

Progress Report



Center for Democracy and Election Management

American University

Carter-Baker Commission on Federal Election Reform:
Status of the Recommendations

September 2005 – June 2007

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Criteria for Assessment:

Significant progress means that the issue raised by the Commission’s recommendation was debated, and there was significant movement towards either legislating or implementing the recommendation.

Some progress means that the issue raised by the Commission’s recommendation stimulated some debate and movement, but the future trajectory of reform remains uncertain.

No identifiable progress means there was little or no debate on the issue raised by the Commission’s recommendation and no evidence of change on the issue.



AMERICAN UNIVERSITY

W A S H I N G T O N , D C

CENTER FOR DEMOCRACY AND ELECTION MANAGEMENT

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On the eve of a national election at a time when the country was growing sharply divided, only one-third of the voters expressed confidence their votes would be counted properly. During the election, hundreds of thousands of voters registered complaints, and after the election, only a minority of the electorate was very confident that the votes were accurately counted. Is this a Third World country with little experience with elections, or a new democracy emerging from the breakup of the Soviet Union? Sadly, it was the United States in November 2004.¹

Worse still, the election occurred two years after the passage of the historic “Help America Vote Act (HAVA)”, which was supposed to solve the electoral problems witnessed in the controversial presidential election of 2000. Because HAVA had not restored America’s confidence in the electoral process and additional reforms were necessary, former President Jimmy Carter and former Secretary of State James A. Baker, III decided to chair a Commission on Federal Election Reform in early 2005. American University’s Center for Democracy and Election Management (CDEM) staffed and organized the Commission, which included 21 distinguished Americans. After numerous meetings and hearings and substantial research, the Commission issued its report in September 2005, proposing 87 recommendations to improve the electoral system. (For the full report, see www.american.edu/cfer)

The Commission presented the report to the President, Congressional leaders, and the public, but the Co-Chairs and many others who viewed the reforms as critical wanted to make sure that the report would not be forgotten or filed away. They asked CDEM to use the report to stimulate debate in the country and seek to generate progress toward achieving the report’s recommendations. We at CDEM have taken this request very seriously and have worked closely with the Commission Co-Chairs, many of the members, other groups interested in promoting reform, and legislators at the state and federal levels to promote these reforms.

This report chronicles what we have done to disseminate the Carter-Baker Commission report and its recommendations, but it focuses on assessing the state-of-play of these issues and the recommendations. Nearly two years later, and on the threshold of a presidential election year, this report provides a benchmark of the progress in election reform and the distance that we need to travel to restore full confidence in the electoral process.

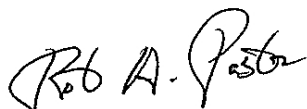
Overall, it is clear that the Commission stimulated and catalyzed debate on 80 percent of the electoral agenda identified in this report. We have grouped the Commission’s 87 recommendations into 30 areas. Of these, we judge that significant or some progress has

¹ For the surveys, see Adam Nagourney and Janet Elder (November 1, 2004). “Late Poll Still Shows Sharp Split in U.S. Vote,” *International Herald Tribune*; The Pew Research Center for the People and the Press (November 11, 2004). “Voters Liked Campaign 2004, But Too Much Mud-Slinging.” Available at: <http://people-press.org/reports/display.php3?ReportID=233>

been made in 24 areas. The draft of this report was researched and written by Ms. Vassia Gueorguieva, a Ph.D. candidate in the School of Public Affairs and Junior Fellow at the Center for Democracy and Election Management at American University. Vassia has worked with CDEM and the Commission since its inception and has done superb work. I reviewed and edited the report with the CDEM team, including Dr. Toby Moore, the Project Manager for U.S. Election Reform at CDEM; Curtis Gans, the Director of the Center for the Study of the American Electorate; Dr. David Mikosz, who recently became Associate Director of CDEM, replacing Dr. Daniel Calingaert, who played a critical role in staffing the Commission and drafting its report. We also want to thank Dr. Jeffrey Lunstead, Assistant Vice President; Ms. Maria Pahigiannis, Executive Assistant; Ms. Paulina Puig, Associate Director of Web Operation; and Ms. Mana Zarinejad, Assistant Director of Development and her predecessor, Ms. Meegan McVay, for their work on the project.

The Commission and its follow-up activities would not have been possible without the leadership, vision, and support of Ms. Geri Mannion, Director of the U.S. Democracy Program at the Carnegie Corporation of New York. Carnegie joined with the John S. and James L. Knight Foundation, The Ford Foundation and the Omidyar Network to support the Commission in its first phase. We especially appreciate the continued support of the Carnegie Corporation and the Knight Foundation in the second phase of the project as we have used the report to generate debate and continued reform of our electoral system. We also acknowledge the support for a research project on the identity card issue by the Smith-Richardson Foundation.

The American people owe a great debt to everyone who has pursued or supported electoral reform, but especially to President Carter and Secretary Baker for their leadership in urging critical election reforms for the United States.



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Section I: Executive Summary

Follow-Up Activities and Status of Recommendations

Since the release of the report, **Building Confidence in U.S. Elections: Report of the Carter-Baker Commission on Federal Election Reform**, in September 2005, American University's Center for Democracy and Election Management (CDEM), which organized the Commission, has sought to bring the report and its recommendations to the attention of the American public, the media, legislators at the state and federal levels, election officials, and others. The initial reaction to the report was largely positive but restrained. Since then, almost all of the issues have generated debate, and there has been some or significant progress in more than two-thirds of the recommended reforms.

President Carter and Secretary Baker took the lead in disseminating the report, meeting first with the President and Congressional leaders. They then were interviewed by Jim Lehrer for the Lehrer News Hour. As a result of the first round of presentations, more than 320 articles were published throughout the country reaching an estimated circulation of 28 million people. Joined with Commission members Kay Coles James, Tom Phillips, and Robert Pastor, President Carter and Secretary Baker were filmed and recorded on the Commission's recommendations for "Court TV" and NPR's "Justice Talking."

Several Commission members spoke to numerous groups. Lee Hamilton met with leaders in Indiana; Jack Nelson spoke with civil liberties groups; Kay Coles James testified before the House Administration Committee; Betty Castor, Raul Yzaguirre, Susan Molinari, and Spencer Overton spoke at a Forum organized by the National Conference on State Legislators (NCSL). Robert Pastor testified before the Election Assistance Commission, the U.S. Commission on Civil Rights, several civil rights groups, and universities. Commission members wrote op-eds for leading newspapers on election reform. There were numerous letters to state legislators in Ohio, Kansas, Missouri, Nebraska, and Pennsylvania. Sen. Dianne Feinstein and Rep. Rush Holt sought our advice on their legislation based on the Commission's recommendations, and we provided background material.

The Carter Center hosted a conference on the report in March 2006 and CDEM held a full-day conference during the same month on "Are U.S. Elections Getting Better or Worse? Is HAVA Working?" The conference featured presentations by numerous election experts, policy-makers, voting rights advocates, and AU faculty as well as participation by *American Prospect* Editor Robert Kuttner, *Atlantic Monthly* National Correspondent James Fallows, and WAMU Host Kojo Nnamdi.

This is a brief summary of the activities of CDEM and Commission members to promote electoral reform. More specific efforts will be described in the text of the report, but it is clear that these efforts represent just one of many to generate debate on election reform. There is a growing realization that election reform cannot be accomplished by a single law or a single group; it requires constant debate and engagement by everyone. The Commission's report clearly stimulated and catalyzed a debate that is spreading around the country on ways to improve the U.S. electoral system.

Of the many issues raised in the report, the two that have clearly provoked the most debate have been the need for a voter-verifiable audit trail and some form of identification to vote. The Commission set out clear recommendations in both areas, and those who have debated the issues

have cited frequently these recommendations. In the case of the audit trail, Congress and state legislatures have made significant progress.

In the case of the identification cards, the Commission has often been cited in the debate, but rarely accurately, and our recommendation has not been fully implemented by any state. The Commission proposed a bridge between the Republican Party, which viewed ID cards as critical to ballot security, and the Democratic Party, which feared that a requirement to show an ID could disenfranchise voters, primarily African-American, Hispanic, or poorer voters. The Commission called for using a modification of the “Real ID” card for identification, but it also called on the states to adopt an “affirmative” role to go to the homes of those who might not have ID cards, register them, and provide the cards for free. Regrettably, most representatives of the two parties have not used the Commission’s bridge, preferring to remain on distant shores from the other.

Beyond these two issues, the record is mostly positive. We have grouped the 87 recommendations into 30 areas, and of those, there was significant progress in 7 areas; some progress in 17; and no identifiable progress in 6 areas – meaning that there was some or significant progress in more than two-thirds of the recommendations. Especially noteworthy is the great progress made in the following areas: establishing uniformity of the registration list in more than two-thirds of the states; communicating registration information to the public; securing and auditing voting machines; facilitating military and overseas voting; and re-enfranchising ex-felons. In the critical area of election administration, the debate on modernization has begun. In all, the Commission has catalyzed the debate on election reform, and progress is discernable across a wide spectrum of issues.

Section II: Carter-Baker Recommendations – Follow-Up Work and Status of Recommendations

II.1. GOALS AND CHALLENGES OF ELECTION REFORM

1.1. Implementing the Help America Vote Act

Recommendation: The Help America Vote Act should be fully implemented by 2006 and fully funded.

Some progress

The Commission encouraged Congress to fully implement The Help America Vote Act of 2002 (HAVA) by its statutory deadline of January 1, 2006. In March 2006, American University's Center for Democracy and Election Management hosted a full-day conference on HAVA. Members of Congress and staff participated, and there was much discussion on the need for HAVA to be fully funded and implemented. Despite that, it has not been fully funded. Of the \$3.8 billion in funding authorized by HAVA, \$800 million has still not been appropriated. Eleven states did not meet the January 1, 2006 deadline stipulated by HAVA for establishing statewide voter registration databases.² Of the states that did not meet this requirement, four (Alabama, Maine, New Jersey and New York) were sued by the U.S. Department of Justice (DOJ) for non-compliance. HAVA also required states to replace all punch card and lever voting machines by January 1, 2006. As of October 2006, only 7% of voters were to use them in the November 2006 elections.³ However, certain states lagged behind. In New York state, all 62 counties continued to use lever machines. Similarly, just 25 of Connecticut's 169 towns had upgraded to optical scan equipment for the 2006 elections.

1.2. Voting Rights Act

Recommendation: The Voting Rights Act should be vigorously enforced and the provisions expiring in 2007 should be reauthorized.

Some progress

The Voting Rights Act was re-authorized in August 2006, but there remain questions as to the vigor of its enforcement.⁴

² Electionline.org (October 2006). *Election Preview 2006: What's Changed, What Hasn't and Why?* Available at: <http://electionline.org/Portals/1/Publications/Annual.Report.Preview.2006.Final.pdf>. The states that missed the deadline were: Alabama, California, Colorado, Illinois, Maine, Missouri, Nevada, New Jersey, New York, Wisconsin, and Wyoming.

³ Election Data Services (October 2, 2006). Almost 55 Million, or One-Third of the Nation's Voters, Will Face New Voting Equipment in 2006 Election. Available at: http://www.edssurvey.com/images/File/ve2006_nrpt.pdf

⁴ For a study of the enforcement of the Voting Rights Act, its impact and the state of discrimination in voting today, see National Commission on the Voting Rights Act (February 2006). *Protecting Minority Voters: The Voting Rights Act at Work 1982-2005*. Available at: <http://www.votingrightsact.org/report/finalreport.pdf>.

II.2: VOTER REGISTRATION AND IDENTIFICATION

2.1. Uniformity Within States: Top-Down Registration Systems

Recommendations: States should establish unified, top-down voter registration systems (in which local election authorities supply information to a unified database maintained by the state) and Congress should appropriate funds for disbursement by the Election Assistance Commission (EAC) to states to complete these systems.

Significant progress

While there is no uniformity in the structure of voter registration databases, the majority are top-down, as recommended by the Commission. As of 2007, 38 states have opted for top-down voter registration systems; 9 for bottom-up systems (in which counties and municipalities retain their own registration lists and submit information to a state compilation of local databases at regular intervals).⁵ Two states have hybrid systems with both top-down and bottom-up elements and one – North Dakota – does not have a voter registration list.

HAVA requires states to create a “single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level.” However, the selection of voter registration structure is a discretionary decision left to the states, and the EAC does not mandate a system, though it has expressed a preference for top-down voter registration systems.

2.2. Interoperability Among States

Recommendations: Voter databases should be made interoperable between states and Congress should amend HAVA to mandate for this interoperability. To assist the states in creating interoperable databases, the EAC should introduce a template for shared data and a format for cross-state data transfers. Federal funds should be appropriated for distribution by the EAC to states that make their voter databases interoperable. A distributed database system should be established to make sure that state lists remain current and accurate, and Congress should pass a law mandating that states cooperate with this system to ensure that citizens do not vote in two states. States should allow citizens to verify and correct the registration lists’ information on themselves and should also provide “electronic poll-books” to allow precinct officials to identify the correct polling site for voters.

Some progress

⁵ Brennan Center (March 24, 2006). *Making the List: Database Matching and Verification Processes for Voter Registration*. Available at: http://www.brennancenter.org/dynamic/subpages/download_file_35559.pdf; Electionline.org (June 2005). *Assorted Rolls: Statewide Voter Registration Databases Under HAVA*. Available at: <http://www.electionline.org/Portals/1/Assorted%20Rolls.pdf>. The states with the **top-down** voter registration databases are: Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, West Virginia, Wisconsin and Wyoming. States with **bottom-up** systems are: Alabama, Arizona, California, Illinois, New York, Ohio, South Dakota, Tennessee, and Washington. Oklahoma and Texas have **hybrid** systems and North Dakota has no voter registration.

Steps have been taken to build interoperability among voter registration databases, but only in groups of states and not nationally, and some states have begun to use electronic poll-books.

In 2005, Kentucky, Tennessee and South Carolina conducted a one-time exchange of voter registration data, but these states have no agreement to conduct any further exchanges at this time.⁶ In the fall of 2006, Iowa, Nebraska, Missouri and Kansas completed a multi-state voter registration project that will allow them to cross-check voter registration data among the four states.⁷ Initially, Minnesota was also involved in the talks but decided not to pursue the project. The New England states have discussed the need to exchange database information as well.⁸ Other regional efforts at crosschecking have been conducted in the West (Oregon, Washington, California, Idaho and Montana) in early 2006.⁹ These regional agreements for exchange of voter registration data could conceivably pave the way for the development of interoperability of the databases across all states, but it would be far better if the EAC was given the authority – as recommended by the Carter-Baker Commission – to compel the states to make their lists interoperable. In an earlier draft of her bill on election reform, Sen. Dianne Feinstein had provisions for making the registration lists interoperable. This was unfortunately omitted from the most recent draft of the bill in part because she wanted the voter-verifiable audit provisions to be addressed first, and she thought the interoperable provisions might generate some controversy and could slow the debate on the rest of the bill.

Electronic poll-books worked well in Maryland and Georgia, but problems were reported in Denver due to their “sub-professional architecture and construction” and lack of testing by either the vendor or by the Denver Election Commission.¹⁰

2.3 Provisional Ballots

Recommendations: Voters should be informed of their right to cast a provisional ballot if their name is not on the voter roll or if an election official asserts that the individual is not eligible to vote. States should take additional steps to inform voters as to the location of their precinct and establish uniform procedures for the verification and counting of provisional ballots. Poll workers should be fully trained on the use of provisional ballots, and provisional ballots should be distinctly marked and segregated so they are not counted until the eligibility of the voter is determined.

No identifiable progress

Some states have taken steps to educate voters to the use of provisional ballots, but there is no information that states have established uniform procedures for the verification and counting of provisional ballots, and there is considerable evidence that procedures for

⁶ This information was kindly provided by Kathryn H. Dunnigan, General Counsel of the State Board of Elections in Kentucky.

⁷ Bob Kressig (September 18, 2006). *Representative Bob Kressig: Statehouse News*. Available at: <http://www.bobkressig.com/downloads/556-1.pdf>

⁸ AEI-Brookings Election Reform Project (February 8, 2006). Available at: <http://www.brookings.edu/comm/events/20060208panels.pdf>

⁹ Electionline.org (October 2006). *Election Preview 2006: What's Changed, What Hasn't and Why?* Available at: <http://electionline.org/Portals/1/Publications/Annual.Report.Preview.2006.Final.pdf>

¹⁰ Fred Hessler and Matt Smith (December 8, 2006). *City and County of Denver: 2006 Election Technical and Operational Assessment*. Available at: http://electionupdates.caltech.edu/Denver_Report.pdf

provisional ballots within states are implemented in very different ways. During the 2006 elections, observers – including those supervised by CDEM – found considerable confusion at different polling sites on how to administer provisional ballots.

In Ohio, provisional ballots were provided when poll workers were confused about what constituted valid identification as well as when voters went to their regular precincts but were incorrectly reported to have moved since the last election. Consequently, a U.S. District Judge issued an Agreed Enforcement Order that provisional ballots cast in error should be counted without any additional investigation into their eligibility, which set the requirements for counting provisional ballots in Ohio's 88 counties. In this order, the Secretary of State's office acknowledged that some voters were wrongly required by poll workers to cast a provisional ballot even though they complied with the ID requirements. In some counties in Colorado, judges who were not clear on the rules on provisional ballots did not permit eligible voters to cast ballots.¹¹ In Maryland, election officials gave voters provisional ballots when the voting machines broke down. In 2006, election protection hotlines again received complaints that poll workers had refused to give provisional ballots to voters.¹² An election observation mission organized by CDEM, with the participation of Hubert H. Humphrey Fellows, revealed that the administration of provisional ballots in Virginia, Maryland and Washington D.C. varied greatly both among precincts in the same state and among states: some precincts in Washington D.C. redirected voters to their correct polling place while others immediately gave them provisional ballots; in Virginia, the precinct captain called the Registrar to locate the correct precinct; in Maryland, voters were also given provisional ballots if their names were not on the voter rolls, but they did not keep a record of those voters whose names were not on the list.

2.4 Communicating Registration Information

Recommendations: States and local jurisdictions should use Web sites, toll-free numbers, and other means to answer questions from citizens as to whether they are registered and, if so, what is the location of their precinct, and if they are not registered, how they can do so before the deadline.

Significant progress

Substantial progress has been made to improve voter access to election related information, including voter registration. The recommendation of the Carter-Baker Commission that states should develop mechanisms to answer voters' questions on whether they are registered and the location of their precincts was implemented for the 2006 election cycle. In August 2006, the National Association of Secretaries of State (NASS) launched the www.canivote.org website– a one-stop shop and the first-ever national voter education campaign to provide eligible voters from all 50 states with the information they need to cast their ballots in the 2006 election. The website allows voters to learn if they are registered and the identification requirements in their states. It also redirects them to their states' polling place locators where they can find their correct voting precinct.

¹¹ Fair Vote Colorado. *Election 2006: Findings and Recommendations*. Available at: <http://www.commoncause.org/atf/cf/%7BFB3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/THE%20FINAL%20FVC%20REPORT%202006.pdf>

¹² Election Protection Coalition. "Thousands Call Election Protection Voter Hotline." Available at: <http://www.lawyerscomm.org/2005website/publications/press/press110806b.html>

A similar system was also developed by the League of Women Voters. Their *Smart Voter* (<http://www.smartvoter.org/>) site allows voters to find their ballot and polling place by entering their street address and zip code.

2.5 Voter Identification

Recommendations: States should require voters to use the REAL ID card, which includes a person's full legal name, date of birth, a signature (captured as a digital image), a photograph, and the person's Social Security number. It should be modestly adapted for voting purposes to indicate on the front or back whether the individual is a U.S. citizen. States should provide an EAC-template ID with a photo to non-drivers free of charge. States should establish legal protections to prohibit any commercial use of voter data and ombudsman institutions to respond to citizen complaints about the misuse of data or about mistaken purges of registration lists based on interstate matching or statewide updating.

Some progress

CDEM has devoted considerable time to this issue because, as the Commission predicted, there was a proliferation of efforts by legislators throughout the country to mandate identification requirements. Of these many efforts, legislators often cited the Carter-Baker Commission, usually favorably, but rarely did they demonstrate awareness of the full extent of the recommendation. Therefore, much of CDEM's work was to make sure that legislators fully understood the two sides of the recommendation – ID plus an affirmative role by the state to reach out to those who were not registered or did not have IDs, and to provide IDs free of charge.

CDEM also is undertaking research on IDs. Toby Moore, the coordinator of the follow-up efforts, observed elections in Indiana, one of the few states that require a photo ID. Contrary to the fears of opponents of the law, he did not find confusion at the polls or evidence of citizens being prevented from voting because they did not have IDs. Because of an excellent public education program, voters were aware of the new law and were not bothered by having to bring IDs to the polls. This was a very preliminary observation, and we intend to do a more systematic study in addition to the comprehensive telephone surveys that make up the bulk of our research project. In 2006, CDEM received a grant from the Smith-Richardson Foundation to undertake a three-state survey on voter identification, proof-of-citizenship and related issues. The project will survey a total of 2,000 registered voters in three states with a range of voter ID laws: Indiana, Mississippi and Maryland.

Bills requiring voters to present photo IDs at the polls have been introduced in 4 states (Georgia, Missouri, Indiana and Arizona), but have faced litigation in the courts.¹³ The Georgia and Missouri

¹³ **Georgia** first passed a photo ID requirement in 2005, but court rulings blocked its enforcement. In response, in January 2006, the Georgia legislature passed bill SB 84 requiring voters to show government issued bills at the polls and providing for the issuance of voter ID cards at no cost to registered voters who do not have a driver's license or state-issued ID card. Similarly, in May 2006, **Missouri** passed a bill requiring voters to show photo IDs issued by the state or the federal government starting in the November 2006 general election. The state would provide the photo IDs for free. This bill was also blocked by court and not in force for the November 2006 election. In contrast, the Indiana and Arizona bills, although also challenged in court, were upheld and in force for the November 2006 elections. In 2005, **Indiana** passed a bill asking voters to show a photo ID issued by the state or federal government before casting a ballot. For those who don't have an ID acceptable for voting purposes, the law requires the Bureau of Motor Vehicles to offer

bills were blocked by the courts, while the Indiana and Arizona bills were upheld. In June 2007, the Georgia Supreme Court dismissed the challenge to the state's voter ID law.¹⁴ In March 2007, a Missouri House committee considered legislation that modifies the previous voter photo ID legislation by incorporating a variation on the Carter-Baker recommendation, requiring the Secretary of State to pay for all voter photo IDs and make an exception for those whose religion prohibits them from being photographed.¹⁵ Election officials said the use of IDs in both Indiana and Arizona during the 2006 elections went smoothly. Arizona Secretary of State Jan Brewer and county election officials said they received no complaints about people being turned away at the polls because of improper identification and even critics of the ID law said they encountered relatively few problems during the election.¹⁶ Indiana Secretary of State Todd Rokita also said there had been no reports of problems with the IDs.¹⁷

At the federal level, several bills introduced in the 109th Congress since September 2005 proposed the implementation of national photo ID requirements.¹⁸ Bills were also introduced requiring voters to provide proof of citizenship in order to vote.¹⁹ In May 2006, the Senate voted on an amendment to the Comprehensive Immigration Reform Act of 2006 (S. 2611) requiring proof of citizenship and photo ID. Although the amendment was rejected, both sides in the House and Senate cited the Commission's report favorably during the debates.

Bills requiring photo ID at the polls have been introduced in California and New Hampshire. The Mississippi Senate passed a voter ID bill on February 7, 2007, which awaits a House vote. All voter-ID related bills in the past have failed in this state. Kansas Sen. Tim Huelskamp began preparations in January 2007 to introduce a voter ID bill, which was passed by the Kansas Senate in mid-February 2007 and then sent to the Kansas House of Representatives. In April 2007, Kansas legislators moved closer to a compromise that would require voters under age 65 to show photo ID at the polls. Debates on a voter ID bill also began in Wisconsin. In Texas, two bills requiring proof of citizenship to register and to show one form of photo ID or two forms of non-photo ID at the polls have also been introduced. In late March, a committee of the Texas House narrowly approved legislation requiring proof of citizenship to register to vote as well as a government-issued photo ID to vote on Election Day.²⁰ Bills in West Virginia and Oklahoma would also require voters to provide some form of photo or non-photo ID at the polls.

a free one. The law was challenged in courts but was upheld and thus was in force during the primary and November 2006 elections. In 2004, **Arizona** passed Proposition 200, which requires voters to prove their citizenship to register and also requires them to bring a valid photo ID with their address or two forms of non-photo ID with address, such as a utility bill or vehicle registration. The 9th U.S. Circuit Court of Appeals put the voter ID requirements on hold while the federal District Court debated whether the law was constitutional.

¹⁴ Gabriel Haboubi. (June 11, 2007). "Georgia Supreme Court dismisses voter ID lawsuit for lack of standing." *Jurist*. Available at: <http://jurist.law.pitt.edu/paperchase/2007/06/georgia-supreme-court-dismisses-voter.php>

¹⁵ Steve Walsh (March 13, 2007). "House Committee Considers New Voter Photo ID Bill." *MissouriNet*. Available at: <http://www.missourinet.com/gestalt/go.cfm?objectid=4D85CE03-FEDE-89BA-C3BE5CF8E6C853E2>

¹⁶ Chris Khan (November 10, 2006). "Arizona voters have few problems with ID law" Associated Press

¹⁷ "Election Day Update: Key Statistics". Indiana Secretary of State Press Release. Available at: <http://www.in.gov/sos/press/2006/11072006.html>

¹⁸ These bills are H.R.5913 (Rep. Thomas Tancredo), H.R. 3910 (Rep. Tom Feeney), and H.R. 4844 (Rep. Henry Hyde).

¹⁹ These bills are H.R.4462 (Rep. Phil Gingrey), H.R. 5913 (Rep. Thomas Tancredo) and H.Res. 1015 (Rep. Shelley Moore Capito).

²⁰ W. Gardner Selby (March 28, 2007). "Identify yourself, voter proposal says." *Statesman.com*. Available at: http://www.statesman.com/blogs/content/shared-gen/blogs/austin/legislature/entries/2007/03/28/identify_yourself_voter_proposals_say.html

Robert Pastor testified before the U.S. Commission on Civil Rights on this issue, and there seemed to be a growing awareness – as the Commission predicted – that as more states legislate IDs, the proliferation might prove more discriminatory than a single uniform card. However, the Government Accountability Office (GAO) estimated the cost of a “Real ID” card at \$11 billion – the amount that the Commission estimated for a biometric national ID card. Congress is moving in many directions on the ID – on voting, immigration, and security grounds – and it is difficult to judge where they will end up. Because of the cost of the Real ID, the states are resisting it, and the Department of Homeland Security has agreed to postpone its implementation for at least one year. This issue remains the most controversial.

2.6 Quality of Voter Registration Lists

Recommendations: All states should have procedures for maintaining accurate lists such as electronic matching of death records, driver’s licenses, local tax rolls, and felon records. The EAC should provide voluntary guidelines to the states for quality audits to test voter registration databases. States should follow uniform and strict procedures for removal of names from voter registration lists and should adopt strong safeguards against incorrect removal of eligible voters. Local jurisdictions should track and document all changes to their computer databases, including the names of those who make the changes.

Some progress

Some steps have been taken to improve the quality of the voter registration lists, but there is still much to be done. Of the bills introduced in 2006 and 2007 at the state level, several included elements on quality maintenance that track recommendations from the Carter-Baker Commission on establishing procedures for matching of death records (Washington, Pennsylvania, Hawaii, Texas) and felon records (Washington) as well as for making efforts to remove inactive voters from voter registration lists (Arizona, Virginia, Washington).²¹

However, surveys show that 4 states (Georgia, Kentucky, Oklahoma, and South Carolina) do not currently match or plan to match information from new voter registration forms to the Department of Motor Vehicles (DMV) or Social Security databases before placing the voter on the registration lists, which will affect their accuracy.²² The remaining states use diverse approaches to maintain the accuracy of voter records and different criteria to determine whether information on a voter registration application matches information in another government database, such as Social Security and the DMV.²³ If there is no match, 25 states will still list voters in the pollbooks and describe them as “registered,” “provisional” or “pending,” and the voter will often have a notation in the roll

²¹ Data based on searches of the National Conference of State Legislatures’ (NCSL) database on Election Reform Legislation.

²² Justin Levitt, Wendy Weiser and Ana Munoz (March 24, 2006). Making the List: Database Matching and Verification Processes for Voter Registration. *Brennan Center for Justice*. Available at: http://www.brennancenter.org/dynamic/subpages/download_file_35559.pdf

²³ Justin Levitt, Wendy Weiser and Ana Munoz (March 24, 2006). Making the List: Database Matching and Verification Processes for Voter Registration. *Brennan Center for Justice*. Available at: http://www.brennancenter.org/dynamic/subpages/download_file_35559.pdf, p. 15.

stating that identification or an affidavit are required to complete the registration process or to cast a regular ballot (except Oregon, which lists voters as fully registered).²⁴

Furthermore, there is still a lack of uniform procedures for the removal of voters from voter rolls, and there are concerns that some might be mistakenly removed from the records. The removal of voters from the rolls is often done in disparate ways across jurisdictions within states (e.g. a survey of Ohio county election boards showed that list maintenance varies from jurisdiction to jurisdiction) and without transparency of both standards and schedules.²⁵

II.3. VOTING TECHNOLOGY

3.1 Voting Machines

Recommendations: Congress should pass a law requiring that all voting machines be equipped with a voter-verifiable paper audit trail and be fully accessible to voters with disabilities. Federal funds should be appropriated to the EAC to transfer to the states to implement this law. States should adopt unambiguous procedures to reconcile any disparity between the electronic ballot tally and the paper ballot tally. The Commission also urges research and development of new technologies to enhance transparency, security, and auditability of voting systems.

Significant progress

The introduction of provisions for voter verified paper records, which the Carter-Baker Commission recommended, has been one of the areas of the most intense legislative activity. CDEM has worked very closely with Rep. Rush Holt, whose bill enjoys the widest support in the House, and with Sen. Dianne Feinstein, whose bill mirrors that of Holt's with regard to verifiable audits. (The Carter-Baker report was cited by Sen. Dianne Feinstein, Rep. Rush Holt, and Sen. John Ensign as supportive of their proposal, and also by Arizona State Sen. Paula Aboud and California State Sen. Debra Bowen).²⁶ **Federal action on legislation requiring voter-verified paper trails and audits has advanced with Rep. Holt's bill (H.R. 811), which was re-introduced in February 2007, and requires paper trails for direct-record electronic (DRE) voting machines and post-election audits.**²⁷ The bill cleared committee in early May 2007. **States are also rapidly enacting their own requirements.**

²⁴ Justin Levitt, Wendy Weiser and Ana Munoz (March 24, 2006). Making the List: Database Matching and Verification Processes for Voter Registration. *Brennan Center for Justice*. Available at:

http://www.brennancenter.org/dynamic/subpages/download_file_35559.pdf, p. 16. These states are: AK, AR, AZ, CO, CT, DC, DE, IL, IN, KS, LA, MA, MI, MN, MO, MS, MT, NE, NJ, NY, OR, RI, TN, VA, WI.

²⁵ Project Vote (December 2006). "Maintaining Current and Accurate Voter Lists." *Issues in Election Administration: Policy Brief No. 11*. Available at:

http://projectvote.org/fileadmin/ProjectVote/Publications/List_Maintenance_Project_Vote_Policy_Brief_11.pdf

²⁶ See: <http://feinstein.senate.gov/06releases/r-voting1020.htm>;

http://rushholt.com/archives/2005/09/transcript_of_r.html; http://www.paulaaboud.com/pai_ei.html;

http://myvoices.blogs.com/blog/2005/09/is_your_right_t.html#comments;

<http://ensign.senate.gov/issleg/issues/record.cfm?id=246034&>;

²⁷ Electionline.org Weekly (March 29, 2007). Available at:

<http://electionline.org/Newsletters/tabid/87/ctl/Detail/mid/643/xmid/244/xmfid/3/Default.aspx>

In August 2005, 25 states required voter-verifiable permanent paper ballots, and another 14 states had proposed legislation with such a requirement. By March 2007, 28 states had regulations that require voter verified paper records.²⁸ In addition, by June 2007, state legislatures were considering more than 50 bills pertaining to paper trails. Most bills call for paper trails or mandate standards for the use of voting machines with paper trails.²⁹ Of the states where paper-trail legislation was being reviewed, three states (Arizona, Hawaii and Wisconsin) implemented legislation that introduces a Voter Verified Paper Audit Trail (VVPAT), and California introduced a provision that ensures the integrity of the paper audit trail system already in place.³⁰ In addition, Kentucky's Secretary of State Trey Grayson has called for state lawmakers to approve and fund early voting programs and equipment that would create paper trails.³¹ In April 2007, the Maryland Senate unanimously approved a bill requiring the state to scrap its \$65 million electronic-voting system and switch to new machines that have a paper record, and Florida was moving closer to approving legislation that would require voting machines to produce a paper trail.³²

This is clearly one area where the Commission's recommendations have helped shape the debate.³³

3.2 Audits

Recommendation: State and local election authorities should publicly test all types of voting machines before, during, and after Election Day and allow public observation of zero machine counts at the start of Election Day and the machine certification process.

Significant progress

The number of states requiring mandatory audits of voter-verified paper records has increased nationwide. The Commission recommended that state and local election authorities test all types of voting machines before, during, and after election day. While the methods, sample sizes

²⁸ CFER (September 2005). *Building Confidence in US Elections*. Available at: http://www.american.edu/ia/cfer/report/full_report.pdf; Verified Voting. *Verified Voting: Mandatory Manual Audits of Voter-Verified Paper Records*. Available at: <http://www.verifiedvoting.org/>

²⁹ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation.

³⁰ In June 2006, **Arizona** enacted election reforms that require their electronic voting systems to provide a durable paper document that the voter may use to verify the voter's choices. The reforms also direct that the paper document be used in manual audits and recounts. In August 2006, **California** passed into law reforms that preclude the Secretary of State from approving an electronic voting system for use in California unless he or she ensures the paper used for the machines audit trail is of sufficient quality to maintain its integrity and readability throughout the required 22-month post-election retention period. In April 2006, **Hawaii** enacted election reforms stipulating that no electronic voting system shall be used in any election unless it generates a paper ballot or voter verifiable paper audit trail that may be inspected and corrected by the voter before the vote is cast, and unless every paper ballot or voter verifiable paper audit trail is retained as the definitive record of the vote cast. In January 2006, **Wisconsin** enacted election reforms that require electronic voting machines to create a paper record of each vote, thus providing an auditable paper ballot to confirm election results. The paper ballot will also count as the official record for recount purposes.

³¹ Kentucky Secretary of State (January 2007). "Grayson calls for early voting, paper trails in Ky. Elections." Available at: <http://www.sos.ky.gov/secdesk/mediacenter/coverage/article84.htm>

³² Melissa Harris (April 7, 2007). "Senate OKs paper-trail votes." *Baltimore Sun*. Available at: <http://www.baltimoresun.com/news/local/politics/bal-md.papertrails07apr07,0,1630706.story?coll=bal-mdpolitics-headlines>; Linda Kleindienst (April 28, 2007). "Plan to spend \$28 million on new voting machines clears the Senate." *Sun Sentinel*. Available at: <http://www.sun-sentinel.com/news/local/southflorida/sfl-felections28apr28,0,6265441.story?coll=sfla-home-headlines>

³³ Mark Halvorson and Laura Wolff (April 4, 2007). *Report and Analysis of the 2006 Post-Election Audit of Minnesota's Voting Systems*. Citizens for Election Integrity Minnesota. Available at: <http://ceimn.org/files/CEIMNAuditReport.pdf>

and remedies for disparities are markedly different across state lines, manual audits are on the rise nationwide, which is in line with the recommendations of the Carter-Baker Commission.³⁴ The number of states requiring mandatory manual audits of voter-verified paper records increased from 10 in 2005 to 15 in 2007.³⁵ A National Association of Secretaries of State (NASS) survey of post-election audit procedures in 2007 found that of 31 states, 14 conduct some type of post-election audit, but the audits varied greatly in their methodologies.³⁶

At the federal level, a bill introduced by Rep. Rush Holt, H.R. 811, would ensure uniformity in 2008 by requiring that all voting machines be audited. The bill was passed by the Committee on House Administration.

3.3 Security for Voting Systems

Recommendations: The Independent Testing Authorities should have responsibility for certifying the security of the source codes to protect against accidental or deliberate manipulation of vote results. A copy of the source codes should be put in escrow for review by qualified experts. Manufacturers who are unwilling to submit their source codes for EAC-supervised testing and review by independent experts should be prohibited from selling their voting machines. Local jurisdictions should restrict access to voting equipment and document all access and changes to computer hardware or software as well as have backup plans in case of equipment failure on Election Day.

Some progress

CDEM has worked with Verified Voting, the National Academy of Sciences, and other groups to raise the level of awareness of the importance of voting systems security and to specify the steps to accomplish that (e.g., escrow requirements in several states and prohibition against using certain voting machines because their manufacturers refused to comply with requirements), but more needs to be done. Currently, there are about 14 states with escrow (or related) provisions (Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Minnesota, Missouri, New York, North Carolina, Texas, Utah, Wisconsin and Washington).³⁷

There have been several recent cases where voting machine vendors have been prohibited from participating in procurement and the use of their machines was prohibited. In November 2005, Diebold filed suit against the North Carolina Board of Elections to try to avoid a state requirement that vendors place into escrow all voting machine source code.³⁸ Subsequently Diebold was forced to withdraw from the North Carolina procurement process because it did not escrow its code. In

³⁴ Electionline.org (March 2007). Case Study: Auditing the Vote. Available at: <http://electionline.org/Portals/1/Publications/FINAL%20EDR%20pdf.pdf>

³⁵ CFER (September 2005). *Building Confidence in U.S. Elections*. Available at: http://www.american.edu/ia/cfer/report/full_report.pdf; Electionline.org (March 2007). *Case Study: Auditing the Vote*. Available at: <http://electionline.org/Portals/1/Publications/FINAL%20EDR%20pdf.pdf>. In 2005, those states were Colorado, Connecticut, Hawaii, Illinois, Minnesota, New Mexico, New York, North Carolina, Washington and West Virginia. By 2007, Alaska, Arizona, California, Missouri and Utah also joined them.

³⁶ National Association of Secretaries of State (February 2007). *NASS Survey: Post Election Audit Practices by State, February 2007*. Available at: <http://www.nass.org/Surveys.htm>

³⁷ Pamela Smith (March 12, 2007). "States with escrow provisions." *Verified Voting Foundation*. Available at: <https://www.verifiedvotingfoundation.org/article.php?id=6439>. For more details on these states' escrow requirements, please see <http://www.verifiedvotingfoundation.org/downloads/EscrowProvisions.pdf>.

³⁸ Electronic Frontier Foundation. Available at: http://www.eff.org/news/archives/2005_12.php

2007 Microsoft refused to comply with the New York State's Board of Elections source code escrow requirements. Microsoft Windows operating systems and applications are used by several direct-recording electronic voting machines companies in New York and they became ineligible for use.³⁹

Increased awareness of the importance of the security of voting systems has taken different forms. Rep. Holt's bill requires that voting system software be inspected by independent experts. While an investigation of Sarasota County's touch-screen-voting machines (which showed undervotes six times greater than the rest of the congressional district in the 2006 election) had initially found no problems with the machines, in 2007 Congress ordered another investigation of the voting equipment.⁴⁰

The Commission recommended that the Independent Testing Authorities, under EAC supervision, should be responsible for certifying the security of the source codes to protect against accidental or deliberate manipulation of vote results. In February 2007, the EAC performed its first-ever accreditation of voting test labs and was involved in the process of testing and certifying voting equipment and software.

II.4. EXPANDING ACCESS TO ELECTIONS

4.1 Assured Access to Elections

Recommendations: States should undertake efforts to make voter registration and ID accessible and available to all eligible citizens. States should also remove all unfair impediments to voter registration by citizens who are eligible to vote and improve procedures for voter registration efforts that are not conducted by election officials, such as requiring state or local registration and training of any "voter registration drives." States also need to take precautions to assure that all voter registration forms are fully accounted for. In addition, voter registration forms should be returned within 14 days after they are signed.

Some progress

The Commission recommended that states should undertake their best efforts to make voter registration accessible and available to all eligible citizens and gave as an example the use of mobile voter registration offices. Since 2005, several states - Delaware, Michigan, and Maryland (Prince George's County) - have taken steps to improve the access of voters to elections through the use of mobile voter registration offices. Moreover, the use of a national website to permit voters to know if they are registered and where has added a measure of security and, as it becomes better known, will add confidence in the process.

Efforts have also been made to take special precautions to assure that all voter registration forms are fully accounted for and to improve voter registration efforts, but the legislation

³⁹ Bo Lipari (April 16, 2007). "Microsoft says—we won't escrow." *VoteTrustUSA*. Available at: http://www.votetrustusa.org/index.php?option=com_content&task=view&id=2385&Itemid=113

⁴⁰ Mark K. Matthews (May 3, 2007). "Congress launches probe into Florida election." *The Orlando Sentinel*. Available at: <http://www.fortwayne.com/mld/newssentinel/news/editorial/17171565.htm>

was contested in the courts, and third-party registration continues to be very controversial. As of Spring 2006, 17 states had regulations for organizations that operate registration drives and 4 out of these states (Alaska, Hawaii, Nebraska, and Wisconsin) had training provisions in their third-party registration regulations.⁴¹ In 2006, several states introduced bills requiring the training of individuals participating in voter registration drives (Arizona, Georgia, Minnesota, and Ohio).⁴² The legislation in Arizona and Georgia failed in 2006, and Minnesota's is still being reviewed. The Ohio bill faced court challenges on several of its provisions, and a federal judge struck down training requirements for workers collecting voter-registration cards because they could only be obtained online.⁴³ Several states (Ohio, Missouri, and Florida) also introduced bills or regulations (in Georgia's case) setting a deadline for the return of voter registration forms.⁴⁴ The Florida law was deemed unconstitutional in a preliminary injunction and the case was pending before the Court of Appeals.⁴⁵ Georgia's regulation was ruled unconstitutional in a preliminary injunction issued in *ACORN v. Cox*. In September 2006, a District Judge granted a preliminary injunction that prohibited the enforcement of those parts of Ohio's House Bill 3 dealing with voter registration.⁴⁶ It should be noted that the court actions did not address the deadline issue.

4.2. Vote by Mail

Recommendation: The Commission encourages further research on the pros and cons of vote by mail and of early voting.

Some progress

Since 2005, the procedure of "vote-by-mail" has been researched by both local level administrators and academics and state legislatures have reviewed proposals for the conduct of pilot projects to study its impact. Results have been mixed, but the debate about the pros and cons of this option, as well as state legislative activity, has intensified. CDEM actively participated in this debate. At the AU Conference to assess HAVA in March 2006, CDEM invited the editors of *The American Prospect* to participate in a discussion of vote-by-mail, and the magazine devoted part of the May issue to the subject.

The impact of vote-by-mail was further explored by academics and practitioners. Washington State's King County Executive issued a 2006 comprehensive staff report and subsequently prepared plans to conduct all King County elections by mail.⁴⁷ Arizona's Tucson City Council studied the

⁴¹ Electionline.org (July 2006). *Holding Form: Voter Registration 2006*. Available at: <http://www.electionline.org/Portals/1/Publications/ERIPBrief13.final.pdf>

⁴² Project Vote (February 21, 2007). *Restricting Voter Registration Drives*. Available at: http://projectvote.org/fileadmin/ProjectVote/pdfs/Project_Vote_Policy_Brief_5_Restricting_Voter_Registration_Drives.pdf; Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation.

⁴³ Mike Tobin (September 2, 2006). "Ruling erases election overhaul." *Plain Dealer*. Available at: LexisNexis.

⁴⁴ Project Vote (February 21, 2007). *Restricting Voter Registration Drives*. Available at: http://projectvote.org/fileadmin/ProjectVote/pdfs/Project_Vote_Policy_Brief_5_Restricting_Voter_Registration_Drives.pdf

⁴⁵ Ibid.

⁴⁶ Warren Stuart (September 2, 2006). "Ohio: Federal Judge Rules That State Registration Restrictions Are Unconstitutional." Available at:

http://www.votetrustusa.org/index.php?option=com_content&task=view&id=1745&Itemid=65

⁴⁷ King County Executive (2006). "Moving King County to Vote by Mail Report." Available at:

<http://www.metrokc.gov/exec/news/2006/0208mailBallot.aspx>

feasibility of all mail voting and rejected it, believing that voters had indicated displeasure with this type of system.⁴⁸ Academics have focused on the effect of vote by mail on turnout and found that participation actually declined in presidential and gubernatorial elections by 2.6 to 2.9 percent, although it increased in local elections.⁴⁹

Despite these mixed findings, in 2007, proposals related to the conduct of elections by mail have been introduced in 17 states (Alaska, Arizona, California, Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Maryland, Massachusetts, Michigan, Montana, New Mexico, North Dakota, Tennessee, and Texas) compared to 6 states in 2006.⁵⁰ Of these proposals, several called for pilot programs or for task forces to study the feasibility of mail voting (Maryland, Hawaii, and Michigan). In addition, the California Association of Clerks and Election Officials and the League of California Cities asked the state legislature to consider vote-by-mail pilot programs.⁵¹ Voting by mail will be used for the first time in Seattle (March 2007); all of King County will join 34 of Washington's 39 counties and move to all vote-by mail elections by 2008; and Ulster County (New York) is also considering this option.⁵²

Pilot studies of early voting were also proposed for Mississippi.

4.3 Vote Centers

Recommendations: States should modify current election law to allow experimentation with voting centers. More research, however, is needed to assess whether voting centers expand voter participation and are cost effective. Voting centers need a higher quality, computer-based registration list to assure that citizens can vote at any center without being able to vote more than once.

Some progress

Since 2005, research on vote centers by both scholars and state administrators suggest these centers can be an effective way of encouraging electoral participation. In 2005, Indiana Secretary of State Todd Rokita issued a report analyzing the applicability of vote centers to that state as well as the pros and cons of their use.⁵³ Subsequently, Wayne County in Indiana decided to test the use of voting centers in the spring of 2007 in an actual election.⁵⁴ Indiana's Tippecanoe County tested the vote centers in a mock election in May 2007.⁵⁵ Scholarly research on voter centers has concluded that they have a positive and significant effect on the individual's electoral participation.⁵⁶

⁴⁸ Rob O'Dell (January 19, 2006). "City will study the feasibility of all-mail voting." *Arizona Daily Star*. Available at: <http://www.azstarnet.com/metro/112061.php>; Rob O'Dell (December 20, 2006). "Tucson rejects all-mail balloting." *Arizona Daily Star*. Available at: <http://www.azstarnet.com/allheadlines/161201>

⁴⁹ Thad Kousser and Megan Mullin. *Will vote by mail elections increase participation? Evidence from California counties*. Available at: <http://weber.ucsd.edu/~tkousser/Will%20Vote-by-Mail%20Elections%20Increase%20Turnout.pdf>

⁵⁰ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation.

⁵¹ Sean Greene and Dan Seligson (February 22, 2007). *electionline Weekly*. Available at: electionline.org.

⁵² Ibid.

⁵³ Indiana Secretary of State Website. (December 13, 2005). "A Study of Vote Centers, and their Applicability to the Hoosier Election Process." Available at: <http://www.in.gov/sos/elections/hava/pdf/VoteCenters.pdf>

⁵⁴ Associated Press (March 18, 2007). "Wayne to Test Voting Centers." *Journal Gazette*. Available at: <http://www.fortwayne.com/mld/fortwayne/news/local/16930108.htm>

⁵⁵ Brian Wallheimer (March 1, 2007). "Tippecanoe County primary called off; mock election will test vote centers." *Journal and Courier*. Available at: <http://www.jconline.com/apps/pbcs.dll/article?AID=/20070301/NEWS09/70301032>

⁵⁶ Robert Stein and Greg Vonnahme (2006). *Election day vote centers and voter turnout*. Paper presented at the 2006 Annual Meeting of the Midwest Political Science Association. Available at: <http://www.brookings.edu/gs/projects/electionreform/20060418Stein.pdf>

Interest in setting up vote centers across the states has increased. Currently, Colorado is the only state that has adopted voting centers into its state law. However, other states, such as Florida, Illinois, North Carolina, and Michigan, have expressed various degrees of interest in the possibility of using vote centers.⁵⁷ During the 2006 general elections, the use of vote centers expanded across counties in Colorado after it was first implemented by its Larimer County. While vote centers appear to have operated effectively in Larimer County, vote centers in Denver had serious election-day problems, including a breakdown in electronic poll books used to sign in voters when they arrived, which led to long lines and late poll closings. Vote centers were also used in San Mateo County, California, during the 2006 primary elections.⁵⁸

In addition, in 2006, legislative proposals pertaining to vote centers were introduced in 4 states (California, Colorado, Indiana and Utah).⁵⁹ In 2007, legislative proposals dealing with vote centers were introduced in South Carolina, Tennessee, and Texas.⁶⁰ At the request of Secretary of State Al Jaeger, North Dakota's Senate voted in mid-March 2007 to give final legislative approval to a bill that allows counties to establish vote centers.⁶¹

4.4 Military and Overseas Voting

Recommendations: The U.S. Department of Defense (DOD) should supply to all military posted outside the United States. a Federal Postcard Application for voter registration and a Federal Write-in Absentee Ballot. It would be preferable for the application forms for absentee ballots to be filed by Internet. A system to expedite the delivery of ballots to military and overseas civilian voters by fax, email, or overnight delivery service should be developed, but voted ballots should be returned by regular mail. Voted ballots should not be returned by email or by fax as this violates the secrecy of the ballot. All ballots subject to the Uniform and Overseas Civilians Absentee Voting Act must be mailed out at least 45 days before the election or within two days of receipt after that. States should count the ballots of military and overseas voters up to 10 days after an election if the ballots are postmarked by Election Day.

Significant progress

Federal and state legislation has followed the recommendations of the Carter-Baker Commission for the Department of Defense (DoD) to supply voting materials to military voters overseas via the Internet as well as for the DoD and states to take steps to develop a system to expedite the delivery of ballots to military and overseas voters. Federal efforts to facilitate voting by military members overseas have been undertaken since early 2006. In March

⁵⁷ Texas Secretary of State. *Report to the 80th Legislature on House Bill 758*. Available at: <http://www.sos.state.tx.us/elections/laws/hb758.shtml>

⁵⁸ Nicole Neroulis (May 3, 2006). "Nine voting centers launch machines for the disabled." *Inside Bay Area*. Available at: LexisNexis.

⁵⁹ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation.

⁶⁰ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation.

⁶¹ Dale Wetzel (March 15, 2007). "State elections trending to voting centers." *The Bismarck Tribune*. Available at: <http://www.bismarcktribune.com/articles/2007/03/15/news/state/130360.txt>

2006, seven Republican and five Democratic senators wrote to Secretary of Defense Donald Rumsfeld requesting that he implement a new voting system that would allow members of the military to easily “request, receive, download and print” absentee ballots regardless of their location.⁶² The main sponsor of this initiative was Sen. Conrad Burns. During conference negotiations for a war-emergency supplemental bill in June 2006, legislation sponsored by Burns allotting \$2.5 million for a pilot program enabling military voters to request and receive their ballots for the 2006 election through the Internet was included in the bill. Subsequently, the Department of Defense launched a new website in September 2006—the Integrated Voting Alternative Site (IVAS)—to provide information on electronic voting options for service members and other U.S. citizens living overseas.⁶³

States have differing laws regarding the use of electronic transmission with respect to absentee voting materials, but IVAS serves as an alternative to faxing or emailing the Federal Post Card Application (FPCA) for Registration, FPCA for Ballot Request, Blank Ballot to citizens, the return of the Voted Ballot and fax-to-email conversion of the above via the Department of Defense Electronic Transmission Service. This initiative tracks the Commission’s recommendation, except the option to return ballots through the Internet, which can violate the secrecy of the ballot.

In addition to the website, the DoD created a cadre of voting assistance officers (VAOs) assigned to every military command.⁶⁴ The VAO is designated to assist personnel on voting and is responsible for disseminating accurate and nonpartisan voting information.

Efforts to facilitate military voting also have been undertaken at the state level. Of the bills introduced in 2006 and 2007 in the states addressing absentee military and overseas voting, several incorporate elements of the Carter-Baker Commission recommendations regarding methods of application and submission of voter registration through the Internet (Alabama, Pennsylvania, Utah and Texas) and deadlines for counting the absentee ballots (Wisconsin).⁶⁵

On May 23, 2006, Gov. Edward G. Rendell (Pennsylvania) signed Senate Bill 999 into law. In a letter to the governor, President Carter and Secretary Baker lauded his actions to protect ballots cast by military and overseas voters. The legislation tracked Commission recommendations that poll sites be removed from locations where some voters may not have access or may experience harassment and that voters in the military be provided every opportunity to have their absentee ballots properly counted. The governor also urged the Pennsylvania legislature to pass HB 544, which would enhance voters’ rights by permitting electronic transmission for absentee ballot applications and earlier filing deadlines so that ballots can be printed earlier and sent overseas in time for voters to return them before the deadline.

⁶² Mary Clare Jalonick (March 21, 2006). “Senators ask Rumsfeld to smooth military voting process” *Associated Press*. LexisNexis. The enators signing the letter were Republicans Conrad Burns of Montana, Christopher Bond of Missouri, Rick Santorum of Pennsylvania, James Inhofe of Oklahoma, Elizabeth Dole of North Carolina, Olympia Snowe of Maine and Wayne Allard of Colorado. Democrats signing the letter were Max Baucus of Montana, Barbara Mikulski of Maryland, Richard Durbin of Illinois and Daniel Inouye and Daniel Akaka of Hawaii.

⁶³ Sara Wood (August 25, 2006). “Web Site to Outline Voting Options for Troops Overseas.” *Veterans News and Information Service*. Available at: <http://www.vnis.com/story.cfm?textnewsid=2101>

⁶⁴ Jim Fisher-Thompson (November 3, 2006). “U.S. Military Takes Major Steps To Facilitate Voting by Troops; Computers, e-mail, express mail used for U.S. midterm elections.” *Federal Information and News Dispatch*. Available at: LexisNexis.

⁶⁵ Data based on searches of the National Conference of State Legislatures’ (NCSL) database on Election Reform Legislation.

4.5 Access for Voters with Disabilities

Recommendations: The U.S. Department of Justice (DOJ) should improve its enforcement of the Americans with Disabilities Act (ADA) and the accessibility requirements set by HAVA. States should make their voter registration databases interoperable with social service agency databases and facilitate voter registration at social service offices for citizens with disabilities. States and local jurisdictions should allow voters with disabilities to request an absentee ballot when they register and to receive an absentee ballot automatically for every subsequent election. Local election officials should determine which voters with disabilities would qualify.

No identifiable progress

There have been anecdotal reports about the increased accessibility for people with disabilities during the 2006 elections. However, national, state-based, and city-based reports reveal numerous disability access issues and noncompliance with ADA and the accessibility requirements in HAVA. Most currently deployed voting systems are still noncompliant with federal ADA and HAVA access requirements for voters with disabilities, according to Demos and Voter Action.⁶⁶ Reports on the conduct of the 2006 elections also reveal numerous disability access issues.⁶⁷ Incidents were reported in 11 states of people with disabilities being unable to use equipment provided specifically for them to vote independently because the machines were broken or inaccessible or because poll workers didn't know how to set them up.⁶⁸ Reports focusing at the city and state levels also show similar problems (e.g. Wisconsin, Maryland).⁶⁹ For example, two of five polling sites in New Jersey were found to be inaccessible to disabled voters over the past three years.⁷⁰

4.6 Re-Enfranchisement of Ex-Felons

Recommendations: States should allow for restoration of voting rights to otherwise eligible citizens who have been convicted of a felony (other than for a capital crime or one which requires enrollment with an offender registry for sex crimes) once they have fully served their sentence, including probation or parole. States should also provide information on voter registration to ex-felons who have become eligible to vote and each state's department

⁶⁶ Noel Runyan (February 14, 2007). Improving Access: A Report on the Technology for Accessible Voting Systems” *Demos and Voter Action*. Available at: http://www.demos.org/pubs/improving_access.pdf

⁶⁷ State by state data on the disability access problems reported to the Election Protection hotline in 2006 is available through the Election Incident Reporting System at http://eirs.cs.net:8080/EIRS_WEB/Map/index.jsp?cat=6. For 2004 and 2005, this data is available at <https://voteprotect.org/index.php?display=EIRMapNation&tab=ALL>

⁶⁸ VotersUnite.org (January 2007). *E-Voting Failures in the 2006 Mid-Term Elections: A Sampling of Problems Across the Nation*. Available at: <http://www.voteraction.org/reports/E-VotingIn2006Mid-Term.pdf>

⁶⁹ Legal Committee of Milwaukee Election Protection (February 13, 2007). *2006 Election Preview: Report from Non-Partisan Observers of Voting in the General Election in the City of Milwaukee on November 7, 2006*. Available at: http://www.aclu-wi.org/wisconsin/voting_rights/20070219-2006_General_Election_Election_Protection_Report.pdf; Maryland Election Protection Coalition. *Maryland Elections 2006: A Report by the Maryland Election Protection Coalition*. Available at: http://www.aclu-md.org/aPress/Press%202007/MD_Coalition_Report.pdf

⁷⁰ Ruth Padawer (April 13, 2007). “Polls Still off-Limits to Disabled.” *NorthJersey*. Available at: <http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjczN2Y3dnFlZUVFeXk2MDcmZmdiZWw3Zjd2cWVIRUV5eTcxMTAzNjImeXJpcnk3ZjczN2Y3dnFlZUVFeXky>

of corrections should automatically notify the state election office when a felon has regained eligibility to vote.

Significant progress

Reforms to enfranchise ex-felons have been passed or are advancing in several states. At the time of the report, three states – Florida, Kentucky, and Virginia – permanently barred all ex-felons from voting. Since then, Florida restored the right to vote for ex-felons. Many other states revised their laws to permit some groups of ex-felons to vote. Specifically, in 2006, Rhode Island approved a referendum to amend the state constitution and restore voting rights to persons currently serving a sentence of probation or parole. Tennessee amended the country’s most complicated system by simplifying the procedure, and now all persons convicted of a felony (except electoral or serious violent offenses) are eligible to have their voting rights restored upon completion of sentence.⁷¹ In late October 2006, Alabama’s Supreme Court restored the right to vote for formerly incarcerated individuals who did not commit crimes of moral turpitude. In 2007, Maryland instituted an automatic restoration policy for all persons upon completion of sentence. In Colorado, a restoration bill for parolees was passed in the Senate in April 2007 and awaits review by the House.⁷²

At the federal level, one bill was introduced in 2006, by Rep. Juanita Millender-McDonald, proposing the restoration of voting rights to eligible people with criminal convictions upon completion of incarceration and sentencing, including parole.⁷³ Two bills have been introduced in 2007 (H.R. 818 by Rep. Charles Rangel and H.R. 1381 by Rep. Stephanie Tubbs Jones) proposing felon re-enfranchisement.⁷⁴

4.7 Voter and Civic Education

Recommendations: States should publish reports on their voter education spending and activities and engage in appropriate civic and voter education efforts, such as providing information about candidates and ballot initiatives on state websites and pamphlets mailed to voters and instructing high school students on voting rights and how to register. Local election authorities should mail notices advising voters of the date and time of the election and the polling place where the voter can cast a ballot. The federal government should provide matching funds for the states to encourage civic and voter education.

Some progress

There has been an increasing amount of interest and pressure for voter and civic education at the state level, but state legislatures have not approved most of the proposals.⁷⁵ Overall, there is a need for continued efforts in this area. In 2006, an Alabama bill called for requiring

⁷¹ The Sentencing Project (November 2006). *Felony Disenfranchisement Laws in the United States*. Available at: http://www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Cfd_bs_fdlawsinus.pdf

⁷² <http://www.sentencingproject.org/NewsDetails.aspx?NewsID+392>

⁷³ Brennan Center for Justice. *109th Congress Legislation: Felon Re-Enfranchisement*. Available at: http://www.federalelectionreform.com/bill_tables/109_felon_reenfranchisement.html

⁷⁴ Brennan Center for Justice. *110th Congress Legislation: Felon Re-Enfranchisement*. Available at: http://www.federalelectionreform.com/bill_tables/110_felon_reenfranchisement.html

⁷⁵Data based on searches of the National Conference of State Legislatures’ (NCSL) database on Election Reform Legislation. See database subtopic “Voter Education/Information”.

the Secretary of State to provide electronically to the general public information related to candidates for federal and state offices and issues, but the bill failed. Two other bills (H133 and S110) in Florida and in Indiana (SB 276) that called for voter education programs for high school seniors suffered the same fate. In addition, the state of Washington failed to pass a 2006 bill calling for U.S. history or government high school courses required for graduation to include a voting education component. Voter education projects were passed in just two states: Pennsylvania passed a 2006 bill for a voter education program designating the week of April 10 through 17, 2006 as “Voter Awareness Week“, and California declared April as “Voter Education Month“ to inform citizens of changes in voter registration procedures.⁷⁶ As of March 2007, a bill for high school voter education had been introduced in Indiana; New Mexico is considering a bill proposing appropriations for a voting education program for Native Americans; and Utah had passed a bill to establish the Statewide Electronic Voter Information Website Program administered by the lieutenant governor.

At the federal level, Sen. Hilary Rodham Clinton and Rep. Tubbs Jones have introduced bills calling for grants to states to carry out civic education pilot programs for high school students on the importance of participation in the democratic process.⁷⁷

In addition, beginning in January of 2006, the National Association of State Boards of Education (NASBE) Study Group on Civic Engagement and Ethical Behavior in a Global Society set out to determine what role state boards of education can and should play in promoting civic learning. NASBE issued a set of recommendations for state boards of education to consider.⁷⁸

II.5. IMPROVING BALLOT INTEGRITY

5.1 Investigation and Prosecution of Election Fraud

Recommendations: The Department of Justice and each state’s attorney general should issue a public report on their investigations of election fraud. The DOJ’s Office of Public Integrity should increase its staff to investigate and prosecute election-related fraud. It should be a federal felony for any individual, group of individuals, or organization to engage in any act of violence, property destruction (of more than \$500 value), or threatened act of violence that is intended to deny any individual his or her lawful right to vote or to participate in a federal election. The Commission recommends federal legislation to prohibit any individual or group from deliberately providing the public with incorrect information about election procedures for the purpose of preventing voters from going to the polls.

Some progress

Election fraud continues to be a controversial issue on several levels, the first of which is empirical, whether fraud is prevalent, limited, or non-existent. This issue has been raised recently with the change in the text of an EAC report on voter fraud and intimidation and on

⁷⁶ Government Technology Magazine (April 13, 2006). “April is “Voter Education Month” in California.” Available at: http://www.govtech.net/magazine/channel_story.php/99179

⁷⁷ US Library of Congress. THOMAS Database. Available at: <http://thomas.loc.gov/>

⁷⁸ National Association of State Boards of Education. Available at: http://www.nasbe.org/publications/Civic_Ed/civic_ed.html

the controversy of whether U.S. attorneys were dismissed for not adequately pursuing electoral fraud. The Department of Justice and many state attorneys-general have issued public reports on their investigations and have pursued such issues vigorously. The question is whether the pursuit of these cases has a partisan motive, and that question has elicited different answers on each side of the partisan divide.

With regard to efforts to prevent deception or intimidation of voters, there has been clear progress along the lines of the Carter-Baker recommendations, and CDEM has been in contact with the sponsors of related legislation. In November and December 2005, two bills were introduced by Sen. Barak Obama and Rep. Rush Holt to amend the Voting Rights Act to prohibit a person from knowingly deceiving another about the conduct of an election.⁷⁹ Up to March 2007, 3 bills were introduced in the 110th Congress (by Sen. Obama, Rep. Rahm Emanuel and Rep. Tubbs Jones) with provisions to prohibit a person from intentionally communicating information known to be false about the conduct of an election.⁸⁰ Bills intended to deter efforts to deceive and/or intimidate voters have also been introduced at the state level in 2006 and 2007 in Iowa, Missouri, Ohio, California, Indiana, Virginia and Rhode Island.⁸¹

The 2006 EAC report on election fraud mentioned the Commission report as a source on the topic of voter fraud.⁸² The EAC's study, while controversial, has increased awareness of the need to further research the existence of election crimes.

5.2 Absentee Ballot and Voter Registration Fraud

Recommendations: State and local jurisdictions should prohibit a person from handling absentee ballots other than the voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper, or election officials. States should consider passing legislation that attempts to minimize the fraud that has resulted from “payment by the piece“ for voter registration, absentee ballot, or signature collection. States should not take actions that discourage legal voter registration or get-out-the vote activities or assistance, including assistance to voters who are not required to vote in person under federal law.

Some progress

Legislation has been passed, upheld or introduced in several states aimed at deterring absentee ballot fraud and protecting voter registration drives from the incentive for fraud deriving from “payments by the piece.“ Activity aimed at deterring absentee ballot fraud includes Georgia's 2007 approval of legislation that upgrades the crime from a misdemeanor to a felony.⁸³ In June 2006, legislation introduced in New Jersey also aimed to deter absentee ballot voter fraud by

⁷⁹ Brennan Center for Justice. *109th Congress Legislation: Deceptive Practices*. Available at: http://www.federalelectionreform.com/bill_tables/109_deceptive_practices.html

⁸⁰ Brennan Center for Justice. *110th Congress Legislation: Deceptive Practices*. Available at: http://www.federalelectionreform.com/bill_tables/110_deceptive_practices.html

⁸¹ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation. See database subtopic “Election Crimes”.

⁸² Election Assistance Commission (December 2006). *Election Crimes: An Initial Review and Recommendations for Future Study*. Available at: <http://www.eac.gov/docs/Voter%20Fraud%20&%20Intimidation%20Report%20-POSTED.pdf>

⁸³ Vicky Eckenrode (February 10, 2007). “Voter Fraud Bill Is Passed: Crime Would Become Felony.” *The Augusta Chronicle*. Available at: LexisNexis.

proposing to eliminate the use of a messenger, except for certain family members, including spouses, parents, children, grandparents, grandchildren, or siblings. The bill also requires two members of the board of –elections – one from each political party – to deliver the absentee ballots, assist the voter and then return the ballot to the board.⁸⁴

Steps have been taken at the state level to deter “payment by the piece“ for registering voters. Missouri passed a bill in 2006 that bars persons from compensating others for registering voters.⁸⁵ Michigan Secretary of State Terri Lynn Land proposed an initiative to “Promote Responsible Voter Registration Drives“ that restricts third parties from receiving payment on a per application basis for voter applications.⁸⁶ In July 2006, the 9th Circuit Court of Appeals upheld an Oregon Ballot Measure prohibiting the payment on a per signature basis to electoral petition circulators.⁸⁷ Also in 2006, after consultations with CDEM staff, Sen. Debra Bowen introduced a bill in California that bans payment on a per-signature basis to initiative or voter registration signature gatherers.⁸⁸ A bill prohibiting the payment of signature gatherers on a per-signature basis was introduced in January 2007 in Washington State.

II.6. ELECTION ADMINISTRATION

6.1 Institutions

Recommendations: Congress and the states should reconstitute election management institutions on a nonpartisan basis. EAC members and each state’s chief elections officer should be selected and expected to act in a nonpartisan manner. Congress should approve legislation that would add a fifth nonpartisan member to the EAC, who would serve as its chairperson. States should prohibit senior election officials from serving or assisting political campaigns in a partisan way, other than their own campaigns in states where they are elected. State chief elections officers should ensure uniformity of voting procedures throughout the state, as with provisional ballots.

Some progress

Beginning in early October 2006, Robert Pastor and the CDEM team began meeting with a number of democracy-related non-governmental organizations, including the League of Women Voters, Common Cause, the Campaign Legal Center, and the Lawyers Committee for Civil Rights Under Law, to discuss the Carter-Baker Commission’s recommendations on election administration. As a result of these meetings, model legislation was drafted to establish independent, nonpartisan, professional state election commissions and to make sure that election officials would be prohibited from being involved in political campaigns.

⁸⁴ New Jersey Assembly Republicans (June 1, 2006). “Blee Introduces Election Reform Legislation To Prevent Abuse Of Absentee/Messenger Ballots.” Available at:

<http://www.njassemblyrepublicans.com/pages/news/newsarchive/june06.htm#6-1-06-5>

⁸⁵ National Conference of State Legislatures’ (NCSL) database on Election Reform Legislation. See database subtopic “Election Crimes” for year 2006 and then Bill SB 1014.

⁸⁶ Secretary of State website. *Michigan Elections: Meeting 21st Century Challenges*. Available at: http://www.michigan.gov/sos/0,1607,7-127-1633_8722_8832-135185--,00.html

⁸⁷ Election Law @ Moritz. Available at: <http://moritzlaw.osu.edu/electionlaw/litigation/decisions.php>

⁸⁸ California Political Desk (March 9, 2006). “Bowen renews initiative reform effort.” *California Chronicle*. Available at: <http://www.californiachronicle.com/articles/viewArticle.asp?articleID=6692>

On June 13, 2007, CDEM sponsored and organized a major conference at the National Press Club in Washington to discuss the problems of the current system and to propose a new initiative along the lines recommended in the Carter-Baker report. Rep. Susan Davis and Rep. Rush Holt, who have proposed legislation that restricts the partisan activities of election officers, spoke at the event, along with Maryland State Sen. Jamin Raskin, who also served on the Commission, and discussed the draft legislation, which he plans to introduce in Maryland to establish independent, nonpartisan, professional state election commissions.

Legislation calling for nonpartisan election administration and uniform voting procedures has been recently introduced and is currently under review. This legislative activity as well as recent press coverage and similar proposals from the NGO community signal an increased awareness about the issue. In 2007, Sen. Bill Nelson, Sen. Clinton, Rep. Tubbs Jones, and Rep. Davis introduced bills prohibiting election officials from participating in certain political campaign activities, and Rep. Stevan Pearce introduced a bill prohibiting states from using public funds to directly or indirectly promote or oppose political candidates or political parties.⁸⁹ Similar legislation has been introduced in Ohio and Virginia.⁹⁰ In February 2006, Oregon Secretary of State Bill Bradbury, a Democrat, and California Secretary of State Bruce McPherson, a Republican, signed a five-point pledge to remain neutral, independent and fair in their oversight of elections.⁹¹

Elsewhere, a bill calling for the Iowa state commissioner of elections to draft a manual that provides uniform polling place procedures to guide precinct election officials was introduced in 2006, and a bill calling for uniform statewide voting procedures was introduced in Pennsylvania in March 2007.⁹²

The increased level of awareness of nonpartisan election administration is illustrated by the introduced legislation as well as the heightened media attention to the issue and by similar proposals from the NGO community (e.g. Ohio's League of Women Voters, Common Cause and FairVote).⁹³

6.2 Poll Worker Recruitment

Recommendations: Poll workers should be compensated at a level that would attract more technologically sophisticated and competent workers, and part-time workers should also be

⁸⁹ Brennan Center for Justice. *110th Congress Legislation: Impartial Election Administration* Available at: http://www.federalelectionreform.com/bill_tables/110_impartial_election_administration.html

⁹⁰ Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation. See database subtopic "Election Crimes"

⁹¹ Warren Stewart (February 6, 2006). "Bradbury and McPherson Call For Non-Partisan Election Administration." *VoteTrustUSA*. Available at:

http://www.votetrustusa.org/index.php?option=com_content&task=view&id=880&Itemid=26. The pledge can be found here: <http://www.votetrustusa.org/pdfs/Oregon/SignedElectionsPledge.pdf>.

⁹² Data based on searches of the National Conference of State Legislatures' (NCSL) database on Election Reform Legislation. See database subtopic "Poll workers-Training"; See the General Assembly of Pennsylvania, Senate Bill 694. Available at:

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2007&sessInd=0&billBody=S&billTyp=B&billNbr=0694&pn=0740>

⁹³ The New York Times (October 17, 2006). "And the Winner is...Me." *The New York Times*. Available at: <http://www.nytimes.com/2006/10/17/opinion/17tues1.html?ex=1179028800&en=ceb71f6bce505d12&ei=5070>; The League of Women Voters of Ohio (January 29, 2007). *A 10-Point Proposal for Election Administration Reform*. Available at: <http://www.lwvohio.org/2007/Advocacy/ElectReformAg2-1-07.pdf>

recruited for the beginning and the end of Election Day. States should amend their laws to allow shifts for part of the day for poll workers on Election Day. States and local jurisdictions should also implement supplemental training and recognition programs for poll workers. The government and nonprofit and private employers should encourage their workers to serve as poll workers on Election Day without loss of compensation, vacation time or personal time off. Special efforts should be made to enlist teachers and students as poll workers. Local jurisdictions should allow poll workers from outside the jurisdiction. States should consider legislation to allow the recruitment of citizens as poll workers as is the case for jury duty.

Some progress

Practically all of the Commission's recommendations on poll worker recruitment have materialized in several states either as proposals or as concrete steps adopted to improve this process. Initiatives were undertaken to recruit students and government and private employees to serve as poll workers. Indeed, CDEM received a grant from the EAC to recruit and train college students as poll workers for the November 2006 election in the District of Columbia. CDEM recruited 100 American University students and, working with the DC Board of Elections, trained the students. The project not only provided critical help to the community, but it also proved a valuable learning exercise for the students. Proposals have also called for increasing the compensation of poll workers, allowing shifts, improving poll worker training and enlisting them by incorporating a jury duty method. Ohio Secretary of State Jennifer Brunner suggested in January 2007 that Ohio might try enlisting poll workers like courts enlist jurors. The media attributed the initiative as having been inspired by the Carter-Baker Commission's report, which had borrowed the idea from Mexico.⁹⁴

Milwaukee officials followed up on two of the Commission's recommendations: poll worker shifts and expanding recruitment outside a community. Milwaukee began offering split shifts for poll workers for the 2006 election and planned to look for civic-minded corporations willing to let their employees work at the polls while earning their regular wages.⁹⁵ Also, in a variation of the Commission's recommendation that local jurisdictions allow poll workers from outside the jurisdiction, Milwaukee officials announced in 2006 that it planned to advocate legislation allowing people who live outside a community to be poll workers so that municipalities and towns would have a larger pool of potential workers.⁹⁶

In 2006, Indiana and Missouri began several initiatives that closely follow the Commission's recommendations for the government to encourage its employees and business sector employees to serve as poll workers on election day without loss of compensation, to make special efforts to enlist students as poll workers, and to improve the training of poll workers.⁹⁷

⁹⁴Associated Press (January 13, 2007). "Ohio official contemplates poll-worker draft." Available at: <http://abclocal.go.com/wtvq/story?section=local&id=4983787>

⁹⁵ Ibid.

⁹⁶ Amy Rinard (November 12, 2006). "Voting places seek new help: As aging poll workers retire, schools, charities asked to recruit replacements." *Milwaukee Journal Sentinel*. Available at: LexisNexis.

⁹⁷ US States News (October 16, 2006). "Indiana secretary of state Rokita announces initiatives to recruit poll workers." Available at: LexisNexis. US States News (October 11, 2006). "Secretary of state Carnahan, St. Louis businesses team up to recruit poll workers." Available at: LexisNexis. In Indiana, these initiatives consisted of sending letters to Indiana employees for whom Election Day is a paid holiday inviting them to serve as poll workers on their day off; starting the Hoosier Scholars Helping Democracy—a new student program developed in partnership with the American Democracy

Proposals to increase poll worker pay has appeared in the legislative agendas of several states. In 2006, Alabama passed a bill to increase the pay for poll workers; one bill in Hawaii failed and another was pending; New York had five bills proposing to increase poll worker compensation.⁹⁸ Elsewhere, in 2007, a bill proposing to increase poll worker pay was pending in Illinois and others relating to poll worker compensation were pending in Texas and Missouri.

The Carter-Baker Commission also recommended that states and local jurisdictions implement supplemental training and recognition programs for poll workers. In early April 2007, the St. Francis County Election Commission (Arkansas) decided that poll workers should receive an additional “refresher” course for its special election in April.⁹⁹

6.3 Polling Station Operations

Recommendations: Polling stations should be made user-friendly and be required to maintain a “log-book” on election day to record all complaints, which would be analyzed for ways to improve the voting process. Polling stations should be organized in a way that citizens would not have to wait long before voting, and officials should be informed and helpful.

Some progress

There has been some limited activity directed at improving polling site operations, but it has mostly focused on proposing the creation of a ranking system of state election administration practices, now generally referred to as a “democracy index,” than on the actual restructuring of polling site operations. The “democracy index” proposal, which would essentially be a ranking system of state election administration practices, was first introduced in 2007 by Sen. Obama.¹⁰⁰ Later, Sen. Clinton and Rep. Tubbs Jones introduced bills proposing to study the feasibility of creating this index. Rep. Jesse Jackson Jr. also introduced a bill in 2007 calling for performance standards for the administration of elections in the states.

The Center for the Study of the American Electorate, an affiliate of CDEM, has proposed a research project that would determine ways to reduce long lines and wait times at polling places in an effort to make polling places more voter-friendly.

Project and the Indiana Campus Compact and the first of its kind in any state—which seeks to recruit college students to serve as poll workers in their counties of residence; and developing Indiana's first statewide poll worker training curriculum for use in both the 2006 Primary and General Elections. In 2006, Missouri conducted its first statewide poll worker recruitment effort in partnership with businesses (the newly formed Business Alliance for Civic Involvement), universities and colleges and other organizations to encourage more Missourians to sign up to serve as poll workers. Business Alliance partners reached out to their employees, staff members and students during late September and early October of 2006 to recruit many new poll workers from which local election authorities will be able to select additional workers for Election Day. Total recruitment reached more than 1,200 potential poll workers statewide for the November 2006 election.

⁹⁸ Data based on searches of the National Conference of State Legislatures’ (NCSL) database on Election Reform Legislation. See database subtopic “Poll Workers-Compensation.”

⁹⁹ The Herald Times (April 5, 2007). “Poll workers to get refresher course.” Available at: <http://www.thnews.com/article.php?id=2091>

¹⁰⁰ Brennan Center for Justice. *110th Congress Legislation: Democracy Index*. Available at: http://www.federalelectionreform.com/bill_tables/110_democracy_index.html

6.4 Research on Election Management

Recommendation: Continuing research on voting technology and election management should be conducted so as to encourage continuous improvements in the electoral process.

Significant progress

Research on election management has increased substantially, with more financial support from foundations and government institutions. The Election Assistance Commission has a research agenda. The National Academy of Sciences has undertaken a major research project on elections. Numerous foundations have assisted research. In April 2007, the Pew Center on the States and the JEHT Foundation announced a \$2 million fund (“Make Voting Work”) to support research on elections and on pilot projects aimed at developing techniques for assessing and improving the electoral process.

Studies spanning a variety of topics have been conducted by scholars, practitioners, and advocates. At present the most popular topics researched are voting technology, innovations in the polling place (e.g. vote centers), HAVA and its implementation, voter fraud, voter identification, and voter registration. Much of the current research utilizes the Commission’s report as a resource.¹⁰¹ In addition, CDEM has joined with the Center for the Study of the American Electorate, directed by Curtis Gans, one of the nation’s foremost experts on political participation, to undertake wide-ranging research on the electoral process.

6.5 Cost of Elections

Recommendations: Elections should receive high priority in the allocation of government resources at all levels. Local jurisdictions, states, and Congress should treat elections as a high priority in their budgets. Both local and state governments should track and report the cost of elections per registered voter.

No identifiable progress

There is no data available to evaluate whether elections have increased in priority in the budgets of states or local jurisdictions.

II.7. RESPONSIBLE MEDIA COVERAGE

7.1 Media Access for Candidates

Recommendations: The Commission encourages national networks and local TV stations to provide at least five minutes of candidate discourse every night in the month leading up to elections. It also encourages broadcasters to continue to offer candidates short segments of air time to make issue statements, answer questions, or engage in mini-debates. Many

¹⁰¹ League of Women Voters of Washington (Fall 2006). *Election Reform in Washington State*. Available at: http://www.lwvwa.org/studies/election_reform_study.pdf. Other reports that have cited or reviewed the Commission’s findings and recommendations include the Election Assistance Commission’s report on election crimes,

members of the Commission support the idea that legislation should be passed to require broadcasters to give a reasonable amount of free air time to political candidates.

Some progress

Media outlets have engaged in activities that closely follow the Commission's recommendations. During the 2006 election season, *Washington Post-Newsweek* stations committed to dedicating at least 10 minutes per weekday to locally produced political news coverage.¹⁰² Belo television stations, one of the nation's largest media companies, provided 146 congressional and gubernatorial candidates more than 13 hours of free airtime during the 2006 political season through their "It's Your Time" program.¹⁰³ These are just a few examples of the many media outlets around the country that provided free airtime for candidates in 2006.¹⁰⁴

Furthermore, actions have been taken to penalize stations that do not serve the information needs of their communities. In December 2006, the Media Access Project filed a *Petition to Deny Renewal* of all the commercial television stations in the Portland market that offer regularly scheduled newscasts, since a study revealed that in the four weeks prior to the 2004 election, less than 1% of Portland newscast time was devoted to state-level elections, about 9% to ballot issues and less than 1% to other local elections.¹⁰⁵ The petition argues that the stations failed to meet the needs of their community of license, and the renewal of their licenses would not serve the public interest.

7.2 Media Projections of Election Results

Recommendations: News organizations should voluntarily refrain from projecting any presidential election results in any state until all of the polls have closed in the 48 contiguous states and should voluntarily agree to delay the release of any exit poll data until the election has been decided.

No identifiable progress

One cannot assess progress on this recommendation until November 2008 to observe whether news organizations will refrain from projecting results before all the polls have closed nationwide. It is interesting to note, however, that such a policy has been implemented in Canada, where the banning of the publication of voting results until all federal polls close was upheld in March 2007 with a Canadian Supreme Court decision.¹⁰⁶

CDEM intends to undertake a project on this issue.

¹⁰² NAB Broadcasters (August/September 2006). "Post-Newsweek Stations Expand Political Coverage." *At Your Service* Vol. 9 Issue 5. Available at:

<http://www.nab.org/AM/AMTemplate.cfm?template=/CM/ContentDisplay.cfm&ContentID=7053>

¹⁰³ Belo (November 30, 2006). "Belo Television Stations Provided 146 Candidates Free Airtime During The 2006 Political Season." Available at: <http://www.belo.com/pressRelease.x2?release=20061130-1073.html>

¹⁰⁴ For more information about those stations, see the National Association of Broadcaster's publication *Free Air Times* at: <http://www.nab.org>.

¹⁰⁵ Media Access Project (December 22, 2006). "MAP Challenges License Renewals of All Commercial TV Stations in Portland." Available at: <http://www.mediaaccess.org/filings/>

¹⁰⁶ CBS News (March 15, 2007). "Supreme Court upholds blackout on early election night results." Available at: <http://www.cbc.ca/canada/manitoba/story/2007/03/15/election-law.html>

II.8. ELECTION OBSERVATION

8. 1. Election Observation

Recommendation: All legitimate domestic and international election observers should be granted unrestricted access to the election process and should be able to visit any polling station in any state, provided that they accept election rules, do not interfere with the electoral process, and respect the secrecy of the ballot. States that limit election observation only to representatives of candidates and political parties should amend their election laws to explicitly permit accreditation of independent and international election observers.

Some progress

Several bills have proposed granting access to the electoral process for domestic and international election observers, and the Commission's recommendation has been cited as promoting this reform, but a more comprehensive strategy is needed to gain wide acceptance for observers. Sen. Christopher Dodd and Rep. Stephanie Tubbs Jones have both introduced bills calling for uniform and nondiscriminatory standards in granting access to domestic and international election observers.¹⁰⁷ Sen. Dianne Feinstein's bill includes a provision encouraging the states to provide unrestricted access for all election observers, and the draft legislation that CDEM, the Lawyers Committee for Civil Rights Under Law, Common Cause, and other groups have developed to establish Independent State Elections Commissions also includes language to permit domestic and international observers. CDEM staff briefed international observer groups, including the Organization for Security and Cooperation in Europe (OSCE), on the U.S. electoral process and the issue of observation, and the OSCE's report subsequently cited the Carter-Baker Commission. A Library of Congress report in 2007 also mentioned the Commission's report when describing this issue.¹⁰⁸

II.9: PRESIDENTIAL PRIMARY AND POST-ELECTION SCHEDULES

9.1 Presidential Primary Schedule

Recommendation: The Commission recommends that the presidential primary schedule be made more orderly and rational to allow more people to participate. The Commission endorses the proposal of the National Association of Secretaries of State (NASS) to create four regional primaries, after the Iowa caucus and the New Hampshire primary, held at one-month intervals from March to June.

No identifiable progress

Staff from CDEM and its affiliate, the Center for the Study of the American Electorate (CSAE), have met with leaders of both parties to discuss the issue, and President Carter and Secretary Baker wrote letters to the chairmen of both parties and co-authored an op-ed in *Roll Call* making the case

¹⁰⁷ US Library of Congress. THOMAS Database. Available at: <http://thomas.loc.gov/>

¹⁰⁸ Organization for Security and Cooperation in Europe (March 9, 2007). *United States of America: Mid-term Congressional Elections*. OSCE/ODIHR Election Assessment Mission Report. Available at: http://www.osce.org/documents/odihr/2007/03/23567_en.pdf; CRS Report for Congress (February 28, 2007). *Election Reform: Issues and Legislative Proposals in the 109th Congress*. Available at: http://openocrs.cdt.org/rpts/RL33894_20070228.pdf

for the Commission's recommendation. In addition, CDEM and CSAE are planning a research project on the issue.

There is increased support for the recommendation for four regional primaries and increased media attention on the timing and sequence of presidential primaries. However, while the debate on the issue has been invigorated, state initiatives have moved in the opposite direction from that recommended by the Carter-Baker Commission. Most states have moved forward the date for the presidential primaries. This has compelled candidates to begin their campaigns two years before the election, and there are fears that the candidate of each party could be chosen by February 2008.

In February 2007, NASS renewed its call for the adoption of a reform plan for rotating regional primaries.¹⁰⁹ Indiana Secretary of State Todd Rokita, currently NASS president-elect, called for the adoption of a regional rotating presidential primary plan, which the Carter-Baker Commission endorsed. This endorsement has been cited by NASS in its efforts to promote reforms in the scheduling of the presidential primaries.¹¹⁰ Independent of this recommendation, 17 states are considering moving up the date of their presidential nominating contests from when they held them in 2004. This issue, along with the Carter-Baker Commission's and NASS's recommendations have received considerable media attention.¹¹¹

In March 2007 Rep. Sandy Levin introduced H.R. 1523, the "Interregional Presidential Primary and Caucus Act of 2007," which proposes an interregional system for the selection of delegates to presidential nominating conventions through primaries and caucuses.¹¹²

9.2 Post-Election Timeline

Recommendations: Congress should clarify and modernize the rules and procedures applicable to carrying out its constitutional responsibilities in counting presidential electoral votes, and should specifically examine the deadlines. States should certify their presidential election results before the "safe harbor" date. Also, states should take steps to ensure that its resolution of election disputes will be given conclusive effect by Congress under 3 U.S.C. § 5.

No identifiable progress

There appears to be no activity in this area.

¹⁰⁹ State News Service (February 26, 2007). "National Association Of Secretaries Of State Plan Would Rotate Regional Primaries Starting In 2012." Available at: LexisNexis.

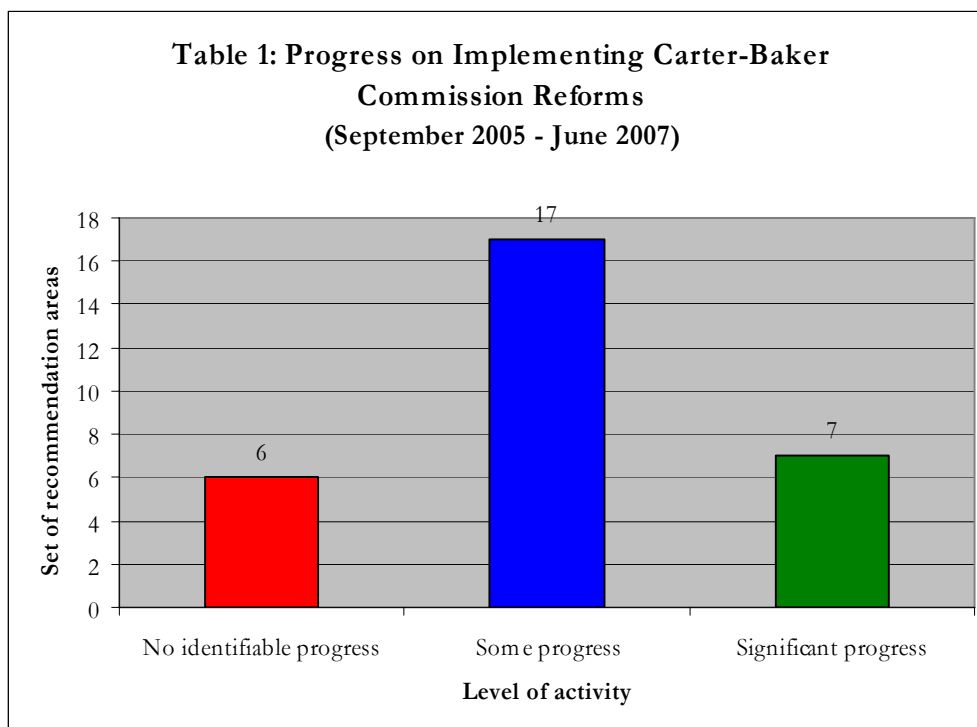
¹¹⁰ National Association of Secretaries of State (February 8, 2007). "Nation's Top State Election Officials Call for Sweeping Reforms to the Presidential Nominating Process." Available at: http://www.nass.org/releases/NASS%20Presidential%20Primaries_pr020807.pdf

¹¹¹ Office of the Secretary of State of Rhode Island (February 20, 2007). "Mollis Endorses Plan to Reform National Presidential Primary Process." Available at: <http://www.sec.state.ri.us/mollis-endorses-plan-to-reform-national-presidential-primary-process>; Recent articles on the regional primary proposal appeared in Stateline (February 12, 2007), Chicago Daily Herald (February 13, 2007), State News Service (February 26, 2007), Congressional Quarterly (March 27, 2007), and the US News and World Report (April 29, 2007).

¹¹² Electionline Weekly (March 22, 2007). Available at: electionline.org

Section III: Conclusion

In the short time since the release of the Carter-Baker Commission's report, there has been considerable progress on election reform. Out of 30 areas of recommendations, there has been some or significant progress in 24 areas – about two-thirds. The debate, in brief, has begun on the full gamut of election reform. (See Table 1).



Criteria for Assessment:

No identifiable progress means there was little or no debate on the issue raised by the Commission's recommendation and no evidence of change on the issue.

Some progress means that the issue raised by the Commission's recommendation stimulated some debate and movement, but the future trajectory of reform remains uncertain.

Significant progress means that the issue raised by the Commission's recommendation was debated, and there was significant movement towards either legislating or implementing the recommendation.

CDEM launched a program to promote consideration and implementation of the Carter-Baker Commission's recommendations after the release of the report. This program has fostered extensive discussions with policymakers and election experts on the Commission's report and included a forum in March 2006 at the Carter Center in Atlanta. The forum was taped for broadcast on National Public Radio and on Court TV and featured participation by President Carter, Secretary Baker, Sen. Max Cleland, Rep. Jim Marshall, and Carter-Baker Commission Members Kay Coles James, Tom Phillips, and Robert Pastor.

Since the release of the Carter-Baker Commission report in September 2005, reformers have made some impressive advances. In the area of securing the electronic technology, the Carter-Baker Commission's recommendation on voter-verifiable paper audit trails and related e-voting issues played a critical role in supporting those in Congress and the states who looked for a way to reassure voters that their votes would be counted properly.

Other recommendations also catalyzed reforms. Many states have modernized their voter registration lists, with the majority developing state-wide, top-down lists. In time, this may lay the foundation for a system of interoperability between states. Provisional ballots, despite uneven enforcement, have nonetheless enabled thousands of people to vote who previously would have been refused a ballot. In 2006, Congress reauthorized the expiring portions of the landmark Voting Rights Act, with wide bipartisan support.

Other Commission recommendations, including voter ID, ballot access and voter fraud, have not fared as well in the face of partisan wrangling. While these areas have seen some public debate, other critical needs remain almost wholly unaddressed. The fundamental problems that have afflicted America's election apparatus for decades – partisan control of election administration and a general lack of transparency and accountability – have not changed, although there are signs of increasing interest in this area. Every general election brings new allegations of partisan manipulation of election rules and procedures by local and state election officials, while the main agencies at the federal level, including the once-promising Election Assistance Commission, remain stalemated by partisan divisions. Important reforms such as media access for candidates and a more rational presidential primary schedule have yet to attain the place on the reform agenda they deserve.

In sum, since the release of the Carter-Baker Commission report, there has been notable progress in some areas, but little or no activity in others. What is clear is that the Commission's work has established itself as a cornerstone of American election reform, and its recommendations have become a roadmap towards giving American voters the election system they deserve. But there remains much work to do.

APPENDIX A: Summary of Recommendations and Progress

II.1	Goals and Challenges	
	1.1. Implementing the Help America Vote Act	Some progress
	1.2. Voting Rights Act	Some progress
II.2	Voter Registration and Identification	
	2.1. Uniformity within States	Significant progress
	2.2. Interoperability among States	Some progress
	2.3. Provisional Ballots	No identifiable progress
	2.4. Communicating Registration Information	Significant progress
	2.5. Voter Identification	Some progress
	2.6. Quality of Voter Registration Lists	Some progress
II.3	Voting Technology	
	3.1. Voting Machines	Significant progress
	3.2. Audits	Significant progress
	3.3. Security for Voting Systems	Some progress
II.4	Expanding Access	
	4.1. Assured Access to Elections	Some progress
	4.2. Vote by Mail	Some progress
	4.3. Vote Centers	Some progress
	4.4. Military and Overseas Voting	Significant progress
	4.5. Access for Voters with Disabilities	No identifiable progress
	4.6. Re-Enfranchisement of Ex-Felons	Significant progress
	4.7. Voter and Civic Education	Some progress
II.5	Improving Ballot Integrity	
	5.1. Investigation and Prosecution of Election Fraud	Some progress
	5.2. Absentee Ballot and Voter Registration Fraud	Some progress
II.6	Election Administration	
	6.1. Institutions	Some progress
	6.2. Poll Worker Recruitment	Some progress
	6.3. Polling Station Operations	Some progress
	6.4. Research on Election Management:	Significant progress
	6.5. Cost of Elections	No identifiable progress
II.7	Responsible Media Coverage	
	7.1. Media Access for Candidates	Some progress
	7.2. Media Projections of Election Results	No identifiable progress
II.8	Election Observation	
	8.1. Election Observation	Some progress
II.9	Presidential Primary and Post-Election Schedules	
	9.1. Presidential Primary Schedule	No identifiable progress
	9.2. Post-Election Timeline	No identifiable progress