

EAC Public Hearing
Testimony of Peggy Nighswonger
May 17, 2007

The Executive Board of the National Standards Board made two initial determinations: 1) that it would make recommendations to the Standards Board for their deliberation and action and 2) that it would not make recommendations directly to the EAC. Therefore, I am here today not as an executive board member but rather as the Chair of the National Standards Board to speak on behalf of the 110 members.

I have reported to you personally so I will give only brief background and quickly move on to recent activities. At the end of the May 2006 meeting, a call was issued seeking volunteers from the Standards Board to serve on the seven-member bylaws committee and the five-member nominating committee. Both committees worked very hard during the year to revise the bylaws and to establish procedures for nominating new members to the Executive Board. The committees were appointed in August 2006 and each committee submitted reports to the Standards Board at the February 2007 meeting.

The meeting in Atlanta in February was well attended and many things were accomplished. There was solid discussion about what the Standards Board really wanted to accomplish in the next year. There was much discussion concerning Voting System Guidelines and what part the Board needed to play during the process of guideline determination and implementation.

From all that work, five resolutions were passed by the Standards Board at the meeting in February 2007. I will give a brief overview of each:

1) The first one pertains to the EAC's communication with Congress. Resolution 2007-01 recommends that the EAC should, in strong and bipartisan fashion, inform Congress and the public that 1) while HAVA is still being implemented it should remain untouched for a longer period of time to determine its effect, its benefits and its detriments. 2) that Congress should provide full funding as was promised to the states in the beginning, 3) that Congress should fulfill its monetary promise under HAVA before suggesting any additional changes to election administration in the United States, 4) that after Congress meets its promises under HAVA, and if further changes are needed, such changes only be promulgated with full funding, 5) that Congress promote a timeline that reflects full input from state and local election officials, and in no case should such changes already proposed have effective dates before July 2010.

2) The next Resolution pertains to the EAC's attention to the impact of the voting system standards. Resolution 2007-02 recommends that the EAC consider the value and importance of having NIST and the TGDC consult with at least two elected independent election expert groups such as NASED, the Election Center or JEOLC or other national groups to secure consultation on the impact of the complex new standards.

3) Resolution 3 pertains to NVRA. Resolution 2007-03 recommends that the EAC provide a period to receive public comments to allow election officials and voters the opportunity to

provide observations of the impacts of NVRA. That would allow you to include an analysis of such observations in your report and recommendations to Congress, which is due on June 30, 2007.

4) Resolution 4 pertains to the Voluntary Voting System Guidelines (VVSG). Resolution 2007-04 recommends that the EAC seriously narrow the scope of the next iteration of the VVSG to only those matters that are time-sensitive and emergency in nature. Also, that there be a regular schedule established for future changes to the VVSG that keeps each new version narrow in scope and understandable for manufacturers, the public and election administrators.

5) The last resolution pertaining to VVSG ongoing updates. Resolution 2007-05 recommends that the EAC give careful consideration to the need for a policy about VVSG updates. The VVSG should not be updated more frequently than every four years, beginning after the issuance of the next iteration. There needs to be time for proper implementation and observation. It does not seem wise to continue to hurry next versions of equipment off the assembly line.

Those were the Standards Board Resolutions. Now as an individual Election Director, I will address in detail three key topics:

1. Attention to the Voting System Standards
2. Assistance to states regarding voting system certification and testing
3. Obtaining full funding so HAVA can be implemented as it was intended

First, Attention to Voting System Standards

As you know:

- The federal government and states have spent a huge amount of money in the last couple of years for new voting equipment, which will comply with implementing the Help America Vote Act.
- Purchase of that equipment occurred quickly, with many states rushing deadlines in order to have equipment delivered, tested and certified in time to conduct the first federal election in 2006.
- Generally, that equipment performed well in the 2006 election.

Now, next steps are underway with the development of the next iteration of voting system standards. I suggest 3 items which the EAC needs to attend to in regards to the 2007 voting system standards:

- 1) Assure that the right players are at the table to give input into the next iteration of voting standards!

I learned from the National Summit in Denver that NIST, election officials, vendors, independent testing companies, and public interest groups each provide a perspective that will lend to a better whole. Also from that meeting, we learned that other entities like the gaming industry have experience in writing equipment standards. We urge you to include all players, and utilize experience, so that the next set of voting system standards are the best they can be.

- 2) Be wise about timing. Do not intentionally rush, do not intentionally delay.

It would be great if the 2007 voting system standards process was already completed. It would be great to already have those solid, finalized 2007 voting system standards. However as you well know, this process just recently moved from NASED, a voluntary group who chose to try to do something to help the election process, to the authority of the EAC. Even though some are anxious for these standards, the EAC must be wise in determining when the standards are truly good enough to be released.

During the last couple of years, rapid time frames have been problematic for vendors, independent testers and the election community alike. Generally, we all fared well in 2006 and that was very fortunate for the public at large. However, as you know, it was very difficult for all of us to meet the imposed time frames.

Let's now be wise about the timing of future standards to the good of the whole and for the best conduct of elections. When the standards are finished, the race will just begin:

- vendors will need to develop changes which meet the standards;
- states and local jurisdictions will need to see the changes;
- there will need to be contracts for any purchases, which of course requires all legal contract review,
- only then will there be deployment of the new products and
- only then will training begin.

As we know from past elections, proper conduct of elections does not just hinge on having quality equipment, it also hinges on having very well trained and prepared staff and poll workers who can use the equipment comfortably and accurately on election day and the days that follow. Given the state of the next iteration of voting standards, and the enormous amount of work to still get all the right players at the table for thorough review, the EAC needs to be very thoughtful of time frames. Getting the standards "out the door" is only the beginning.

- 3) I ask the EAC to also give thorough consideration to when the standards should become effective. It seems highly unlikely, given the current state of the project and the importance of the work to be done, that they will be realistically ready for the 2008 election. We request that you weigh the conduct of the 2008 federal election more highly than you weigh the political pressures that unfortunately are upon you.

Now I will turn to my second key issue, which is calling your attention to the assistance states need in regard to Voting System Certification.

It was clear from the Denver Summit that a stronger voting system testing program at the federal level is needed. A good solid testing program at the federal level may provide small states with needed protections and also assist large states by reducing redundancy in the federal/state testing programs. There needs to be attention to economies of scale and efficiencies, and the EAC can take the lead in that regard.

Let's face it, testing of voting systems is expensive, and will likely become more expensive as more is required. That cost will be passed from vendors to customers, customers being the states. Cost of testing, and the liability of not testing, or worse yet, testing improperly, can combine to

become a huge burden and problem. Therefore, we suggest that the EAC take note of this problem, and attend to your opportunities to assist with certification of voting systems. I do not need to reiterate all the Summit suggestions here. An example would be for additional tests to be done at the federal level so there is less redundancy of tests across states. Another example would be for the EAC to facilitate communication such as providing voting system testing templates and protocols to small states so the testing that must be performed at the state level is performed appropriately and accurately.

My last key point: Funding of HAVA requirements:

I am likely preaching to the choir, but since I am on the record, I will once again ask that the EAC take whatever opportunities are available to remind Congress that we have yet to receive the full funding anticipated under HAVA. States have HAVA compliant voting equipment but maintenance and testing is an ongoing financial requirement.

In conclusion:

I thank you for the opportunity to speak and be on the record pertaining to these important issues. I have had a wonderful and trying experience this past year representing the National Standards Board. It is a group of election professionals, whose work I have highly regarded. We have been therefore diligent in our work. Therefore, I request that you give serious consideration to our comments. We look forward to your action after this hearing concludes.

Thank you.