U.S. ELECTION ASSISTANCE COMMISSION
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OFFICE OF THE VICE CHAIR

REMARKS BY COMMISSIONER RAY MARTINEZ
HOUSE ADMINISTRATION COMMITTEE HEARING
JUNE 22, 2006

Good morning Chairman Ehlers, Ranking Member Millender-McDonald, and members of the Committee. My name is Ray Martinez III, and I currently serve as vice chair of the U.S. Election Assistance Commission. I appreciate the invitation to offer my comments and I'm honored to share the microphone today with my distinguished co-panelists.

After the 2000 presidential election, several important national commissions and task forces were created to study the problems in election administration that became evident during that notable election cycle. One such commission – whose recommendations greatly influenced congressional views on election administration – was the Commission on Federal Election Reform of 2001, co-chaired by former presidents Jimmy Carter and Gerald Ford. Like other similar entities, the Carter-Ford Commission recognized the essential role of State and local governments in the process of election administration. Speaking on the balance of authority in the U.S Constitution, the Commission's final report stated: "The Framers recognized the practical need to rely on local administration and state oversight." In passing such important voting rights laws such as the Uniform and Overseas Citizens Absentee Voting Act of 1986, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002, Congress carefully considered this balance of responsibilities and appropriately gave significant discretion to State governments in implementing these important laws. As an EAC commissioner, I have strived to fully support this carefully crafted balance of State/Federal responsibilities.

Prior to joining the EAC, I operated a solo law practice in Austin, Texas that focused almost exclusively on representation of county and local governments. Indeed, most of my professional career throughout the past 15 years has been dedicated to serving the needs of

state and local jurisdictions. That is especially true during my term on the EAC. As an EAC commissioner, I have worked to not only support this carefully crafted balance of responsibilities, I have also publicly declared my belief in the appropriateness of election administration being a responsibility largely reserved to state and local governments.

The EAC has made it a priority to build a genuine and lasting partnership with officials at the state and local level, and have we have actively sought their essential input to guide the work of our agency. Moreover, the EAC places great value in the productive working relationship we have built with such influential organizations as the National Association of Secretaries of State (NASS), the National Association of Counties (NACo) and the National Association of State Election Directors, to name but a few. In short, Mr. Chairman, I firmly believe that the key to success for my agency is find ways to support – and enhance – this balance of responsibilities over election administration that Congress has so repeatedly endorsed when passing laws like NVRA and HAVA.

However, immediately after my confirmation to the EAC, I took an important oath to uphold the Constitution and laws of the United States. While the responsibility to administer elections is appropriately reserved to State and local governments, it is a well established matter of law that Congress possesses the Constitutional authority to regulate elections for Federal offices. By passing significant laws such UOCAVA, NVRA and HAVA, Congress has exercised this authority. My obligation as an EAC commissioner, Mr. Chairman, is to implement these laws in the most deliberative and reasonable manner and with no regard to any partisan or political agenda.

When any matter is brought before the EAC which, in my view, would significantly alter this carefully crafted balance of State/Federal authority, I believe I have not only a responsibility, but an obligation, to consider the interest not only of the particular State that requests such a change, but the implications of that change to the entire country.

In the important matter pertaining to Arizona's request that the EAC amend its state-specific instructions to require documentary proof of citizenship for any applicant using the NVRA Federal Form, the EAC was presented with just such a scenario. In other words, in carefully considering Arizona's request to condition acceptance of the Federal Form upon

documentary proof of citizenship, we considered relevant statutory language, such the requirement contained in NVRA that each State shall accept and use the national mail-in voter registration application as prescribed by the EAC. To the extent that there may have existed any ambiguity in the statutory language – such as what Congress meant by specifically disallowing any notarization or other formal authentication with the Federal Form, we then turned to legislative history and congressional intent.

And yet, aside from statutory language or legislative intent, it is also true, Mr. Chairman, that the EAC must also consider the practical effect of granting Arizona's change and the impact that decision would have upon the express findings put forth by Congress in NVRA. That is, if Arizona is allowed to condition the Federal Form upon documentary proof of citizenship, what is to prevent other States from doing the same with other eligibility qualifications? For example, if hypothetically, 15 States were to follow Arizona's lead in requiring documentary proof of citizenship, another 10 States required documentary proof of age, and yet another handful required affirmative, documentary proof of non-felony status, would this not result in a new patchwork of registration laws for Federal elections? And if so, would this not defeat one of the central and most important purposes of NVRA – to make it easier for eligible citizens to participate in our great Democracy?

In closing, Mr. Chairman, I realize that it is my duty in carrying out my responsibilities as an EAC commissioner to keep my personal hat separate from my professional one. And yet, at times, that is difficult to do. Right now, living in a small rural town in Texas, there is an 86 year old, World-War II veteran, who was born on a ranch in south Texas, far away from hospitals, birth certificates, and documentary proof of citizenship. He dutifully and proudly served his country, his community and his family with honor. He has voted in every election that I can remember, and I know this because he often took me with him to vote when I was a young boy. This person is my father. By conditioning the fundamental right to vote on government documents that many citizens may not readily have available or in some cases, may be impossible to obtain, is to fundamentally alter the delicate balance of Federal/State responsibility that has so carefully been crafted through important laws like NVRA.

I have nothing but the highest regard for election officials such as Secretary Jan Brewer who are working tirelessly and appropriately to implement the laws passed by the good people of

Arizona. However, when such significant matters as this come into play, the EAC must consider the implications of its decision – not just in regard to one important state – but in the full context of the entire country. Moreover, since NVRA represents the only regulatory authority that has been granted to the EAC, we ought to exercise this authority with extreme caution, in a fully deliberative and measured fashion, and with no regard to political and partisan agendas. I pledge to this committee today to continue to do just that.

Thank you, Chairman Ehlers and Ranking Member Millender-McDonald. I would be happy to answer any questions.