

**TESTIMONY OF HON. RON THORNBURGH, SECRETARY OF STATE OF KANSAS
As Delivered to the Carter Baker Commission**

Thank you for the invitation to testify before you today. I appreciate the opportunity to represent the State of Kansas and my colleagues at the National Association of Secretaries of State, an organization of which I am past-president, as are my friends Sharon Priest and Ralph Munro.

I look forward to learning more about the scope of this Commission and its goals. In the coming months, I hope you will speak with many more elections officials. The best way to ensure that your work accurately reflects the overall picture of election administration in the U.S. -- including its successes and its flaws -- is to talk to those who are directly responsible for fair, safe and accurate elections.

To be a chief state election official today is to walk a tightrope -- carefully balancing the needs of your state with the demands of the federal government. Now the bipartisan law that was intended to guide election administration, and to establish safety nets in the form of standards and guidelines, is being threatened by new legislation that would amend its mandates before they are even fully realized.

Your work is important to America. The months following a presidential election are a good time to take stock of our election system. I speak for all election officials when I say we are always looking for a way to make the system better, and any resources this Commission can produce to help us do that will be appreciated.

But national commissions often result in legislation, and the chief state election officials are concerned that, despite states' significant election reform progress, there is a movement by some to federalize elections. Let me just say very clearly: the states' biggest fear is a continued expansion of the federal role in elections through regulatory oversight and micromanagement. In this case, regulated uniformity does not guarantee success.

Congress passed a landmark election reform law after the disputed 2000 election -- The Help America Vote Act -- which was designed to improve election administration and modernize voting equipment. The law, also known as HAVA, was the result of a truly bipartisan effort to improve elections while respecting the states' inveterate rights to regulate them. HAVA has already had a positive impact, even though it has not been fully funded and has been only partially implemented. To put it simply: HAVA is working.

Days before last year's election, USA Today predicted that states' efforts to improve the voting process would dramatically reduce the number of spoiled ballots. The paper reported that one million more votes would be counted in 2004. According to a CalTech/MIT study released in February, the number of votes lost through administrative errors dropped by 42 percent in 2004 compared to the 2000 election. That number will get even better as more states implement statewide voter registration databases by January 1, 2006.

In the days following the election, media across the country reported that elections ran smoothly overall, and operated much as Congress intended when it passed HAVA. There were only scattered stories of voting equipment glitches and poll worker mistakes and no widespread claims of voter disenfranchisement. While a single case of disenfranchisement is one too many, I expect the numbers of claims to diminish as HAVA's mandates are fully funded and realized.

Certainly our election system is not perfect. This year, we saw too many long lines at polling places and large numbers of provisional ballots cast. But last November's election was successful overall. To change the rules yet again would only lead to more voter confusion, which will only create more of the very issues you're trying to eliminate. HAVA is working, and the law should be allowed to succeed.

In 2004, every state was compliant with HAVA's provisional ballot mandate. A study conducted by Electionline.org found that as many as two-thirds of the provisional ballots cast in last year's presidential election were deemed valid. That's an impressive success rate considering the fact that this was the first

time the ballots were used nationwide, and I am confident it will increase with each election. Thanks to provisional voting, and to the best of my knowledge, no eligible voter was turned away.

States have different ways of determining the validity of provisional ballots, to be sure, and that's just how the sponsors of HAVA intended it to be. During the Senate debate over the law, Democratic Sen. Christopher Dodd said, "whether a provisional ballot is counted or not depends solely on state law." The sponsors of HAVA recognized that what works for New York City does not work for Cocker City, Kansas (home of the world's largest ball of twine).

I've heard some advocacy groups call for uniform standards that would require provisional ballots be counted no matter where in the state they are cast. I can tell you that the long lines we saw in 2004 will only get worse if elections officials have no way to predict how many voters to expect at voting locations. There would be no way to ensure that each polling place has the right number of poll workers and a sufficient amount of equipment and supplies. And until we have more sophisticated technology, a voter who goes to the wrong polling place won't be able to vote for down ticket races that are just as much a part of civic participation as the presidential ones.

Some of the same advocacy groups support a uniform voting system capable of producing a voter-verifiable paper trail. If the federal government dictates one voting system for the entire country, we will most certainly be left with an unwieldy system that will become archaic overnight and be almost impossible to change. Technology changes in a heartbeat. Any uniform system will quickly become out-dated and would be costly to replace.

As with provisional ballots, a single system doesn't fit every voter, everywhere. Voters in the U.S. used approximately five different voting systems in 2004. The disability community will tell you that modern, hi-tech systems without voter-verifiable paper receipts make voting accessible, which is wonderful progress. But then we can't overlook the concerns of the technology community about the security of those systems. The National Institute of Standards and Technology should be allowed to continue its work on guidelines for all types of equipment to provide solutions that ensure security without dictating certain types of technology. The states should be allowed to select the systems that best suit them and adhere to NIST's guidelines.

In his 1983 State of the Union Address, Ronald Reagan said that one of the goals of his presidency would be "to restore to states and local governments their roles as dynamic laboratories of change in a creative society." The nation's election reform progress owes much to our federal partners for providing broad objectives and funding, but we have also benefited greatly from the successful experiments and innovation of state governments:

- Last year, Iowa's secretary of state sent voter guides to every household in the state;
- Minnesota and Michigan offered polling place locators on their Web sites;
- Oregon offered voting almost entirely by mail, and voter participation there was at a rate of more than 85 percent;
- Colorado established vote centers, where voters could cast ballots at any of several large polling places around the county and not just in their neighborhood precincts; and
- In Kansas, for the first time, every polling place was fully accessible and ADA compliant.

We can do more to reach out to voters and poll workers, and we will. Many of the calls received by national voter hotlines in 2004 were from voters who just wanted to know where their polling places were located. As chief state elections officials, it is our job to ensure that voters know where and when to vote, and that there are enough poll workers there to help them.

Unfortunately, with limited federal funding for election reform, soft expenditures like voter education initiatives and poll worker training programs will likely be the areas that suffer most. The states may be forced to rely on help from outside groups to continue these efforts. We must succeed in getting all of the

money promised by Congress to fund HAVA if we want to continue to manage these programs at the state level and maintain their integrity.

Lastly, let me invoke the words of Abraham Lincoln: "Judging by all they say and do, and by the subject and nature of their controversy with us, let us determine, if we can, what will satisfy them." Congress clearly defined the desired outcome of election reform when it passed HAVA. The states clearly must be allowed to continue to determine how they can each best achieve that outcome, and Congress should clearly stand up to its obligation to fully fund the law.

Thank you again for your invitation to speak today. I look forward to answering your questions.

###