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Congress of the United States  
House of Representatives  
Washington, DC 20515

January 24, 2008

The Honorable Rosemary Rodriguez, Chair  
United States Election Assistance Commission  
1225 New York Ave., NW, Suite 1100  
Washington, DC 20005

Dear Chairwoman Rodriguez:

I write to urge the Election Assistance Commission (EAC) to reverse its previous advisory opinions about the use of Help America Vote Act (HAVA) funds by states to replace existing voting equipment. According to the Financial Status Report filed by the Tennessee Election Coordinator with the EAC in 2007, Tennessee has approximately \$37 million in unspent funds: \$31 million in Section 251 and \$5.5 million in Section 101.

I strongly disagree with the previous EAC opinion stating that unspent HAVA funds cannot be used to replace or upgrade equipment that had been previously purchased with HAVA funds. A report released by the EAC on July 31, 2007 concluded that the states had, collectively, more than \$1.3 billion in unspent HAVA funds remaining as of the end of 2006. Your advisory opinions are contrary to clear congressional intent regarding these funds. Congressional intent regarding unspent funds was clearly stated in the House report accompanying the Financial Services and General Government Appropriations bill for Fiscal Year 2008 (H.Rept. 110-207):

*The Committee is concerned that the EAC recently ruled that HAVA money cannot be used to fund the purchase of HAVA compliant voting equipment that would replace other voting equipment purchased with HAVA funds. While the EAC claimed that such purchases are not "reasonable" costs, the Committee believes that ensuring accurate, reliable, and accessible voting is more than reasonable; it is essential. The Committee notes that the technology for voting equipment has improved in recent years, and states now have more experience with different technologies. States should have options and the flexibility to acquire better equipment, including equipment that will provide a durable, accessible, voter-verified paper ballot. The Committee believes that the EAC's "reasonableness" test is not at all reasonable when it prevents states from using funds in this manner. Therefore, the Committee directs the EAC to reconsider its ruling. If the ruling does not change, Congress should consider a legislative remedy that will give states the flexibility they need.*

Our states are plagued with unreliable voting machines. In fact, Tennessee is one of six states that have not met requirements set forth in previous years. I believe that we must work together to ensure that our election systems are reliable, and states are able to improve their voting equipment, especially if the state has the resources to do so. Therefore, I strongly urge the EAC

Davidson  
Hillman  
Hunter  
cc: Wilkey  
Hodgkins  
Gilmon  
Corte's

to follow the recent congressional guidance cited above and reverse its previous ruling on the use of HAVA funds by the states.

Thank you for your time and attention to this matter. I look forward to your reply. If you have any questions, please do not hesitate to contact me at (202) 225-4311.

Sincerely,

*Handwritten signature of Jim Cooper*  
Jim Cooper  
Member of Congress