COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

June 14, 2002

TO: EACH SUPERVISOR

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk

UPDATE ON STATUS OF FEDERAL ELECTION REFORM LEGISLATION – REPORT OF ELECTION CENTER'S TASK FORCE

Members of a conference committee were appointed last month to work on reconciling the significant differences between the U.S. House of Representatives and U.S. Senate versions of election administration reform legislation that passed the House in December 2001 (HR3295) and the Senate in April 2002 (S565). Fortunately, several of the conferees' staff members have actively sought the input of local and state election administrators in this on-going process.

As you may recall from my previous memos on this subject, the Election Center, a national organization of election administrators, invited 37 of its state and local election official members, including myself, to participate on a Task Force. The Task Force has been providing assistance to Congress in understanding the significant ramifications of the wide range of new federal mandates that are contained in these bills. Yesterday the Task Force issued the attached comprehensive report[1] that focuses on key implementation issues surrounding this legislation. Among a wide range of concerns, all members of the Task Force agree that the proposed funding authorization of these bills is insufficient to cover the costs of the mandates.[2]

Additionally, the National Association of Counties (NaCo), together with four other national organizations of state and local government officials[3], issued a letter on June 6, 2002 to the conferees listing major concerns regarding key provisions of this legislation. A copy of that letter is also enclosed.

Attachments

c: CAO

[1] It supplements the Task Force's initial report, issued in July 2001, entitled "Election 2000: Review and Recommendations by the Nation's Election Administrators"

[2] A key example is the proposed expansion of the multiple ballot language requirements (pages 8-9) in which Los Angeles County is used to illustrate the current costs and potential increases in this area.

[3] National Association of Secretaries of State (NASS), National Conference of State Legislatures (NCSL), National Association of County Recorders, Election Officials and Clerks (NACRC) and the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT)

National Task Force on Election Reform

Supplemental Report from the
Nation's Election Administrators to Congressional Conference Committee on Election Reform

Implementation issues created by election reform legislation as passed by both the U.S. House and U. S. Senate.

As Requested by the
House Administration Committee of the U. S. House of Representatives and the Rules Committee of the U. S. Senate

Presented June 13, 2002

Sponsored by The Election Center
12543 Westella, Suite 100
Houston, TX 77077-3929
Phone: 281-293-0101
Fax: 281-293-0453
Email: electioncent@pdq.net
Website: www.electioncenter.org

PREAMBLE

Representatives of the nation's election administrators met in mid-May in Washington, D.C. to review the final "election reform" bills as issued and approved by the U.S. House of Representatives and the U. S. Senate. As the nation's experts on what it will take to implement the federal legislation that emerges, we have focused on key implementation issues that could affect whether such reform is successful or whether it could lead to unintended consequences and prevent real progress.

First, we want to restate that elections in America have historically been a state and local responsibility and should remain so. With the passage of these bills, Congress has chosen to provide limited funding to repair the worst of the problems that have developed over the years and while such funding is welcome, it is insufficient to cover the true costs of the legislation.

Provisions in both bills would cost more than $6 billion to carry out the election reform that is ordered. If Congress and state legislatures expect actual election reform to occur, then there needs to be an understanding that the money and the required changes are synonymous and cannot be separated.

Insufficient funding will guarantee few changes will actually be implemented. If anyone expects changes to come from local and state governments simply by passing new national requirements without sufficient funding, then changes will come slowly, if at all. Expecting local governments that are already underfunding most elections offices to pick up the financial burdens of the new mandates is unrealistic considering the economic conditions of most local governments.

Underfunding will be far more dangerous to democracy than doing without any legislative mandates. If there cannot be sufficient funding to carry out the requirements, do nothing. Underfunding leads to expectations that progress will be made but leaves no ability to affect the changes and results in the worst of all scenarios…High expectations and no delivery.

When the nation's elections administrators formulated their recommendations for fixing the worst of the ills identified in Election 2000, they warned : "…most of the problems were the result of poorly written, conflicting or nonexistent laws, rules and regulations and policies which are the necessary foundation for standard operating procedures…..The problems were created by people, not machines, and any reform of substance will deal with what people do or don't do…." [Election 2000: Review and Recommendations by the Nation's Elections Administrators, August 2001, The Election Center, Houston, TX]

If we are to get to the policies, procedures and laws, this legislation is only the beginning. States must also live up to their role in this process. There must be funding for voter education, election official and pollworker education, voter usability studies, ballot design, defining what constitutes a vote, and revisions of recount procedures, if we are to repair the worst of the election problems.

The representatives of the nation's elections administrators, including state election directors and county and city administrators from large and small states and large and small jurisdictions, consisting of liberals and conservatives, identified the following areas (indicated with **BOLDFACE** headings) for additional review of the Congressional conference committee: Statewide Voter Registration Systems; Commission Structure/ Money/Implementation Dates; Provisional Ballots; Social Security Numbers; ID Requirements; Paper Audit Record from DRE Systems; Multiple Language Requirements; Department of Justice (DOJ); Armed Forces; and Accessibility Issues.

STATEWIDE VOTER REGISTRATION SYSTEMS

SENATE and HOUSE:

- States should be given additional time and flexibility to develop and implement an interactive statewide voter registration system (SWVR).

- It is not feasible for a state to complete the process of developing and implementing a SWVR before the 2004 elections. On average, these databases are taking most states five or more years to develop and implement.

- States need to enact enabling legislation, develop system requirements, secure funding and contract with a vendor.

- There are a limited number of vendors that will be able to assist states in the completion of the project.

- Realistically states should be given until January 1, 2008 to develop and implement SWVR.

- In most states voter registration records are maintained at the local level. In many jurisdictions the local database is part of an integrated elections management system that often includes ballot tabulation. In many cases, it is integrated into all other tasks including payroll, project management, precinct evaluations for disability use, etc.

- States need to have the flexibility in developing the SWVR system to integrate existing local applications into the state system. States and locals can implement a statewide voter database system more quickly if they integrate existing databases into a statewide system rather than creating one new database statewide.

COMMISSION STRUCTURE/MONEY/IMPLEMENTATION DATES

- Election officials (EO's) propose both bills set in statute an elections advisory panel for the new Commission.

- EO's also propose a statutory election officials advisory panel for the Federal Voting Assistance Program.

SENATE: Jan 1, 2006 Requires all voting systems used in federal elections to meet a number of standards.

HOUSE: Within two years of enactment, requires states to certify that voting systems meet standards described in the bill.

- EO recommendation: This appears to be a reasonable target date as long as recognition is made by Congress that equipment may not meet disability qualifications for all disabled voters to vote unassisted (e.g., no motor skills; limited mental abilities; preparation of the machine itself for disabled voters)

SENATE: Jan 1, 2007 At least one voting machine at each polling place purchased with Title II funds to be fully accessible to disabled (EO cost estimate $800 million: average unit with disability and language features + average unit cost for software to manage makes each unit approximately $4,000 times approximately 200,000 polling sites)

HOUSE: Use of funds to buy any new voting system within state, then have to have one fully accessible voting system per polling site (EO cost estimate $800 million)

SENATE: Jan 1, 2004 OEA to deliver new Federal Voting Systems Standards in consultation with the Architectural & Transportation Barriers Compliance Board

- EO Recommendation: This is a reasonable date:

SENATE: Beginning with elections in 2004 provisional ballots created for all federal elections.

- EO Recommendation: Reasonable date IF Congress recognizes that state legislatures need to examine and provide the time it takes time to research and qualify provisional ballots before calling for "Official Election Results"; (depending on how each state handles the qualifications for a provisional ballot, most will need a minimum of 21 days to complete their process; we believe this is a decision best handled on a state by state basis.)
- 2nd consideration is that Congress and states have to recognize that close elections may not be decided until all provisional ballots are verified and eligible ballots counted. <u>EO's are not asking for any action related to this, we are simply calling attention to a massive change that needs to be recognized</u>. There may be new delays in releasing unofficial and official results not previously encountered by news media, politicians, and general public.

SENATE: By Jan 1, 2003 Civil Rights Division of DOJ to present implementation guidelines

- EO Recommendation: The U.S. Department of Justice should retain its traditional role of enforcement of election laws. It should not be inserted as an administrative

body, nor as a rule making body, nor as a review authority to determine whether state/local plans are sufficient to accomplish tasks as this could result in a conflict of interest with the enforcement role.

SENATE: By Jan 1, 2004 Each state to have statewide voter database (EO Cost estimate $325 million total for all states)

HOUSE: Within two years of enactment, states to create statewide voter database (EO Cost estimate $325 million total for all states)

- EO Recommendation: It is unrealistic to expect that this date can be accomplished. Set more realistic date of Jan 1, 2008. (See Statewide Voter Database Section)

SENATE: States/locals permitted to require full Social Security number
Commissioner of Social Security required to provide match and verify ID of individual and whether such person is deceased.

- EO Recommendation: Use of full Social Security number is important in order for election officials to maintain the most accurate lists that have not removed voters incorrectly or retained numerous duplicate voter names. Where we might remove the wrong individual based on name and/or address, use of the Social Security number helps identify the correct individual for any list maintenance functions. It also is required to match death records (not only of our own states but national death records as issued by Social Security administration). Additionally, since felons change their names without going through the courts Social Security number is our only accurate method for tracking felons. And when states send notices to other states about voters who have moved into their jurisdiction, the full SS number is important to accurately reflect the changes in both states. Improving the accuracy of voter registration records has been one of the key goals of election reform legislation.

A study by Virginia State Board of Elections, which is allowed to use full Social Security number shows:

Year	Felons	Deceased	Total	
1998	3,539	20,904	24,065	(This a base year prior to automating)
1999	8,800	24,904	33,704	
2000	9,088	30,623	39,711	
2001	8,497	36,932	45,429	
2002	2,866	12,044	14,910	(as of 5/23/02)

Without full Social Security number we would be most unlikely to match any of the felons and only a limited number of the deceased.

Social Security number can also be an advantage in the handling and qualification of provisional ballots. Since nearly two-thirds of the states (which have not previously had

a provisional balloting program) will likely be handling a significant increase in provisional ballots after the election, the Social Security number can help election officials to instantly match records which could help in determining voter eligibility. It should help in speeding up the qualification issues related to provisional ballots.

SENATE: Jan 1, 2003 Any individual who registers by mail and is first time voter must provide ID

- EO Recommendation: Delay until such time as Statewide Voter Databases are fully functional. Set date to coincide with final implementation date of each state's databases. It is difficult to figure out how not to have a conflict with a new voter in the polling site when only 1 in 30 is singled out to provide identification data.

- 2nd consideration: Once use of databases is developed, we can use SS# to match official state and local databases and perhaps eliminate the need to ID anyone at the polls. However, Federal law must make clear that <u>any State or political subdivision which receives federal funds</u> (from any source) will allow matching of voter registration records to other governmental databases.

SENATE: Jan 1, 2010 Dept. of Justice allowed to sue and enforce all provisions of bill.

- EO Recommendation: If election reform is well funded, this is a reasonable date. It gives the states and local governments time to prepare, to implement, and to get the "kinks out of the system" before the Federal government begins the process of enforcement.

SENATE: Provides $3.5 billion (and additional sums as necessary)
$500 million immediately ($400 million for voter education, EO training, voting system improvement, etc. $100 million for improving polling place accessibility) Then
2003 $1.5 billion
2004 $1.3 billion
2005 $500 million
2006 $200 million
2007 Additional sums as necessary

HOUSE: Provides $2.65 billion ($400 million punchcard buyout & $2.25 billion for 2002, 2003 and 2004.

- EO Recommendation: Do immediate $650 million for 2002, then $1.5 billion in 2003 and $1.5 billion in 2004 (each) and remainder in 2005. While we have seen and heard estimates that the costs of what Congress is ordering in these changes will be much, much higher, election officials believe the real costs of the increases in new mandated changes will be in excess of $6 billion.

SENATE: Discretionary Grants, no cap on funds, no matching funds required (except in one area)
HOUSE: Formula Grants, funds limited to amounts in the bill, 25% state match required.

- EO Recommendation: Use formula grants to distribute the money to the states, but maintain the Senate provision of Federal funding with no state matching. We recommend accelerating the funds for full distribution no later than FY 2005 as described in recommendation above.

HOUSE: States must define what constitutes a vote for each voting system.

- EO Recommendation: This mandate alone would have remedied the majority of problems identified in Election 2000. "Voter Intent" is not a standard and is too subjective to use in counting ballots. A state-by-state definition of what constitutes a vote is mandatory if we are to achieve fairness in counting votes and meet the standard required in Bush v Gore.

Election Officials additional recommendations:

- Phase in all of the implementation dates in the legislation and be realistic about expectation. Aim all full operational requirements for 2008 but still hold harmless through 2010 so we can assure ourselves that our implementation has been "debugged". Or at least phase each requirement in one election cycle at a time so we are not changing everything at once…which can lead to mistakes, confusion and election disaster.
- Get all of the funding front end loaded and allocated to the states for holding in their treasuries so that appropriations problems don't develop down the line.
- Recognition must be given that the federal legislation focuses on four areas: Statewide voter databases; new equipment for disabled voters; new standards and/or equipment for all voters; and provisional ballots in all states and jurisdictions. Just two of those new mandates, statewide voter databases and equipment for disabled voters will require more than $1.2 billion of the funds.
- If we are to get to the policies, procedures and laws, this legislation is only the beginning. States must concentrate on the additional programs of education (for voters, for election officials, for pollworkers), for voter usability studies, for codifying what will be counted as a vote, for improving state uniformity within states for election and recount procedures all must also have a priority and funding.

PROVISIONAL BALLOTS

SENATE:

- Make the effective date no earlier than January 1, 2004, because of late passage of law.

- Do not require EO to offer provisional ballot to someone who is clearly not eligible, (e.g. voter in wrong county)

- Some states have short official results certification deadlines. Determining eligibility and appropriately counting provisional ballots will take longer. EO's cannot overstate this simple fact: If states do not provide enough time to qualify and count provisional votes, provisional balloting will be a disaster.

- State legislatures need to detail what contests to count if voter casts provisional ballot and is eligible for some (i.e. President, Senate) but not all (i.e. Congressional or local) contests.

- Incorporate Voter Registration component so voter is properly registered for next election. It needs to be clear that the intent is to also register the voter for the next election in this one step process of providing a provisional ballot in case the voter's ballot does not count in the current election.

SOCIAL SECURITY NUMBER

SENATE:

- Extend privacy requirement to local jurisdictions. Make clear in Federal law that states are to suppress the Social Security number and that it not be considered as public record, and that no state's open records law can supercede this requirement. EO's favor strong measures to protect and suppress the Social Security number for any use outside of its elections context. We will work with Congress to appropriately define and restrict such uses.

- Put privacy info on Voter Registration application, so that voters can be assured their number will not be shared.

- Assure that no jurisdiction will put Social Security number on the poll books at the voting locations.

- Close loopholes: "Not withstanding…" Make sure the language is precise in meaning so that no unintended consequences may result.

ID REQUIREMENTS

SENATE:

- Definition of "jurisdiction" – statewide or local

- Definition of "current and valid". Many addresses are not current and some IDs have no expiration date or do not contain address.

- Coverage – voter may have voted in several local elections before the next federal election. If voter has voted in any election, it should be sufficient. Remove the word "federal" and it should fix the problem.

- Inequity/Discrimination – allow exemption to any state that is obtaining SSN and verifies. Delay effective date until statewide Voter Registration system is in place. This gives all voters the opportunity for exemption.

PAPER AUDIT RECORD FROM DRE VOTING SYSTEMS

SENATE:

Sec. 101(a)(2)(B)(i) and (iii)—Requiring a "Permanent Paper Record" of each vote substantially negates the chief advantages of direct record electronic (DRE) voting systems--security and accuracy. Recounting from such paper record would be extremely time consuming and less accurate than an electronic recount.

While DRE voting systems should be able to print a copy of their audit data, ie., each voter's ballot image, it is far more secure, efficient and accurate for the tabulation systems to retabulate ("recount") from the electronic record, which is the original record of each vote. Printing from this original, electronic record, offers no greater assurance of reliability and creates new opportunities for error.

EO Recommendation: This provision substantially muddies the waters. In its current form, it does not seem to accomplish the goal of assuring an audit trail and confuses whether that audit trail is to be used in a recount. Unless Congress intends to tackle this issue for each and every type of voting system, we recommend that this language be deleted and simply indicate that voting systems must meet the Federal Voting Systems Standards which include the requirement for an audit trail.

MULTIPLE LANGUAGE (ML)

SENATE:

Sec. 101(a)(4) requires a SIGNIFICANT EXPANSION of the current Voting Rights Act provisions regarding Multiple Languages.

No 2000 census figures are available, and won't be until 12/02 which is after the expected date of the passage of this bill. Therefore the impact can only be guessed at but not fully determined.

Sec. 303(b)(2)(k) instructs the newly formed Election Commission to "study the feasibility of providing voting materials in 8 or more languages." This section does not mitigate the requirements of Section 101(a)(4). The study should occur BEFORE any legal requirement to translate into numerous additional languages outside of the boundaries of current VRA requirements.

- EO Recommendation: Remove the languages provision from this bill. Let the new Federal Election Administration Commission study the impact and the needs assessment first. If it is determined that it meets a real need, then amend the Voting Rights Act to include the additional languages.

The following items are part of our concern for this provision:

The expansion is due to the non-inclusion of the current VRA definition of coverage which covers only Hispanic, Asian and Native American languages.

While the bill retains same threshold of coverage as VRA (5% or10,000 population) it would apply to all languages.

There is a very real possibility that many jurisdictions (notably larger urban states with high immigrant populations but significant growth in immigrant population has come to many of the smaller states as well) will hit the 10,000 threshold in many languages. Additionally, there is no clarification/definition of "jurisdiction" in this bill. A question has arisen whether "jurisdiction" is the same as "political subdivision" in the VRA.

The cost of translation/printing varies from state to state and jurisdiction to jurisdiction. The range is between $100,000 and $500,000 per language. For example, L.A. County spent $2.9 million to translate election materials in six foreign languages for March 2002 Primary Election. If 5-10 more languages are required the costs in L.A. County could exceed $8 million per election.

The difficulty of finding and hiring qualified language interpreters within each polling site is enormous. And it is virtually impossible to serve in a management function over these interpreters to assure that they are "interpreting" and not "guiding" which would be an abuse of the process.
SENATE:
Sec. 101(a)(4)(B)(ii), exempts jurisdictions that use lever machines, from directly printing all covered languages on the machine. Currently punch card and other systems (some optical scan) do not print ballots in other languages on that equipment, but provide it in alternate ways as this bill suggests would only be allowed for lever machines.

DEPARTMENT OF JUSTICE (DOJ)

SENATE:

- The Elections community has consistently opposed the marriage of grant administration and election law compliance within DOJ.
- We recommend that the Conference Committee consider the following recommendations:

    1. State categorically that DOJ shall be removed from legislation granting "purse string" authority in that agency.

    2. Vest all grant making authority in the Commission.

    3. As a priority, urge the earliest appointment of the Commission.

    4. Increase the minimum amount delegated to each state to a formula based start up amount to assist each state to get through the "transition" period.

5. Establish the grants as formula based rather than competitive for fairness and speed of allocating funds.

6. Endorse the state plan process that is an open and public process to all interests in the election arena, but that there be no "review" authority of the Federal government except to see that grant money was spent as indicated for legitimate purposes. There are other significant examples in federal grant programs such as DOT highway funds; Title 20 Social Services grants; TANF funds as well as Medicaid.

Comments:
There is no opposition to the DOJ performing its traditional law enforcement duties. This applies to both existing and proposed laws. The Senate Bill significantly expands the authority of the DOJ. This expansion is directly contrary to the Election community's opposition stated above.

This expansion takes two forms:

1. During the interim period between passage of the bill and establishment of the EA Commission, the DOJ is the granting agency. The DOJ is given the authority to develop guidelines for the competitive grant approval process.

2. After the Commission is established, the DOJ retains the authority to review state plans under Sections 208 and 213. This can be read as extensive residual authority. (Such an interpretation was acknowledged by the Senate Rules Committee staff during the Saturday session.)

These significant grants of authority will distort the stated objectives of both the House and Senate versions of the bill. The absence of public comment on DOJ adopted guidelines and the compliance bias of the grant process will be counterproductive to election reform.

Further, during the interim period, DOJ will have full authority to issue guidelines for requirements of Sections 102 and 103. The guidelines issued by DOJ will stand long after the transition to the Commission. This provision allows DOJ to indelibly imprint its philosophical view upon the "reform" of America's election system.

Under the grant administration authority, DOJ will have arbitrary power to determine which programs in each state's plan will be funded.

SAFE HARBOR

General discussions concluded that the election community did not ask for this provision. To the extent it spares us from harassment, we endorse it, however, our expectations are not high.

ARMED FORCES

SENATE:

- Title IV. Title is misleading. Should be something like "Voting Rights of Uniformed Services and Overseas Citizens." Some of the proposed "reforms" should logically apply to more than uniformed service voters and include all overseas voters. From an implementation perspective, changes in basic functions that are limited to a single class of citizens covered under UOCAVA would seriously disrupt the processing of absentee ballots in most jurisdictions.

- Section 401 (pp. 93-94). Imposes unique standards for invalidating ballots cast by absent uniformed services voters. Implementation would be extremely difficult since returned ballots are not specifically identified as "uniformed services voters." This would be even more difficult in states or localities where absentee ballots are counted in the appropriate polling place on the day of the election. This section should apply to all voters voting under UOCAVA. The same problems apply to them – dependents, spouses, and overseas citizens.

- Section 406 (a). Not sure what is being studied. Once registered, a person is registered until removed in accordance with list maintenance procedures. This seems to be a potentially worthless study.

- Section 406 (b). Designating a single office in a state to provide information to military and overseas voters is a bad concept and would divorce the voter from the Local Election Official who is responsible for meeting his needs. Centralized entities without detailed knowledge of procedures, practices and individual circumstances will lead to significant problems in serving UOCAVA clients. Where accuracy in information and timeliness are essential, single state offices without the responsibility for this function would create many unnecessary problems for UOCAVA voters and ultimately disenfranchise some of them. A VERY BAD IDEA. This is a customer service issue that is best handled by Local Election Officials.

- Section 406 (c). Making a single office in a state responsible for handling all UOCAVA problems would create chaos and disenfranchise many voters. IT IS NOT IN THE BEST INTEREST OF THE VOTER TO DO THIS. There is no need to study it. Don't waste the money.

- Section 407. The FVAP folks already do a survey. The one proposed here should NOT duplicate it. From an implementation standpoint, there should be one survey with the required data relayed to the Local Election Officials well before an election so the process for gathering the data can be put into place before the election (need 1 to 2 years in which to make sure that programs that collect the data can be updated). Where surveys change from election to election, Local Election Officials find that the software is not collecting all the requested

information – as with recent FVAP surveys. Keep the report simple and only measure those things that need to be measured.

- Section 409. The concept of a standard oath has merit as far as the FPCA and Federal Write-in Ballot is concerned. There is no need to study the issue. Just do it for the FPCA and Federal Write-in Ballot.

- Section 410. This is another situation where a study would seem to be ridiculous. Just eliminate the requirement for UOCAVA voters.

HOUSE:

- Section 602. See comments on Sections 406 (b) and (c) in the Senate Bill.

- Section 603. See comments on Section 407 in the Senate Bill.

- Section 604 (b). The application for an absentee ballot should only be good in the calendar year in which it is submitted. The issues are the integrity of the process, service to the customer and administrative efficiency/effectiveness. The UOCAVA voter is very mobile. He changes his address frequently and his eligibility changes. The proposal to make the application good for two General Elections would result in ballots being mailed to the wrong address and to ballots being mailed to people who are no longer eligible to vote under the provisions of UOCAVA. Additionally when ballots are mailed to a bad address and then an application with a new address is received, the administrative processes to correct the documentation often requires extraordinary efforts by technical support staff (due to the need to protect the integrity of the absentee process). Furthermore, the potential for fraud increases because ballots will be delivered to addresses where voters no longer live.
- Section 604 (c). DELETE THIS PROVISION. It can be confusing to voters and lead to disenfranchisement when a voter selects the wrong item. Specifically, if an application is received prior to a Primary, the voter would receive a Primary ballot and not a ballot for the General Election if "2" were checked. The existing practice of sending a ballot for all elections in the year that an application is received is the right thing to do.

- Section 605 (b) (2). A standard oath for the FPCA and Federal Write-in ballot would seem to be OK. Requiring the "standard oath" on state and/or local documents would add unnecessary costs, accomplish nothing, and add additional complexity to the process of sending absentee ballots.

ADDITIONAL COMMENTS:

Most UOCAVA voters are identified because they submit FPCAs. Some voters covered under UOCAVA register and apply for absentee ballots using state forms. Services

provided may differ if Local Election Officials do not know that a person is covered under UOCAVA, and reports may not correctly account for UOCAVA voters.

ACCESSIBILITY

SENATE:
Sec. 510(a)(2) Polling place accessibility

- Need sufficient money to make changes…and the funds authorized may not be enough to accomplish this task. It must also be recognized that 100 percent accessibility is a worthy goal but unlikely to be accomplished due to a factual, provable lack of accessible facilities in some areas.

- Need language less absolute, to allow, "where possible" and to concur with current ADA law. The Senate Bill creates a new standard that far exceeds the "reasonable accommodation" standard of the ADA.

Sec. 221 & 331 and HOUSE: p.38 (4)

- Election Official participation for accessibility. There seems to be a bias toward assuming that other entities know more about elections accessibility than Election Officials. We believe it is at least equally important that decisions made are made as a result of a collaboration of "equals" rather than a presumption that other groups or agencies can dictate changes which may not be in the best interest of all voters**.** We welcome the involvement of knowledgeable boards as long as there is equal role for a panel of local elections officials to advise the Election Administration Commission on these issues as well. We recommend adding such language in each section.

SENATE: p. 7, (3)

We applaud the continued improvement of voting systems to serve the needs of the disabled and the visually impaired. However, there are some additional problems created and we call attention to these practical problems. Use of one Direct Recording Equipment voting system and other types of systems create problems with interface:

- Increases probability for error trying to merge the two systems together for results.

- May create significant delays because most voters want to use DRE as "the latest" technology.

National Association of Secretaries of State (NASS)
National Conference of State Legislatures (NCSL)
National Association of Counties (NACo)
National Association of County Recorders, Election Officials and Clerks (NACRC)
International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT)

June 6, 2002

Hon. Richard J. Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

The national organizations representing state and local officials listed above urge the H.R. 3295 conferees to move quickly to conference the House and Senate versions of federal election reform legislation. We urge the conferees to adopt an approach that provides an effective means for states to update and change their election processes without an unduly burdensome federal presence, and with much-needed federal financial support. Our coalition strongly supports the following positions and their inclusion in the final conference language:

1. Employ flexible approaches for states and counties to implement the federal minimum standards.
2. Maintain the role of the Justice Department to one of enforcement of the laws only.
3. Provide for direct state and local government input into the election process.
4. Implement a formula grant process in which all states are treated fairly with respect to the distribution of federal funds for election reform purposes.

Our coalition of organizations endorsed H.R. 3295 (Ney/Hoyer) in December 2001. We continue to stress that the Ney/Hoyer approach to election reform is a sound one, because it respects the federal/state/local partnership in the election process and does not seek to create an overbearing and unnecessary federal presence in election administration - an area traditionally left to the jurisdiction of states and localities.

Despite our varied positions on the Dodd/McConnell bill, we obviously do support its 100 percent funding provisions. In this year of very tight state and county budgetary constraints, our memberships are concerned that it could be quite difficult to come up with any sort of a matching requirement for grant monies. However the following provisions in the Senate bill do concern us:

1. **Our coalition strongly supports restricting the role of the Department of Justice (DOJ) to enforcement of the law**. A federal agency responsible for the administration and awarding of grants should be separate from the agency that has enforcement responsibilities. Additionally, the DOJ is charged with promulgating guidelines on election reform, permanently certifying state plans and compliance with grant procedures, and serving as the transition agency while a new commission is formed.

2. **Our coalition strongly supports formula-based grants to the states, ideally with no state or local match**. The competitive grant process laid out in the Dodd/McConnell legislation would penalize states, particularly smaller states, that do not have the resources and/or staffing to prepare applications quickly and would require a federal

bureaucracy with its own significant staffing needs. It has also been argued that a competitive process could reward those states with the most outdated equipment and processes and penalize those states that have moved forward with electoral reform and are applying for reimbursement.

3. **The coalition strongly supports a mechanism for state and local input to the new commission—preferably, in an advisory board format**. Both the House and Senate bills acknowledge the importance of state and local input, and while some may feel the board structure outlined in the House bill may be too elaborate, there is no vehicle for this kind of input in the Senate version.

4. **Our coalition strongly supports a self-certification process for states, whereby they can provide assurances of compliance with all applicable federal laws and minimum requirements mandated by legislation**. This process would allow states to act faster when making improvements to their processes and technologies. Obviously, the Department of Justice would be able to intervene immediately if false claims were made during self-certification.

5. **Our coalition strongly recommends reviewing all implementation dates and compliance dates**. As we move further into 2002, the prospect of being able to implement any legislative provisions by the November 2002 elections seems unrealistic. A review and rescheduling of all implementation dates is necessary.

We recognize that the House and Senate election reform bills are products of months of hard work and bipartisan compromise. We were encouraged by the many Members of Congress who reached out to state and local election policymakers and officials to learn more about the elections process. As you head into the conference process, we hope you will remain true to the goal of crafting balanced election reform legislation that provides sufficient flexibility for implementation of new federal standards at the state and local levels, keeps the DOJ as an enforcement agency if there are bona fide violations of law, and awards formula-based grants.

Sincerely,

Hon. Ron Thornburgh, KS Secretary of State
NASS President

Hon. Steven Saland, NY State Senate
NCSL President

Javier Gonzalez, Santa Fe County Commissioner
NACo President

Cathy Pearsall-Stipek, Pierce Co. Auditor
NACRC President

Lance Gough, Chicago Board of Elections
IACREOT President