

NATIONAL COMMISSION ON FEDERAL ELECTION REFORM

TRANSCRIPTS OF THE SECOND PUBLIC HEARING

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Simi Valley, CA**

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**National Commission on Federal Election Reform
Reagan Library Hearing**

PANEL 2: Election Oversight

Witnesses:

Bill Jones	California Secretary of State
Bill Bradbury	Oregon Secretary of State

Dean Kathleen Sullivan: We now call our second panel on election oversight. We are very honored to have with us Bill Jones who is the Secretary of State of California and Bill Bradbury who is the Secretary of State for Oregon, which we will call to the stand. Danny McDonald, the chairman of the Federal Election Commission, was unable to attend so we will extend the time available to these two gentlemen from Secretary of States offices. Welcome. We will hear first, if we may, from Secretary of State Jones.

Secretary Bill Jones: Thank you Mr. Chairman, Madame Chairman and members. I appreciate the chance to be with you and talk about these important issues. I think that it is critical for us to have had the chance to hear the prior panel. These two individuals represent the very best that we have in California among our registrars of voters. As Secretary of State we work together toward a cooperation of 100 percent participation and zero tolerance for voter fraud, which are our dual goals. It has been a very cooperative effort and we have very high caliber people helping us.

California came through the November elections very well. We had a twenty-year high in our turnout in the primary. We have over 2500 precincts in California so the size and scope of our challenge is great. We do realize that it is important to be sensitive to the problems that arose in Florida. Certainly, we heard a great deal from all parts of the country and different media outlets with respect to that. The National Secretaries of State have worked hard to present an analysis that we collectively as Secretaries [agreed upon] and passed with respect to commenting on last year's elections. We strongly support the best practices effort in the election laws and the work Congress is giving to try and give us some overall guidance when it comes to best management practices.

For the most part, my particular position and from what I understand from most of the Secretaries is, that coming out of Florida, we are not in support of "federalizing" the elections but we clearly understand, as outlined in the National Secretaries' memo, that there are roles for the federal, state and local governments to play in the elections in this country. In California, as I just mentioned, we have a local election process, which I strongly support, and our role in that is somewhat oversight in nature and providing support for database management and to provide them, the people that do actually deliver the elections, as many resources as we can.

During our effort over the last six years, we again have focused on 100 percent participation and zero tolerance for voter fraud. We have moved a million and a half names off of the active roll and to the inactive roll. I think Mischelle very clearly stated that we do need some modification in the National Motor Voter Law with respect to how we do file management because the inactive files in this country are going greatly. We have more flexibility in California with respect to that than in many states because of some of the efforts that we have been involved with, but it is something that needs to be dealt with on a national basis through federal legislation.

Also, we have been allowed through state legislation to ask for the driver's license on a voluntary basis to be able to act as a unique identifier between one California voter and another. There are a lot of Bill Joneses in California and it is hard sometimes to divide them up. So we think that has been important.

The Calvoter program, the statewide voter file that has been mentioned, and the bounty hunter problem are at the core of many of the problems that we have both in registration and the absentee ballot process. In the last eighteen months, our country district attorneys have prosecuted twelve felony convictions for bounty hunters, people who are paid by parties to register people, with a penalty of almost thirteen years in state prison. We take this very seriously and it is a very important part of what we do.

Internet voting. I know you are looking at new systems here. Certainly these systems are important. People ask me quite frequently, "why don't we have one system for the whole state?" I would say that it is key to have competition in the process of election system development. What the government does not want to do is mandate one system because what will happen is that the price of that system will go through the roof. There will be no more private research and development for new systems. The best example I can give you is that the system that Mischelle has in Riverside County that is about \$3000 per system. The most recent system that we have certified (my office does a certification in Sacramento for touch screen) has dropped down to \$2,000 per system. There is competition out there and I think it is important to keep in the system.

Internet voting. Our Internet Voting Task Force report is on our web site. It is available to you if you would like to review it. Certainly there is the potential there but we have the security and the hacker problem to deal with. But we did lay out a four-phase schedule for moving toward that as a solution. There are other options to that but I reference our web site and Internet voting task force report for your information.

One of the key issues for California has been the provisional voting concept. We are proud of that because it does provide options for the registrars to allow for people who may be taken off the file inadvertently or have some other problem. We have had from time to time a problem with the Department of Motor Vehicles getting the information from Motor Voter people registered to us and to the counties. People come in and say, "I registered at DMV and I am not on the file." Certainly, we have had to go and allow them through the provisional process to vote so that no one is disenfranchised, and then

we go back and check the information. I think that has been helpful. I would encourage other states to take a look at that.

High school poll workers. I know the registrars talked about that. It has been a great plus for us. It has energized the people we have in the polling places to bring another generation to the elections process. I think the overall concept is positive and we are going to build on that as we move going to the point of how we get additional people to vote and serve as poll workers.

The certification process for the new systems. I know you had an earlier discussion of that, is very important. We go through two different laboratories to verify, but it is so important that you not just look at the systems. The key point, and this is the difference between California and Florida is that we have procedures and guidelines even for the old punch card systems that Conny McCormack was talking about. So you do not run into a county-by-county variation in how a recount is done as Florida ran into. We have guidelines across the state. If that same sort of situation would have occurred here, our registrars would have all come together, put together guidelines for punch cards and every single county would have been handled the same way with respect to how the chads would have been counted and all of that.

I also want to stress when it comes to the voting systems, Conny made an excellent point. I know the punch card systems have received a great deal of criticism. They are and have been an efficient system in California. They had to meet the same requirements and certifications when they were certified as new systems, as long as they are maintained and handled properly. I think Los Angeles County is a good example of how it has been done. If they are cleaned properly – and she spends a lot of money maintaining them – the systems have worked. And I want to encourage, and I have tried to encourage people to understand that. The last thing I want to happen is to have people come look at the system and then say that I don't want to vote because I don't have confidence in the system. If you have guidelines for manual recounts, if the systems are managed and taken care of properly, then they still operate.

But we would like to have new systems. But we need additional support. Toward that point, after the Florida experience, our office put out a ten-point plan. Notwithstanding what we feel is a good system in California on elections, it could be better. The suggested changes that we have are listed and we presented those to you for your review. We have a \$300 million request in Sacramento, the Democrat Speaker of the Assembly and myself for the Democracy Fund, which would provide money for the counties to help them acquire these new systems such as Mischelle has done in Riverside. She spent upwards of \$15 million, I think in that neighborhood, just for one county. So you can understand with 25,000 precincts, four machines per precinct, even at \$2,000 you can do the math. It gets pretty staggering. There are other priorities.

We have had an election technology exposition. We brought all of the vendors together to take a look at what the new systems are. We think there are opportunities to codify the recount guidelines. These are different changes that could be made to make our system

better. One of the initial questions was about ID at the polls. I have had that bill. I carried it twice when I was in the legislature. I submitted it twice since I have been Secretary. We think that is an important measure, verification of some kind, but we have not been able to achieve that. I do believe though, that the differences politically on that issue are going to be somewhat reconciled by virtue of technology. You cannot move to a distance voting system without some form of verification. We have that with the absentee ballots with the signatures. We do not have that necessarily with people even showing up at the polls. So as we move with technology, it will answer some of these questions, which historically have been partisan fights that we could maybe avoid. Finally, I would just say on the exit polling reform issue, I have repeatedly stated over the last two presidential cycles that California is disenfranchised by the media's exit polling. I know that people say that the only real example you have hard numbers for is the Carter-Reagan example of 1980. But I think Conny McCormack did some good data, good work, in L.A. County on timing in this last election. We submitted that to Congressman (inaudible) hearing last month. We have submitted testimony, which we also have provided to you. We think that is an important point. I called, personally, all of the major executives of the major networks on the Friday before the Tuesday election in November. I expressed the desire for them to refrain from this activity.

I realize that might sound naïve to make that request, but two years earlier I had every single Secretary of State in the country sign a letter to them to that same effect -- all of the eastern Secretaries, all of us. It is very important to the West that they not continue to do this or that we find some other alternative. It is affecting California. It is not proper. When you have an election that is decided by a handful of votes, it is coercive on the process and calls into question the results. When people are disenfranchised by virtue of the election being called before you even have a chance to even vote, that is totally improper. I hope that we can work toward that end. I am glad to see that Congress participated in that.

My last two points would simply be that, even though the punch cards have a lot of criticism, even the optical scan has produced differences on the under-count there. No system is perfect.

Finally, from the standpoint of outreach, there is no way that we, in a state of 35 million or 60 million voters, can do the kind of outreach that we need to do. We have tried to bring as many different under-represented groups together to help get the word out and get people registered. We have a ballot pamphlet that goes out to all registered voter households. It has been a very effective tool. It has all of the information with respect to the elections. But, in today's technology, where there is such an overwhelming amount of information for people, it is necessary for us to find new and different ways to condense it and make it simple and get right to the point in order to encourage people to participate. I think this Election Commission is an excellent idea. We look forward to working with you and providing any additional information you might need in order to encourage people to participate in the democratic process in this country. Thank you very much for the time and opportunity to be here today, Mr. Chairman and Madame Chairwoman.

Dean Sullivan: Thank you Secretary Jones. Now we will hear from Secretary Bradbury.

Secretary Bill Bradbury: Thank you very much. It is a real pleasure to appear before this Commission. It is a particular honor to appear before Senator Gorton. I just have to say that your presence is missed as the chair of the Interior Appropriations Committee. We loved that in the Northwest. I just have to say that I appear before you today, Ms. Sullivan, as a proud papa. My daughter graduates from Stanford this June. I will probably see you again in June.

I really do appreciate the opportunity to appear before this group to provide really what I would describe as Oregon's unique perspective on the very important endeavor you have undertaken to improve the nation's election system. Oregon is really defined by a pioneering spirit. We all know about Lewis and Clark and the Oregon Trail. But we have also been pioneers in election policy because Oregon is the only state in the nation that votes entirely by mail. As this commission considers best practices in federal elections, I hope that you will remember that there is no one-size-fits-all solution to this situation. I would urge you to reward rather than stifle the pioneering spirit in reforms that we have seen in Oregon and other states. I think that is a critical part of our election system.

Now, as I look back, 1998 was a very critical year in Oregon's election administration history. By May 1998, 41 percent of the registered voters in Oregon were permanent absentee voters. So voter turnout in the state has been declining steadily for almost 20 years and turnout in the 1998 primary set a record low at 35 percent. With absentee ballots representing nearly two-thirds of the entire ballots cast. Of those voters who requested absentee ballots -- and a lot of them were permanent absentees, so they did not have to make any specific requests before that election -- of the people who requested absentee ballots, 53 percent returned those absentee ballots. Only 22 percent of the remaining registered voters who did not request absentee ballots actually voted. So Oregon thus became the first state in the nation to have more ballots cast by mail than at polls during a polling place election.

But we were essentially running two separate election systems. One mail system for about half of the population that voted absentee and a separate polling place-voting system for the other half of our voters. And obviously that is about as expensive as you can possibly get to do both systems -- because we had to both pay for polling place employees and we had to pay the postage on absentee ballots. So in November of 1998, Oregon voters approved a ballot measure to extend vote by mail to all elections including primary and general elections. That ballot measure was approved with 70 percent of the votes in favor of that change.

I am here to report to you today that the results of vote by mail have in fact been pretty dramatic. In May 2000, I oversaw the first all vote-by-mail primary in Oregon's history. The turnout in that primary was 16 percent higher than the highest number of votes ever cast in a polling place primary election in Oregon.

Senator Rudy Boschwitz: I am sorry. This is what year?

Secretary Bradbury: 1998. 2000.

Senator Boschwitz: And what was the percentage? The number? Is the number of votes or as a percentage of the number of eligible voters?

Secretary Bradbury: So it would be a 16 percent increase over the number of total votes cast in prior elections. Yes. So it would be 16 percent increase in the total number of votes cast and that equals about 300,000 more people voted in the 1998 primary. Excuse me, 300,000 more people voted in the year 2000 and the cost of that was \$400,000 less than the prior election, the 1998 primary.

Now last November we became the only state in the nation to run a presidential election by mail. Oregon ranked ninth in the nation in voter turnout with almost 80 percent of the registered voters participating in the election. So vote-by-mail has clearly lowered cost in terms of the cost of the election and, more importantly, it has increased turnout.

It has also allowed us to implement some innovative procedures in the way we process our ballots that results in a substantial increase in security, accuracy and the speed of Oregon's election. Voters are required, just like they are in absentee ballots, to sign the outside of their envelopes when they return their ballots. Before county election officials open the envelopes, they check every single signature to make sure it matches with that voter's registration card. If a signature looks suspicious, they call the voter and ask them to come to the election office to verify that the ballot is in fact their ballot. Now signature checking is only possible in a vote by mail system or an absentee system. It has contributed to very low rates of voter fraud in Oregon.

In addition, and I think this is a key part of election administration, every Oregon ballot, once it is okay to be counted, is pre-screened before it is fed into a machine and counted the first time. So if a ballot is filled out in such a way that it is unreadable to the machine, either because there are hanging chads, the famous hanging chads, or the voter hasn't followed instructions in marking their ballot. A four-person bipartisan election board determines what the voter intended and then records their vote so it can be counted by the machine. Now with vote by mail, we begin pre-screening the ballots five days before the actual Election Day. This dramatically increases the speed with which we can count the ballots. Pre-screening ballots also significantly decreases the under votes and the over votes that were such an issue in Florida. It increases the accuracy and fairness of ballot counts the first time around. Even with the successes of vote by mail, there are still some critical issues where we can make improvements.

Senator Slade Gorton: Excuse me, Mr. Secretary. How can it have that effect? If there is a hanging chad or a question about a ballot, it is still going to be there. How can it significantly decrease those contests?

Secretary Bradbury: If you have a ballot where a voter has not appropriately, let us say you have a hanging chad.

Senator Gorton: Say they voted twice for president.

Secretary Bradbury: Well then you don't count. That is an over-vote. But a lot of people, for example on an optical scan ballot, a lot of people will mark a ballot one way and then they will erase it. And then they will mark a ballot another way. If you just put that into a machine, there are lots of time where there is still enough graphite on the ballot, or whatever, so it will be counted as an over-vote when in fact it is very clear that the voter's intent was to vote for whoever the final mark is made on. That kind of prescreening really improves the ability of the machine to accurately count what the voters intended.

So there are a couple of issues that I want to touch on briefly. After the 2000 election, we conducted a study of that election and the ballots that were cast. We looked at the rate of under-votes or ballots with no vote for president in the seven counties that still use punch cards and compared that to the 29 counties that use optical scan technology. We found that the rate of under-votes was two percent in punch card counties and only one percent in optical scan counties. Now two percent may sound like a small number, especially when it is compared to the 15 percent rate that Secretary Cox talked about in Georgia at your last hearing. I think we can credit the low percentage of under votes in Oregon to the vote by mail and our pre-screening process. But two percent is still twice as high as one percent and we take that very seriously because it means that 40 percent of our voters who live in punch card counties may not have an equal opportunity for their voice to be heard.

I firmly believe that punch cards need to be phased out in Oregon and I am fighting very hard for both state and federal funding to make that happen as quickly as possible. Because when you look at punch cards and you look at vote by mail, the two don't really go together that well. But even with our concerns over punch cards, vote by mail has clearly been a success story in Oregon. And the system is a positive model, I believe, for other states with high percentages of absentee voters such as the state of Washington. So I just want to thank the commission for your commitment to improving the accuracy and fairness of the elections across this county and I would be happy to answer any of your questions.

Dean Sullivan: Thank you very much gentlemen. I wonder if I can lead off with a question. Secretary Jones suggested that we shouldn't federalize election procedures and you stressed the value of competition certainly among the states. Do you think there should be more centralization in the state government and less decentralization to the counties?

Secretary Jones: No, I don't. I think from my experience in California is that the registrars do an excellent job of allowing for the local control, of knowing their county. I have Alpine, which is very small. I have Los Angeles, which is very large. I am not sure

that Sacramento is any better at reflecting the diversity of those counties than Washington is sometimes at reflecting diversity in states. There are certain responsibilities that the federal government should do, like the best management practices that FEC has been working on. We are all supportive of working on that piece of it. There are certain responsibilities that Sacramento does have, which is, hopefully, now even providing additional resources. But the actual conduct of the elections and how they are modified to fit the people in the communities needs to be as close to the people as possible.

Mr. Christopher Edley: On that specific point, just a follow up. I don't get it. Why is it that voters in Massachusetts who have a big stake in who is elected president and vice president, should depend on the decisions made by a county in California where the election, as we just learned, may hinge on whether or not a particular board of county supervisors has taken the trouble or chosen as a priority to invest in the infrastructure of democracy.

Secretary Jones: My answer to your question would be that, one, certainly the presidential election is an exception. It is something that happens clear across the county. But the vast majority of my county registrars conduct elections all the time and they are local elections. So I don't think that reflects the totality of their responsibility. Their job for the most part is dealt with on local supervisor city and mayoral elections.

Secondly, I agree with your point about the differentiation. And that is a question, as was mentioned by the registrars, of the ability of dollars. They have to make choices. Now if the federal government chooses to provide additional resources, we are certainly supportive of that. You can make a case that there is some difference. The Secretary stated that you had some testimony from Georgia as I mentioned today about optical scan versus punch card, in regards to which is better on the under vote and over vote. There are differences there. You are always trying to make it work the best way that you can.

But it gets back to resources and if, as the Speaker and I have tried to do in Sacramento, we can get the resources, we are going to make them available to the counties so they can upgrade the systems. But if every single county in California would have had a manual recount for a punch card system, they would have used exactly the same guidelines. One of the problems you have here, as we saw in Florida, is that the guidelines are not consistent across the state. That is not true here and we would have avoided that problem. What I am trying to say is that you will never resolve every issue by trying to have Washington deal with that. You need to keep it close to the people. You need to keep the elections there to the extent that you can provide resources to do that. It is helpful. It is more equal and the same.

Mr. Edley: But I still don't understand. I am a member of the U.S. Commission on Civil Rights and we did a hearing in Florida. We heard from some county supervisors in Florida and we saw data about ballot spoilage rates of 10,11, 12 percent. Not one or two but 12 percent. So again, my question is, I don't think anybody would propose that there be federal policies that straitjacket in every detail decisions that are made at the state and

local level, but surely there should be federal policies with respect to some minimal kind of performance standards.

Secretary Jones: Well that is why we are supporting the best management practices, the ones that we talked about that the Federal Election Commission is working on and our National Secretaries of State have supported. We want them fully funded and that was part of the memo that we put out at the Secretaries. You may want to comment on that, Bill

Mr. Edley: And as a regulatory matter not simply [unclear]. This would be wonderful but saying that if you want the money, you have to at least do this.

Secretary Jones: There are best management practices. I think though we were very clear in our resolution from the National Secretaries. This is the role we see the national government should play. This is the role the state should play. This is the role the county should play. And I think the best management practices certainly fits in. We are totally supportive of that and we would like to see it fully funded.

Dean Sullivan: Secretary Bradbury, would you like to answer the same set of questions?

Secretary Bradbury: Well I would just strongly agree with Secretary Jones and say that we have worked very hard. We are strongly supportive as Secretaries of State around the country in seeing some really good best management practices developed. We have, in fact, encouraged the funding of that through the Federal Election Commission. There is a committee on election practices that has to do with standards both for ballots and for voter registration and the like that I think make a whole lot of sense and should move forward with that no matter what.

Dean Sullivan: We have a question next from Senator Gordon, then Mr. Seigenthaler, then Senator Boschwitz.

Senator Gorton: You said that Bill you got an 80 percent turnout in this last election. How many of the 20 percent, in your view, were zombie voters – dead, moved away or the like? What do you think was the true percentage of voters who voted? You know we heard from Riverside, while you were sitting here, under Motor-Voter how many voters that she felt were still registered there that ought not to have been on the rolls at all.

Secretary Bradbury: I can't give you exact figures in terms of how many are phantom voters. But I can tell you that because we vote by mail, our election rolls in Oregon will be the cleanest in the nation within about a year or two.

Senator Gorton: How?

Secretary Bradbury: Because ballots are not forwarded, they are sent to the address that is listed in the voter registration. The ballot is not forwarded. It is returned to the county elections office. For the county clerk, that then immediately moves that person

from active to inactive because they are no longer at that address. You get an increasing number of people, as they move and the like, get moved to inactive in one or two election cycles. And we are talking short election cycles, a couple of months because the ballots go out on lots of different issues. So after we have had vote by mail for probably another two years, we will, I can say without much doubt, that we will have the cleanest voter rolls in the country.

Senator Gorton: And do you feel also that you have fewer people voting under other people's names?

Secretary Bradbury: Than in other places in the country?

Senator Gorton: Than you would have at a local polling place.

Secretary Bradbury: Well, every ballot is signed by the registered voter. It is amazing to go to the county election offices when they are processing the ballots and look at them. They have these wonderful computer programs to call up all of the scanned in signatures of the voter registration cards and compare that signature with the signature on the ballot. Anytime they see one that doesn't look correct, they pull it out and make a phone call. So I feel really good about the security of the vote by mail system.

Mr. John Seigenthaler: I would like to ask both of you to pursue just briefly, the point that Secretary of State Jones raised about the networks' use of exit polls. Obviously, that is a subject that we did not discuss at the Atlanta hearings but it is something that has been on the minds of all of us, and certainly on my mind. They have indicated in the testimony before Congress that they plan to refine the process so that there won't be embarrassing errors. That doesn't solve your West Coast problem at all but what other alternatives do you have to offer?

Secretary Jones: Well the ones that I have heard mentioned are obviously uniform poll closing. I have heard two day voting. I have heard Daylight Savings Time change. What all of those points or suggestions don't take into consideration is the fact that even if all the polls close uniformly across the county, it doesn't change the fact that the media is going to go exit poll three hours earlier. So you are not going to fix that at all by sequestering the data. What I have said to all of the national media executives is that I don't have a problem if the Secretary from Oregon announces numbers. That is news. But I do have a problem when you speculate based on your exit polling. That is not news. That is speculation. The only real news is when I announce California's numbers.

Now we have seen, and again we presented some of that data to you, that when you saw that early call last November, there was some drop-off based on some of the numbers that we have seen in Los Angeles County. My concern is that the solution, no matter how we try to develop a mechanical solution, this is really a solution of discipline. The media works well with us, since I have no money for outreach, 364 days of the year to help me get people registered, to get them out with public service announcements. But they leave

me three hours on the last night. That is unacceptable to me and it should be unacceptable to the country.

There should be a discipline imposed by them personally on this process. In my contestations with one of the national media executives, they agreed with me that this has a negative effect. And that they would be willing to if the rest would also. Now I understand, again I mentioned in my initial testimony, this may sound naive. But I see no way that you are ever going to resolve this because there is always that competition. So mechanical changes may help but there needs to be some self-discipline imposed if we are all after the same goal, which is to have the highest turnout and the greatest opportunity for people to participate.

Mr. Seigenthaler: If I could just ask, Secretary Bradbury, how did they manage exit polling with all mail in ballots? I noted that they called Oregon relatively early on election night. It was clear to me that there was some process.

Secretary Bradbury: Actually, they didn't do exit polling because there are no polls to exit from. Oregon was in the gray category in terms of Bush-Gore for a long time. Part of the reason for that was that it was a very, very close election. At about 6,000 votes between the two. But the other reason was that - that is why it stayed that way - we were concerned that there would become some impression that vote by mail slowed down the results, which it didn't. But because it was so close, there was no way to call it. And they didn't have exit polls to go this way or that way. I mean we saw the exercise that the wonder of exits polls in places like New Mexico where they went this way, and then that way, and then this way again. But they had a poll to support them. They didn't ever have exit polls in Oregon. So we stayed in sort of a gray category.

Mr. Seigenthaler: If I could just have one more brief question to Secretary Jones. Would it make any sense for the Secretaries of State, as part of this educational "get out the vote" drive that goes on to come together with an educational process that in effect urges voter to exercise their First Amendment right not to participate in exit polls?

Secretary Jones: Well that is something for us to consider.

Mr. Seigenthaler: I mean it would certainly, if you did it, it seems to me, make them think twice if they knew that people were either going to not answer or mislead them.

Secretary Jones: It may get to that. That may be one of the only solutions we have. It is an interesting point.

Mr. Seigenthaler: Well the First Amendment may save us from the First Amendment.

Secretary Bradbury: Can I suggest also that we used to have a very serious problem with exit polling in Oregon just like California and Washington. Now that we vote by mail, there is almost no problem with the calling of elections at 8 o'clock at night or 6 o'clock because most of the ballots in Oregon are in by that time.

Ms. Colleen McAndrews: I also understand that the call of the election that is so pernicious to the West Coast really didn't happen until around 5 o'clock when the polls were closed on the East Coast. I talked to some people who do exit polling for the Los Angeles Times on Tuesday to ask them their process. They confirmed that part of their modeling and their statistical analysis for the exit polls is that they take the information from the voters as they are exiting but they can't rely on that until they match it to vote results. So they really wait until the polls close and they get those first absentee ballots and those first precinct by precinct, and then they are matching the precinct to what they are getting on the exit poll, sort of testing their data in their formula.

A proposal has been made, would there be anyway to limit the announcement, even if you couldn't have a uniform poll closing, which I am frankly in favor of, by somehow jiggering the time. Maybe having the daylight savings be extended on the West Coast. Have an election day when you have a shorter voting time. I think that is the best goal. But short of that, could you embargo the election results that are announced by the election officials in the East Coast and the Midwest until the polls have closed on the West Coast. And deny them the information that they need for their formula. That is a proposal. I would like you to comment.

Secretary Jones: That is the most interesting proposal I have heard, frankly. Because I don't think that, well I don't know, I am not a constitutional lawyer, it would violate the First Amendment.

Dean Sullivan: The government is obligated not to stop people from speaking but it is not obligated to provide them with information.

Secretary Jones: I think that is a very interesting idea. I think it is very important to note that every single Secretary signed the letter in 1998 on this point. So there is wide consensus on a bipartisan basis that just because this is a problem for the West, it is still a problem for everyone. And going to your point, there needs to be a resolution in this certainly would be one to consider.

Dean Sullivan: Let us turn to questions from Senator Boschwitz and then from Congressman Panetta

Senator Boschwitz: I have a little problem with your 80 percent of your eligible voters.

Secretary Bradbury: No 80 percent of our registered voters.

Senator Boschwitz: I see.

Secretary Bradbury: And we are probably ninth in the nation. We were probably 60 percent of eligible voters.

Senator Boschwitz: Because Minnesota, North, South Dakota and sometimes Washington, I think are the largest. I get mixed up. But this is registered as opposed to eligible. I think 72 or 73 percent of the eligible voters in my state.

Secretary Bradbury: If I could clarify. We were ninth in the nation in the way that voter turnout is counted around the country, which is percentage of eligible voters. OK. And it was 80 percent of our registered voters. But we were ninth in the nation in our turnout of eligible or right age voters.

Senator Boschwitz: I don't know what the definition is. But I have never seen an 80 percent figure of eligible voters. Would you just outline to me the procedure you go through to register voters. Do you send registration to everybody's house? Do you mail to everybody? How do you go about registering voters?

Secretary Bradbury: We have a normal voter registration process. People can register by mail. We have a motor-voter program. We don't register any differently than any other state. Voter registration in Oregon is just like voter registration in any other state.

Senator Boschwitz: And then you mail a ballot to every registered voter.

Secretary Bradbury: Correct.

Senator Boschwitz: And those that come back you take off the rolls?

Secretary Bradbury: Those that are returned go from active status to inactive status.

Senator Boschwitz: And you believe that will clean up the list? Because I noticed in the testimony of the previous hearing that the feeling was that absentee ballots give the largest opportunity for fraud. And obviously you don't think that.

Secretary Bradbury: No. I don't share that view at all. I think that the highest security you can have is to have each signature checked when it comes back. That far exceeds any other kind of election security. That is what we have with vote by mail.

Senator Boschwitz: What is your attitude about that, Secretary Jones?

Secretary Jones: I don't disagree with the Secretary's point about signature verification. It is better than just no verification. That is why we are asking for ID. The only caveat I would put on that is that there has been an effort in California to allow multiple ballots to be brought back. The campaigns can mail out requests for absentees. Now they want the ability to go pick them up and bring them back. I have drawn a very clear line between the process of the election and the process of the campaigns. Where you run into a problem with the absentee process is when you have erroneous registration where there is not verification. Then campaigns seek to bundle absentees and try to bring them back and bypass the voter completely. Our goal is to keep the process of the election oversight between the campaign and the voter. Because the campaign keeps trying to get us out of

that and they want to get closer to the voter. Our goal has to be to stay right in the middle and give them no more access to the voter than absolutely necessary. They have plenty of access through the campaign with their money, but do not let them tamper with the ballot or let them be bundled. That is why the legislation we have strongly pushed is that if you want to return an absentee ballot, you have to be of the family to return it. You can't return more than three. That type of thing. Because otherwise, the voter gets taken out of this completely and there are always consultants in the political arena trying to find out how to do that.

Senator Boschwitz: I gather that you pay for the postage. Is that correct? Did you say that, Mr Bradbury?

Secretary Bradbury: We pay for the postage to mail the ballot to the voter. The voter has to pay for the postage to return the ballot. And if a voter doesn't choose to put the 33 or 55 cents on the ballot, they can take it to a drop box, which is just like a polling place, and cast their ballot that way.

Senator Gorton: So in your situation what Bill Jones is talking about can happen. Political parties or any other group can carry one hundred or a thousand of them and put them in the drop boxes.

Secretary Bradbury: That is correct.

Ms. McAndrews: Do you have any evidence of that kind of coercion or manipulation in this election?

Secretary Bradbury: Well the most striking case, I wouldn't call it coercion, of that was a rally for one of the presidential candidates. George Bush came to town and the party did a whole thing that said, basically, bring your ballot. They collected ballots at that event and dropped them in a drop box. But the voters had to sign their ballot and one can presume they voted as they saw fit.

Senator Boschwitz: Let's say I got a driver's license in the state of Oregon. I would currently thereby be registered to vote and I would receive something from you. Is that not correct?

Secretary Bradbury: No.

Senator Boschwitz: Let me ask the question a little differently. How do you know that the voter is a citizen? What requirements do you make to verify that?

Secretary Bradbury: We have the same requirements as any other state. We are very similar to California. We have them check a box that certifies that they are a U.S. citizen and they sign their voter registration. Perjury on a voter registration is a class C felony.

Secretary Jones: Senator, on that point I would like to add that in California, because we have had problems of non-citizens getting on the voter roles since motor voter made no provision to get them off - totally, left out, no provision - we had to set up our own provision. We were sued by the Justice Department. We went through a process whereby we worked that out and now we have the ability to go and notify and move people that are non-citizens off the file. A lot of people end up, because again the bounty hunters do not tell them, inadvertently, but there is no way to get them off.

I sent a recent letter to our national Secretaries about some of the discussion that are happening in Washington to Congress. We really need to request all of you to go back and take a hard look at Motor-Voter. We have repeatedly as Secretaries asked for some reforms on that over the last six years. It needs to be done. Many of these problems as the registrars, we have hundreds of thousands of names now on the acufile that we can't get off. So as you look at this problem, I would hope that you would not just look at the Florida experience, but you look at some of these other past experiences that Congress has passed and help us with some reforms to that end. And one of them is this point.

Senator Boschwitz: I would like to see something - there is nothing thus in the paperwork that I have received that analyzes - what the Secretaries of State think about Motor-Voter so perhaps.

Secretary Jones: I would be happy to provide you with my correspondence and I think they have given some additional correspondence from the chairperson.

Senator Boschwitz: If you could just write to us.

Congressman Leon Panetta: On your ballot by mail approach in Oregon, there really is a trade off though. On the one hand you are trying to provide for the convenience of the individual voter to be able to send in a ballot. But you are among one of the last states to certify your results. That means that it takes an awful long time to find out whom, in fact, won the election. I would be interested in your commenting on that trade off.

Secretary Bradbury: There is not a trade off. This election -- the general election we just had -- we had more ballots counted by the Friday after the election than at any time in the past. We counted a higher percentage of our ballots much more quickly because of vote by mail. Because it was so close, we didn't certify . . . I mean our law says that the county clerk will certify to the Secretary of State 20 days after the election results. They did that. But because it was so close, nobody was really sure, which way those 6000 votes were going to go until we got to certification. So that is why it appeared so uncertain.

Congressman Panetta: But you will admit that it is a longer process to count those kinds of ballots than if you went to touch screen or something like that.

Secretary Bradbury: If you are comparing to touch screen, yes, clearly it takes longer. But if you are comparing it to a vast majority of election systems in American, then no it doesn't take longer. And, in fact, it can be done quicker.

Congressman Panetta: Oregon is perfectly satisfied with doing the mail ballot approach on election?

Secretary Bradbury: Seventy percent of the voters enacted it in 1998 and I would predict that 80 percent of them would vote for it now. And let me just make one little comment. One of the reasons that people love the vote by mail in this last election was that we had 26 ballot measures on the ballot in the fall. And it gave people chance to sit in their breakfast nook and read the voter's pamphlet and figure out how they were going to vote on four or five of the ballot measures, every morning for a week, and then send in their ballot.

Congressman Panetta: How soon before Election Day could they send in their ballot?

Secretary Bradbury: The ballots go out 18 days before the election. And they can mail it in as soon as they get it.

Senator Boschwitz: You get the ballot and how do you count it? Is it manually counted? Is it put through a machine? What does the ballot in Oregon look like?

Secretary Bradbury: It varies, county to county. Seven of the counties in Oregon still use punch cards. The other 29 use a form of optical scan system. And there are a couple of different optical scan systems. We vote by mail but we still use several different technologies to have people cast their vote.

Senator Boschwitz: And you have fewer mistakes, you say, than you did before? 2 to 1 percent, 2 of over-counting, under-counting?

Secretary Bradbury: Well we are seeing two percent under-vote with punch card. We are seeing one percent under-vote with the other technologies, which contrasts with what Cathy Cox had to say from Georgia, at your last meeting. So we clearly have a higher problem with punch cards than we do with optical scan.

Congressman Panetta: Can I ask you Bill Jones, one of your proposals was to ask for \$230 million as a fund for capital investment. With the loss of the surplus here in California, what are the chances for getting . . .

Secretary Jones: Not very good. Not very good.

Congressman Panetta: Let me ask you this. If, in fact, there was a proposal to provide cost share at the federal level to provide funds to the states that was conditioned that on best management standards and practices, as we mentioned, would you object to that or would you support that?

Secretary Jones: If the best management practices are the program that, in fact, we have all been in support of through the National Secretaries. I would support that. If it were beyond that, I would have to look at what the proposal was.

Dr. Robert Pastor: Secretary Bradbury, have you done a study or do you know of a study that has done a random sample, for example of the registration lists and the ballots that are going out to find out what percentage are in fact reaching the citizens that you expect? Because, obviously just waiting for the ballots to come back is not the way the mail system always works. Sometimes you just have a ballot that just stays in the mailbox or somebody else picks it up. Particularly in a transient community, such as your university towns where every year most of the population is moving. Have you checked to see what percentage of those ballots is in fact received by the proper person?

Secretary Bradbury: No, we have not.

Ms. McAndrews: What would either of your positions be on a national holiday on Election Day not being a Monday or a Friday but the first Tuesday after the first Monday in November for federal elections?

Mr. Seigenthaler: Would you think about the weekend at the same time and incorporate that in your answer please?

Secretary Jones: I would just say with respect to the national holiday, that if the federal government chose to do that, I would certainly not be opposed to that if that might help. With respect to the Saturday, we have tried Saturday elections here in one of our communities down in Los Angeles. The registrars can perhaps comment better on this. We didn't see a decided difference in the turnout. But that is, again, only one experience; I wouldn't want to stay that straight across the board.

Secretary Bradbury: I am sure Oregonians would love a holiday because they would not spend it voting.

Dean Sullivan: Professor Edley?

Mr. Edley: Again in Oregon, have there been any studies -- I am just curious as to whether there is any kind of disparate impact -- is there any sense as to whether there is a difference in response to this vote by mail system by class? By language proficiency? By literacy? Has anybody done any studies of the impact of it? It sounds great for the middle class folks; is it as good for poor people?

Secretary Bradbury: There is no evidence that I am aware of that shows any significant difference between some of our minority communities and our other communities in terms of their use or response to vote by mail.

Mr. Edley: So you don't know either way. And the same with respect to language minorities? How is the issue of . . . as far as I know you are not required under the Voting Rights Act, but as a voluntary matter, presumably there have been translation services available and the like at polling places historically.

Secretary Bradbury: We are currently . . . there is a bill moving through the legislature to help pay for our office to do a real study on language requirements. Because we may actually come under the National Voting Righting Act this census. So we are doing a whole series of things to try to improve access to the ballot for folks of different languages. So that is one of the things we are going to really be looking at very seriously. Our biggest minority population in Oregon now is Hispanic. And so we have done a number of things where we translate various pamphlets and the like into Spanish. But our voters' pamphlet is all in English and we have not yet done a translated version. We are hoping to do one in the next election cycle.

Mr. Edley: Can I ask, Secretary Jones, you don't like bounty hunters? Let me give you my counter argument for you to push back on just to get to the bottom line here. I think the reality is that it takes work to get people to register and it takes work to get them to come out to the polls. Somebody has to do that work. It takes resources to do it. I am not particularly pleased with the idea that we have to rely on political parties or we have created this system where we rely on political parties to do it. I am not particularly pleased with the way the campaign finance system works, either, but there are some realities that one has to deal with. So, I guess what I am confused about is, if we are not going to rely on political parties, for their own purposes, to finance registration drives or their television efforts then where are the resources going to come from?

Secretary Jones: I did not say I was opposed to political parties at all using and working and registering people to vote. We have done that historically in California. We used to have deputy registrars that could register people. There had to be some enfranchisement in that process here in California and the political parties could accomplish that with that process. But it was connected more directly to the registrar of voters. What I am opposed to, and this is what I end up finding repeatedly in California, is that we have people who do not provide good service to either the parties that pay them or the individuals they try to register. They do not inform them completely. They end up, sometimes, through political motivations trying to increase the numbers just to make money and also ends up getting people who are non-citizens in trouble, which we have dealt with aggressively. So I have just found that it would be much better for all concerned if we did away with the question of paying people on an individual registration basis, bounty hunters.

Secondly, we would not have the proliferation of initiatives in California if we didn't pay people to gather signatures. That is not the way the initiative process in California was originally designed. It was designed for people that get upset to come together and put a measure on the ballot to change something. It was not designed as a business and that is what it has turned into. And both of those elements today are businesses. They have nothing to do with the political system. They need to be, in my opinion, somehow moved

back. You can do that, by saying, but the courts have said that you can't. You can't disallow it. The courts have stepped in and said that you can't do it. So I have said OK, don't pay by the piecework, hire somebody. If the party wants to hire somebody to go out and register people to vote, nothing wrong with that. Going to your point, but do not pay on an individual piece basis. Plus, you would reduce the number of initiatives then too, and that is turned into a tremendously big problem in California. So those would be my suggestions. I have tried to legislate that too with some success but not enough as of yet.

Congressman Panetta: Chris, as a fellow Californian, he is absolutely right.

Mr. Edley: Look, I understand there are a lot of things about California that puzzle the rest of us. But I just want to make sure I understand this. So it is the piecework kind of signature incentive dimension of it that you oppose.

Secretary Jones: I have no problem with the party. We used to do that before but it used to be a deputy registrar. They would go to the registrar office. There was some formality there so you knew that what was happening had some credence to it. But today you get both effects: you get a commercialized initiative process and you get poor quality registrations. Those should be done away with.

Mr. Edley: Can I just ask one more thing? Felony purges? How California and Oregon handle the issue of felony purges of your roles? Ex-felons?

Secretary Jones: That information is provided to the counties through our database connected with the Corrections Department in California. So that information is provided, so the counties do all of the work on the file. I don't do the file maintenance. That is important, we would never have been able to put this together if I was usurping the county's role. The counties have a role. They communicate with each other. They are dealing with it and are close to the people. I do not believe that the correct role for the Secretary of State is to take that over. I think the best government is still close to the people.

Senator Boschwitz: May I add just one last question, just a practical question? I know at home I receive from the Republican party an absentee ballot. In your states, can parties and individuals get a bunch of absentee ballots and run around and sign folks up?

Secretary Jones: In our state, the parties can send out requests and they do so to promote people to register, to get a ballot. Then those requests come back to the parties and the parties forward it to us or to the registrar's. I am trying personally to take the parties out of that. If they want to send it out that is fine. I have no problem with that because that encourages, what you were saying, more participation. But we have had a real problem with the parties holding those return requests and then coming to the registrars too late. We can't get the turnaround. It would be much better to let them mail out to promote participation and then have it go directly back to the counties. If they want a response -- because really what the parties want to know is who said yes, who

requested – give them a list. But get them out of the middle of that and let it go directly between the voter and the registrar.

Secretary Bradbury: In Oregon there are really, for normal voters, no absentee ballots. We used to have exactly the situation where over 50 percent of the people were signed up absentee and it was all generated by various party and the like to get them signed up. But now everyone is an absentee voter.

Senator Boschwitz: I think they do send requests now. They don't send the absentee ballots.

Secretary Jones: No, they send the request bills first. Then you have to come back with a positive affirmation that you want it. That goes back to the party in California and then goes to the registrar. It would be preferable if that went from the party to the voter, then from the voter to the registrar. If the party wants the information, then they come and get the information from the registrar.

Dean Sullivan: Well if there are no further questions.

Senator Boschwitz: Can I get a voter list in California? I read some interesting stuff.

Secretary Jones: You can for political purposes, walk precincts. But it has to be. ..There are different criteria to obtain the list. It is not for just everyone. And it certainly is not on the list for using this besides political purposes

Dean Sullivan: Gentlemen thank you very much for the excellent testimony.

Secretary Jones: Welcome to California. Glad you are here.