

VII. A Democratic Process *that Reflects Limited but Responsible Federal Participation*

A Pattern of Neglect

Election administration gets so few resources from American governments that we do not even know how much is spent. The sums are literally too trivial to merit national accounting. The smallest general expenditure category listed in the Census of Government for the Statistical Abstract of the United States is garbage disposal

(solid waste management), on which the many units of government spend a total of about \$14 billion. The Caltech/MIT Voting Technology Project has worked this year to figure out how much money is spent on running elections. Their best estimate, for operating expenditures just by counties, comes to a nationwide total of only about \$1 billion. As we reflect that the general election of 2000 alone involved more than 100 million voters going to more than 190,000 polling places staffed by 1.4 million poll workers, we can hardly be surprised that there are problems. It is amazing, and a tribute to dedicated professional election administrators and many poll workers who practically volunteer their time, that the system works as well as it does.

The costs of election administration are borne almost entirely by the level least able to afford them: county and city governments. These elections compete for funding every day against police and fire protection or solid waste management. The election infrastructure of democracy loses.

It is commonplace to find local budgets that spend ten times more on parks and recreation, or on solid waste, than on running elections.

Thinly populated rural counties are even harder pressed. They must build and staff far-flung polling places. Measured simply as a rule of thumb against 2000 presidential voter turnout, the national average of county operating expenditures for elections, per capita, is about \$10. Rural counties (less than 25,000 in population) spend anywhere from \$2–\$32 per voter—a large proportion spends more than \$15–\$20 per voter to provide the needed service.

Thanks again to the Caltech/MIT work, we can estimate that about a third of the operating costs of administering elections goes to voter registration, another third goes to administrative overhead, and the remainder is split about equally between equipment costs and actually running the elections on Election Day.

These numbers begin to let us put the costs of modernization into context. Recall that we are estimating average operating expenditures of about \$10 per voter who turned out in the 2000 presidential election. The cost to buy modern DRE electronic (touch screen) voting equipment is about \$20–\$25 per voter, or more than double an average county's entire operating budget for elections. Marksense (optical scan) machines cost less up front (\$8–\$10 per voter) but add more to operating expenditures each year because of the extra ballot printing costs. These costs can be spread out



Lever voting machine like those that have been used in New York since the 1950s.

and financed over time. But since the operating budgets are so low, even an increment of \$1–2 per year is a 10–20% increase in the continuing budget that these low priority agencies can rarely claim.

The products of the election equipment industry have recently received considerable attention. Seldom in the course of human events have so many expected so much from such a small group of firms. As the Caltech/MIT scholars have observed, with annual revenues of about \$150–200 million per year the election equipment industry is less than one-tenth the size of, say, the residential lawnmower business.

Estimating and Allocating the Costs of Improvement

The good news is that relatively modest public investments can effect significant improvements. But there is no objective methodology to spell out how much is needed. A few principles nonetheless stand out:

- Costs should be calculated on a long-term basis, either in the financing or leasing of capital equipment, or in added operating expenditures.
- The system has been chronically underfunded for a very long time.
- State governments should assume a major responsibility in election administration.
- The national government should become a limited partner in financing our federal election system.

Local, county, and state governments presently run congressional and presidential elections for the benefit of the national government. As they do so they must comply with a variety of unfunded federal mandates that instruct them on who can vote, how voters should be registered, how certain kinds of votes can be cast, which polling places are suitable, and other topics. There are no hard estimates of what factor these costs play as a total of local election expenditures. One thoughtful official put together a personal calculation that placed the federally imposed share of his costs at about twenty percent of the total.⁶⁵

Our rough estimate is that overall spending on election administration nationwide should rise by about \$300–400 million per year, or about a 30–40% increase above current levels. We reach this figure in the following way:

- With the creation of statewide registration systems, much of the cost of voter registration should shift to the state level, or about \$50–75 million per year above current state spending on this problem. Some economies of scale will be achieved but new (though relatively inexpensive) capital purchases will be needed that, again spread over time, may cost another \$15–20 million per year, especially when the costs of networking local jurisdictions into the system is taken into account.

- Net county expenditures on election administration should increase by about 10%, or about \$100 million per year. States relieving counties of some of the burden of building and operating voter registration can free up more operating funds for necessary tasks like voter education and poll worker recruitment and training that can yield large payoffs in public satisfaction. But, in addition, counties need to make added investments in handling their end of maintaining and updating accurate voter files, handling an increase in provisional voting, and improved training of increasingly nonpartisan and professional officials.
- Purchases of new voting equipment, spread over time and averaged across the country, should cost about another \$150 million per year. This increased spending should remain constant as systems are regularly renewed and the focus of spending evolves more to software improvements and service support for relatively inexpensive computer hardware.
- The federal government will need to build up the agency that develops and oversees voting system standards and the national clearinghouse of election administration information. This still should be a modestly-sized national institution, with an annual budget of about \$5–10 million per year.

If all levels of American government together were to spend about \$1.4 billion on election administration each year, and if this represented an addition of about \$300–400 million to the current spending level, what are the appropriate shares of the state and federal governments? We believe those two levels of government should furnish all of the added spending.

★ ★ Policy Recommendation ★ ★ ★

The federal government, on a matching basis with the governments of the 50 states, should provide funds that will add another \$300–400 million to the level of annual spending on election administration in the United States. The federal share will require a federal contribution totaling \$1–2 billion spread out over two or three years to help capitalize state revolving funds that will provide long-term assistance.

1. These responsibilities should be apportioned about 50–50 between the federal government and the states, so that the federal contribution has the effect of raising the annual federal and state level of spending on election administration by an added \$150–200 million. This is a modest sum, lower than some other current estimates about what is needed.
2. The federal expenditures should be made in the form of matching grants to the states, and the states should directly administer the disbursement of funds for administration at the state, county, and local level.
3. Instead of planning on permanent expenditures of federal funds, Congress should instead consider leveraging temporary funding over a two or three-year period in an amount, totaling perhaps \$1–2 billion, that will be sufficient to capitalize the federal share of state revolving funds. These funds can leverage the initial federal contribution, after it has been matched by the states, to create a long-term source of federal and

state support to election administration. The capitalization should be sufficient to sustain our proposed federal increment of \$150–200 million of continued additional spending on election administration that, when matched by state contributions to the funds, will reach the \$300–400 million annual nationwide target.

4. Such state revolving funds would be used to carry out flexible state programs, allowing the states to support a variety of election administration activities undertaken by state, county, and local governments and do so with a variety of financing options that can include grants, loans at or below market rates, loan guarantees, and other arrangements. States would assess relative needs among their election jurisdictions and be accountable for maintaining the fund.
 5. Federal funds should be allocated among the states in proportion to the electoral votes that each state will cast in the presidential election of 2004. This reflects a slight per capita weighting toward rural states. Such a modest weighting is appropriate, given the greater average per capita cost of election administration in rural counties.
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The Federal Institutional Role

Some legislation now pending in Congress calls for creation of a federal blue-ribbon investigatory commission as well as a new federal administrative agency. We do not see the need for another blue-ribbon commission or task force. Several bodies are providing a wealth of information and ideas to the Congress. If another year is spent deliberating what can be done, little or nothing will happen that can benefit voters who will go to the polls in 2002 or 2004.

But overall responsibility for the federal aspect of national election administration needs a better home. It is currently lodged in the Office of Election Administration in the Federal Election Commission. This office, with a staff of about five people, does a good job with what it has. But a new and larger entity is needed.

★ ★ **Policy Recommendation** ★ ★ ★

The federal responsibilities envisioned in this report should be assigned to a new agency, an Election Administration Commission (EAC).

1. The number of governing commissioners in this agency should be small; the members should be distinguished citizens with a reputation for integrity.
 2. The commission should: a) develop federal voting system standards in consultation with state and local election administrators; b) oversee the implementation of these standards in conjunction with the National Institute of Standards and Technology; c) maintain a national clearinghouse of information on best practices in election administration; and d) administer the limited federal assistance program to the states.
 3. Enforcement of other federal election laws should remain a separate function, centered in the Civil Rights and Criminal Divisions of the Department of Justice.
 4. States that do not have them should also consider establishing nonpartisan election commissions.
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Structuring Federal Legislation and Financial Assistance

Although we agree on the merits of what should be done, we have also disagreed about how or even if Congress should try to make these things happen. We considered several broad approaches.

- Rely entirely on state action. Though we have endorsed state primacy in rhetoric and substance throughout this report, all members of the Commission have concluded that at least some limited federal role is appropriate given the mixed, interdependent character of the federal election system. Having already required services (the election of federal officers) and issued mandates, the federal government does have a responsibility to help pay the bill.
- Rely on conditions attached to federal grants. Some members of the Commission believe that in return for accepting federal funds states should be required to adopt a limited number of critical reforms.
- Rely more heavily on federal requirements. Some members of the Commission believe that with respect to some critical reforms, greater uniformity and certainty are needed. Yet the day-to-day field work of election administration will remain at more local levels.
- Defer the hard choices to federal administrative rulemaking. This view would announce broad goals but leave the exact specification of conditions for federal assistance to be developed by the responsible federal agency in a rulemaking process. We believe that, if there are to be conditions, they should be clear, general, and imposed directly by Congress.

We therefore have struck a careful balance among mandates, conditional assistance, and voluntary standards.

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Congress should enact legislation that includes federal assistance for election administration, setting forth policy objectives for the states while leaving the choice of strategies to the discretion of the states. The Commission as a whole takes no position on whether Congress should use the powerful incentive of conditional grants or instead establish requirements or mandates wholly independent of funding. A majority of the Commission members suggests the approach described below. However, a minority suggests a more direct federal role as detailed in an additional statement of views appended to this report.

1. Congress should enact legislation to create a new federal election administration agency, to facilitate military and overseas citizen voting, to address a national election holiday, to constrain—if necessary—premature official disclosure of presidential election results, and to appropriate federal assistance in election administration.
2. To be eligible for federal assistance, states shall:
 - a. match the federal assistance with an added contribution of their own in the proportion fixed by Congress;

- b. adopt legislation that will establish a statewide voter registration system networked to every local jurisdiction in that state, with provisions for sharing data with other states;
 - c. permit on-site provisional voting by every voter who claims to be qualified to vote in that state, or adopt an alternative that achieves the same objective;
 - d. set a uniform statewide benchmark for voting system performance in each local jurisdiction administering elections expressed as a percentage of residual vote in the contest at the top of the ballot, and require local jurisdictions to report data relevant to this benchmark;
 - e. either agree to comply with the federal voting system standards and certification processes or develop their own state voting system standards and processes that, at a minimum:
 - i. give voters the opportunity to correct errors, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment at a precinct or other polling place and
 - ii. require that new voting systems should provide a practical and effective means for voters with physical disabilities to cast a secret ballot; and
 - f. adopt uniform statewide standards that define what will constitute a vote on each category of voting equipment certified for use in that state;
 - g. certify that they are in compliance with existing federal voting rights statutes.
3. Specific choices on how to comply with these conditions should be left to the discretion of the states.
 4. States that qualify for federal assistance should have broad discretion in how they disburse this money, so long as the money is expended on: a) establishing and maintaining accurate lists of eligible voters; b) encouraging eligible voters to vote; c) improving verification of voter identification at the polling place; d) improving equipment and methods for casting and counting votes; e) recruiting and training election officials and poll workers; f) improving the quantity and quality of available polling places; and g) educating voters about their rights and responsibilities.

In most of our policy recommendations, we have suggested specifics for possible policy design. But we have deliberately set conditions on assistance that are general, not detailed. The federal legislation should give states room to adapt to local circumstance, remaining open to managerial and technical possibilities that future developments and experience may suggest.