code Ann., Elec. Law § LAW § 9-102 (West)

Applicable Regulation(s): The voting system vendor shall provide all equipment that was submitted for qualification testing and is necessary for the evaluation agent to fully test all system functions. Equipment shall include:
A. Optical scanners for precinct voting and central count optical scanners for absentee and provisional voting;
B. Any voting equipment and assistive devices for use by voters with disabilities;
C. Optical scan ballots for testing under COMAR 33.09.04.01C;
D. Election management server software;
E. All third-party software required to operate the system; and
F. All necessary ancillary equipment.

Md. Code Regs. 33.09.03.08

*State Certification
Process:*

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

Md. Code Ann., Elec. Law § LAW § 9-102 (West)

(d) The State Board may not certify a voting system unless the State Board determines that:

MD ELEC LAW § 9-102

(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;

MD ELEC LAW § 9-102

MASSACHUSETTS

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** MA requires that voting systems are certified by an independent testing authorities according to federal voting system standards, and then examined by the state secretary.

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)

Applicable Regulation(s): “The state 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.

950 Mass. Code Regs. 50.03

State Certification Process: Submission of voting equipment to the Secretary consists of:
(1) Submission of detailed specifications, including proof of compliance with 950 CMR 50.03(3).
(2) Office demonstration of the equipment.
(3) Field test in at least two elections in one or more communities according to the discretion of the Secretary.
These requirements may be modified at the Secretary's discretion. In all of this procedure the Secretary shall determine whether the equipment meets the standards for voting equipment as specified in 950 CMR 50.02. 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 to help him make this determination.

950 Mass. Code Regs. 50.04

MICHIGAN

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

Applicable Statute(s): “(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 794¹ and 795² and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c³ 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.

Mich. Comp. Laws Ann. § 168.795a (West)

Applicable Regulation(s): N/A

State Certification Process: (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.

Mich. Comp. Laws Ann. § 168.795a (West)

MINNESOTA

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** MN requires its voting systems to be certified by an independent testing authority accredited by the Election Assistance Commission, or a federal agency, and approved by the Secretary of State.

Applicable Statute(s): **Subd. 6. Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority accredited by the Election Assistance Commission or appropriate federal agency responsible for testing and certification of compliance with the federal voting systems guidelines at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Election Assistance Commission or other previously referenced agency. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission or other previously referenced agency meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

Minn. Stat. Ann. § 206.57 (West)

Applicable Regulation(s): After an electronic voting system has been certified by the secretary of state, the hardware and 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 at any time that, in the opinion of the secretary of state, changes in Minnesota election law require reexamination of the voting system to determine continued compliance. A modification to hardware or software of an electronic voting system which has been certified by the secretary of state must be submitted for reexamination and be recertified under part 8220.0650 unless the

modification has been determined to be de minimis by an independent testing authority.

The vendor must notify the secretary of state of all de minimis modifications, provide the de minimis determination from an independent testing authority and receive a letter of acceptance of the de minimis modifications from the secretary of state before the modified electronic voting system may be used in an election

Minn. R. 8220.0700

*State Certification
Process:*

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.

Minn. Stat. Ann. § 206.57 (West)

MISSISSIPPI

State Participation: **Baseline HAVA requirements.** MS statute refers to Federal Agencies or Standards but does not fall into categories.

Applicable Statute(s): The board of supervisors of each county and the governing authorities of each municipality shall use optical mark reading equipment or direct recording electronic voting equipment that complies with the specifications provided by law. The election commissioners may conduct special and municipal elections, as well as any necessary runoff elections, by paper ballot when the election commissioners determine that administration of an election by paper ballot will be less expensive than administration of the same election by optical mark reading equipment or direct recording electronic voting equipment.

Miss. Code. Ann. § 23-15-391 (West)

Applicable Regulation(s): N/A

State Certification Process: The board of supervisors of each county and the governing authorities of each municipality are hereby authorized and empowered, in their discretion, to purchase or rent DRE units that meets the requirements of subsection (2) of this section and may use such system in all or a part of the precincts within its boundaries. The provisions of this chapter shall be controlling with respect to elections in which a DRE unit 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, shall apply.

Miss. Code. Ann. § 23-15-531.1 (West)

MISSOURI

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** MO requires that voting systems are certified by independent testing authorities according to the voting system standards adopted by a federal election authority, and ultimately approved by the secretary of state.

Applicable Statute(s): (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. Mo. Ann. Stat. § 115.225 (West)

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 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.

Mo. Code Regs. Ann. tit. 15, § 30-10.020

State Certification Process: No electronic voting system shall be approved unless it:

(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.

Mo. Ann. Stat. § 115.225 (West)

MONTANA

State Participation: **Baseline HAVA requirements.** The Secretary of State determines the regulations of the certification of voting systems in MT.

Applicable Statute(s): (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. Code Ann. § 13-17-107 (West)

Applicable Regulation(s): (1) The secretary of state is empowered under 13-17-101, MCA, to approve voting machines and devices.

Mont. Admin. R. 44.3.1701

State Certification Process: (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 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. § 13-17-101 (West)

(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. § 13-17-102 (West)

NEBRASKA

State Participation: **Baseline HAVA requirements.** The Secretary of State determines the rules and regulations for certification of voting systems, notwithstanding any other provisions in the state Election Act.

Applicable Statute(s): (2) No electronic voting system shall be used under the Election Act.
(3) Any new voting or counting system shall be approved by the Secretary of State prior to use by an election commissioner or county clerk. 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.

Neb. Rev. Stat. Ann. § 32-1041 (West)

Applicable Regulation(s): N/A

State Certification Process: Any election commissioner or county clerk using a vote counting device to count ballots in a centralized location shall:
(1) Provide for the proper sealing of the containers and the security of the ballots when transported from each polling place to the centralized location and when removed from their containers and delivered to the personnel who operate the vote counting devices;

Neb. Rev. Stat. Ann. § 32-1049 (West)

NEVADA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** NV requires that all voting systems be certified by the Voting System Certification and Laboratory Accreditation Program of the U.S. Election Assistance Commission, meeting standards established by the EAC, and are approved by the Secretary of State.

Applicable Statute(s): “No mechanical voting system or mechanical recording device may be purchased or leased in or used in any election of this State unless the system or device is approved by the Secretary of State.” NV Rev Stat § 293B.1045 (2019)

“No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems established by the United States Election Assistance Commission.” NV Rev Stat § 293B.063 (2019)

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.” NAC 293B.110 (2017)

State Certification Process: The Secretary of State accepts applications from any person who owns or has interest in a mechanical voting system. The Secretary of State will approve or disapprove the voting system within 120 days after the application is submitted. An examiner will be approved by the Secretary of State to examine mechanical voting system. Any cost for the independent examination of a mechanical voting system must be paid by the person who submits the application. The Secretary of State will approve a mechanical voting system if: (1) a report is made stating that the system or device can be used safely in this State; and (2) The Secretary of State determines after independently examining the system that it can be used safely in this State. Per NV Rev Stat § 293B.150 and NV Rev Stat § 293B.140 (2019), county/city clerks shall also appoint three persons (not more than two of the same political party) to serve as an accuracy certification board to test voting devices within two weeks before the first day of early voting.

NEW HAMPSHIRE

State Participation: **Baseline HAVA 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 devices for the electronic counting of ballots. The commission shall, whenever requested, examine any device which may be capable of meeting the requirements for elections held in this state and shall, at least every 5 years, review current and new devices to determine whether the devices require upgrading. The commission, after such review, shall file an explanatory report with the secretary of state within 30 days of its determination that outlines the basis for its determination, taking into account such factors as hardware and software standards, policies and procedures, security requirements, and usability. The commission shall approve a device upon request in its discretion, and no 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 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 device shall be considered altered if any mechanical or electronic part, hardware, software, or programming has been altered.

N.H. Rev. Stat. Ann. § 656:41

II. Consistent with the rules of the ballot law commission the secretary of state shall include protocols for the testing of electronic ballot counting devices in the election manual authorized by RSA 652:22. Each device shall be tested after installation and prior to each election.

N.H. Rev. Stat. Ann. § 656:42

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.

N.H. Code Admin. R. Bal 608.01

*State Certification
Process:*

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 Admin. R. Bal 608.01

NEW JERSEY

State Participation: **Baseline HAVA requirements.** The Secretary of State determines the regulations for the certification of voting systems in New Jersey.

Applicable Statute(s): 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.

N.J. Stat. Ann. § 19:48-2 (West)

No voting device shall be used in an election in this State unless in combination with automatic tabulating equipment used to count and tabulate ballots it meets the requirements in section 3 of this act,¹ and has been approved by the Secretary of State, or other person, agency or board charged with the examination and approval of voting machines. When such device has been approved, any improvement or change which does not impair its accuracy, efficiency, or ability to meet such requirements shall not require a reexamination or reapproval thereof.

NJ ST 19:53A-4

Applicable Regulation(s): (a) Any entity owning, or having an interest in, any e-poll book system may apply to the Secretary of State for approval of an e-poll book system for use in the State of New Jersey. The Division of Elections shall establish a set of requirements, including information security standards, as recommended by the New Jersey Cybersecurity and Communications Integration Cell (NJCCIC) in the Office of Homeland Security and Preparedness and the Division of Gaming Enforcement (DGE) in the Department of Law and Public Safety, for the examination and testing, as well as set appropriate fees for costs associated therewith, of any e-poll book system to confirm that the e-poll book system meets all system and security requirements. The DGE shall invoice the e-poll book system vendor for the fees for costs associated with the examination and testing of the e-poll book system, and the vendor shall be responsible for the

payment thereof. At the completion of any examination and testing pursuant to this section, and after the vendor's payment of the fees for costs associated with the examination and testing of the e-poll book system, the Secretary of State shall determine whether, in the Secretary's opinion (pursuant to N.J.A.C. 15:10-7.6), the e-poll book system can be safely used by the voters at elections under the conditions prescribed in this subchapter. If the Secretary determines that the e-poll book system can be so used, the Secretary shall issue a certificate of approval. Any e-poll book system not so approved shall not be used at any election.

N.J. Admin. Code § 15:10-7.4

*State Certification
Process:*

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.

N.J. Stat. Ann. § 19:48-2 (West)

NEW MEXICO

State Participation: **Requires testing by a federally accredited laboratory.** NM Statute requires that all voting systems are to be tested by an independent authority and comply with the most recent voluntary voting system guidelines (VVSG) adopted by the EAC. The secretary of state provides for this testing and evaluation.

Applicable Statute(s): A. The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission.

N.M. Stat. Ann. § 1-9-14 (West)

Applicable Regulation(s): 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.

N.M. Admin. Code 1.10.20.3

*State Certification
Process:*

A. The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission.

B. Any person who has a voting system that is designed for the purpose of recording and tabulating votes within a polling place may apply on or before June 1 of any odd-numbered year to the secretary of state to have the equipment examined and tested for certification. At the time application is made for initial certification, the applicant shall pay for testing each system in an amount that reflects the actual cost of such test. Upon receipt of the application, the secretary of state shall examine and study the voting system to ensure that it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission. As part of the examination, the secretary of state shall require the system to be independently inspected by persons or testing laboratories technically qualified to evaluate and test the operation and component parts of voting systems and shall require a written report on the results of such testing. The secretary of state may authorize field testing of the equipment in one or more polling places in any state or local government election; provided that such field tests shall be conducted at no cost to the state or any local government.

C. Upon completion of all tests and examination of all written test reports, the secretary of state shall make a written report of the result of the findings and shall file that report, together with the written test reports, in the office of the secretary of state and post them on the secretary of state's website. The secretary of state shall accept public comment during the twenty-one days following the filing of the written report.

D. Following the period of public comment, the secretary of state shall submit the filed reports and any public comments for consideration by the voting system certification committee. The voting system certification committee shall make recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

E. The voting system certification committee shall recommend that a voting system be certified for use in the state only if it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission.

F. If the voting system certification committee report finds that the voting system does not comply with all requirements in the Election

Code or does not meet federal election standards, the secretary of state shall allow thirty days for an appeal of the findings to be filed or for the deficiencies to be corrected, following which the secretary of state shall report back to the voting system certification committee with a written final report.

N.M. Stat. Ann. § 1-9-14 (West)

NEW YORK

State Participation: **Requires testing to federal standards.** NY requires approval of voting systems by the state board of elections provided they meet the requirements of the EAC's 2005 Voluntary Voting System Guidelines.

Applicable Statute(s): 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.

N.Y. Elec. Law § 7-201 (McKinney)

Applicable Regulation(s): (a) All voting systems used in New York State shall be used in a manner consistent with Election Law, these regulations and the United States Election Assistance Commission's 2005 Voluntary Voting System Guidelines and any conditions specified in the State Board's certification of the voting system for use in New York elections.

9 CRR-NY 6210.5, 9 CRR-NY 6210.5

*State Certification
Process:*

1. The state board of elections shall test every voting machine of a type approved after September first, nineteen hundred eighty-six and every ballot counting machine to insure that each such machine functions properly before such machines may be used in any election in this state.
2. Such testing shall include, but not be limited to, a verification of the authenticity and integrity of the resident vote tabulation programming in open, encrypted, compiled, assembled, or any other form, in each voting machine of such types, by comparison of such resident vote tabulation programming with the programming which was in the machine of such type which was approved for use in this state and the recording of at least eight hundred votes on each such voting machine and a sufficient number of votes on each such ballot counting machine, by a method which may be mechanical or electronic, to determine if such machine accurately records such votes.
3. At least annually, the board of elections of each county in which any such voting or ballot counting machines are in use shall test each such machine in a manner prescribed by the state board of elections under conditions supervised by such state board. Such tests shall include, but not be limited to the tests required by subdivision two of this section.
4. Upon the discovery of a discrepancy during the recanvass required by subdivision three of section 9-208 of this chapter, the ballot scanner shall be retested pursuant to 9 NYCRR 6210.2. No ballot scanner shall be returned to service until any such discrepancy has been resolved

N.Y. Elec. Law § 7-206 (McKinney)

NORTH CAROLINA

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** North Carolina requires that its voting systems are compliant with Section 301 of HAVA and certified by an independent testing authority approved by NASED or a federal agency.

Applicable Statute(s): (b) 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.

N.C. Gen. Stat. Ann. § 163-165.7

Applicable Regulation(s): “Any voting system used in any election in North Carolina shall be constructed to.... (15) it shall meet current Federal Voting System Standards or other applicable Federal Standards;

8 N.C. Admin. Code 4.0301

“Before approving a voting system for use in North Carolina, the State Board of Elections shall ... Obtain a copy of Independent Testing Authority certification as authorized by National Association of State Elections Directors or Federal Agency;

8 N.C. Admin. Code 4.0302

*State Certification
Process:*

As part of the certification requirements, 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.

(b) 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.

N.C. Gen. Stat. Ann. § 163-165.7

NORTH DAKOTA

State Participation: **Requires testing by a federally accredited laboratory.** ND requires that its voting systems are tested by an EAC accredited independent testing authority and approved by the secretary of state.

Applicable Statute(s):

1. The secretary of state may adopt rules according to subsection 3 of section 16.1-01-01 for certifying and decertifying voting systems authorized in section 16.1-06-11, including any software, hardware, and firmware components used as a part of a voting system device for use and procurement in the state. The rules may:
 - a. Establish criteria and standards with which all voting systems must comply.
 - b. Describe the procedures for voting systems, any single device of a voting system, and any update and enhancement made to them, to be certified and decertified for procurement and use in the state.
 - c. Define what constitutes a vote on each voting system which has been certified for procurement in the state.
 - d. Describe the procedures for the secretary of state to follow when defining what constitutes a vote on any new voting system, any single device of a voting system, and any update and enhancement made to them.
2. A voting system, a single device of a voting system, and an update and enhancement made to them, in use by a county before 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 voting system, a single device of a voting system, and an update and enhancement made to them, meeting the requirements of the rules by January 1, 2006.

N.D. Cent. Code Ann. § 16.1-06-26 (West)

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.” ND Admin. Code 72-06-01-02 (2020)

*State Certification
Process:*

A company supplying electronic voting systems will give 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. ND Admin. Code 72-06-01-02 (2020)

OHIO

State Participation: **Requires federal certification.** OH requires that its voting systems are tested by a federally accredited testing authority that is compliant with EAC standards.

Applicable Statute(s): “(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, tabulating equipment, and electronic pollbooks 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.

Ohio Rev. Code Ann. § 3506.05 (West)

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 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 election assistance commission voting system standards.” Ohio Admin. Code 111:3-9-08 (C) (2020)

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 111:3-9-08(C) and Ohio Rev. Code § 3506.05 (2020)

OKLAHOMA

State Participation: **Baseline HAVA requirements.** There are no federal requirements in Oklahoma regarding standards for adopting and implementing voting systems. The Secretary of State Election Board determines the regulations for the certification of voting systems.

Applicable Statute(s): “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.” 26 OK Stat. § 26-21-101 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Secretary of State Election Board purchases voting systems and adopts the procedures to implement the purchased voting systems. 26 OK Stat. § 26-21-101 (2019)

OREGON

- State Participation:* **Requires testing by a federally accredited laboratory/Requires federal certification.** Oregon requires that its voting systems must be certified by the EAC or be examined by a federally accredited voting system testing laboratory (VSTL).
- Applicable Statute(s):* “(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. (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.” OR Rev Stat. § 246.550 (2019)
- Applicable Regulation(s):* “All voting systems submitted for certification pursuant to ORS 246.550 must be certified by the Elections Assistance Commission (EAC) or be examined by a federally accredited voting systems testing laboratory (VSTL).” Or. Admin. R. 165-007-0350 (2020)
- 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. The Secretary of State may also revoke approval. 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. § 246.550 (2019)

PENNSYLVANIA

State Participation: **Requires testing by a federally accredited laboratory.** Pennsylvania requires that its voting systems are approved by a federally recognized independent testing laboratory and meet 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 Stat § 3031.5 (2019)

Applicable Regulation(s): N/A

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. The Secretary of the Commonwealth may, at any time, reexamine or decertify a voting system. 25 PA. Stat. Code §§ 3031.2-5 (2019)

PUERTO RICO

State Participation: **Baseline HAVA requirements.** Puerto Rico requires that its voting systems are evaluated by the State Election Commission based on the most advanced electronic developments available.

Applicable Statute(s): “The Commission shall evaluate voting and canvassing systems for adoption in Puerto Rico based on the most advanced electronic and technological developments available, and file its recommendations to this effect with the Office of the Secretary of each Legislative House not later than the year following each election. All voting or canvassing systems that are tested or implemented shall make evident to the voter that his/her vote has been registered, and that the measures to perform a manual recount, if necessary, have been adopted.” P.R. Laws tit. 16, § 4025 (2019)

Applicable Regulation(s): N/A

State Certification Process: The Commonwealth Commission determines through a resolution which voting systems to be used at the polls, and they should be based on “the most advanced electronic and technological developments available.” 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, and the resolution will be posed in both Spanish and English and in every Permanent Registration Board and every City Hall and Internal Revenue Collection Office. P.R. Laws tit. 16, § 4025 (2019)

RHODE ISLAND

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** RI requires that its voting systems are compliant with federal standards and administered by the designated federal agency (EAC) or independent testing authority.

Applicable Statute(s): “The vendor of the precinct-count system shall provide written proof of compliance with federal standards then in place and administered by the designated federal agency or organization 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” RI Gen L § 17-19-3 (2019)

Applicable Regulation(s): N/A

State Certification Process: Any vendor seeking for voting system approval must submit a written proof of compliance with federal standards administered by the designated federal agency or an independent testing company. The written proof must be on file with the office of the Secretary of State and the State Board of Elections. 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. RI Gen L § 17-19-3 (2019)

SOUTH CAROLINA

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** South Carolina requires that its voting systems are certified by an FEC accredited testing laboratory as meeting or exceeding the requirements of federal voting system standards.

Applicable Statute(s): “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.” SC Code § 7-13-1620 (2019)

Applicable Regulation(s): N/A

State Certification Process: The State Election Commission accepts requests by vendors seeking for voting system approval. 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 pay a nonrefundable examination fee, file with the State Election Commission a list of all states or jurisdictions in which that voting system has been approved for use, file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system, conduct a field test under the supervision of the State Election Commission and any County Election Commission, place all source codes for the system in escrow at his/her expense with the authority approved by the Election Assistance Commission, and 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. SC Code § 7-13-1620 (2019)

SOUTH DAKOTA

State Participation: **Requires testing by a federally accredited laboratory.** 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. 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.” SD Codified L § 12-17B-2 (2019)

Applicable Regulation(s): Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating 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 or 5:02:09:02.03 and is certified as fulfilling the requirements of the Election Assistance Commission 2015 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 automatic tabulating or electronic ballot marking system may be certified by the State Board of Elections with or without the demonstration described in this section for initial approval. The modification for the already approved system must have been certified as fulfilling the requirements of the Election Assistance Commission voting system 2015 standards by an independent test authority accredited by the Election Assistance Commission or been certified to meet the national standard by another state. Any change or modification determined to be de minimis by the independent test authority does not need state board of elections certification.

S.D. Admin. R. 5:02:09:020)

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. Any governing body can use an approved system in all or some of the precincts within its jurisdiction or

in combination with other types of voting systems approved by the State Board of elections. S.D. Admin. R. 5:02:09:02 and SD Codified L § 12-17B-3 (2019)

TENNESSEE

State Participation: **Baseline HAVA requirements.** TN requires that its voting systems are approved by the State Coordinator of Elections and 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.” TN Code § 2-9-117 (2018)

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 (2020)

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. At least every 8 years after 2002, the state coordinator of election and the State Election Commission reexamine voting machines to ensure they still meet the criteria for certification. If a machine is not certified, the relevant county election commission has two years to purchase and implement new machines that are certified. Tenn. Comp. R. & Regs. 1360-2-13.06 (2020); see also TN Code § 2-9-117 (2018)

TEXAS

State Participation: **Requires federal certification.** 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: (3) operates safely, efficiently, and accurately and complies with the error rate standards of the voting system standards adopted by the Federal Election Commission...” TX Elec Code § 122.01 (2019)

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 TX Admin. Code § 81.61 (2019)

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 TX Admin. Code § 81.61 (2019)

Note: Texas requires EAC certification as a baseline and conducts an additional examination. The statute doesn't clearly state that, but this is information that the Texas SOS has provided.

UTAH

State Participation: **Requires testing by a federally accredited laboratory/Requires federal certification.** UT requires that its electronic voting systems are certified by the EAC or a laboratory that has been accredited by the EAC.

Applicable Statute(s): “The lieutenant governor may comply with the requirements of Subsection (2)(a) by certifying voting equipment that has been certified by: (i) the United States Election Assistance Commission; or (ii) a laboratory that has been accredited by the United States Election Assistance Commission to test voting equipment.” UT Code § 20A-5-802 (2018)

Applicable Regulation(s): N/A

State Certification Process: Before selecting or purchasing new voting systems, the Lieutenant Governor will appoint a Voting Equipment Selection Committee, whose members have experience in election procedures, security, and relevant technology. The Lieutenant Governor will select a chair from the committee membership, and the 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. The Lieutenant Governor may designate individuals, including committee members, to inspect and review proprietary software as part of an evaluation of new voting systems. Before making a purchase, he or she will also provide for a period of public review of new voting systems under consideration for adoption by the state. UT Code § 20A-5-803 (2018)

VERMONT

State Participation: **Baseline HAVA 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.” 17 V.S.A. § 2493 (2019)

Applicable Regulation(s): “Prior certification of a vote tabulator by the Secretary of State shall be required before entry into any contract with a vote tabulator vendor. Selection of vote tabulators for the state of Vermont shall follow the standard procurement process for all state contracts ... The Secretary of State shall require that all vote tabulators certified for use in the state be independently tested using security testing protocols that are generally accepted at the time of application for certification.” CVR 04-010-001 (2020)

State Certification Process:

- (1) All municipalities that have voted to use a vote tabulator shall use a uniform vote tabulator approved by the Secretary of State.
- (2) The Secretary of State shall provide for the security of vote tabulators at all times. Vote tabulators, not including the ballot box portion, shall be locked in a vault or a secure location at all times when not in use. 17 V.S.A. § 2491-2493 (2019)

VIRGINIA

State Participation: **Requires testing to federal standards.** VA requires that its electronic voting systems meet federal requirements and are approved by the State Board of Elections.

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 (x) 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 § 24.2-629 (2019)

Applicable Regulation(s): N/A

State Certification Process: The State Board of Election accepts vendor applications for the examination and approval of voting systems. The vendor may be required to pay a reasonable application fee for the testing and certification of new and upgraded voting equipment. The Board prepares a report stating whether the voting systems meet the state and federal requirements and can be used at elections, and also receives a report by an independent electronics or engineering consultant as to whether the machine is accurate, accessible, and safe. The Board may also require that a voting system is tested in an actual election in one or several counties. If the voting systems meet these requirements, then the Board will approve the voting systems for use at elections. VA Code § 24.2-629 (2019)

WASHINGTON

State Participation: **Requires testing by a federally accredited laboratory.** WA requires that its voting systems are tested and certified by an EAC accredited independent testing authority, so long as its functions are in keeping with the unique requirements of the state.

Applicable Statute(s): “No voting device shall be approved by the secretary of state unless it: (5) 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.” WA Rev Code § 29A.12.080 (2018)

Applicable Regulation(s): “All 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.” WAC 434-335-010 (2020)

“No voting device or its component software may be certified by the secretary of state unless it... (f) has been tested and approved by the appropriate independent testing authority approved by the United States election assistance commission...” WAC 434-335-040 (2020)

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. WA Rev Code § 29A.12.020 (2018)

WEST VIRGINIA

State Participation: **Requires testing to federal standards.** The State Election Commission approves voting systems in WV. But the Commission appoints two qualified computer experts to report on whether a voting system complied with state requirements and requirements set forth by a federal agency for certification.

Applicable Statute(s): “Any person or corporation owning or interested in any electronic voting system may apply to the State Election Commission so that the system may be examined and a report be made on its accuracy, efficiency, capacity and safety ... No electronic voting system may be used at any election unless it has been approved under this section or its former provisions and by the appropriate agency of the federal government whose purpose is to review and issue a certificate of approval.” WV Code § 3-4A-8 (2019)

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.” WV Code R. § 153-10-10 (2017)

State Certification Process: The State Election Commission accepts applications to examine voting systems and appoints two computer 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, and comply with the requirements set forth by the “appropriate agency of the federal government” which reviews and certified voting equipment. If the voting machines meet these requirements, they can be approved by the State Election Commission. At the local level, an electronic voting system may also be approved by a majority of the members of the county commission voting to adopt it at a public meeting. See WV Code § 3-4A-8 and WV Code § 3-4A-3 (2019)

WISCONSIN

State Participation: **Requires testing to federal standards/Requires testing by a federally accredited laboratory.** The Elections Commission must ultimately approve a voting system, but it must be also be approved by 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 related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is certified by the commission. The commission may revoke its certification of any ballot, device, equipment, or materials at any time for cause. The commission may certify any such voting device, automatic tabulating equipment, or related equipment or materials regardless of whether any such item is approved by the federal election assistance commission...” WI Stat § 5.91 (2019)

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 (2020)

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 (2020)

WYOMING

State Participation: **Requires federal certification.** WY requires that its voting systems are tested and certified by an EAC accredited independent testing authority, and have an EAC certification number.

Applicable Statute(s): “Every electronic voting system adopted for use in Wyoming shall....Be certified by the secretary of state.” WY Stat § 22-11-103 (2019)

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 Federal Voting Systems Performance and Test Standards. The vendor shall include a report from an accredited Independent Testing Authority (ITA), together with the Election Assistance Commission (EAC) certification number, certifying that the system is in compliance with federal standards.” 002-040-012 WY Code R. § 4 (2020)

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. Before any equipment or software is sold or upgraded, the vendor must certify to the Secretary of State that it has been federally certified and tested/used/certified in at least two states for federal elections. The Secretary of State may deny or withdraw the certification of equipment for a number of reasons, in which case he or she must provide a written notice or emergency order immediately rescinding certification. The Secretary of State must also be notified of any changes, upgrades, or purchases of new equipment. WY Stat § 22-11-103 (2019) and 002-040-012 WY Code R. § 4 (2020)