



A Summary of What States Do on the Most Contentious Election Rules

Michael J. Boskin and Garrett Te Kolste

INTRODUCTION

The US Constitution requires that “the Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof” and that “each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors” (for president). Perhaps not surprisingly, and for many reasons, states vary considerably in the procedures they use in elections and vote counting. Historically, there has been a tension between those who desire greater ease of access to voting and those desiring that it be made more difficult to undermine the integrity, or perceived integrity, of elections. This is not surprising when election outcomes can be very close, as they have been in recent presidential, and some senate and congressional, races. Historically, there have been some classic examples of fraud. Take, for instance, the Democratic primary of the 1948 US Senate race, in which Lyndon B. Johnson eventually defeated Coke Stevenson by 87 votes. Days after the polls had closed, an additional 202 allegedly fraudulent votes were tallied in alphabetical order, apparently all in the same handwriting, of which Johnson won 200. Correspondingly, there have historically been numerous examples of denying suffrage. Prominent examples include the denial of suffrage to women and the poll tax that disproportionately denied suffrage to African Americans, both of which were declared illegal, by the Nineteenth and Twenty-Fourth Amendments, respectively.

Over time, most states have moved away from requiring the overwhelming bulk of voters to vote on election day. They have instead pursued one or more dimensions of flexibility of the timing and place of voting. This variability likely causes some confusion as voters in one state observe different rules in other states affecting outcomes that they believe are important for their well-being. With the electorate becoming more and more polarized, scientific gerrymandering can allow one party to try and gain advantage over the other. With most such disputes winding up in the courts, it is not surprising that the integrity of voting and confidence in this institution are increasingly called into question. This is especially true in

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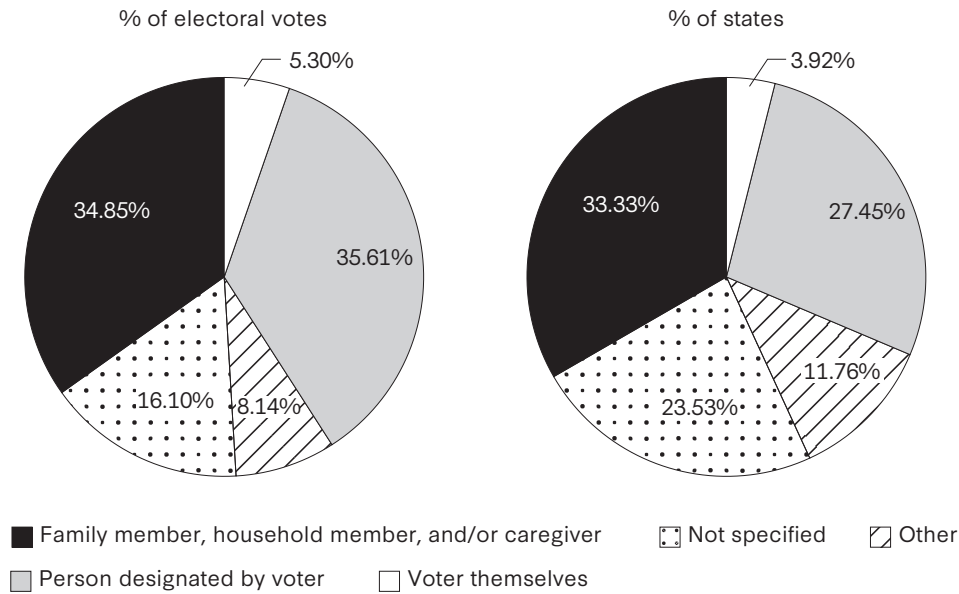
presidential elections, which are based on the Electoral College tally, not the popular vote. In some recent elections, the candidate elected was not the recipient of the most popular votes (e.g., 2000 and 2016). Historians cite the 1824 presidential election in which Andrew Jackson won a plurality of the popular and electoral votes. However, Henry Clay’s supporters in the House threw their support to John Quincy Adams and propelled him to the presidency. Clay was then awarded the vice presidency. Another example is the 1872 presidential election in which the contested states Florida, Louisiana, South Carolina, and Oregon were awarded to the Republican Rutherford B. Hayes over Democrat Samuel J. Tilden by a Republican-dominated Electoral Commission. Hayes won by a single electoral vote. In the 2000 presidential election, George W. Bush eventually was declared the winner in Florida by a few hundred votes over Al Gore, but not until contentious recounts had been conducted for many weeks, and Florida’s electoral votes made the difference in Bush’s eventual election.

To assist those interested in understanding the current state of play in election rules and laws, we present below brief aggregate summaries of many of the most contentious voting issues, with the differences between states augmented by a series of pie charts. A detailed breakdown of each issue by state is presented in the appendix. Since the results of presidential elections depend on the Electoral College vote, we present the analysis both in terms of the percentage of states with alternative rules and the percentage of electoral votes represented by those states. Sometimes the difference between the percentages is trivial; other times it is substantial. Detailed lists of each of these rules by state are presented in the appendix.¹ For those readers interested in a nonpartisan analysis of the election rule differences highlighted in the 2020 and subsequent elections, and whether any “irregularities” possibly changed outcomes, we refer them to the paper by Bruce E. Cain and Benjamin Ginsberg, “Restoring Confidence in American Elections,” which examines the viability of adopting “best practices” for nonpartisan election reforms to improve confidence in election results; and the paper by Justin Grimmer and Eitan Hersh, “How Election Rules Affect Who Wins,” which examines the effect of recent election rule changes on voter turnout and whether there was any effect on election outcomes.² Even when these rules do not clearly affect the outcome of elections, they, and especially their changes, can induce suspicion about potential problems with election integrity.

BALLOT COLLECTION/BALLOT HARVESTING

In scenarios in which a voter is unable to either return their ballot in person or return it to a postal facility, some states allow an agent or designee to return the ballot for them. Returning ballots on behalf of others is known as ballot collection or ballot harvesting. States have differing laws governing ballot collection (see figure 1). Thirty-four percent of states allow only a family member, household member, and/or caregiver to turn in another’s ballot. Twenty-eight percent of states permit a voter to designate anyone, not just a family member, household member, or caregiver, to turn in their ballot on their behalf, placing greater emphasis on accessibility. Twenty-two percent of states, along with the District of Columbia, do not specify whether or not ballot harvesting is legal. Twelve percent of states fall into an “Other” category. Only in Alabama and Pennsylvania is it apparently illegal.

FIGURE 1 Who can return an absentee/mail ballot on behalf of a voter



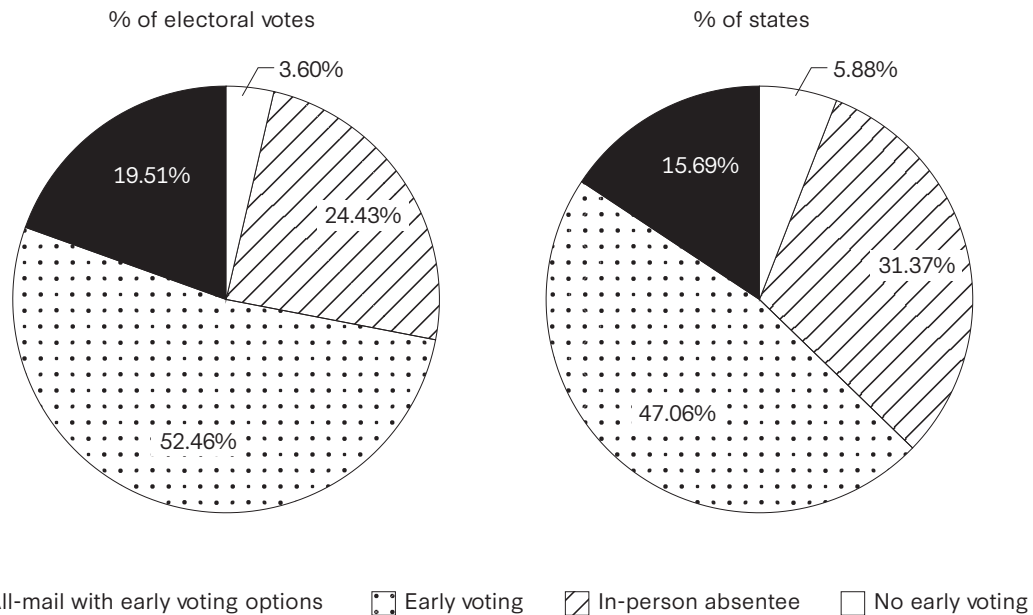
Source: “Table 10: Ballot Collection Laws,” National Conference of State Legislatures (NCSL), last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-10-ballot-collection-laws>.

States vary when it comes to where one can turn in a ballot if one chooses to turn in a ballot oneself or on another’s behalf. In almost all states, ballots can be returned to the election office (with the exceptions of Washington, DC, Mississippi, Tennessee, Utah, and Washington). Outside an election office, ballots can be turned into a drop box, an early voting location, or a polling place with different states allowing ballots to be turned into a different combination of the three. Some states allow absentee ballots to be dropped off at a drop box. Laws surrounding drop boxes in each state can vary considerably with regard to whether the boxes are supervised or not, where the boxes are located, the hours the boxes are available, the number of boxes, etc. Sometimes political parties will pay people to collect ballots, and while legal in many cases, this can create suspicion about the honesty of the voting process.

EARLY VOTING

Most states and territories offer some sort of early in-person voting, including states that mainly run elections through mail. The National Conference of State Legislatures (NCSL) classifies a state as having early in-person voting if the ability to vote early in person is offered to all voters. Some states offer early in-person absentee voting, which functions very similarly to regular early voting in other states. For in-person early absentee voting, voters fill out an absentee ballot instead of a normal ballot at a polling place certifying that they cannot vote on election day. The only states that do not offer any sort of early in-person voting are Alabama, Mississippi, and New Hampshire.

FIGURE 2 States by early in-person voting option



Source: “Early In-Person Voting,” NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/early-in-person-voting>.

Early in-person voting laws vary across states (see figure 2). The shortest early voting period is three days while the longest early voting period is forty-six days. The average period is twenty days. Of the states that allow early voting or in-person absentee voting, twenty-one allow early voting / in-person absentee voting on Saturday and an additional seven allow local election officials to decide whether or not to offer early voting / in-person absentee voting on Saturday. Eight states allow early voting / in-person absentee voting on Sunday and an additional eight allow local election officials to decide whether or not to offer early voting / in-person absentee on Sunday.

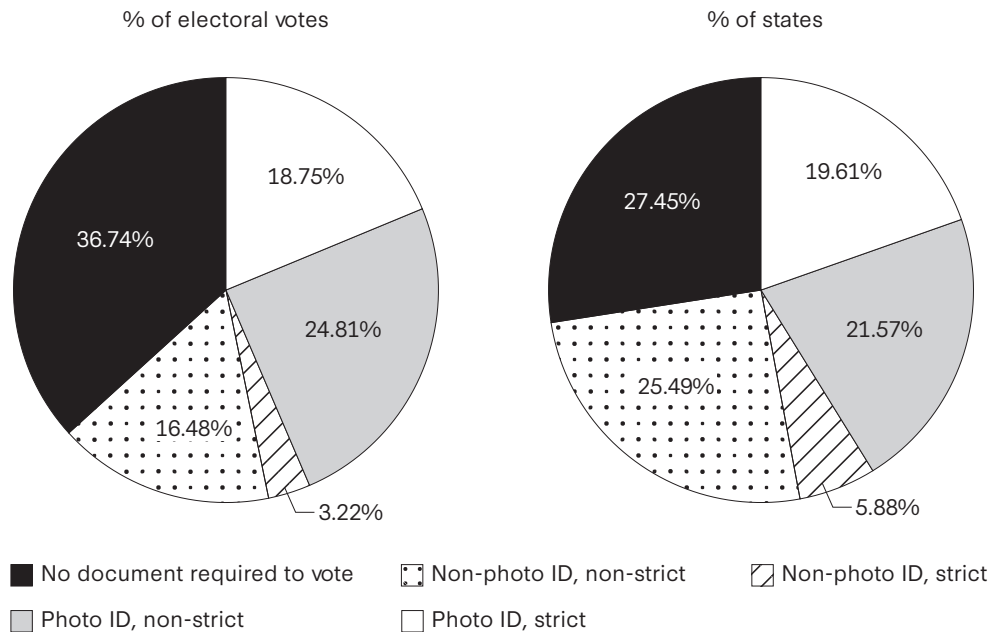
VOTER IDENTIFICATION LAWS

A majority of states, thirty-six, require voters to show identification *when they vote*. The other fourteen states, along with the District of Columbia, use other ways to verify voters’ identities, such as checking the voter’s signature against a signature on file. The NCSL defines a voter ID law to be strict if “voters without acceptable identification must vote on a provisional ballot and also take additional steps after Election Day for it to be counted,” and a voter ID law to be nonstrict if “at least some voters without acceptable identification have an option to cast a ballot that will be counted without further action on the part of the voter” (see figure 3).

STATES BY ABSENTEE BALLOT DEADLINES

An absentee ballot is used to cast an absentee vote and is for voters who posit they will be unable to show up in person to vote on election day. Unlike mail ballots in general, absentee

FIGURE 3 States by voter ID law



Source: “Voter ID Laws,” NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/voter-id>.

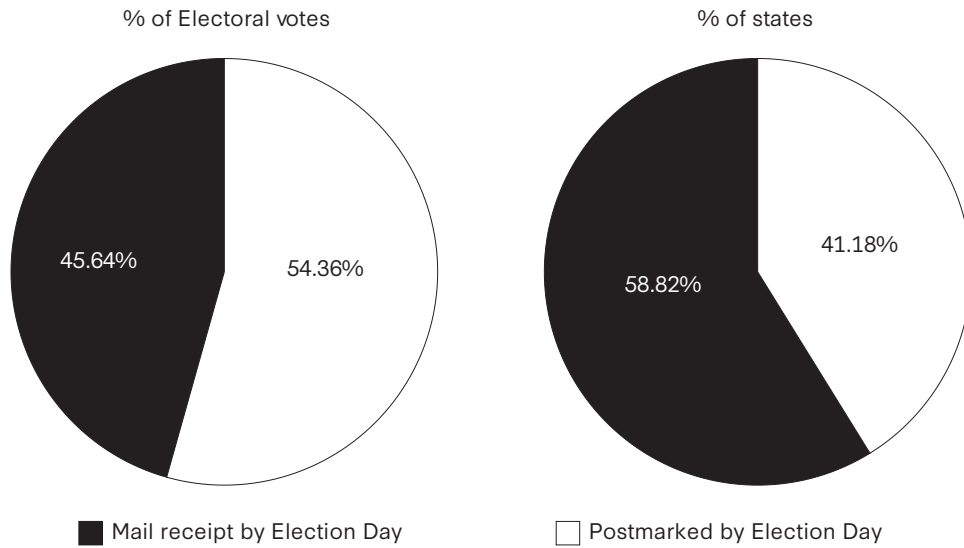
ballots have to be specifically requested, either at the polling place or by mail. Normally, absentee mail ballots can be turned in by mail or by hand, and most states allow absentee/mail ballots to be received by the close of polls on election day.³ Five states (Arkansas, Connecticut, Louisiana, North Dakota, and Vermont) require hand-delivered ballots to be turned in before election day, and no states allow hand-delivered ballots to be turned in after election day. Thirty states require that absentee/mail ballots be turned in by mail on or before election day. Twenty states, as well the District of Columbia, accept mailed ballots if they are received after election day but postmarked on or before election day (see figure 4).

STATES BY ABSENTEE/MAIL BALLOT PROCESSING AND COUNTING

“Processing” has different definitions across states. In almost all cases, however, the first step is to compare the signature on the outside of the envelope of the absentee/mail ballot with the voter’s signature on record. In some states, once the signature is checked, the ballot can be removed from the envelope and stacked with the other ballots. In others, the ballot may be run through the scanner (but not tallied) (see figure 5).

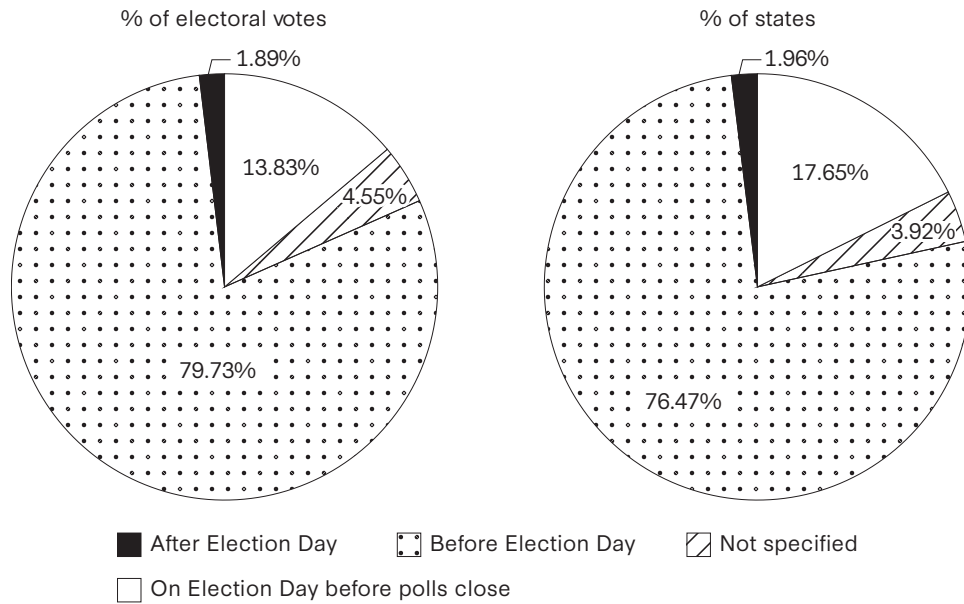
“Counting” also has different definitions across states. For example, some states consider it to mean scanning ballots without tallying the results (see figure 6).

FIGURE 4 States by receipt and postmark deadlines for absentee/mail ballots



Source: "Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-11-receipt-and-postmark-deadlines-for-absentee-mail-ballots>.

FIGURE 5 When absentee/mail ballots can be processed



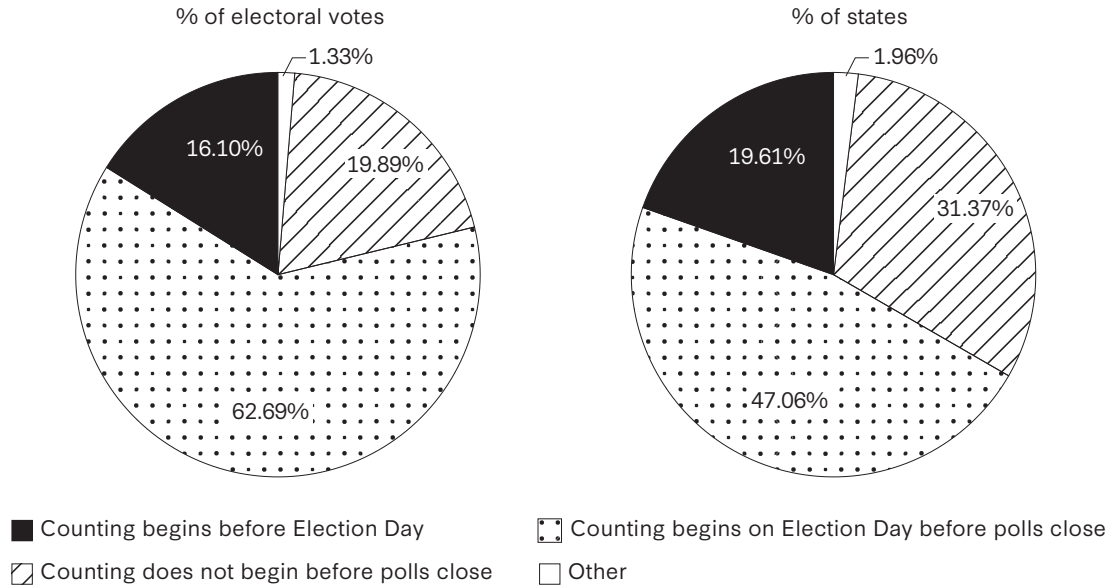
Source: "Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-16-when-absentee-mail-ballot-processing-and-counting-can-begin>.

STATES BY ABSENTEE BALLOT VERIFICATION

Absentee/mail ballot applications require voters to give additional information to verify their identities. Some states also require documentation, such as a copy of a photo ID and/or a

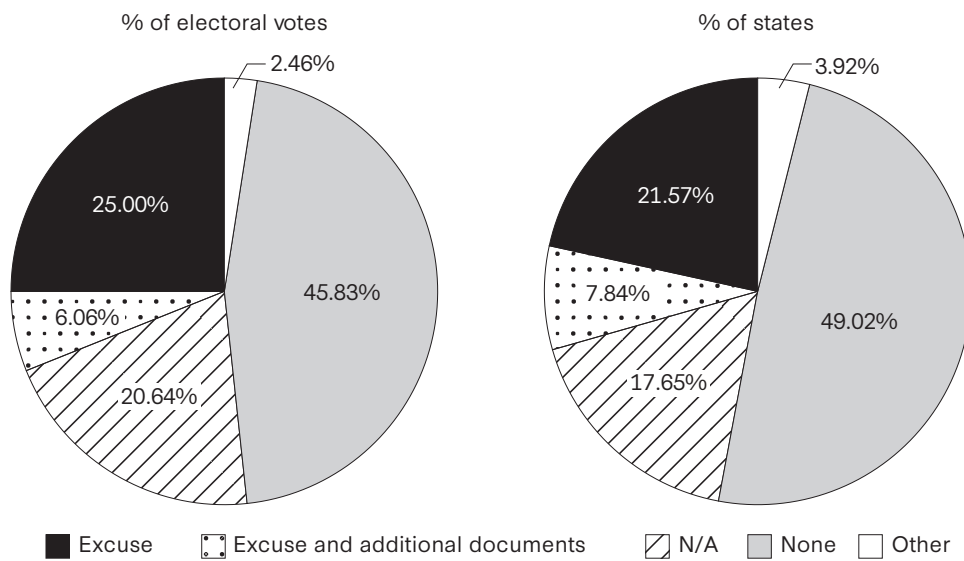
notary signature. It is not uncommon for states to ask voters to provide an excuse to qualify for an absentee/mail ballot. Usually, the voter’s identification is confirmed before they receive their absentee/mail ballot (see figure 7).

FIGURE 6 When absentee/mail ballots can be counted



Source: “Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin,” NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-16-when-absentee-mail-ballot-processing-and-counting-can-begin>.

FIGURE 7 Information required for absentee/mail ballot



Source: “Table 8: How States Verify Absentee Ballot Applications,” NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-8-how-states-verify-absentee-ballot-applications>.

APPENDIX

TABLE 1 WHO CAN RETURN AN ABSENTEE/MAIL BALLOT ON BEHALF OF A VOTER

Family member, household member, and/or caregiver	Person designated by voter	Not specified	Other	Voter themselves
Arizona	Arkansas	Alaska	Hawaii	Alabama
Connecticut	California	Delaware	Maine	Pennsylvania
Georgia	Colorado	Idaho	Oregon	
Indiana	Florida	Nebraska	Rhode Island	
Iowa	Illinois	New York	Virginia	
Kentucky	Kansas	Tennessee	Wisconsin	
Massachusetts	Louisiana	Utah		
Michigan	Maryland	Vermont		
Mississippi	Minnesota	Washington		
Missouri	Nevada	Washington, DC		
Montana	New Jersey	West Virginia		
New Hampshire	North Dakota	Wyoming		
New Mexico	South Carolina			
North Carolina	South Dakota			
Ohio				
Oklahoma				
Texas				

Source: “Table 10: Ballot Collection Laws,” National Conference of State Legislatures (NCSL), last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-10-ballot-collection-laws>.

TABLE 2 STATES BY EARLY VOTING OPTION

No early voting	Early voting	In-person absentee	All-mail with early voting options
Alabama	Alaska	Idaho	California
Mississippi	Arizona	Indiana	Colorado
New Hampshire	Arkansas	Iowa	Hawaii
	Connecticut	Kansas	Nevada
	Delaware	Kentucky	Oregon
	Florida	Maine	Utah
	Georgia	Minnesota	Vermont
	Illinois	Missouri	Washington
	Louisiana	Montana	
	Maryland	Ohio	
	Massachusetts	Oklahoma	
	Michigan	Pennsylvania	
	Nebraska	Rhode Island	
	New Jersey	South Dakota	
	New Mexico	Virginia	
	New York	Wisconsin	
	North Carolina	Wyoming	
	North Dakota		
	South Carolina		
	Tennessee		
	Texas		
	Washington, DC		
	West Virginia		

Source: "Early In-Person Voting," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/early-in-person-voting>.

TABLE 3 STATES BY VOTER ID LAW

Photo ID, strict	Photo ID, nonstrict	Non-photo ID, strict	Non-photo ID, nonstrict	No document required
Arkansas	Alabama	Arizona	Alaska	California
Georgia	Florida	North Dakota	Colorado	Delaware
Indiana	Idaho	Wyoming	Connecticut	Illinois
Kansas	Louisiana		Delaware	Maine
Mississippi	Michigan		Hawaii	Maryland
Missouri	Montana		Iowa	Massachusetts
North Carolina	Nebraska		Kentucky	Minnesota
Ohio	Rhode Island		New Hampshire	Nevada
Tennessee	South Carolina		Oklahoma	New Jersey
Wisconsin	South Dakota		Utah	New Mexico
	Texas		Virginia	New York
			Washington	Oregon
			West Virginia	Vermont
				Washington, DC

Source: "Voter ID Laws," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/voter-id>.

TABLE 4 STATES BY RECEIPT AND POSTMARK DEADLINES FOR ABSENTEE/MAIL BALLOTS

Mail receipt by election day	Postmarked by election day
Alabama	Alaska
Arizona	California
Arkansas	Illinois
Colorado	Kansas
Connecticut	Louisiana
Delaware	Maryland
Florida	Massachusetts
Georgia	Mississippi
Hawaii	Nevada
Idaho	New Jersey
Indiana	New York
Iowa	North Carolina
Kentucky	North Dakota
Maine	Ohio
Michigan	Oregon
Minnesota	Texas
Missouri	Utah
Montana	Virginia
Nebraska	Washington
New Hampshire	Washington, DC
New Mexico	West Virginia
Oklahoma	
Pennsylvania	
Rhode Island	
South Carolina	
South Dakota	
Tennessee	
Vermont	
Wisconsin	
Wyoming	

Source: "Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-11-receipt-and-postmark-deadlines-for-absentee-mail-ballots>.

TABLE 5 WHEN ABSENTEE/MAIL BALLOTS CAN BE PROCESSED

Prior to election day	On election day before polls closed	After election day	Not specified
Alaska	Alabama	Maryland	Connecticut
Arizona	Michigan		Ohio
Arkansas	Mississippi		
California	New Hampshire		
Colorado	Pennsylvania		
Delaware	South Dakota		
Florida	Washington, DC		
Georgia	West Virginia		
Hawaii	Wisconsin		
Idaho			
Illinois			
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Massachusetts			
Minnesota			
Missouri			
Montana			
Nebraska			
Nevada			
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Oklahoma			
Oregon			
Rhode Island			

TABLE 5 (continued)

Prior to election day	On election day before polls closed	After election day	Not specified
South Carolina			
Tennessee			
Texas			
Utah			
Vermont			
Virginia			
Washington			
Wyoming			

Source: "Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-16-when-absentee-mail-ballot-processing-and-counting-can-begin>.

TABLE 6 WHEN ABSENTEE/MAIL BALLOTS CAN BE COUNTED

Counting (and processing) begins before election day	Counting begins on election day before polls close	Counting does not begin before polls close	Other
Arizona	Arkansas	Alabama	Connecticut
Colorado	California	Alaska	
Delaware	Georgia	Idaho	
Florida	Indiana	Illinois	
Hawaii	Iowa	Maine	
Kansas	Kentucky	Minnesota	
Montana	Louisiana	Mississippi	
Nebraska	Maryland	New Hampshire	
Nevada	Massachusetts	New Mexico	
Utah	Michigan	North Dakota	
	Missouri	Rhode Island	
	New Jersey	South Dakota	
	New York	Vermont	
	North Carolina	Virginia	
	Ohio	Washington	

(continued)

TABLE 6 (continued)

Counting (and processing) begins before election day	Counting begins on election day before polls close	Counting does not begin before polls close	Other
	Oklahoma	Washington, DC	
	Oregon		
	Pennsylvania		
	South Carolina		
	Tennessee		
	Texas		
	West Virginia		
	Wisconsin		
	Wyoming		

Source: “Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin,” NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-16-when-absentee-mail-ballot-processing-and-counting-can-begin>.

TABLE 7 INFORMATION REQUIRED FOR ABSENTEE/MAIL BALLOT

Excuse	Excuse and additional documents (usually copy of ID)	None	Other	N/A
Arkansas	Alabama	Alaska	South Dakota	California
Connecticut	Kentucky	Arizona	Wisconsin	Colorado
Delaware	Mississippi	Florida		Hawaii
Indiana	South Carolina	Georgia		Iowa
Louisiana		Idaho		Nevada
Missouri		Illinois		Oregon
New Hampshire		Kansas		Utah
New York		Maine		Vermont
Tennessee		Maryland		Washington
Texas		Massachusetts		
West Virginia		Michigan		
		Minnesota		
		Montana		

TABLE 7 (continued)

Excuse	Excuse and additional documents (usually copy of ID)	None	Other	N/A
		Nebraska		
		New Jersey		
		New Mexico		
		North Carolina		
		North Dakota		
		Ohio		
		Oklahoma		
		Pennsylvania		
		Rhode Island		
		Virginia		
		Wyoming		
		Washington, DC		

Source: "Table 8: How States Verify Absentee Ballot Applications," NCSL, last modified February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/table-8-how-states-verify-absentee-ballot-applications>.

NOTES

1. Sometimes there is ambiguity as to exactly in which subcategory a particular state falls. We have done our best to discern the appropriate placement.
2. Bruce E. Cain and Benjamin Ginsberg, "Restoring Confidence in American Elections," and Justin Grimmer and Eitan Hersh, "How Election Rules Affect Who Wins," Tennenbaum Program for Fact-Based Policy, Hoover Institution, <https://www.hoover.org/research-teams/tennenbaum-program-fact-based-research>.
3. On occasion disputes can go to the Supreme Court, which has for example rules on contested issues from the dating of mail-in ballots to gerrymandering.



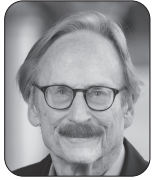
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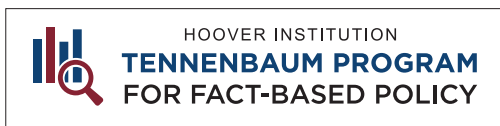
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