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April 19, 2010

The Honorable Donetta Davidson, Chair
The Honorable Gracia Hillman
The Honorable Gineen Beach

U.S. Election Assistance Commission
1201 New York Avenue, N.W. - Suite 300
Washington, D.C. 20005

Dear Commissioners:

The NASED EAC Liaison Committee unanimously supports the Proposed EAC Maintenance of Expenditure (MOE) Policy, as amended on February 19, 2010. The proposed policy is the culmination of a concerted effort to find a reasonable policy that meets the letter and spirit of the Help America Vote Act (HAVA).

We very much appreciate the opportunity to work with EAC Executive Director, Thomas Wilkey and staff on these issues. In particular Dr. Mark Abbott has demonstrated a comprehensive understanding of the application of MOE in the diverse and decentralized environment of election administration.

In 2008 the NASED EAC Liaison Committee expressed several concerns with EAC Advisories 07-003 and 07-003A. In particular we believe those policies misconstrued the definition of "State" by including within that definition lower tier jurisdictions such as counties, cities and towns. The 2010 Proposed MOE Policy correctly places the requirement to compute and apply MOE with State government. If State appropriated funds are transferred to and spent by lower tier jurisdictions for election purposes allowable under HAVA, it is reasonable to require the State to include those funds in the base year MOE calculation and to annually account for them in the aggregate MOE report.

We agree with the flexibility the 2010 Proposed MOE Policy provides in the following situations:

- If recordkeeping is not available to substantiate the baseline MOE, EAC will consider alternative measures for computing the baseline spending.
- Each year States may vary the amount of spending attributed to each HAVA category stated in Question 7 as long as the aggregate MOE figure is equal to or greater than the baseline MOE. This clearly avoids any rigid requirement to spend State money on a category that no longer requires attention.

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- Likewise, a State may annually vary the source of spending between the State and lower tier jurisdictions as long as the baseline MOE is met or exceeded.
- The Proposed Policy avoids a nonsensical result in those States where large capital expenditures were made in the base year. It is untenable to require those states to make the same capital expenditures every year or expenditures equaling that amount. Question 21 provides a reasonable opportunity for States facing this situation to calculate a baseline MOE.

We further support and appreciate the assistance that the Proposed Policy offers in the development and content of the State MOE. Question 8 should be adjusted to request draft plans by December 1, 2010 that will then be developed with assistance from EAC grants department into the actual MOE plan.

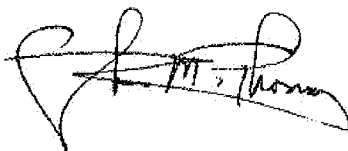
The question/answer format works well in explaining this complicated subject. In addition the examples sprinkled throughout the Proposed Policy are very helpful.

We commend EAC for continuing to work with the States on the MOE issues to develop a policy that is compliant with HAVA and that is reasonable for States and lower tier jurisdictions to manage.

Sincerely,



Marci Andino
President, NASED



Christopher Thomas
Chair NASED EAC Liaison Committee

cc: Thomas Wilkey, Executive Director

Committee Members:

Ann McGeehan, TX
Chris Reynolds, CA
Donald Palmer, FL
Gary Bartlett, NC
Gary Poser, MN
Julie Flynn, ME
Kevin Kennedy, WI
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