

HEARING ON S. 1487,
THE BALLOT INTEGRITY ACT OF 2007

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WEDNESDAY, JULY 25, 2007

United States Senate,
Committee on Rules and Administration,
Washington, D.C.

The Committee met, pursuant to notice, at 10:00 a.m., in Room SR-301, Russell Senate Office Building, Hon. Dianne Feinstein, Chairman of the Committee, presiding.

Present: Senators Feinstein, Bennett, Chambliss, and Alexander.

Staff Present: Howard Gantman, Staff Director; Jennifer Griffith, Deputy Chief of Staff; Veronica Gillespie, Elections Counsel; Adam Ambrogi, Counsel; Natalie Price, Professional Staff; Matthew McGowan, Professional Staff; Sue Wright, Chief Clerk; Mary Jones, Republican Staff Director; Matthew Peterson, Republican Chief Counsel; Shaun Parkin, Republican Deputy Staff Director; Michael Merrell, Republican Counsel; Abbie Platt, Republican Professional Staff; Trish Kent, Republican Professional Staff; and Rachel Creviston, Republican Professional Staff.

OPENING STATEMENT OF CHAIRMAN FEINSTEIN

Chairman Feinstein. The meeting will come to order, and good morning everyone. I am very happy to be here and be joined by our distinguished ranking member, Senator Bennett. We will begin.

No matter what your political party, if you are committed to a democratic form of government, you have to be concerned about the accuracy of the vote and the ability of

all citizens to cast their ballots without being hindered by machine breakdowns, computer hacking, undue bureaucratic hurdles, and a lack of adequate resources and trained workers at the polling place. Put together, that is a very big mission.

As we saw in Sarasota, Florida paperless electronic voting systems are the soft underbelly of our voting process, 18,000 undervotes in the congressional race, which was five times the rate seen on absentee ballots in the same contest. And the cause remains under investigation.

The Ballot Integrity Act, introduced on May 24th, 2007, seeks to address this kind of issue by providing new safeguards to prevent errors and tampering at the polls, requiring States to use voting systems with voter verified paper records subject to public manual audits in the 2010 Federal elections, taking steps to increase the turnout in Federal elections, improving election administration, and ensuring that voters are not denied the right to vote by faulty purges of voting records.

This is not a perfect bill, and I anticipate that after this hearing there will be a number of changes that will be incorporated into this Chairman's mark. I might say, I look forward to working with the Republican side. The bill is not necessarily a finished product. I look forward to working with the Secretaries of State and their association and any other interested party to try to forge a practical, doable bill.

I think it is pretty clear that we now have a patchwork of voting systems throughout the country. Five states: Delaware, Georgia, Louisiana, Maryland, and South Carolina, have no voter verified paper record to help ensure the accuracy and reliability of the vote count. Eleven States plus the District of Columbia have a combination of voting systems,

including DREs with no voter verified paper records. They are Florida, Indiana, Iowa, Kansas, Kentucky, Pennsylvania, Tennessee, Texas, Virginia, Wisconsin, and Wyoming

Sixteen States have a combination of voting systems, including DREs, with a voter verified paper record: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Illinois, Mississippi, Missouri, Nevada, New York, North Carolina, Ohio, Utah, Washington, West Virginia. And New Jersey will join this last list by 2008, making it 17 states.

Another 17 states do not use DREs and primarily rely on optical scans, paper ballots, vote by phone, vote by mail, and ballot marking devices: Alabama, Connecticut--I can list them all but I will not.

The point is you can see the different systems that exist and the combination of different systems that exist throughout the United States.

Experts at our first hearing on February the 7th said that about 56 percent of the voting systems now distributed throughout the States use optical scanners. Of course, the advantage of this system is that you have an individual voter verified paper record without having to rely on a separate printer or other mechanism that could be subject to jams. This is simple and direct.

I happen to believe personally it is the way to go. I like to connect a voter as much with their mark that they can see as possible. But for those States that seek to continue using direct recording electronic voting systems, there needs to be a way. And this bill tries to provide it in the least onerous way for the voter to verify the vote and for the electronic tally to be audited.

As we developed the legislation and examined the time needed to get it enacted into law, it became clear that we were rapidly approaching the deadline to prepare for the 2008 elections, something that a witness directly before us might be interested in, and there is insufficient time for States to invest in this new technology. That became very, very clear. In fact, mandating that all States have voter verified paper records and audits before the 2008 election could be an invitation to chaos.

Pushing the date back to the 2010 elections will give us more time to reach a bipartisan, I hope, compromise. You could call it, maybe even a consensus if we are lucky enough, with voting reform advocates and local and State officials to enact a new law that provides for increased accuracy and accountability at the polls without raising the specter of creating major new errors.

Our final panel will focus on Title III of the Ballot Integrity Act. So there are two panels. Title III contains a number of important election reform provisions relating to absentee ballots. It prohibits burdensome limits on third-party voter registration efforts but allows States to protect against fraud, it requires States to ensure that each person who works in a polling place receives adequate training on State election procedures. This is not onerous. This is not a big mandate. But it is a simple statement that election officials should know the basics and the local jurisdiction should be responsible to provide those basics.

It provides safeguards from inaccurate purges of voting rolls and makes it easier for overseas and military voters to send in absentee ballot requests, absentee ballots, and voter registration forms.

Reform is not an easy process, nor is it one that is free from controversy. But I believe this is a very good first effort. I am very proud of the fact that we currently have 11 cosponsors: Senators Biden, Boxer, Brown, Clinton, Dodd, Inouye, Kennedy, Leahy, Menendez, Obama, and Sanders, on this bill. Again, I appeal that we would very much like to make it a bipartisan bill and that we are open to suggestions.

Before I yield to the ranking member and then move to our distinguished witness, the Committee has received several statements for the hearing record from individuals and organizations stating their views and comments. With your permission, I would like to enter those into the record.

[The information follows:]

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Chairman Feinstein. Thank you very much. And now our distinguished ranking member, Senator Bennett.

OPENING STATEMENT OF SENATOR BENNETT

Senator Bennett. Thank you very much, Madam Chairman.

I salute you for your diligence and persistence in going after this issue. It is one that probably goes all the way back to the beginning of the republic when voting was public. The voter would approach the clerk and announce, with everybody watching, what his or-- well his, there were no hers voting in those days--choice was. And the primary focus of campaign contributions had to do with the amount of whiskey distributed prior to the time when the voter would stagger up and say whether he was for George Washington or somebody else.

And Washington lost one election because they decided he was not a generous enough gentleman, in terms of the amount of whiskey that he provided prior to the election. We have come a long way from that, but we still have a long way to go.

I remember a hearing chaired by Senator Lieberman in the Governmental Affairs Committee in which we addressed the question of voter integrity. Senator Bond brought forward a voter that probably would not be able to verify the ballot. The voter was Trixie Mechsler, who voted quite regularly in Missouri elections. The problem was she was underage. She was a 13-year-old cocker spaniel--no, I am sorry, she was a springer spaniel, 13 years old, and therefore probably not qualified by age.

But also highlighted the problem that we have with elections that go on sometimes with other activities besides the example that we are given here in the election of a concerned voter casting an intelligent ballot and then verify it.

So the whole question of making sure that our elections are legitimate and the results are verifiable and that vote fraud does not go on is a complicated one and I salute you, as I say, for your willingness to tackle it.

I am looking forward to hearing what our witnesses have to say and will do my best in the questioning period to bring out what various points I think we might need to stress.

Thank you for your leadership.

Chairman Feinstein. And I thank you, Senator. It is a great pleasure to work with you.

And now it is a great pleasure that I welcome a distinguished lawyer, an advocate,

a former First Lady, and the Senator from the great State of New York, who also happens to be a cosponsor of the Ballot Integrity Act. And she is author of her own bill, the Count Every Vote Act, and she is the leader in election reform.

Senator Clinton, we welcome you to this Committee.

STATEMENT OF HON. HILLARY RODHAM CLINTON,

A UNITED STATES SENATOR FOR THE STATE OF NEW YORK

Senator Clinton. Thank you very much, Madame Chairman and Ranking Member Bennett. I am delighted to have this opportunity to testify on this issue that goes right to the very heart of our democracy, the right to vote.

I want to commend the Chairman for her dedicated work on this issue and I am very honored to be a cosponsor of her legislation, the Ballot Integrity Act.

Under the leadership of the Committee, I hope we can move toward real reform to fix our broken electoral system and restore the integrity of our elections. There are a number of problems that have to be addressed but election reform, it seems to me, is fundamental not only to the sanctity of our democracy but to really restoring confidence in our Government. No matter which way the election turns out people should feel that it was conducted with integrity, that it was executed competently, and that the results can be accepted completely.

It really does come down to a basic value that every citizen should have a fair chance to cast a vote and know that his or her vote will count.

We have had a long struggle, as Senator Bennett alluded to, opening the circle of opportunity and enfranchisement to all Americans. Certainly when we started, back in

those early elections that he was referencing, very few Americans were given the franchise. Thankfully, because of the 14th, 15th, and 19th Amendments to our Constitution, to our civil rights legislation, particularly the Voting Rights Act, we have certainly provided a broad circle of opportunity and constitutional rights. But we have not yet removed all of the barriers to voting. And therefore, I think you could not be more timely with your concern about this and with the legislation.

As we all know, in the last two presidential elections, we have seen citizens in urban neighborhoods forced to wait in line for five hours or more to cast a ballot while just down the road voters in suburban neighborhoods would cast their votes in five minutes.

I am joined here by Congresswoman Stephanie Tubbs Jones will, with me, introduced the Count Every Vote Act in 2005 and again in 2007. Congresswoman Stephanie Tubbs Jones and I held a hearing in Cleveland after the 2004 election where we heard very gripping and really disheartening testimony about how hard it was for registered voters to be able to exercise their right. Voters would arrive at the polls to discover their names mysteriously absent from the voting rolls. They were unable, often, to register due to arbitrary rules and barriers in the registration process. Voters were afraid, and with good cause, that their vote would not count because the machines they were using had neither voter verified paper records, nor other safeguards.

The process itself gives citizens pause. Elections administered by political officials who not only administer the elections but serve in the official positions supporting campaigns of candidates and issue rulings that appear to favor their candidate certainly does not inspire confidence. We have seen that the brunt of many of the problems in the

election process fall especially hard on people of color, not just in widely reported cases in Florida and Ohio, but in State after State. Similarly, we have seen problems with elderly voters. We have seen problems with college students. So this is not about one district or one State. The problems, unfortunately, are found across our country.

Therefore, I think it is imperative that we once again, as the world's oldest democracy, be a model democracy. I believe meaningful reform must achieve three important goals. First, we have to have 21st century reforms to ensure that 21st century technologies help enfranchise voters, not disenfranchise them. We should require the use of voter verified paper records to guarantee voters do have the opportunity not only to verify and correct if necessary any error made by a voting system before the permanent voting record is preserved. This voter verified record will also serve as the official ballot for recounts and audits.

We can safeguard the legitimate privacy interests of the community of people who have disabilities and minority language speakers and ensure they are given an opportunity to cast a secret independent and verifiable vote. And I believe we can give States and localities the resources they need and deserve to improve their voting systems.

Both the bill introduced by the Chairman and my own require manual audits of election results. They improve the transparency and independence of testing laboratories. They establish a set of security standards for voting machines. They include a ban on and undisclosed source codes and a prohibition on the use of wireless communications devices in voting systems.

Too many voters cast their votes and never know if their ballots failed to count due to a faulty ballot or machine design. Our bills establish a performance benchmark for these residual votes.

The second goal for any reform is making voting fairer and easier by enacting long needed commonsense reforms to the registration and election process. We need uniform standards for provisional ballots. We need to make it easier to vote by absentee ballot. We need to facilitate early voting.

We have to strengthen poll worker training and we have to recruit younger people to be poll workers. I do not know about where all of you vote but where I vote it is retirees. The last time we voted in an election one of the gentlemen told me that he could not keep doing this. He was in his late 80s. And he said can't you help me, Senator, find some younger people to come in and do this important work?

We need to protect citizens from unjustifiable and inaccurate purges of voters from State registration lists.

Finally, the third goal of election reform must be to protect voters against political interference and foul play in our democracy. This includes prohibiting chief State election officers from engaging in activities that present a conflict of interest and establishing fair standards to allow impartial election observers into polling places.

I think it is interesting to note that a few years ago India had an election in which the polling and prognostication before the vote certainly did not predict the outcome. In fact, the ruling party at the time, the BJP party, was expected to be returned to power. But in a total surprise to most of observers, the Congress party won back the parliament

in India and it was shocking to people in the country and around the world.

There were no complaints. And I asked people how did that happen? Because certainly if something so unexpected were to happen in our country there would be all kinds of concerns about the integrity of our electoral system.

The response I received was that India had the equivalent what we would consider a Federal Reserve Board running their elections, taking it out of political parties completely, overseeing that how it was conducted really would be above reproach.

They voted on computers. I am not sure exactly what kind, but they had a computer system that had several failsafes in it, both in the local voting place, at a regional server center, and nationally. So that there were no questions that whether you were a dot-com billionaire in Mumbai or an illiterate peasant in Rajasthan, you were voting in a way that guaranteed confidence in the outcome.

Well, I am confident that under the leadership of Chairman Feinstein and Ranking Member Bennett, and hopefully with a bipartisan commitment to ensuring the integrity of our electoral system, we will undertake the reforms needed to ensure the accuracy and fairness of elections. Every citizen should have his or her right to vote protected. We must count every vote so that every vote counts. We must return integrity to our ballot process.

I thank you for the honor of testifying before you.

[The prepared statement of Senator Clinton follows:]

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Chairman Feinstein. Thank you very much, Senator Clinton. We appreciate it.

Do members have questions? I have none.

If not, thank you for your leadership and your advocacy. Again, this is a work in progress. We welcome suggestions from you, your staff, any other staff.

I think the only way to avoid chaos was to change the operational date from 2008 to 2010 so that we can do it without fear of jaundicing an upcoming election, we now have the time to hopefully make it, as you say, a bipartisan bill. So I will do all I can in that direction.

Thank you so much for coming this morning.

Senator Chambliss, do you have a statement you would like to make before we proceed with the next panel?

Senator Chambliss. I have a statement but I will be glad to submit it for the record, Madame Chairman. Thank you.

[The prepared statement of Senator Chambliss follows:]

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Chairman Feinstein. Thank you very much.

We will call up the first panel, if we might. I will proceed with the introductions and I will do them all at once and then individually introduce the individuals.

The first is the Honorable Deborah L. Markowitz. Secretary Markowitz of Vermont is the immediate past president of the National Association of Secretaries of State. This is a major organization with which we hope to work on this bill. She is a member of the Election Assistance Commission Standards Board and an advocate on behalf of youth civic education. She will address the Election Administration Challenges and

implementation of election reform.

Mr. George N. Gilbert is a Director of Guilford County, North Carolina, Board of Elections where he has served since 1988. He is a former congressional staffer--I am glad to see there is life after--and a participant in the Election Center's Task Force on Election Law an numerous election law and policy conferences. He will speak on his experiences with the North Carolina statewide mandated paper trail.

Ms. Wendy Noren is a the Clerk of Boone County, Missouri, a position she has held since 1982. She managed the election division of the office for four years prior to that. Ms. Noren is responsible for keeping records of the orders, rules, and proceedings of the County Commission. She currently chairs the Legislative Committee of the National Association of Counties and serves on the Election Assistance Commission's Board of Advisors.

Dr. Michael I. Shamos, I hope I pronounced that correctly.

Mr. Shamos. That is correct.

Chairman Feinstein. Thank you. Has been a faculty member in the School of Computer Science at Carnegie Mellon University in Pittsburgh since 1975. He is also an attorney admitted to practice in Pennsylvania and before the United States Patent and Trademark Office. Since 1980 he has been an examiner of electronic voting systems for six states, primarily Pennsylvania and Texas, and has examined over 100 electronic voting systems.

Mr. Ray Martinez serves as a Policy Advisor to the Pew Center on the States and serves as Adjunct Law and Policy faculty, teaching election law, at the University of

Houston and the University of Texas. Previously he served as one of the original commissioners on the Election Assistance Commission. Mr. Martinez also served in a number of positions on the Clinton Administration. He is currently Chair of the Overseas Vote Foundation, which focuses on the rights of military and overseas voters.

I very much welcome our witnesses here today. Why don't we begin from left to right, and begin with the Honorable Deborah Markowitz.

You will see that there is a timer in front of you. So if you could give us the bottom line of your written comments in about five minutes, it will leave time for us to answer questions.

Thank you very much. Secretary Markowitz, welcome.

STATEMENT OF HON. DEBORAH L. MARKOWITZ,

VERMONT SECRETARY OF STATE,

PAST PRESIDENT, NATIONAL ASSOCIATION OF SECRETARIES OF STATE

Ms. Markowitz. Thank you so much.

Chairman Feinstein. And if you would press the red button.

Ms. Markowitz. Good morning, I would like to thank you very much for asking NASS and myself to be here with you this morning.

Our members represent a diverse array of constituencies. But that being said, we are united in our belief that Federal, State and local government must work in partnership to effectively serve our citizens. We share this Committee's goals of ensuring that the Nation's elections are transparent and accurate, and that there is accountability in the system.

So I would like to preface my testimony with my personal thanks to this Committee for seeking the perspective of those of us who administer the elections.

I know that the drafters of this bill have worked really hard to balance our practical needs and considerations with the very important interests in continuing to improve the Nation's elections, so I would like to begin with that thanks.

That being said, as you consider drafting and passing new Federal legislation that will impact State and local governments, we urge you to keep the following principles in mind. The first is to provide reasonable time frames for implementation. Secretaries of State feel strongly and agree with you that we should not be making dramatic changes to our election systems this close to the 2008 election. We are already hard at work preparing for that election. As you know, we are starting to vote in the presidential primary within the next six months. So it is really coming very quickly.

In addition, States are also continuing to deal with outstanding issues raised by the Help America Vote Act, both implementation issues and enforcement issues. We greatly appreciate the fact that S. 1487 includes implementation deadlines that are more reasonable than those offered in other bills.

However, we are also concerned that the paper trail and accessible verification equipment described in this bill do not yet exist for all types of voting systems. This will put many of my colleagues in an untenable situation. Even if such equipment were developed in response to Federal legislation, the law must provide sufficient time for the equipment to undergo the rigors of testing and certification before its use.

Our second principle we would like you to consider is guaranteeing full funding for

mandates. To date the States have not received the full amount allocated under the Help America Vote Act. While Secretaries of State appreciate recent Congressional efforts to appropriate \$300 million of the approximately \$800 million still owed for that bill, the shortfall has forced many States to make very difficult decisions about how to fund costly new programs and equipment. We realized that it is a challenge for this Congress to determine the cost to the States of fulfilling the mandates in the proposed law, especially when the equipment it would require States to purchase has not even yet been developed. But we ask that you make this a priority, full funding for the changes that you are seeking on the State level are really necessary for success in our implementation.

Finally, and perhaps most importantly, I ask that as you craft new legislation you allow for maximum flexibility and seek to avoid the preemption of State authority. It is important to remember that every State faces different challenges as it seeks to improve the administration of elections and meet the mandates of existing Federal and State law. We believe that Federal legislation should not curtail state innovation and authority solely for the sake of creating uniform methods among the States.

Indeed, this principle is especially important to those of us in Vermont. Because of our size and history we have not had to grapple with many of the issues faced by other States. We have fewer 450,000 registered voters. We still run all of our elections using pencil and paper, or pen actually. In the vast majority of those communities we still count those ballots by hand.

Because we do not require Federal certification of our voting equipment, we were able to purchase a vote by phone at the polls system to meet the accessibility

requirements set out in the Help America Vote Act. The solution was chosen by members of our disability community because it is easy to use, easy to administer, and relatively low in cost. I believe it is important for any Federal election law to permit States to find innovations that will best serve their voters.

One thing we have learned in Vermont is that no election system is perfect. However, with careful planning and with the commitment to transparency and accountability throughout the process, we can ensure that our elections run smoothly and that the people in our State trust the integrity of the process and the legitimacy of the results. I now you share that goal.

I would like to conclude just by thanking you again, and the rest of the Committee, for allowing me to testify before you today. And we look forward to continuing to work with you on this important issue.

[The prepared statement of Ms. Markowitz follows:]

Chairman Feinstein. Yes, we do as, well. Thank you very much. Mr. Gilbert.

STATEMENT OF GEORGE N. GILBERT,
DIRECTOR, GUILFORD COUNTY BOARD OF ELECTIONS,
GREENSBORO, NORTH CAROLINA

Mr. Gilbert. Thank you, Madame Chairman.

If I may, on a personal note, address those sitting behind you, I can most assuredly say that there is a wonderful life after Congress.

[Laughter.]

Mr. Gilbert. I am George Gilbert, Director of Elections for Guilford County.

Chairman Feinstein. I must just say, Senator Bennett had a little quit. Go ahead, Senator.

Senator Bennett. Not if we pass the lobby bill.

[Laughter.]

Chairman Feinstein. You may proceed.

Mr. Gilbert. Thank you very much.

Guilford County represents 300,000 registered voters and we have 20 years of direct electronic voting experience. We do have a paper audit requirement in North Carolina, which I address at length in my written testimony so I will not repeat too much of that today.

What I would like to direct my remarks to is one fundamental question, and that is, can this bill accomplish its goals? The primary focus of this legislation, as Senator Clinton pointed out, is to enhance public confidence in our elections. Public confidence is being eroded in some quarters, whether by the events of history or the drums of the doubters or both.

The bill's primary ammunition is a paper record of votes and manual tabulation. The fact that the two most celebrated recent attempts to manually count ballots have dealt severe blows to public confidence should raise a red flag to this Committee. I refer to the manual counts of paper in Florida in 2000 and in Washington State in 2004.

Again, in my written testimony I offer detailed documentation and discussion on why such attempts are counterproductive. I also contend with confidence that no audit

would have changed the outcome of those two events. Close elections demand reliable and rapid recounts. Voter confidence will not survive weeks or months of uncertainty.

I have heard the definition of insanity as doing the same thing over and over and expecting different results. I firmly believe that James Madison and his colleagues designed the Legislative Branch to specifically avoid this pitfall. The Senate, in particular, has a compelling interest in getting it right. Consider that a House contest involves a few hundred thousand votes at most, whereas many members of this body are elected by millions.

Further, Los Angeles County contains one-quarter of California's 23 million registered voters. Salt Lake County contains 40 percent of that State's voters. Such jurisdictions long ago availed themselves of the technology necessary for managing the massive volumes of data and votes for which they are responsible.

The New England townships may be able to conduct their manual counts of paper, though some recent studies question even this presumption. But faced with 9 million votes cast in the Chairwoman's recent election, the challenge is not simply one of different magnitude. It requires different methods.

The compelling if not unique responsibility of the Senate is to devise a remedy that works as well for 10 million votes as it does for 10,000.

Clearly there is no magic bullet to cure all election ills. S. 1487 recognizes this and addresses separately concerns of absentee voting, internet voting, provisional voting, early voting, and access for the disabled. Many of these latter enhancements, however, will become the unintended targets of the bill's paper bullet. Many of them can

reach their full potential only with the aid of direct electronic voting.

The paper mandate carries with it many subtle and potent disincentives to direct electronic voting. In doing so it harms accessibility, dramatically complicates early voting and voting centers, and, most importantly, undermines the development of alternatives compatible with the broader goals of election reform.

S. 1487 is aimed at the right target but it needs to be loaded with the right ammunition. With Federal support for the research and development in electronic security, 2010 is no further out of reach for 21st-century options than it is for a universal paper trail. And there would be far fewer unintended casualties.

That concludes my remarks, Madam Chairman.

I would like to ask very briefly that a couple of additional items be placed in the record. I know Connie McCormick of LA County has recently issued a report on their 1 percent manual audit. I believe she has contacted your staff and maybe sent it to them.

Also a Web security sourcebook that talks about the fact that--it basically says, "audit is best where it is largely automated." I would note that the primary author of that book is Avi Rubin.

[The prepared statement of Mr. Gilbert follows:]

Chairman Feinstein. Thank you very much and those items will be added to the record. Thank you, Mr. Gilbert.

[The information follows:]

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Chairman Feinstein. Ms. Noren, welcome.

STATEMENT OF WENDY NOREN,
BOONE COUNTY CLERK, COLUMBIA, MISSOURI,
REPRESENTING NATIONAL ASSOCIATION OF COUNTIES

Ms. Noren. Madam Chair, Ranking Member Bennett, and members of the Committee, I am Wendy Noren, County Clerk for Boone County, Missouri. I appreciate the opportunity to testify today on behalf of the National Association of Counties. I have been invited to comment on Title I and Title II of the Ballot Integrity Act.

Our concerns and comments regarding Title III will be provided in future correspondence.

Madame Chair, your background and service in local governments serve you well. We are grateful to you for taking the time to seek input from State and local officials before you introduced the Ballot Integrity Act and for your continued receptiveness to our feedback.

Chairman Feinstein. Thank you.

Ms. Noren. You not only listened to our concerns, you heard them and have already addressed them in many areas of this bill.

The intergovernmental and bipartisan consensus reached when HAVA was adopted set out a framework for implementation that I referenced in my written testimony.

This framework envisioned that Congress would set broad concepts for voting equipment usability, reliability, security, and accessibility. The EAC and NIST would develop standards. The States would design and implement uniform procedures. And the Federal Government would provide sufficient funding to purchase the equipment.

Because of implementation issues there are those who insist the underlying framework of HAVA was flawed and Congress should now legislate nationwide practices in election administration. I would argue that the approach laid out in HAVA was sound. It was a breakdown in the sequence of the timetables and funding shortfalls that led to the real and perceived problems we face today. A rushed implementation with incomplete standards and the funding gaps falling on counties is not a process we can afford to repeat.

I offer for their record a copy of testimony that NACo submitted earlier this year to the House Administration Committee that elaborates on this point.

[The information follows:]

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Ms. Noren. Although the National Association of Counties does not support this legislation in its current form, you have started the process of crafting a workable solution rather than merely legislating a response to concerns. Many of our remaining issues regarding Title I and Title II of this Act are detailed in my written testimony and are being addressed today by others in this hearing.

I do believe, however, that Title I and Title II of the Ballot Integrity Act largely represent a shift away from the one-size-fits-all model being considered in the House of Representatives and back towards the consensus framework we had with HAVA.

For example, I believe your legislation generally takes the right approach in providing Federal guidelines to assist States in developing their own audit procedures to be administered by their own local officials. We applaud the provisions of Title I and Title

It that recognize that developing testing and replacing voting equipment is a time sensitive process, gives States until 2009 to craft meaningful plans with local officials and stakeholders, maintains our commitment to millions of disabled voters who have finally won the right to vote independently and in private, and builds an emergency certification process for pre-election software changes.

These improvements are a direct result of your efforts to consult with State and local government officials. It is a testament to your commitment to local government that you have detailed your staff to work with us. I would like to commend the staff of this Committee for the many hours they have spent seeking input from county officials on the provisions of this legislation. They have been down this path with us before and understand the importance of keeping the lines of communication open.

This process you have started is, in my view, as important as the current substance of the bill. As you look towards revising the provisions of HAVA, I ask that you keep in mind that we have to get this right this time. We cannot afford to lose the goodwill of our voters or once again waste their scarce tax dollars on a rush to implement. This time let us have properly sequenced timetables that provide appropriately researched and tested equipment we can afford to purchase.

We look forward to continuing to work with you toward that end. I appreciate the opportunity to testify and would be happy to answer any questions.

[The prepared statement of Ms. Noren follows:]

Chairman Feinstein. Thank you very much, Ms. Noren, appreciate it.

Dr. Shamos, did I pronounce your name right?

STATEMENT OF MICHAEL I. SHAMOS,
PROFESSOR, SCHOOL OF COMPUTER SCIENCE,
CARNEGIE MELLON UNIVERSITY, PITTSBURGH, PENNSYLVANIA

Mr. Shamos. Yes, that is correct again, Senator.

Madame Chairman and members of the Committee, I recently completed my 121st voting system examination. and this January I served on the task force of the Florida Secretary of State, which examined the source code used in the disputed Buchanan-Jennings race, congressional race.

Let me say at the outset that every one of those experiences was educational, and I am going to be addressing only Titles I and II of the bill today, and I am in wholehearted agreement with their objective, which is to provide for verified voting in the United States.

The proposed bill, though it makes repeated reference to verification, does not come close to providing it. While a paper trail shows the voter that her choices were properly understood and recorded on at least one medium, it offers no assurance whatsoever that her ballot was counted, that it ever will be counted, or that it will even be present when a recount or audit is conducted.

Further, once the polls have closed, the voter not only has no recourse or remedy but is powerless to even determine whether her vote is part of the final tally or make any objection if she believes it is not. That is not voter verification, regardless of how it may be denominated in the text of the bill.

The bill provides for retrofitting of paper printers to existing DRE machines that do

not have them. Even paper trail advocates recognize that scrolled paper trails make it easy, not just possible, to determine how every voter in a precinct voted. The first voter's ballot is first on the tape, the last voter's is last and everyone else's is in sequential order in between. This problem is so bad that in Nevada in 2006 the Secretary of State refused to allow an unsuccessful candidate access to the paper trail, citing ballot secrecy as the reason. What good is a paper trail if it can never be used to audit an election or recount one without violating voter privacy?

The reason that mechanical voting machines were introduced over a century ago was to stop rampant fraud involving paper voting records which are easily tampered with. The very idea that a paper ballot is secure at all continues to be refuted in every election cycle. In Cuyahoga County, Ohio in 2006, 10 percent of the paper trail records were found to be illegible, defaced, or entirely missing after the election. Reliance on paper for trustworthy elections is thoroughly misplaced.

A further problem is that no commercial DRE system is currently available which meets the requirements of the bill. All of them either one, violate privacy; two, fail to produce records that are clearly readable by the voter; or three, are not accessible to the disabled. Thus, the practical effect of the bill is to outlaw DRE voting in the United States despite the fact that DREs have been used here for 28 years without a single demonstrated incident of tampering during an election.

The main problem with voting machines today is not security but reliability. Almost 10 percent of them fail on election day. While this does not normally result in loss of any votes, it greatly reduces public confidence in elections. It should be obvious that adding

a mechanical component such as a printer to a voting machine only reduces its reliability even further. Indeed, machines with paper printers fail at nearly double the rate of machines without them with one in five becoming inoperative on election day.

The bill's provision for manual audit, while laudable, is impractical. Based on tests conducted in California and Georgia it would take approximately 16,000 man-hours to obtain a reliable account of just 2 percent of the ballots in a State with 4 million voters. Because under the bill the audit must be completed before the election is certified, 100 people would be required full time to complete an audit in three weeks in just one State.

There has to be a better way, and indeed there is. However, if the bill is enacted in its present form, the better way will never reach the market because the requirement of a paper trail forecloses any possibility of continued research and development on better methods of voter verification.

A competition was held last week at a conference on electronic voting in Oregon to see who could present the best voter verified system. The winning entry, designed by David Chaum, allows what is called end-to-end verification. That is each voter can verify after the election has been counted that her vote has been tallied correctly and is part in the final total.

Another such system, fully accessible to the disabled, has been developed at Auburn University. It offers verification without the uncertainty of paper. No such verification is now possible with any commercially available system.

Chairman Feinstein. Could I stop you for a minute? Could you just briefly describe that Auburn system? I am not aware of it.

Mr. Shamos. Yes. It is called Prime III. It was recently developed. It has been tested in various elections on the Auburn campus. And the concept is very simple.

It is an example of what we call a witness system. A witness system has an independent mechanical witness with the voter in the voting booth that basically records everything the voter does, each selection of a candidate, each deselection of a candidate. Every time the DRE screen that the voter sees changes, a record is made of that change.

Then, on a completely independent device, not even manufactured by the same company, the voter gets to see the ballot that she has proposed to cast, and of course can go back and change it as many times as necessary.

That complete record of what the voter did can then be used to determine whether the voter undervoted, overvoted, left the booth without voting, or whatever. And this is all without violating privacy. It is not a TV camera that records the voter's face.

I have heard the argument that the requirements of the bill can be satisfied by simply adopting optical scan voting in which there is only a single copy of each voter's ballot. If anything happens to that copy, the voter's original choices become irretrievable.

It should be apparent that one paper copy cannot be as secure as multiple encrypted electronic copies stored in different physical locations. It is erroneous to believe that optical scan voting is more secure in some way than electronic voting.

One admirable provision of the bill is in lifting the shroud of secrecy that surrounds voting system software. But here the bill does not go far enough, in my estimation. One of the reasons there are so much public suspicion surrounding voting machines is that no

voter can determine how they work or verify that their logic is correct. Election dedicated software should be publicly disclosed. Public interest trumps any claim of confidentiality.

A frequently cited political motivation for adopting voting machine reform is to avoid embarrassment in future elections. After the embarrassment over punched cards in 2000, it was thought the changes mandated by HAVA would avoid future problems. They did not. And it is now proposed to add clumsy privacy destroying printers to the machines already purchased with HAVA funds.

Under the bill, by 2008 many counties will have used three different voting systems in three consecutive presidential elections. If the objective is to reduce embarrassment, it will have the opposite effect.

My purpose today is not simply to complain about the bill but to offer a constructive alternative. As part of my written testimony, I have included a complete markup of Titles I and II of the proposed legislation that retains its essential positive features such as voter verification but eliminates its ill-advised provision. I urge the Committee to take those changes into account.

I thank the Committee for the opportunity to testify today.

[The prepared statement of Mr. Shamos follows:]

Chairman Feinstein. Thank you very much.

I was reading along your written testimony and I do not have your mark-up of titles I and II. If you have another copy of it, may I have it?

Mr. Shamos. I think my staff has brought 25 copies with me.

Chairman Feinstein. I do not believe we have it. If you could get the mark-up

document to us, we would appreciate it. Thank you.

Mr. Martinez.

STATEMENT OF RAY MARTINEZ,
POLICY ADVISER, THE PEW CENTER ON THE STATES,
FORMER MEMBER, ELECTION ASSISTANCE COMMISSION, AUSTIN, TEXAS

Mr. Martinez. Thank you. Good morning, Madame Chairman, Ranking Member Bennett, and members of the Committee

My name is Ray Martinez. I am a former EAC Commissioner and currently serve as a Policy Advisor on Election Issues to the Pew Charitable Trusts.

Given the well-established history of State and local governments administering elections, the passage of the Help America Vote Act represented an unprecedented and truly historic decision by Congress to impose significant requirements to improve the conduct of elections. Never before in the great history of our country had Congress so directly intervened in setting minimal standards regarding the process of administering Federal elections.

What is important to remember about the historical context regarding the passage of HAVA is the consensus that is reflected in its overwhelming bipartisan passage. Rather than operate in a vacuum Congress sought broad and informed perspective from all election stakeholders, administrators, advocates, and academics alike, and moved forward with policy choices that, while not universally embraced, nevertheless reflected broad agreement of the election community.

And while HAVA mandated certain specific improvements to the process, it did so

by embracing important principles, namely greater accessibility, accountability, and accuracy in our elections.

Although I will not go into much detail, obviously my written testimony does, the Ballot Integrity Act of 2007 embraces similar core principles. And I would just briefly touch upon a couple.

First, verification of votes cast. As an EAC Commissioner, along with my former EAC colleagues, I supported greater use of logic and accuracy testing, parallel monitoring and acceptance testing by State and local jurisdictions. Moreover, in a 2005 commentary published in Roll Call, I called for voting system vendors to be required to submit their proprietary source code to the National Software Reference Library as a means of providing local election administrators with an additional tool to verify that the software operating in their voting systems is identical to that certified by a Federal testing lab. The Ballot Integrity Act of 2007 allows for this important requirement.

And as a Commissioner, I fully supported efforts by the EAC to develop overall management guidelines, including universal practices for security of electronic voting systems.

And yet while greater testing, more stringent access controls, and enhanced physical security to voting systems are prudent practices, many jurisdictions, as we have now heard, have gone even further. At last count, according to electionline.org, some 17 States use VVPAT, voter verifiable paper audit trails, and a number of others use paper-based system such as optical scan.

While I am not here today to endorse a specific method of achieving verification of

ballots cast, I am here to emphasize the importance of verification as a necessary requirement for any post-HAVA election reform bill.

While achieving verification, systems with a voter verifiable paper audit trail also have their drawbacks. For election officials, added complexity a legitimate concern for complications. For Americans with disabilities, a retreat from the significant gains made in HAVA requiring privacy and independence in the entire voting process.

We can do better. As others have stated, election officials deserve credit for taking appropriate steps to respond to the continued uncertainty by many Americans regarding the security of electronic voting systems. And yet across the country a majority of States have implemented systems which allow for verification of ballots cast. In my view, a new consensus is emerging among election stakeholders that verification of ballots cast is necessary. What is still in debate is how best to achieve this outcome.

The Ballot Integrity Act of 2007 places much needed emphasis on this important principle and mandates the testing and development of best practices to enhance the accessibility of both vote verification mechanisms.

For now, in my view, the efforts currently underway at NIST under the guidance of my former agency, the EAC, to develop additional methods of achieving verification of ballots should be fully and vigorously supported.

Admittedly it may take a number of years to develop, certify, and implement but the voting system of the future should be required to fully embrace the notion of verification while giving election officials and voters greater choice and added confidence in the accuracy of our election outcomes.

My written testimony goes into further detail regarding other aspects of the Ballot Integrity Act of 2007 and I would be happy to address any questions.

Thank you, Madame Chair.

[The prepared statement of Mr. Martinez follows:]

Chairman Feinstein. Thank you very much, Mr. Martinez.

I just have a couple of questions. If I might begin with Ms. Markowitz, you mentioned that paper trails do not exist for all types of voting systems. Would you expand on that, please?

Ms. Markowitz. Yes, thank you. As other panelists have mentioned, with the direct recording electronic equipment, while there may be paper trails those paper trails do not necessarily meet the requirement of durable paper as described by the bill.

In addition, the bill requires that the VVPAT be accessible to people with disabilities and that technology does not exist yet.

And so our concern is that we want to not be in a position like we were after the Help America Vote Act of scrambling to purchase equipment that we were not sure was going to meet with Federal standards once those standards were created.

So we are asking for a logical sequence that we first decide what it is that we want manufacturers to produce and test and certify them before, in the States, we are in a position of having to invest significant sums of money.

Chairman Feinstein. I think the question of how you accommodate the disabled is one of the most complicated questions we have because different people think different things need to be provided. And so I would just ask the question if you provide for

accessibility and for verification of a vote, do you believe that is sufficient or not?

Ms. Markowitz. I believe that there are many different ways that votes can be verified. I was interested in hearing Dr. Shamos's testimony about fully electronic verification systems. And I think we should encourage innovation.

In addition, I think if we think about the VVPAT, the voter verified paper trail, as being part of an audit function the question--statisticians have looked at this issue and I do not remember the statistic exactly. But if it is about 1.5 percent of the voters look at the paper trail, that is sufficient to give you 99.9 percent certainty that the machine is accurate, that there is accuracy. And so that means that not every voter needs to participate in the audit.

The bill is silent, though, about what happens if you find an error, if you are looking at your paper trail and what you voted in the machine is different than what is on the paper trail.

Chairman Feinstein. Good point. Thank you. Thank you. That is helpful and we will make a note of that.

Mr. Shamos, I asked my staff, I said what is wrong with what he is saying? And the response I got is well, it is one black box connected to another black box and it raises a question of trust. How would you respond to that?

Mr. Shamos. Well, we certainly trust black boxes a lot in other walks of life.

Chairman Feinstein. You may.

Mr. Shamos. We certainly trust them on airplanes. But the ballot box is another black box. And with great regularity, black boxes and their content are found in places

they should not be found after the election. In 2004 ballot boxes were found floating in San Francisco Bay three weeks after the election.

The problem of maintaining physical ballot security over the huge number of polling places, 170,000 polling places in the United States, is not a solved problem. The entire history of ballot fraud has been caused by manipulation, simple manipulation, of paper ballots, loss, alteration, substitution, et cetera

Chairman Feinstein. So you are saying that the system that you are proposing is foolproof with respect to manipulation?

Mr. Shamos. Foolproof is a dangerous word. It would be difficult to say that anything is foolproof. Yes, there is one black box and there is another black box. But the output of the boxes is visible to the voter. That is the difference.

And also, we test black boxes all the time. With sufficient testing, it is possible to determine that there has not been any chicanery going on in the boxes. Not with 100 percent certainty, that is never possible. It is certainly not possible with paper ballot systems.

Chairman Feinstein. Thank you very much. Senator Bennett.

Senator Bennett. I want to thank all of the members of the panel. I find a theme running through your testimony here, which is you think we are on the right track but you do not think we are there yet. Is that a safe summary?

[Witnesses nodding affirmatively.]

Senator Bennett. As I have looked at this issue, and Dr. Shamos your comments I think speak to this, I find the biggest area of fraud is not with the system but with the

individuals. You talk about ballot boxes floating in San Francisco Bay. The system did not put them there. Some individual who wanted to prevent those ballots from being counted physically took them out and dumped them in San Francisco Bay.

The example that I used from the hearing that Senator Lieberman chaired, some official allowed a dog to vote. It was not the system that was created. Some official allowed a dog to vote.

We have all heard the jokes about Cook County in Illinois. Senator Sarbanes had one, and I will not take the time to describe it--well, maybe. Two people out copying names down in a cemetery. And one says to the other--it was at night. One says to the other, it is coming dawn, we had better leave before we get caught. And the other said I am not finished yet. He said well, we had better go. He said no, the people in this line of graves have just as much right to vote as the people in the line of graves that you went down.

These are the areas where we have seen the greatest vote fraud of people either misusing paper ballots. As you say, it is easier to manipulate paper ballots.

We are focusing so much on the system that we fail to recognize that the problems that have arisen of ballots being stolen or votes being changed comes on the part of individuals.

So the thing that attracts me the most to what you are talking about is that it would be very difficult for a corrupt election official to change that system that you have described at Auburn University--it would be much more difficult to change that system than it would to pick up a box of paper ballots in a precinct where you know the majority

of the ballots will be cast against your candidate and dump them into the San Francisco Bay.

Is that a fair description of what our problems are? Or am I overreacting to what I heard in the previous hearing?

Mr. Shamos. Well, aside from inadvertent malfunction, all of the difficulties with voting systems are caused by human beings, whether it is by programmers or voters themselves, outsiders or insiders. That is correct.

The Auburn system that I have learned about recently has a very high level of security built into it. The records are maintained in such a way that even if someone gains access to the computer and attempts to alter or destroy them, it is impossible for that person to determine which are the real records and which are dummy records. So there are all kinds of checks and balances built into that system to prevent even determined manipulation.

Chairman Feinstein. Except how do you know? There is no way, if somebody hacks into the system, how can you know that?

Mr. Shamos. Because there are independent records. There is one system that is recording the votes. And then there is the other system that is the witness that is watching all of the events. And so those things have to be in synchrony. And if they are not, then we know the election has been tampered with.

Senator Bennett. So you would have to hack into both black boxes and then know what you were looking for the second black box in order to change it to match what you

had changed in the first. And that would be very difficult. Is that a fair summary?

Mr. Shamos. Yes. And it is not even possible to hack into the second one in any meaningful way. You can certainly hack into it, but the voter gets to see whether the appearance on the second screen is the same as the appearance on the first screen. So if you have changed something the voter will see that.

Senator Bennett. That sounds great. It also sounds very expensive.

Mr. Shamos. That is always the problem, Senator. The comparison is often made between ATM machines, which all believe are highly reliable, and voting machines, some of which are made by the same corporation. And we wonder why we cannot get the same level of reliability. The answer is that an ATM costs 10 times as much as a voting machine.

Senator Bennett. And I have had problems with ATM machines in my life.

[Laughter.]

Senator Bennett. One of the problems, which has to do with what we are talking about here, is that the receipt I get is smeared or it is jammed. And also it is not--the ATM tag is not the definitive record. Because if it were, I would tap into the ATM machine that I had just deposited \$10,000 and the slip that comes back says \$10,000. And then the bank looks in it and I have put in \$1.50 and they send me a note, saying that the tag you received is not accurate because they checked what really happened. So I do not think that it is a legitimate comparison.

The Chairman suggested that I ask you how far away are we? And how much money are we talking about if we were to mandate in all 170,000 voting places the kind of

thing you have described?

Mr. Shamos. Four years ago we were light-years away. When all of the public attention came to be focused on voting systems within the past four years a lot of people on their own initiative began to do research even to understand what voter verification really means and whether it can be theoretically achieved or practically achieved. And recently, because of the holding of these competitions around the country, a huge amount of research and development at the academic level has gone into such systems.

What we need to do is convince the commercial sector that these developments are worthy of going forward to viable commercial products.

Senator Bennett. We do not know. But the other problem, and I will quit, in the State of Utah we feel very good about what we have got. And it does not qualify under this bill. It would have to be thrown out after a lot of research, a lot of work, and a lot of money to put it in place and our experience with it in an election and it worked. Then we would say okay, you have to throw it out. I know I would get significant resistance because they would say demonstrate that what we have got is not working before you insist that we have to throw it away.

Senator Alexander. And demonstrate that the substitute would be better.

Senator Bennett. Would be better, yes.

Thank you, Madame Chairman.

Chairman Feinstein. Thank you, Senator. Now I know your problem with the bill. I appreciate it.

Senator Chambliss.

Senator Chambliss. Thank you, Madame Chairman.

And let me just say that I think of all the hearings we have had in this Committee since I have been here, there has been no more important one than this one. I thank you for bringing this issue to the forefront here.

I think we have to be careful as policy makers to make sure that we listen very closely to what these folks have to say, and the other folks who will be here today, because we should never substitute our judgment for the judgment of the folks who are on the ground and doing the Lord's work in making sure that all of our elections are conducted properly. I commend all of you for being here today and giving us this insightful testimony.

Mr. Gilbert, we welcome you back, obviously for the reason that you are a former staffer. But you also happen to come from a county that, as any student of American history knows, was critically important to the American Revolution. And because of that revolution we are able to cast these votes that you folks so importantly supervise.

Mr. Buchanan's book, *On the Road To the Guilford Courthouse* is one of the best recounts of that part of the American Revolution I have ever read. So we welcome you for a couple of reasons.

Mr. Gilbert. Thank you, sir.

Senator Chambliss. To Ms. Markowitz and Ms. Noren, you both mentioned this issue and so I want to direct this question to you.

In your testimony you touched briefly on the unrealistic timetables and the funding levels of those mandates in HAVA passed back in 2002. You further indicate that many

of the goals detailed in HAVA have yet to be met, now going on five years later.

In an effort not to relive the mistakes of the past, can you elaborate on some concerns you may have with S. 1487 as currently written, particularly with respect to Title III?

Ms. Noren. Thank you.

The timetables, we had hoped that we would have standards for voting equipment in time for them to be manufactured before we purchased them and tested. That did not occur. We had partial standards approved by the EAC a few months before we had to start implementing, no time to manufacture them. The full set of standards, we heard yesterday, are probably going to come out of the TGDC next month, another six months or a full year of comment period and work by the EAC before we can start manufacture on the standards we thought we were going to get out of the 2002 thing.

Meanwhile, we all purchased equipment that was not going with those. We have been working with that. That has brought about some of the problems.

Many of us face funding shortfalls. My own State, we only got coverage for 70 percent of the purchase of the equipment. We did not get full purchase price coming out of our State to local governments.

When we do not know the equipment we are going to have, we do not know whether the funding that is in this bill is adequate. I think the Chair should be recognized for not trying to over promise things or promised more than there is a commitment to do.

But I think, and NACo has been on the record for seven years, we have got to work out how we are going to fund elections in this country. It has to be a shared

responsibility. It cannot all be the Federal Government, all be State, or all be local. We do have a mix match, just like anything else.

We may want to take this opportunity to look let how are we going to share the responsibility of the cost of democracy. Because I assure you my costs have doubled since we implemented last year. And that is just not county government. These are your schools, your municipalities, your fire district, your road districts are all facing these same costs because their elections have to go along with the same kind of equipment rules.

Senator Chambliss. Ms. Markowitz.

Ms. Markowitz. Thank you.

One of the challenges we face in our States is that we cannot make changes overnight. In part, it is because we have to first change our State laws to take into account the new Federal requirements. But then we also have many requirements with respect to public bidding which make very good public policy sense.

So if you kind of walk back from implementation date to the date that we need to know what it is that is going to be required Federally, we really need quite a bit of lead time before we can successfully implement change.

And that was essentially what we faced with the Help America Vote Act, whether it was the statewide voter registration database, the advice from the EAC on what those databases, the standards those databases needed to meet came out two months before we were supposed to have them fully functioning. So realistically in our States we have to guess, we have to make a best guess at what those standards would be requiring.

The same thing applied to the voting equipment. And Ms. Noren described her

experience in her State. Of course, in Vermont we did not need to transition to new technology so I do not have personal experience with that in my State.

But I can say that even basic rule changes that affect how our election workers operate on election day, how they interface with the statewide voter registration database. We need time to train our poll workers. And so I would ask, as you are looking at changes in the Federal law, that you keep that in mind.

Senator Chambliss. Just very quickly to all of you, are the timelines in this bill doable?

Ms. Markowitz. Well, insofar as they require some technology that does not yet exist, I think there is a problem.

Chairman Feinstein. Which they do not require any technology that does not exist.

Ms. Markowitz. Well, it would require people to produce optical scan machines. If we look at--if the piece of--the accessibility piece on a paper trail does not yet exist. So there is no technology right now that allows a person with disabilities to check a voter verified paper trail to make sure that it conforms to what they believe they voted on the machine. And so that is problematic for those States that use the DRE machines.

Senator Chambliss. Thank you.

Chairman Feinstein. Thank you, Senator, appreciate it.

Senator Alexander, welcome. Delighted to have you here.

Senator Alexander. Thank you, Madam Chairman. And I thank the witnesses.

Madame Chairman, I would like to include in the record of the Committee a letter from our Secretary of State in Tennessee and our State Coordinator of Elections, Riley

Darnell and Brook Thompson, who outlined their concerns about the legislation.

Chairman Feinstein. Thank you. So ordered.

[The information follows:]

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Senator Alexander. Thank you very much.

Reflecting on those concerns and following up Senator Chambliss's comments, I would like to ask the panel, especially the representatives of State and local governments, to elaborate a little bit on the issues of time for compliance and proper funding. The Chairman of the Committee, the Chair of the Committee, is a former mayor. I am a former governor. Sometimes we find ourselves on the same side of issues when Washington comes up with big ideas and announces them. I know that nothing used to make me madder as governor than when some congressman or senator would come up with a big idea, announce it, hold a press conference, take credit for it, and then send the bill to me. And then usually come home to the Lincoln Day dinner and make a big speech about local control. That is what usually went on.

That happens pretty regularly up here. One of the most recent examples has been the REAL ID legislation that was stuck into a troop funding bill. States are struggling with how to pay for this secure ID card and whether a driver's license is the right secure ID card in this time of terrorism.

What I am looking for is a way to judge what the cost will be of the law that we might pass here. One of the procedures that the Congress adopted earlier was called a negotiated rulemaking provision. One example of it was after the 9/11 Commission made

its report the Congress adopted the Intelligence Reform and Terrorism Prevention Act of 2004. And it included what was called a negotiated rulemaking committee which included representatives of State offices, of the Department of Transportation, and other interested parties. And the Department of Homeland Security was to work with all of those in trying to assess what reasonable deadlines would be, what implementation schedules would be, and what the actual costs and benefits of all the mandates would be. Providing that information then to Congress so we would not end up imposing, as we did with REAL ID, a cost that may be \$11 billion over five years and only appropriated \$70 million to help pay for it.

So my question is can you think of a better way or do you think the negotiated rulemaking provision would be a good way in legislation like this to help make certain that whatever we require State and local governments to do we pay for?

Mr. Gilbert. Senator, if I could address that a minute, the biggest cost that we are looking at at this point in time is probably, with the bill as it is, the cost of manually counting those ballots. I think that really needs to be looked at carefully, and the documentation that I submitted for the record from Los Angeles County addresses that, as well as several other testimonies.

I think maintaining flexibility in the mandate itself is probably the biggest thing that you could do. Getting the technology that we need into the competitive market will have more effect on reducing the cost than almost anything else that you can do.

Distributing the cost is one thing but lowering the cost is the best way. If you mandate independent verification of ballots, then the industry, the vendors that are

involved in this industry, will be forced to compete with each other to come up with the most cost-effective methods of accomplishing that verification.

Senator Alexander. But if we mandate it, in my view we should pay for it. How are we going to know what the cost of the bill is?

Mr. Gilbert. I am not sure that it is going to cost any more if you use electronic technology. I know the cost of electronics has gone down in every area in which it has been applied. We found that the voting machines that I am purchasing today are less expensive than the electronic voting machines that I purchased 20 years ago by half. I do not think that we can predict that there is going to be an increase in cost.

Senator Alexander. But wouldn't there be an increase in cost if Utah has to replace what it has got?

Mr. Gilbert. It would certainly be an increase in cost--

Senator Alexander. Well, that is a mandate. Is it not a mandate if you say to the States that you have to do a certain kind of audit rather than the kind of audit you would like to come up with? And that is an additional cost. Mr. Gilbert. And I think any kind of viable audit, we are looking at in this bill is envisioning 2010. If we are having to change our voting systems, the certification process that we have to go through now adds at least two years to that process. So if you ask about the viability of the time frames, by 2010 maybe the technology can be ready. Probably not ready and certifiable by that time.

Senator Alexander. What I am really trying to get is how can we know what the bill is going to be?

Mr. Gilbert. You cannot.

Senator Alexander. Then I will vote against the bill. We have a 10th Amendment and we have a tradition that says that if we are going to mandate it, we ought to pay for it. In fact, the entire Republican Congress ran for office on that in 1994 and said if we break that promise, throw us out. And the voters did last year, partly for breaking the promise.

So can you not make any suggestion about how we can know what the bill might be for legislation that we are about to pass on State and local governments?

Ms. Noren. I think I did try to bring up a concept in my written testimony. And this is what I am talking about, sequences and timetables. That we have a process by which we have the period where NIST and the EAC would develop the guidelines. At the end of that time we would know and manufacturers would know.

At that point it is the time to start determining cost estimates. Because I know the EAC and NIST are both very sensitive to the cost of this equipment. At that point, you need to tag appropriations and do that.

We do not know--I can look at my machine, and the same is what they have in Nevada. And I can think well, if the EAC and NIST were to design something that would read the barcode with the barcode scanner and convert it to audio for a disabled person, maybe I can keep that equipment and utilize an addition to it. That is much cheaper than getting rid of that equipment. I do not know if under this bill they are going to assume that this, because it is a reel to reel paper trail, I can keep that.

This is one of the reasons my suggestion is we need the EAC to notify us fairly quickly after a bill like this is passed what does comply with this bill and what does not. Again, there is lots of discussion about what will comply and what will not. We need a

definitive answer of that fairly quickly on there.

So once we get those kinds of things, you can start determining the funding of this.

Senator Alexander. Madame Chairman, my time is up and I thank you.

I would like to suggest that maybe the negotiated rulemaking process or some collaborative process between mayors and governors and States might be a good preamble--

Chairman Feinstein. I think that is a very good idea. I really appreciate it.

Senator Alexander. Just as a matter of consideration.

Chairman Feinstein. I will do it. As a former mayor, I strongly believe in local control. So I am happy to do that.

On the funding, this is a difficult problem because we do authorize \$600 million in this bill, \$300 million over two years. You can say this is not that, or it is not enough, or is not this. I think it is almost impossible to predict exactly what costs are going to be. And people have different views of those costs. I am not sure that is reconcilable.

I do think that we have to make the bill as practical as we possibly can. And where we can save counties money, we should to do that as well.

So I think, Senator Alexander, you have given me a very good idea. And we will sit down with various local--and the staff has been trying to do that, as some on the panel indicated before you came in. This is not an exclusive process. We have tried to make it as inclusive as possible. I do not plan on moving the bill until we really have something that we feel there is a wide buy-in to.

So let me thank this panel. I think it has been very helpful.

Senator Bennett. Madame Chairman, can I make one quick comment before we dismiss the panel? I have been ended timelines that have been developed by the Electronic Technology Council. I would ask that this be put in the record.

[The information follows:]

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Senator Bennett. Running it down, the timeline for a minor software change to a voting system is 18 months. For a minor hardware change to a voting system is 24 months. For a major software change to a voting system it is nearly 36 months. For a major hardware change, it is 42 months. And we are 42 months away from 2010. And for new product development it is 54 months.

Does that sound--

Mr. Shamos. Yes.

Senator Bennett. Thank you very much.

Chairman Feinstein. I think that is helpful. As we know, the House bill is 2008. This bill, at the present time, is 2010. We may well have to adjust that date. So we might want to go out a little farther. That remains to be seen and we will talk about it.

Let me thank the panel. Let me just urge you, please stay involved. Please let us know your thinking. If you have new ideas, please give it to us. This is a difficult area in which to legislate. So we appreciate all the help we can get.

Thank you very much and we will proceed with the next panel.

I will begin the introductions. Unfortunately, I have to leave at noon so this may be

a brief panel.

I will introduce Mrs. Mary Wilson. She serves as the President of the League of Women Voters of the United States. During her 20 years of League service at the national, State and local levels, she has been instrumental in guiding the League's democracy agenda and voter services. She is also an attorney and partner in the law firm of Aungier and Wilson of New Mexico. She will address voter registration issues and other core Title III provisions.

I began my political life with the League of Women Voters so I am delighted that you are here.

Mr. Doug Lewis is the Executive Director of the Election Center, a national organization of election and voter registration professionals established in 1994. The Center is known for its education and training programs for State and local election and registration officials. He is also a consultant and owner of a computer software business. He will discuss the Federal role in elections and the concerns of State and local election officials regarding Title III.

Ms. Tanya Clay House is an attorney who serves as the Director of Public Policy of the People for the American Way, an organization associated with voting rights for decades and a leader in election reform since 2000. She is also a former Senate staffer who worked in the office of my Senate colleague, Senator Barbara boxer. She will discuss election reform issues at the Federal, State and local levels, focusing on election observers, voter registration, distribution of election day resources and conflict of interest problems.

I would urge the panel, because of the time bind, to really confine your remarks to the five-minutes provided.

We will begin with you, Mrs. Wilson.

STATEMENT OF MARY WILSON, PRESIDENT,
LEAGUE OF WOMEN VOTERS, WASHINGTON, D.C.

Ms. Wilson. Thank you, Madam Chair.

On behalf of the League of Women Voters, I thank you this morning for inviting me to speak to you about this very, very important piece of legislation, the Ballot Integrity Act. We commend you for the innovations that are included in that bill.

The League of Women Voters is a nonpartisan community-based organization. We have 850 local and State leagues across the country. We are in every State in the union.

We, for the 87 years of our history, have had as our goals to educate the electorate, to register voters, and to make Government more accessible and responsive to citizens.

We have, over the last several years, participated in a number of endeavors to reform the election administration process. Our approach has been rather simple. We support those election practices that increase voter participation and protect votes. And we oppose those that raise barriers to voting.

In Title III, the section of this bill that I am here to address today, and I might mention that my written statement does make comments on Titles I and II, but I will confine my remarks this morning to Title III:

We followed those basic principles in reviewing Title III and we found many, many good points in Title III. But first of all, I would like to address the issue of whether or not Congress should act, whether or not Congress should legislate and mandate on a Federal basis certain election administration practices.

We, in the League of Women Voters, certainly do not advocate federalizing elections. We believe that we have a very good history of election administration being left to the day-to-day operation of State and local election officials. We have very many dedicated election officials at the local and State levels.

But given our history in the League of Women Voters, recognizing that we worked for many, many years to succeed in getting women the right to vote, we are very well aware that the right to vote is a constitutional right. It is a Federal right, guaranteed by the Constitution. And therefore we do think that Congress has a vital role in the process of reforming election administration.

Along that line, we view Congress's role as being twofold: looking from a fact-based standpoint, from genuine facts, not myth, not anecdotal evidence, but true facts. It is Congress's role, we believe, to stop any practice which would undermine the right to vote, that precious right guaranteed by the Constitution.

It is also Congress's role when, based on facts, there are practices which would increase voter participation or better protect the votes of our citizens, then it is an appropriate role to ensure that those practices are adopted across the country.

We believe that in Title III there are numerous provisions which do exactly that. As for third party registration, we in the League of Women Voters have registered voters for

all of the 87 years of our history. We view it as a service. There are statistics which clearly show, and I cite them in my written testimony, the importance of third party registrant helpers. We assist voters in registering to vote.

I enumerate in my written testimony the many points of Title III which we view as protecting the right to vote. But I would like to stress a couple of additional things that we would like to see in the legislation.

We believe that State chief election officials should be asked--be required to review ballot design because we still see a lot of disenfranchisement because of poor ballot design.

And finally, on the point of Federal funding, Federal elections are Federal elections. State elections are State elections. There is a role for the Federal Government in paying for Federal elections. America needs to get real about the resources that are required to run elections in a manner that is consistent with our democratic ideals.

Thank you.

[The prepared statement of Ms. Wilson follows:]

Chairman Feinstein. Thank you very much and I appreciate it, Mrs. Wilson.

Mr. Lewis, welcome.

STATEMENT OF DOUG LEWIS,

EXECUTIVE DIRECTOR, THE ELECTION CENTER, HOUSTON, TEXAS

Mr. Lewis. Thank you, Madam Chair, Senators.

The Election Center actually was started in 1985 by two former Government

employees who worked for the Federal Government on elections work and came to the conclusion that the Federal Government was never going to be capable of doing what it really needed to do in terms of making elections better in America. So that is how we got started in 1985.

Our group, or organization, is nonpartisan, nonprofit, and we represent the elections officials at the local and State level all over the country in terms of how they do this process.

I think, before I really go into some of the specifics of the legislation--and there are some parts of it that are really absolutely magnificent and other parts that we at least have concerns about--my concern is at the current time that when we had the Help America Vote Act passed, the Help America Vote Act resulted as a bipartisan actual real need that had to be met and both parties felt it had to be met. And almost all of America agreed with that.

We are now at a point where we are starting to talk about election reforms that are not as universally accepted. And certainly I think, as you have listened to the elections administrators comment on this and certainly particularly what they have commented on in terms of the House legislation, and as they will begin to come in on now that this legislation is out and being looked at hard, we see it differently than some of the advocacy groups. We are the folks who are actually going to have to run this and make it work.

And yet at the same time, there has been a frustration to a certain degree that those voices are not being heard as well as they probably ought to be. Not, certainly, I

think from your Committee because you have a clear reputation as being open and inclusive and we are proud of that.

But it is one of those where we believe that this proscriptive stuff that comes from the Federal Government is probably not as good as setting goals and objectives. The beauty of what the Help America Vote Act actually did was to create goals and objectives and then recognize that other levels of Government--State and local governments--could figure this out better than the Federal Government could, than the Congress could. And so they left it to be designed at that and it worked pretty well.

Now I am going to say to you five years later, we are still trying to implement some of it because of the timelines, as you heard earlier. The timelines were out of whack. Actually, one of the things that is underestimated here is that it takes from that day that the EAC and NIST get done with standards, that day--and that takes them a year to two years to develop those standards--it takes them five additional years to actually get that into the marketplace to where somebody can use and be trained on it and know that we can run an election on it with a halfway decent chance of coming out with a good election.

So what you are looking at there is a minimum six years from whatever you are wanting to do in this. And so it sort of is one of those things, if we order these massive changes, that we need.

I love your handling, quite frankly, of the source code issue. You and your staff did a marvelous job of actually making that revealed rather than open. Revealed is a better concept here.

We are looking at, because Congress did not listen to us on what it was going to take to do statewide voter databases, we told them that we had looked at the States that had done it, for instance, in the past and that the history there showed us that that was seven years from the date of concept to the date of implementation to where it was bug-free and they could actually count on it, was seven years.

Congress basically, because it needed to respond in a hurry up kind of fashion, made sure that they did that. But they ordered it in too short a time frame. As a result, we see uneven application of those statewide voter databases now.

Chairman Feinstein. Let me just interrupt you for a minute. Based on what you have seen and the analysis of what we are trying to do, would you say we should extend the timeline another two years? Should we take it to 2012?

Mr. Lewis. I think two is a minimum. I think two is a minimum.

Some of these things you can obviously have happen in stages that do not take as long as others. But it would seem to me if you really wanted the best goal in all of this, set everything for 2014 so that we are not doing it in a presidential year, that we go through our process and learn what we need to do and have that test year, test elections, to be able to do that before we actually jump in to a new presidential election.

From our standpoint the better strategy is to say here are the goals we want, here are the objectives that we want, we want the States to come up with the answers to this, and we will have it ready by 2014. I think if you do that, then we can actually make some of the things that you are looking for actually come together and happen.

In terms of the audit provisions, I honestly think, Senator, that that is going to be

the part that just costs us billions of dollars and goes on as an ongoing cost and really satisfies not much. We need to know what it is your objective is in terms of audits. You, as the Senate, what you want out of these audits. Once we get to that point then we can probably help you design a better answer to it.

As I suggested in the written testimony, I think probably the answer you are truly looking for is maybe asking for and insisting on automatic recounts rather than ongoing audits that eventually are going to have little meaning but will be left as a residue for local governments to have to live with.

I think the DREs are important to this process. And if we keep trying to force--the definition that is in the bill right now basically kills DREs. It says that they cannot exist if they do certain kinds of things and therefore you cannot use them if they do not do these kinds of things. And that really basically means we have got to wipe them out by 2010, the way the legislation is spelled out. That is probably not useful at this point.

And again, if we could sort of live with that, we may want to add some kind of paper trail to it before then. But if we can live with that until 2014, until that next generation can be designed to meet all of the goals and objectives of the Senate, I think we are better off.

Costs are going to go up, quite frankly. I heard some of my colleagues say that the costs were going down. The truth of the matter is that all of the vendors just raised their cost. The cost of complying with the testing program that is now at Federal Government level is not only double but triple what it used to be. As a result, all of the vendors are having to now increase their costs.

Now that may be a temporary condition. It may be that over the next five, eight, 10 years that they finally get used to all of that and be able to absorb that. But right now each one of them has told their jurisdictions that they are going to have to pay more money.

I am over time and I will shut up. Thank you very much.

[The prepared statement of Mr. Lewis follows:]

Chairman Feinstein. Thank you, Mr. Lewis. That was helpful. Thank you very much.

Ms. House, welcome.

STATEMENT OF TANYA CLAY HOUSE, DIRECTOR OF PUBLIC POLICY,
PEOPLE FOR THE AMERICAN WAY, WASHINGTON, D.C.

Ms. House. Good morning, Chairman Feinstein, Ranking Member Bennett, and the Committee members. Thank you for allowing me to speak with you here today.

I am the Director of Public Policy at People For the American Way and Director of Federal Legislation of our Democracy Campaign on Voting Rights and Election Reform.

I would also like to thank my husband for being here with me today to support me, and I ask your indulgence to be kind with me today.

Founded by Norman Lear, Barbara Jordan, and other civic-minded leaders, People For is a national nonprofit social justice organization with more than one million members and supporters and more than a quarter-century of commitment to nonpartisan civic participation efforts.

Our efforts through the Democracy Campaign encompass advocacy on both State

and Federal legislation, the protection of voting rights through the judicial system, and year-round work with election officials including our leadership efforts in the Election Protection Coalition. I refer you to my written statement for more background about the Democracy Campaign.

The Democracy Campaign has enabled People For to better assess and respond to the problems of the recent elections. Our work has been the impetus for the development and support of various pieces of legislation to address election problems, including such comprehensive reform measures such as Senator Clinton's the Count Every Vote Act.

The Ballot Integrity Act is a well-intentioned bill and People For supports the substantive goals of this bill because of what it would mean for so many voters, a removal of barriers to the ballot.

While we always look forward to improvements in all bills as they move through the legislative process, we strongly support the need for voter verification and auditability, preferably by the 2008 presidential election, research on accessible voting technology and all the provisions encompassed in Title III that serve to more comprehensively address disenfranchisement tactics.

Although we have uncovered problems supporting the need for every section of this act, at the Committee's request I will confine my remarks to Title III.

While State laws protect the ability of partisan observers to monitor elections, currently there are no uniform provisions that allow nonpartisan organizations to monitor elections in the polling place. In 2006, through Election Protection, People For was

witness to the insertion of large numbers of partisan challengers into an electoral mix that, among other things, already included new voting technology, voter identification, and provisional ballot problems. This created chaotic conditions that had the effect of disenfranchising large numbers of eligible minority voters.

Nonpartisan observers help create transparency, boost voter confidence, protect against inconsistencies, or potentially illegal activities, thus assisting in creating a fair and impartial polling place.

In 2006, problems related to voter registration remained consistent and pervasive throughout the U.S. Next to voting system problems, voter registration issues were the most frequently reported election--related problems reported to the Election Protection Coalition, accounting for 16.3 percent of our problems in 2006 and 25 percent in 2004. Hence, the urgency of the Chairman's bill cannot be overstated.

Regulatory interpretations that affected registration groups, such as People For's Victory through Voting Program, subjected volunteers to fifth degree felony convictions for immaterial mistakes on the registration forms. Although some of these more egregious barriers were ultimately eliminated, the practical effects of these interpretations was to stifle voter registration drives. This is just one example of many that I have expanded upon in my written testimony.

Perhaps more disturbing than the rejection of voter registration forms, however, were efforts made to block nonpartisan organizations like Mi Familia Vota from helping voters to register. Suffice it to say that we hope that provisions in the Ballot Integrity Act will limit such gross violations in the future.

The voter list management provisions in the bill are extremely important and we gladly support their continued inclusion in the bill.

Addressing concerns about conflict of interest is equally important. In recent years the country has faced very public conflicts or the appearance of conflicts that jeopardize voter's faith in the fairness of our elections. In the 2000 and 2004 elections there were examples of two Secretaries of State that also served as the campaign co-chairs of a presidential elected. These dual roles severely colored their actions to oversee their State elections. To encourage greater confidence in the management of our elections, we firmly believe that this should not be allowed to continue.

Americans trust in the integrity of our elections. It is the cornerstone of our democracy. Though some may argue that the Chairman's bill is intended to overly intrude upon localities and politicize highly charged issues, People For firmly believes that it is the responsibility of our Federal public officials to protect that right to vote. We salute the Chairman and your staff for introducing this bold and critically needed legislation.

Thank you.

[The prepared statement of Ms. House follows:]

Chairman Feinstein. Thank you very much.

Senator Bennett, why don't we begin the questions with you.

Senator Bennett. Thank you very much.

This is a tough problem. Let me just outline what I see as the overall landscape and get your response to it.

We have registration--well, we want everybody to vote. We want as many people

to vote as we possibly can.

At the same time, we do not want anybody voting twice. We do not want anybody voting fraudulently. So we create a system where people have to register in advance, presumably so that somebody can check that registration to make sure nobody is voting twice.

I think that system has been overwhelmed by the numbers. I do not think anybody checks any registration in advance.

Some attempts have been made to check the registration to see if there are duplicate names or if there are felons on it. But that has given rise to the kinds of charges that have been made by People for the American Way that say they want to purge real voters. But the registration presumably is to see to it that people only vote once.

We want as many people to vote as possible, so the League of Women Voters goes out to help people that would not otherwise vote. That is a commendable thing. So we like the idea of third-party registration. And then we see efforts being made where fraudulent names are put in by third-party registration and nobody knows about it and nobody checks on it and the opportunity for vote fraud is very real.

That is the balance we have to face. We want everybody to vote but we do not want anybody to vote twice. My own sense is that we are moving towards getting both results much better than we have.

You read the political history of Lyndon Johnson. I think he probably won the first Senate race but got counted out by vote fraud after the fact. I do not think anybody

knows or ever will whether he won the second race that actually put him in the Senate because both sides were manufacturing votes like crazy on election night and it was a question of whether his side could manufacture more votes than the other side. And finally he became known as Landslide Lyndon by an 87-vote margin and there is absolutely no way anybody is ever going to know what the real results of that election were. We have come a long way from those days but we still have the same dilemma.

So help me understand how we can get everybody to vote and, at the same time, recognize that there are people, organized people, who want to create phantom votes and steal elections. How do we do that? Isn't that basically what the dilemma is and what you are raising here?

Ms. Wilson. Senator Bennett, I would like to say--

Chairman Feinstein. Would you pass the talk button.

Ms. Wilson. Senator Bennett, I would like to say that I think that the provisions in Section 302 of this particular bill do a very good job of balancing that particular issue because, while they prevent restrictions being placed on third-party registration, people who help in the third-party registration effort, they do allow States to prevent such practices as falsification of voting registration applications and paying by that number of registrations listed. So they do give room for the States to prevent those kinds of abuses.

Ms. House. I will also expand upon that and agree that the bill, as it stands, does do a good job of exercising the right balance between trying to allow for the necessary oversight over voter registration groups but also allowing for the voter registration groups

to continue to enfranchise voters.

I would add that, in fact, some of the issues that have been confronted by many of the voter registration programs that People For has are that these restrictions actually do not allow us to exercise the quality control that you, Senator, would like.

In fact, some of the restrictions that we encountered, particularly in the State of Ohio, in which the State required us, our voter registration groups, to actually return the voter registrations in such a short period of time without allowing us to actually go through the voter registration and ensure that there were not any duplicates, ensure that everything was corrected and signed the proper way. That, in fact, was an inhibition against us being able to exercise the quality control that you, are speaking about.

So we do believe that the issues that are addressed in Senator Feinstein's bill actually do go a long way in order to address these concerns and we hope that they will continue to stay in the bill.

Mr. Lewis. Senator, from an election administrator's standpoint, in fact our National Task Force on Election Reform in 2004 recognized that we have got some voter registration problems. And certainly the groups are well-meaning and we love the fact that they are involved. We want them involved. It does help expand the franchise, obviously.

But the point is that many of those groups, on both sides of the aisle, are holding on to those registrations and, in fact, disenfranchising voters. They hold onto them for months at a time. And then try to dump them all in the last few days of the election. Many times they are dumped at a point into the mail to where they do not arrive in time

for us to make that voter an eligible voter.

So while I hear the concerns of the groups, there also has to be some recognition that there has to be some method by which you can get these people to turn those registrations in and turn them in in a timely fashion. That needs to happen. Because the net effect otherwise is disenfranchisement. It really is wrong for the voters.

In terms of there has to be a recognition that integrity in a process is important, too, that if you allow people who are not legitimate eligible voters to be on the rolls and/or cast ballots, that they then negate the ones that are eligible. And so those are things that we have to look at as a society and figure out how to do this.

We want to do it administratively. We want to do it so that voters have a good experience with this. And yet at the same time we cannot say that there can be no rules on this and no restrictions on it.

Senator Bennett. If I just might, Madam Chairman, I had a campaign worker in my campaign, when I found out he was doing, this I told him absolutely stop. But he was going on the Internet and registering to vote in a wide number of States through groups that were trying to facilitate these voters. He would create a fictitious name. And he deliberately picked States that did not require an ID in order to vote, to see if he could be registered to vote in these States and would not have to show an ID.

He was, this particular group that was out soliciting people to vote, he said I am registered to vote in seven or eight different States. I said stop it because it is illegal. But there was no way anybody could have gone after that.

So it is very, very easy and we have to have the kinds of standards Mr. Lewis is

talking about.

Chairman Feinstein. If I may, just a couple of comments.

Senator, I very much agree with you. I think the League of Women Voters has some points to bear with this issue in terms of being able to find a balanced way to prevent the problems Mr. Lewis just suggested. One way is that if a group fails to turn in its signatures, you can ban them for ever collecting. How do you know that they failed to turn them in? We need to look more deeply into this.

I would just like to say that these two panels have been of great help to me. I very much appreciate the constructive comments that have been made. I have made some notes, given them to the staff. This will remain a work in progress and I would just like to urge everybody that has an interest in this subject and any idea, please communicate it to either Senator Bennett, myself, or our staff. We will continue to work on the bill.

I very much appreciate the testimony, and thank each you very much.

The hearing is adjourned. Thank you.

[Whereupon, at 11:56 a.m., the Committee was adjourned.]