

**October 24, 2004****EDITORIAL**

## What Congress Should Do

In Florida, voter registrations are being thrown out on pointless technicalities. Missouri is telling soldiers to send nonsecret ballots by e-mail through a Pentagon contractor with a troubling past. Nationwide, eligible voters are being removed from the rolls by flawed felon purges. And nearly a third of this year's votes will be cast on highly questionable electronic voting machines. No wonder a large percentage of Americans doubt that their votes will count. The election system is crying out for reform.

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After the 2000 election mess, Congress responded with the Help America Vote Act of 2002, an anemic piece of legislation. Its major promise was that any voter whose eligibility was in doubt could cast a provisional ballot, whose validity would be determined later. But that promise is being broken, as states invoke legal technicalities to throw out provisional ballots. The law failed to address many other deep flaws in the system, like routinely misapplying ID requirements and suppressing minority votes.

Congress has been reluctant to intrude on the states by adopting uniform national standards. But these are federal elections, for a president of the United States, senators and representatives. Uniform national rules should apply, and the states have failed miserably. Politically partisan secretaries of state and state legislatures have routinely adopted voting rules that appear to be intended to favor their own parties, not the voting public.

The lack of clear guidelines has turned this election season into a legal free-for-all, in which courts have produced a patchwork of rulings. A federal court in Michigan ordered officials to count provisional ballots that are cast in the wrong polling places. A Florida court is allowing Florida to throw out such ballots. A federal judge in Missouri has taken a confusing middle position. On overseas and military voting, the Pentagon has been winging it, and doing a poor job.

One of the greatest sources of voter cynicism this year is electronic voting. There has been a steady stream of reports of manufacturers taking sides in the elections in which they are also counting votes, of machines malfunctioning during elections and of computer scientists showing how easy it would be for these machines to produce false vote totals, accidentally or intentionally. There is a desperate need for strong federal standards, including a requirement for a voter-verifiable paper record, so voters can be

sure that the vote recorded by the machine is the one they cast. States like California, Ohio, Illinois and Nevada have been in the lead in mandating voter-verified paper trails. Congress should make it a national requirement.

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When the dust settles from this year's election, Congress should begin drafting a new, comprehensive election reform law that includes the following:

**1. Uniform national voter registration rules.** Florida decided this year to throw out voter registrations if the applicants do not check a box saying they are citizens, even though they swear, elsewhere on the form, that they are. Ohio decided, briefly, to throw out registrations filed on paper that was less than 80-pound stock. Arbitrary rules like these needlessly prevent eligible people from voting. Congress should put in place clear and simple guidelines that err on the side of the applicant.

**2. Uniform national standards for voting roll purges.** This is the second consecutive presidential election in which Florida tried to conduct a felon purge that would have disenfranchised thousands of nonfelons. But Florida is hardly alone. A study released by the American Civil Liberties Union found that many states are conducting unreliable purges that routinely remove eligible voters from the rolls. Congress should come up with national guidelines, including a requirement that purge lists be made public and that voters be given advance notice before they are removed.

**3. Clearer provisional ballot rules that take the side of the voter.** According to a recent report from Demos, a pro-democracy organization, a majority of states will be throwing out provisional ballots cast in the wrong polling places, or otherwise undermining this new federal right. Congress should make clear that provisional ballots must be counted even if they are filed in the wrong polling places. And contrary to a bizarre rule adopted this year in Colorado, they should count in all races in which the voter is eligible, not just for president.

**4. Voter ID rules that are not barriers to voting.** Some states have imposed voter ID requirements that make it difficult for poor people, American Indians and other groups to vote. And there have been numerous reports already this year of these rules being misapplied by poll workers to turn away eligible voters. Congress should ensure that even Americans who do not have photo ID's can vote, and that the ID rules are posted at polling places and applied correctly.

**5. An improved program for military and overseas voting.** The Pentagon, charged with helping the military and Americans living abroad to vote, failed to develop an adequate system for doing so. It has favored military voters over other voters and promoted voting systems that, disturbingly, do not ensure a secret ballot. And it has employed a contractor, Omega Technologies, with a history of political partisanship and questions about its business practices. Congress should take responsibility for voting away from the Pentagon, which should play no role in electing the president. It should put in place a requirement for secret ballots in federal elections, and it should ensure that both military and civilian

voters overseas get all the help they need.

**6. Tougher rules against vote suppression and vote fraud.** In recent years, there have been repeated instances of blacks, American Indians, Hispanics and other groups being intimidated or prevented from voting. And even before the first vote was cast this year, there were charges of vote fraud and misconduct, notably that partisan organizations that were registering voters illegally had destroyed applications from people registering for the opposing party. Congress should pass new laws that take aim at vote suppression and fraud, and that make prosecuting these offenses a priority.

**7. Mandatory safeguards, including a paper trail, for electronic voting.** Election officials like to say that electronic voting is as secure as it can be, but that is false. Nevada regulators, for example, impose far more stringent checks on slot machines than any state does on electronic voting. Congress should impose much more rigorous safeguards, including a requirement that all computer code be made public. It should require that all electronic machines produce a voter-verified paper trail.

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This has been, in some ways, a breakthrough year for election reform. With the public watching far more intently than ever, there have been widespread calls for a better system. Important changes have been made by some states and courts, like mandating that ID rules be posted and requiring voter-verified paper trails. But the current patchwork of good and bad procedures is not acceptable. In a close election, it will produce endless fights and cynicism about the results. Only Congress, thinking ambitiously and acting at the national level, can give us the democracy we deserve.

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