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## Public Hearings

### March 26, 2001

*Citizen Participation*  
The Carter Center  
Atlanta, Georgia

### April 12, 2001

*Election Administration*  
The Ronald Reagan Presidential Library  
Simi Valley, California

### May 24, 2001

*What Does the Law Require?*  
Lyndon B. Johnson Library and Museum  
Austin, Texas

### June 5, 2001

*The American and International Experience*  
Gerald R. Ford Library  
Ann Arbor, Michigan

# To Assure Pride and Confidence *in the Electoral Process*

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August 2001

## *The National Commission* *on Federal Election Reform*

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*Organized by*

Miller Center of Public Affairs,

University of Virginia

The Century Foundation

*Supported by*

The David and Lucile Packard Foundation

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# Letter

## *to the American People*

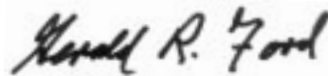
In 2000 the American electoral system was tested by a political ordeal unlike any in living memory. From November 7 until December 12 the outcome of the presidential election was fought out in bitter political and legal struggles that ranged throughout the state of Florida and ultimately extended to the Supreme Court of the United States. The American political system proved its resilience. But we must think about the future.

The ordinary institutions of election administration in the United States, and specifically Florida, just could not readily cope with an extremely close election. Many aspects of the election process were put under a microscope and viewed by an anxious nation. With dismay and growing anger we saw controversial ballot design; antiquated and error-prone voting machines; subjective and capricious processes for counting votes; voter rolls that let unqualified voters vote in some counties and turned away qualified voters in others; confusion in the treatment of overseas military ballots; and a political process subjected to protracted litigation.

Stepping back from Florida, the picture is no more encouraging. The chief election official of Georgia, Cathy Cox, testified to our Commission that: "As the presidential election drama unfolded in Florida last November, one thought was foremost in my mind: there but for the grace of God go I. Because the truth is, if the presidential margin had been razor thin in Georgia and if our election systems had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. In many respects, we might have fared even worse." Across America, we have heard from official after official who feels the same way.

There is good news, though. In the last few years, and now spurred by the events last year, election reform has returned to the legislative agenda in many states. In much of the country cadres of able and dedicated election administrators are in place who can show what is possible and carry reforms into practice. In a world of problems that often defy any solution, the weaknesses in election administration are, to a very great degree, problems that government actually can solve.

In this report we and our colleagues offer very specific recommendations on what should be done. In other words, Americans can and should expect their electoral system to be a source of national pride and a model to all the world.




Gerald R. Ford



Jimmy Carter



Robert H. Michel



Lloyd N. Cutler

*Co-chairs of the National Commission on Federal Election Reform*

# Preface

## *to the Report*

The report begins with a summary of the principal policy recommendations. To understand why those recommendations were chosen, and why some others were not, readers should take the time to study the entire report before passing judgment.

To share some of the wealth of background material that informed our work, please read the Background Papers prepared by the Commission's task forces on the Federal Election System and on Legal and Constitutional Issues. Those Background Papers are being published under a separate cover. They, like the transcripts of our Commission's public hearings around the country, are also available on the Commission's website—[www.reformelections.org](http://www.reformelections.org). The task force coordinators who performed such formidable labors are John Mark Hansen of the University of Chicago, David King of Harvard University, and Daniel Ortiz of the University of Virginia.

Richard Leone, president of The Century Foundation, was critical at every stage of the Commission's creation, development, and work. As much as anyone, he was the person who turned this Commission from an idea into reality. Robert Pastor of Emory University was a senior adviser to the Commission and offered especially valuable counsel. Leonard Shambon, of the law firm Wilmer, Cutler & Pickering, added his outstanding energy and professional judgment to our work.

This project would not have been successful without the work of the joint professional staff of the University of Virginia's Miller Center and The Century Foundation. Among our professional staff, day-in and day-out Ryan Coonerty's contribution was central. Margaret Edwards, Thad Hall, Mary McKinley, Wistar Morris, and Lisa-Joy Zgorski rounded out the core of our team, with frequent aid from Margaret Bell, Hillary Bracken, Anne Chesnut, Ryann Collins, Tina Doody, Kimberly Girard, Rick Gunning, Christy Hicks, Rachael Kelly, Shirley Kohut, Robin Kuzen, Cynthia Maertz, Carol Starmack, Tova Wang, and Garth Wermter.

The Carter Center, Ronald Reagan Presidential Library, Lyndon Johnson Presidential Library, and Gerald Ford Presidential Library all offered their facilities and staff to help with the Commission's public hearings in a gracious, hospitable spirit.

Finally, everything the Commission may accomplish is the result of the public-spirited generosity of Paul Brest, representing the William and Flora Hewlett Foundation; Richard T. Schlosberg, representing the David and Lucile Packard Foundation; and Hodding Carter III, representing the John S. and James L. Knight Foundation.



Philip Zelikow  
*Executive Director*



**8**

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**Envelope No. 8**

**ABSENTEES**

**GENERAL ELECTION  
NOVEMBER 7, 2000**

Return the following items in this envelope to the Marion  
County Election Board and indicate the number of  
that you enclose:

Name of Applicant  
Applications for Absent

# Summary

## *of Principal Recommendations*

### The Goals of Federal Election Reform

When they choose the president, the vice president, and members of Congress, the American people should expect all levels of government to provide a democratic process that:

- Maintains an accurate list of citizens who are qualified to vote;
- Encourages every eligible voter to participate effectively;
- Uses equipment that reliably clarifies and registers the voter's choices;
- Handles close elections in a foreseeable and fair way;
- Operates with equal effectiveness for every citizen and every community;  
and
- Reflects limited but responsible federal participation.

For Americans, democracy is a precious birthright. But each generation must nourish and improve the processes of democracy for its successors. In the near-term, the next three to five years for instance, we envision a country where each state maintains accurate, computerized lists of who can vote, networked with local administrators. Using that system, qualified voters in our mobile society would be able to vote throughout their state without being turned away because of the vagaries of local administration. Using the system we recommend here, millions of military and other overseas voters would find it easier to get and return their ballots. Election Day would be held on a national holiday, freeing up more people to serve as poll workers and making polling places more accessible. Voting machines would meet a common standard of excellent performance. Each state would have its uniform, objective definitions of what constitutes a vote. News organizations would exert necessary restraint in predicting election outcomes. Every jurisdiction and every official would obey the Voting Rights Act and other statutes that secure the franchise and prohibit discrimination. In all of this there would be a delicate balance of shared responsibilities between levels of government, and between officials and the voters they serve.

This report sets forth our recommendations for the next, immediate steps on the road to attainment of these goals.

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**Every state should adopt a system of statewide voter registration.**

1. The statewide computerized voter file should be networked with and accessible to every election jurisdiction in the state so that any level can initiate registrations and updates with prompt notification to the others. It should include provisions for sharing data with other states.
2. When a citizen either applies for a driver's license or registers to vote, each state should obtain residential address and other information, such as a digitized signature, in a form that is equally usable for both the motor vehicle and voter databases. The address information can then be linked to a statewide street index.
3. Each state's driver's license and voter registration applications should require applicants to provide at least the last four digits of their Social Security number. States should also ask applicants if they are registered in another state, so that that state can be notified of the new registration.
4. Each state's voter registration applications should require a separate and specific affirmation that the applicant is a U.S. citizen.

**Every state should permit provisional voting by any voter who claims to be qualified to vote in that state.**

1. Provisional voting authorizes any person whose name does not appear on the list of registered voters, but who wishes to vote, to be issued a ballot. The ballot shall be counted only upon verification by election officials that the provisional voter is eligible and qualified to vote within the state and only for the offices for which the voter is qualified to vote.
2. Another option, for states with statewide computerized voting lists, would be to let a voter who is not on the list submit proof of identification and swear to or affirm an appropriate affidavit of eligibility to vote in that jurisdiction. This information could then be used as an application for voter registration and the voter list would be amended accordingly. If qualified, the voter could either be issued a regular ballot or, if the state preferred, be allowed to vote provisionally pending confirmation of the voter's eligibility.

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★ ★ **Policy Recommendation** ★ ★ ★

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**Congress should enact legislation to hold presidential and congressional elections on a national holiday.**

1. Holding national elections on a national holiday will increase availability of poll workers and suitable polling places and might make voting easier for some workers.
  2. One approach, which this Commission favors, would be to specify that in even-numbered years the Veterans Day national holiday be held on the Tuesday next after the first Monday in November and serve also as our Election Day.
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**Congress should adopt legislation that simplifies and facilitates absentee voting by uniformed and overseas citizens.**

1. Each state should designate a responsible official for absentee voting by uniformed and overseas citizens who are residents of that state. That official should become the single point of contact for the citizens of that state who are served by the Federal Voting Assistance Program, which helps such uniformed and overseas citizens.
  2. In 1986 Congress passed the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to help eligible members of the armed services and their families, and other citizens overseas, to vote. Utilizing standardized forms for voter registration and absentee ballot requests, all UOCAVA-covered residents from a home state should be authorized to mail these applications to the designated official for their state. If that state uses a statewide voter registration system networked to local jurisdictions, as we have recommended, the state official should be authorized to act directly on these applications or to forward them for action by the appropriate local jurisdiction. States should accept one absentee ballot application as a valid application for all subsequent elections being held by that state in that year.
  3. The designated state official should be authorized to accept either a voted ballot being returned for any jurisdiction of that state or a standardized Federal Write-In Absentee Ballot that is an option for a UOCAVA-covered citizen. States should be obliged to accept and tally a Federal Write-In Absentee Ballot for those contests in which they determine the voter was eligible to vote.
  4. Properly filed absentee ballots should be accepted if they have been received by the time the polls of that state have closed on Election Day. States and the Federal Voting Assistance Program should develop common standards for validation of ballots that have been voted and mailed on or before Election Day, even if they are received after that date.
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**Each state should allow for restoration of voting rights to otherwise eligible citizens who have been convicted of a felony once they have fully served their sentence, including any term of probation or parole.**

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**The state and federal governments should take additional steps to assure the voting rights of all citizens and to enforce the principle of one person, one vote.**

1. Federal and state governments should intensify efforts to enforce compliance with the several statutes guaranteeing the right to vote and prohibiting various forms of discrimination in voting and registration.
  2. The methods for funding and administering elections—from investments in equipment through voter education to procedures at the polling place—should seek to ensure that every qualified citizen has an equal opportunity to vote and that every individual's vote is equally effective. No individual, group, or community should be left with a justified belief that the electoral process works less well for some than for others.
  3. Federal and state governments should consider uses of technology, for example when developing voting equipment system standards, that will make it feasible to provide greater assistance to language minorities.
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★ ★ **Policy Recommendation** ★ ★ ★

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**Each state should set a benchmark for voting system performance, uniform in each local jurisdiction that conducts elections.**

**The benchmark should be expressed as a percentage of residual vote (the combination of overvotes, spoiled votes, and undervotes) in the contest at the top of the ballot and should take account of deliberate decisions of voters not to make a choice.**

1. Benchmarks should consider the results obtained by best practices within that state, taking local circumstances into account. In general, we suggest that the benchmarks in the next election cycle should be set no higher than 2%, with the goal of further reductions in succeeding cycles.
  2. Each state should require its election jurisdictions to issue a public report on the number of residual votes after every statewide election, including the probable causes of error, if any.
  3. Each state should determine for itself how to hold its election jurisdictions accountable for achieving the benchmarks.
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★ ★ **Policy Recommendation** ★ ★ ★

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**The federal government should develop a comprehensive set of voting equipment system standards for the benefit of state and local election administration.**

1. Congress should grant statutory authority to an appropriate federal agency to develop such standards in consultation with state and local election officials.
2. The scope of the voting system standards should include security (including a documentary audit for non-ballot systems), procedures for decertification as well as certification of both software and hardware, assessment of human usability, and operational guidelines for proper use and maintenance of the equipment. The agency should maintain a clearinghouse of information about experience in practice.
3. Voters should have the opportunity to correct errors at the precinct or other polling place, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment.
4. Each voting tally system certified for use should include, as part of the certification, —a proposed statement of what constitutes a proper vote in the design and operation of the system.

5. New voting equipment systems certified either by the federal government or by any state should provide a practical and effective means for voters with physical disabilities to cast a secret ballot.
  6. In addition to developing the voting system standards, the federal agency should provide its own certification and decertification of hardware and software, including components in voter registration systems. These federal certifications and decertifications, like the remainder of the standards, will be recommendations to states which they can adopt or not.
  7. This federal service should include selection and oversight of a federally supervised set of independent testing authorities who will apply the standards in assessing equipment. After the federal agency develops and approves the relevant voluntary voting system standards in consultation with state and local administrators, this further, technical task should be delegated to the highly regarded and relatively independent National Institute of Standards and Technology (NIST) of the Department of Commerce.
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**Each state should adopt uniform statewide standards for defining what will constitute a vote on each category of voting equipment certified for use in that state. Statewide recount, election certification, and contest procedures should take account of the timelines for selection of presidential electors.**

1. Statewide standards for defining a vote in advance of an election should be uniform and as objective as possible.
  2. Each state should reevaluate its election code to consider adopting a predictable sequence of: a) vote tabulation and retabulation; b) machine or manual recounts to encompass the entire jurisdiction of the office being recounted, triggered by whatever threshold the state may choose; c) certification of a final count; followed then by d) contests of the certification limited to allegations of fraud or other misconduct.
  3. In such a sequence, each state should allow at least 21 days before requiring certification of the final count. But we recommend retention of a federal deadline under which the “safe harbor” for conclusive state determination of presidential electors will expire.
  4. Each state should also develop a uniform design for the federal portion of the state ballot, for use in each of that state’s certified voting equipment systems.
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**News organizations should not project any presidential election results in any state so long as polls remain open elsewhere in the 48 contiguous states. If necessary, Congress and the states should consider legislation, within First Amendment limits, to protect the integrity of the electoral process.**

1. In practice, this would mean that news organizations would voluntarily refrain from projecting the outcomes of the presidential elections in any state until 11:00 p.m. Eastern Standard Time (8:00 p.m. Pacific Standard Time). Voluntary restraint is preferable to government action.
  2. If news organizations refuse to exercise voluntary restraint, Congress and the states should consider prohibiting any public disclosure by government entities of official tallies in the race for president and vice-president at the precinct level and above until 11:00 p.m. EST (8:00 p.m. PST), where such regulations are consistent with existing provisions for public observation of the vote tabulation process.
  3. If news organizations refuse to exercise voluntary restraint and other measures cannot protect the integrity of the electoral process, Congress should impose a plan for uniform poll closing hours in the continental United States for presidential elections.
  4. National television broadcasters should provide, during the last thirty days of the presidential campaign, at least five minutes each night of free prime television time to each presidential candidate who has qualified for federal matching funds. They or their local affiliates should further make free time available for state and local election officials to provide necessary voter education.
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**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 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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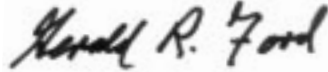
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**Congress should enact legislation that includes federal assistance for election administration, setting forth policy objectives for the states while leaving the choice of strategies to the discretion of the states.** The Commission as a whole takes 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.
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## *The Commissioners*



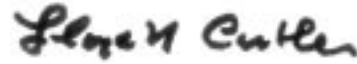
Gerald R. Ford  
*Honorary Co-Chair*



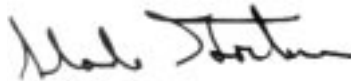
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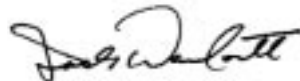
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Griffin Bell



Rudy Boschwitz



John C. Danforth



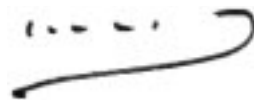
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