

**Statement of U.S. Election Assistance Commission
Before the U.S. House of Representatives Committee on House Administration**

June 17, 2004

Good morning Mr. Chairman and Members of the Committee. Seated before you today are the four members of the U.S. Election Assistance Commission (EAC): DeForest

B. Soares, Jr., Chairman; Gracia Hillman, Vice Chair; Paul DeGregorio; and Ray Martinez III. Our biographies are attached to this statement.

We are pleased to be here this morning to discuss our 2004 activities to implement the Help America Vote Act of 2002 (HAVA). In our testimony, we will review our progress and accomplishments, and our plans for the balance of this fiscal year and FY 2005.

We appreciate the vested interest that this Committee has in our work. We recognize the importance of what you have done for America as the authorizers of HAVA and look forward to today's discussions.

Mr. Chairman, we are proud of the accomplishments that we have made to date. As you and the members of this Committee know, we have worked under very challenging circumstances, which we will address in this testimony. Nonetheless, we decided, in strong bi-partisan unity, to not let the challenges and obstacles that we faced prevent us from doing the work that the President, Congress and perhaps most importantly, the voters of America, are depending on us to do.

In our testimony this morning, we will discuss the status of several important aspects of HAVA, including Title II payments; our review of the use, reliability, accessibility and security of various voting machines; and other issues related to HAVA implementation, including the recruitment and training of poll workers, and provisional voting. We will review our clearinghouse, resource and grants programs functions and steps we have taken to work with election administrators to minimize chances for irregularities in the November 2004 elections.

As you know Mr. Chairman, HAVA established EAC as a new Federal agency, to be headed by four Commissioners, who are appointed by the President. The Commissioners serve staggered terms and no more than two of them may be of the same political party. HAVA Section 203(a)(4) required EAC to be established no later than 120 days after the enactment date of the law. HAVA was enacted on October 29, 2002; therefore, EAC should have been established by February 26, 2003, but the Commissioners were not appointed until December 13, 2003. This delay resulted in a number of set backs

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in the implementation of HAVA, including the appropriation of insufficient Fiscal Year 2004 funds (\$1.2 million) to support the start up and operational costs of EAC. Appendix B summarizes HAVA Authorizations and Appropriations for FY 2003 and 2004.

GETTING STARTED

When we began our work at the beginning of January 2004, we were immediately confronted with the significant challenge of finding the estimated \$800,000 that it would cost to meet HAVA requirements that State plans on HAVA implementation be published in the Federal Register. For without satisfying this requirement, EAC would not have been able to release the \$2.3 billion that had been appropriated in FY 2003 and 2004, for Title II requirements payments to the States. In cooperation with GSA, EAC was able to publish the State plans and is preparing to issue payments to 25 States that have self-certified and have satisfied the eligibility requirements of HAVA section 253. An additional 2 self-certifications are pending review by the U.S. Department of Justice and we expect to continue receiving self-certifications from the other 28 States during the next several weeks.¹

Our other major challenge was to determine how, with an FY 2004 appropriation of only \$1.2 million, we could afford to rent, furnish and equip EAC offices; hire staff; pay our salaries; receive the transfer of responsibilities of the Federal Election Commission Office of Election Administration (OEA), as required by HAVA; and meet at least some of the HAVA mandates to establish voting system standards and adopt voluntary guidelines for the States.

We began hiring EAC staff in May and under our current budget and cash flow projections, we must stagger our hiring and will bring on board about 2 employees per month through September. We were able to rent office space on April 1, but only after the

U.S. General Administration Services (GSA) approved a Fiscal Year 04 rent waiver for EAC. And, we were able to accept transfer of the OEA on April 1, when EAC moved in to its new offices.

HAVA mandates EAC to appoint an Executive Director, a General Counsel, and an Inspector General but as noted above, our funding constraints have caused us to postpone these hires. We expect to appoint an Interim Executive Director and the General Counsel within the next couple of months. Additionally, we are considering our options with respect to the appointment of an Inspector General (IG), including exploring the possibility of sharing an IG with another small commission. In the meantime, EAC received 5 employees with the transfer of OEA on April 1, and has utilized employees on detail from other agencies to fill our critical staffing needs.

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These funding limitations and the delayed establishment of EAC also led to several

¹ Under HAVA, references to States includes American Samoa, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands.

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set backs in the implementation of HAVA. These delays are fully addressed in our Fiscal Year 2003 Annual Report, which was submitted to this Committee and to the Senate Rules on April 30, 2004. For your convenience, we have provided another copy of our FY 2003 Annual Report with this statement.

Despite our late start and the limitations of our resources, we have accomplished a fair amount since the beginning of January 2004. Outlined below are some of these accomplishments.

**EAC ACCOMPLISHMENTS SINCE BEING ESTABLISHED IN
MIDDECEMBER 2003.**

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|-----------------------|---|
| January 5, 2004 | EAC Commissioners held a planning session and set timetables for the completion of various tasks. |
| February - March 2004 | EAC Commissioners traveled to several states to observe the administration of elections during the Presidential primaries. Locations visited included California, Delaware, Florida, Georgia, Illinois, Missouri, New York, Oklahoma, Virginia, and Washington, DC. |
| March 23, 2004 | EAC held its first public meeting. Commissioners discussed updates on various administrative matters and timetables for future activities. The Commissioners elected DeForest B. Soaries as Chairman, and Gracia M. Hillman as Vice Chair. EAC announced that State plans would be published in the <i>Federal Register</i> on or about March 24, 2004, and that it would hold a public hearing within 45 days on the use, security and reliability of electronic voting systems. |

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- March 24, 2004 EAC published all 55 State plans in the *Federal Register*, which began the HAVA required 45-day comment period, after which States are to self certify that they are in compliance with HAVA in order to receive Title II requirements payments.
- March 31, 2004 EAC submitted its FY 2005 budget justification to the Senate and House Appropriation subcommittees on Transportation, Treasury and General Government.
- April 1, 2004 The Determination Order was transacted to officially transfer property, files and personnel belonging to the Federal Election Commission Office of Election Administration to EAC. This included approximately \$500,000 of unobligated funds for FY 2004.
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- April 4, 2004 With support from GSA, EAC moved into its offices at 1225 New York Avenue, NW, Washington, DC.
- May 1, 2004 EAC launched its website at www.eac.gov.
- May 3, 2004 EAC released its Human Factors Report on “Improving the Usability and Accessibility of Voting Systems and Products.”
- May 5, 2004 EAC held its first public hearing on the use, security, accessibility and reliability of electronic voting in the United States.
- May 12, 2004 EAC testified before the House Appropriation Subcommittee on Transportation, Treasury and General Government regarding EAC’s FY 2005 budget justification.
- June 3, 2004 EAC held its second public hearing to identify best practices, problems and transition issues associated with Optical Scan and Punch Card voting systems, and the successes and problems identified with the use of Provisional Voting.

EAC ACTIVITIES

Electronic Voting Security

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Before describing our current activities, we will address the issue of Electronic Voting Security. Mr. Chairman, we recognize this issue is of paramount concern to this Committee and others in Congress. It is also of paramount concern to voters across America who want to be reassured that on Election Day they will have unaltered access to a ballot and that once that ballot is cast, their vote will be counted. We have found that a great deal of our work has been shaped by this issue since we took office just a few months ago.

EAC is aggressively addressing the concerns that have arisen from the increased use of electronic voting devices. Time is of the essence and we have made this a priority issue. We held our first public hearing on the use, reliability and security of electronic voting devices. Following that hearing, we have read many reports and have held discussions with election administrators, computer scientists, advocates, scholars, government officials and voters.

We will issue a report of the hearing very soon and soon thereafter, we will issue useful, practical and adaptable Best Practices Guidelines to election administrators across the country. EAC believes there are many things that election administrators can do to increase the likelihood of the reliability of voting equipment and systems for the November 2004 elections and decrease the likelihood of irregularity.

In the meantime, what we have concluded is that we should not rush for a quick fix

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for November. The issue of Electronic Voting Security warrants thorough study, careful analysis, and deliberate review. EAC is prepared to do all of that. Among the issues we are considering include vendors allowing election officials to analyze the proprietary source codes of their software with appropriate protections of nondisclosure and confidentiality agreements.

Additionally, we are considering the options available to election administrators and the steps that can be taken by election jurisdictions that use electronic voting devices to identify and implement enhanced security measures in November of this year. To that end, we will issue Best Practice Guidance in time for them to be useful for the November elections.

Other issues we are considering include Voting Software vendors submitting their certified software to the National Software Reference Library (NSRL) at the National Institute of Standards and Technology (NIST) to facilitate the tracking of software version usage. Further, we are exploring options available to EAC to receive information about suspicious electronic voting system activity, including software programming that

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could be referred to the U.S. Department of Justice Elections Crimes Branch for investigative and prosecutorial action. And, we are considering options to compile information about experiences from the November 2004 elections that can inform the work of the EAC Technical Guidelines Development Committee that will develop new voluntary voting systems standards.

Voting System Standards and Guidelines

HAVA places an important responsibility on EAC to develop and adopt standards and voluntary guidelines for voting systems and voting equipment used in the 55 States. This responsibility includes the testing, certification, decertification and recertification of voting systems hardware and software.

Voting System Standards in the United States evolved over the past 25 years. In 1975, the National Bureau of Standards issued a report on *The Effective Use of Computing Technology in Vote Tallying*. The report cited computer-related problems but it wasn't until 1984, that the Federal Election Commission (FEC) received some funds to develop voluntary national standards for computer-based voting systems.

We believe that it is accurate to say that prior to the establishment of EAC, the federal government did not have a comprehensive program to establish standards and guidelines for the use of voting equipment and to regularly test the equipment and related voting systems. The FEC published the first set of standards in 1990, and updated them in 2002. Part of this work was done in conjunction with the National Association of State Election Directors (NASED), which operated a voluntary program to develop standards with limited funds. Under HAVA, EAC has inherited these Standards, which must be revised, updated, adopted and issued as guidelines to States.

There is an urgent need for EAC to do this work, as is evident by the ongoing debate surrounding the use, accessibility, reliability and security of electronic voting

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devices, commonly referred to as DREs. In November 2000, more than 100 million voters cast their ballots in about 7,000 local voting jurisdictions at 200,000 polling places. Numerous different voting devices were in place including touch screen DREs, optical scanners, lever machines, punch cards and paper ballots. The problems with voting equipment in the 2000 presidential election are well known and certainly contributed to the enactment of HAVA.

Today, Mr. Chairman, there are still numerous types of voting equipment in place that will be used on November 2, 2004. According to Election Data Services, Inc.,

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it is estimated that the following types of voting equipment will be used by the corresponding percentage of voters when they cast their ballots in November 2004. Optical Scan – 37%; Electronic (DREs) – 31%; Punch Card – 15%; Lever – 15%; Paper Ballots – 2.5%. It is further estimated that 46% of counties will use Optical Scan and 22% will use electronic voting machines.

EAC has an enormous responsibility to work with States to implement HAVA so as to minimize future problems. We accept the urgency of the work that must be done to meet this responsibility and in so doing, we will use a responsible and thoughtful approach.

As mandated by HAVA, EAC will work with the National Institute of Standards (NIST) to establish standards and voluntary guidelines for the use of voting equipment. This is the appropriate role for EAC and NIST. These standards and guidelines cannot be responsibly established without the benefit of research, analysis and testing.

HAVA sections 271 and 281 require EAC to administer grants for research, testing of voting systems and pilot programs to support HAVA implementation and authorizes up to \$30 million for this purpose, as is shown in the table below:

Program	Amounts Authorized	Amounts Appropriated
Title II – Voting Technology Improvement Research Grants	\$20 million-FY03	\$0
Title II – Grants for Pilot Programs to Test New Voting Systems	\$10 million-FY03	\$0

EAC recognizes that research and testing activities are a critical prerequisite to its establishment of standards and voluntary guidelines and is discussing with the Administration funding needs for FY 2005 to conduct research, analysis and testing. In the meantime, we are developing a HAVA Tool Kit and Best Practices guidelines that will be issued in July to state and local election officials in the 55 States. Further information about the HAVA Tool Kit and Best Practices are described on Page 13 of this testimony.

2004 Activities

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EAC is working closely with the National Institute of Standards and Technology (NIST) to engage key constituencies, including election administrators, vendors, advocacy groups and voters, to develop guidelines for voting systems. Through this work, we will:

- Develop recommended solutions in areas critical to ensuring that voting systems are secure, will protect individual privacy, allow voter anonymity, and are accurate and free from fraud and tampering.
- Ensure that voting systems can be tested for compliance to usability and accessibility guidelines and to new standards beginning in 2006, as required by HAVA.
- Review the Federal Election Commission 2002 Voting System Guidelines, conduct an evaluation of independent, non-federal laboratories and accredit laboratories (Independent Testing Authorities – ITAs) to carry out testing, certification, decertification and recertification of voting systems.

In the long run, Mr. Chairman, standards and guidelines need to be evaluated and updated more frequently than once every ten years, as has been done in the past. Additionally, the number of ITAs needs to be expanded. Currently there is one ITA to test and certify hardware and two that test and certify software.

In the meantime, EAC and NIST are working to address today's concerns about voting systems standards. On May 3, 2004, the EAC released its "Human Factors" report on "Improving the Usability and Accessibility of Voting System Products." As required by HAVA, the National Institute for Standards and Technology (NIST) conducted the important research for this report, which we will be use to guide our work. Computer scientists and usability experts at NIST researched and wrote the report for the EAC, as mandated by HAVA. The report assesses human factors issues relating to the process of a voter casting a ballot as he or she intends, then makes 10 recommendations based on that research to help make voting systems and products simpler to use, more accurate and easily available to all individuals—including those with disabilities, language issues and other impediments to participating in an election. The reports main recommendation is for the development of performance-based voluntary standards for the usability of voting systems. Additionally, the report emphasizes developing standards in such a way that would allow independent laboratories to test systems to see if they conform to the standards. A full copy of the Human Factors report is included with this testimony.

In addition to the Human Factors research, EAC is working with NIST on the following activities:

- Formation of the Technical Guidelines Development Committee, of which NIST will serve as Secretariat.
- Development of a recommendation of an International Standard (ISO 17025) Laboratory Accreditation Program for Independent Testing Authorities.

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- Development of a NIST voting web site (<http://vote.nist.gov>) to include relevant Federal Information Processing standards (FIPS) to provide state and local election officials with an initial set of computer security “best practices”.

NIST will regularly update the election community with the work of the Technical Guidelines Development Committee at its web site <http://vote.nist.gov>. They have already initiated a “Key News and Updates” feature accessible from the home page.

We are discussing additional FY05 funding needs with the Administration that would enable EAC to conduct a comprehensive review of the existing standards and guidelines and a comprehensive evaluation of the accreditation process. Additionally, EAC would be able to expedite its process to accredit an increased number of ITAs, which would expand the certification and recertification services currently available to the vendors who manufacture the voting systems. The important end results will be more timely compliance with HAVA and the development of guidelines that election administrators can use when determining what voting equipment they will ultimately use.

Technical Development Guidelines Committee

HAVA establishes a 15-member Technical Guidelines Development Committee (TGDC) that is charged with the responsibility of developing voluntary guidelines for voting systems and voting equipment that will be reviewed by the EAC Board of Advisors and Standards Board and ultimately adopted by EAC.

As established by HAVA, TGDC is to be chaired by the Director of the National Institute for Standards and Technology (NIST). Dr. Arden Bement currently serves as Director of NIST and will therefore chair the committee. In consultation with NIST, EAC has appointed the other 14 members of TDGC, which will include representatives from the American National Standards Institute, the National Association of State Election Directors, the Institute of Electrical and Electronics Engineers, the Architectural and Transportation Barrier Compliance Board (commonly referred to as the Access Board), the HAVA Standards Board, the HAVA Board of Advisors, and individuals with technical and scientific expertise. TGDC consists of some of the best technological experts in the country, as well as dedicated election officials and public representatives.

EAC plans to hold the first meeting of the TGDC in early July. HAVA provides that the TGDC will have a 9-month timetable to draft voting system guidelines. These draft guidelines will then be reviewed by the Standards and Advisory Boards before they reach the EAC for final disposition. With all certainty, public hearings will be conducted

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on this important issue during the process to insure adequate input by officials and voters alike.

HAVA provides that the Voting System Guidelines will be voluntary but EAC knows that most States and jurisdictions will follow these guidelines as they develop their own standards for election equipment used in their states.

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STANDARDS BOARD and BOARD OF ADVISORS

Critical to the establishment of standards and voluntary guidelines for the use of voting equipment is the participation of key stake holders. The HAVA required establishment of a 37-member Board of Advisors and a 110-member Standards Board provides two vehicles for stake holder input in to the work of EAC and the establishment of standards and guidelines. The first meetings of these two boards are scheduled for June 28 and 29, 2004, in Houston, TX.

Mr. Chairman, we have recently filed the Charters for each of these boards with the offices of this Committee, the Senate Committee on Rules and Administration, and the Committee Management Secretariat of the U.S. Government Services Administration (GSA). The charters specify the Objectives, Duties, Membership, Administrative Provisions and Duration of each board. In summary, HAVA requires that these boards conduct a number of activities, including that they meet; review standards, voluntary guidelines, and best practice guidance to the States; and various other HAVA reports that will be developed by EAC. Additionally, through committees, these boards are to recruit, interview and recommend to EAC, candidates for the position of EAC Executive Director. Both boards function solely as advisory bodies and must comply fully with the provisions of the Federal Advisory Committee Act.

HAVA creatively and appropriately requires specific designation of members to each board to provide broad representation and a wide array of expertise and perspectives in to the deliberations of each group. Board members serve terms and can be reappointed as specified in HAVA. HAVA title II section 215 (f) establishes the boards as permanent committees and EAC is to provide necessary administrative support.

EAC Board of Advisors

Membership on the Board of Advisors shall include: two members each appointed by the National Governors Association (NGA); National Conference of State Legislatures (NCSL); National Association Of Secretaries of State (NASS); National Association of

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State Election Directors (NASED); National Association of Counties (NACo); National Association of County Recorders, Election Administrators and Clerks (NACRAC); U.S. Conference of Mayors; Election Center; International Association of County Recorders, Election Officials and Treasurers (IACREOT); U.S. Commission on Civil Rights; Architectural and Transportation Barrier Compliance Board. The other members include one representative from each of the U.S. Department of Justice Office of Public Integrity and the Civil Rights Division; the director of the U.S. Department of Defense Federal Voting Assistance Program; 4 members representing professionals in the field of science and technology, one each appointed by the Speaker and Minority Leader of the U.S. House of Representatives and the Majority and Minority leaders of the U.S. Senate; and 8 members representing voter interests of whom 2 each are appointed by the Chairs and the Ranking Minority Members of the U.S. House of Representatives Committee on House

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Administration and the U.S. Senate Committee on Rules and Administration.

The Board of Advisors shall elect a Chair from among its members.

EAC Standards Board

The Standards Board shall consist of 110 members. Fifty-five members shall be State election officials selected by the chief State election official of each State. And, 55 members shall be local election officials selected under a process supervised by the chief election official of the State. As you know Mr. Chairman, under HAVA, references to States include the District of Columbia and all territories.

Regarding the make up of this membership, HAVA also mandates that the 2 members who represent the same state may not be members of the same political party. The board shall select 9 of its members as an Executive Board and HAVA provides of whom not more than 5 may be State election officials; not more than 5 may be local election officials; and not more than 5 may be members of the same political party. HAVA further provides for lengths of terms for service on the Executive Board.

REQUIREMENTS PAYMENTS

HAVA creates new mandatory minimum standards for States to follow in several key areas of election administration. HAVA provides funding to help States meet these new standards, replace outdated voting systems, and otherwise improve election administration. Under these provisions, EAC is required to:

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- „ Distribute Title II “requirements payments” to States and certain other grants to improve election administration.
- „ Serve as a clearinghouse for information on the administration of elections.
- „ Conduct studies on matters affecting election administration.
- „ Promulgate voluntary guidelines for election equipment, in consultation with the National Institute of Standards and Technology.
- „ Develop a national testing program for voting systems, in consultation with the National Institute of Standards and Technology.
- „ Provide guidance to States on the administration of elections.

Title I Payments – “Early Money”

Congress has appropriated over \$3 billion for HAVA implementation, most of

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which is for requirements payments to States. In FY 2003, while waiting for EAC to be established, the U.S. General Services Administration (GSA) was directed by Congress to distribute about \$650 million in HAVA Title I “early money” to States to be used to improve the administration of elections (\$325 million under HAVA Section 101) or to replace punchcard and lever voting equipment (\$325 million under HAVA Section 102).

States were required to report to GSA their actual expenditures as of December 31, 2003. The reports were due by January 21, 2004, and as of today, 47 states have submitted the required expenditure reports. GSA is continuing its efforts to obtain the remaining eight reports and now that EAC is operational, we will work with GSA to ensure that all required expenditure reports are obtained.

In reviewing the reports that have been submitted, it is apparent that most of the States have not yet expended the majority of their Title I payments. Since these reports only cover a period ending last December, it is conceivable that a number of States may have made efforts to obligate and expend additional funds since the beginning of this year. GSA reporting requirements for Title I funds only required actual expenditures so we are not able to discern the specific activities conducted by States with the use of Title I funds. Therefore, EAC will request updated financial reports to include additional information. This will enable us to be better informed as to the use of the Title I funds,

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which we can report to Congress and the general public. We will institute similar reporting requests for the Title II payments.

Title II Requirements Payments

EAC is now working with GSA to distribute \$2.321 billion in Title II requirements payments to States for HAVA implementation. To be eligible for these payments, States had to submit written plans to EAC. All 55 State plans were published by EAC in the *Federal Register* on March 24, 2004. Initially, EAC was challenged to find sufficient funding to cover the estimated \$800,000 cost of publishing State plans in the Federal Register. GSA assumed this responsibility, which enabled this process to move forward.

Following a 45 day comment period, which ended on May 8, States have begun to self-certify that they are in compliance with HAVA. As of this week, EAC has notified GSA that 25 States have satisfied the eligibility requirements of HAVA section 253 and should receive their Title II payments. GSA is in the process of preparing these payments, which will result in the distribution of approximately \$861 million. Appendix C contains a chart listing the 25 states and the payments each will receive.

Two other States have self-certifications that are pending review of their Administrative Complaints Procedures by the Justice Department and we expect to continue receiving self-certifications from the remaining States during the next several weeks.

EAC has also been working with the Office of Management and Budget, GSA and

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other federal agencies to establish the various administrative procedures and protocols regarding the disbursement, reporting and auditing of the payments. EAC has significant fiduciary responsibility to assure self-compliance and self-certification by the States. In FY05, EAC will be fully responsible for paying for all costs associated with publishing State plan updates in the *Federal Register* and administering the FY05 requirements payments.

The President's FY05 budget includes a request for \$40 million in requirements payments to States of the remaining \$639 million that is authorized. Most States have developed their plans to implement HAVA based on their expectation of full funding. The FY05 budget request does not fully fund the authorized requirements payments.

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EAC anticipates that most states will submit revisions to their plans to adjust for the decrease in funds appropriated for requirements payments.

CLEARINGHOUSE, RESOURCE and GRANT PROGRAMS

HAVA requires EAC to serve as a national clearinghouse of information with respect to the administration of Federal elections. requires EAC to serve as a national clearinghouse and resource for the compilation of information and the review of procedures relevant to the administration of federal elections. The research conducted by EAC to develop voting system standards and guidelines will provide a critical body of knowledge that will help EAC develop and implement several other of its HAVA mandated activities, including:

„ Produce voluntary guidance on the implementation of HAVA Title III requirements

(voting systems standards, computerized statewide voter registration lists, and public information on provisional voting, voter education, and for voters who register by mail).

„ Maintain information on the experiences of States in implementing EAC guidelines for the procurement and use of voting equipment and on the general operation of voting systems.

„ Conduct studies and other activities to promote the effective administration of federal elections.

„ Administer grants for research on voting technology improvements and for pilot programs to test election equipment and technology.

„Administer grant to the National Student and Parent Mock Election. „Develop and implement the Help America Vote College Program (described further on

Page 15).

„ Assume responsibilities previously assigned to the Federal Election Commission under Section 9(a) of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg-7(a),

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which includes providing States with information on their responsibilities under the law, developing and maintaining the National Mail Voter Registration Form, and reporting to Congress every two years on the impact of the law on the administration of federal elections.

- „ Make available the results of State reports on the combined number of absentee ballots transmitted to absent uniformed and overseas voters for each general election for federal office, and the combined number of such ballots returned and cast in the election.

- „ Disseminate to the public, on an ongoing basis, information on the activities carried out under HAVA. This will be done through the Internet, published reports, and other appropriate means.

Basically, HAVA requires two types of research. One area of research is to inform the development of standards and guidance that we addressed earlier in this statement.

THE HAVA TOOL KIT and 2004 BEST PRACTICES GUIDANCE

As part of its Clearinghouse responsibilities, EAC is committed to gathering information regarding "best practices" and "lessons learned," and to disseminate this information to election administrators, advocates and other interested parties in a timely and informative manner. EAC believes there are many things that election administrators can do to increase the likelihood of the reliability of voting equipment and systems for the November 2004 elections, and decrease the likelihood of irregularity. EAC serves as a repository of useful information, which enables it to provide critical guidance and resources to election officials as they prepare for the upcoming General Election.

EAC is developing a HAVA Tool Kit that will offer guidance to election officials. The first set of guidance will be published in early July so that they can be of practical use in time for the November elections. Then, as EAC progresses in its work, the tool kit will evolve in 2005 to include guidelines, guidance, resource manuals and other publications that will be helpful over the long run to election administrators, elected officials, advocates, scientists, academics, the media and other parties interested in the administration and integrity of our election systems and processes.

Best Practices Guidance for November 2004

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EAC recognizes that there are many aspects of election systems and practices that have nothing to do with how voting machines function. These areas of election administration, which are covered in HAVA, also need examination and guidance. Two glaring examples are poll worker recruitment and training, which are major challenges that

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confront most election officials. Also important and to be included in the HAVA tool kit will be information and guidance on voter registration requirements; provisional ballots; absentee ballots, especially for our troops and other American citizens who work outside of the United States; and other aspects of election administration and voter education.

Pursuant to HAVA section 252, EAC will soon issue to Congress a report on “Best Practices for Facilitating Voting by U.S. Citizens covered by the Uniformed and Overseas Citizens Absentee Voting Act,” which is being developed in consultation with the Federal Voting Assistance Program (FVAP) of the U.S. Department of Defense.

However, Mr. Chairman, we know that in the midst of the many HAVA mandates that need our attention, the one that cries out for immediate attention is the growing concern about the use, reliability, accessibility and security of the various voting systems that will be administered in 2004. As noted earlier, we believe there are things that the EAC and election administrators can do now to increase the likelihood of the reliability of voting equipment and systems for the November 2004 elections, and decrease the likelihood of irregularity. To that end, EAC will publish Best Practices guidance, the first of which will be available and widely distributed in early July. This guidance will be critical components of the HAVA Tool Kit and is based on testimony we received at our May 5 and June 3 hearings, and thoughtful input from election officials, advocates, academics, vendors and other experts from across the country.

Poll Worker Recruitment and Training

Included in the Best Practices that we will issue this summer will be guidance on the recruitment and training of poll workers. Most Americans do not realize what a huge undertaking is involved in the recruitment and training of poll workers who staff Election Day services. Mr. Chairman, the number of poll workers that must be recruited and trained for each election ranges from about 142 in East Hartford, Connecticut; to 364 in Belmont County, Ohio; to 6,500 in Philadelphia; to over 13,000 in the city of Chicago; to almost 25,000 in Los Angeles County.

Jurisdictions pay relatively small stipends to poll workers from \$25 to \$125 for what averages to be a 14-hour day. Poll workers with the most experience are an aging

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group and election administrators are challenged to find the numbers of workers they need. To assist in this effort, EAC is considering a National Poll Worker Initiative. We are talking with election administrators, volunteer center directors, corporate executives, national nonprofit leaders and government agency directors to plan this endeavor, which we hope to be able to announce in July 2004.

Integral to this initiative is the Help America Voter College Program currently being developed by EAC. Recently, a California-based think tank² released polling data showing that only 35 percent of surveyed college students feel that voting in a Presidential

²This study was commissioned by the Leon and Sylvia Panetta Institute for Public Policy at California State University Monterey Bay.

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election is a way to bring about change in society. This was a significant drop from 2001, when some 47 percent of college students said their votes could bring societal change. Under Title V of HAVA, the EAC is charged with developing a program to be known as the “Help America Vote College Program.” The purpose of this program is to encourage college students to act as nonpartisan poll workers during elections and to encourage State and local governments to use the services of the students participating in this program.

HAVA requires that the Help America Vote College Program be developed by the EAC not later than one year after the appointment of the four EAC commissioners. Specifically, the EAC is to “...develop material, sponsor seminars and workshops, engage in advertising targeting students, make grants and take such other action as it considers appropriate...” to implement this program. Accordingly, the EAC is working now to develop this program, and we will have at least a modified – or pilot program – in place for the upcoming November 2 General Election.

Several local election jurisdictions already have programs in place that could serve as Best Practice models. For example, the Los Angeles County Registrar has been working in for the past several years with a number of local community colleges, most notably the Los Angeles County Community College System, to recruit and train volunteer student poll workers. This program is proving successful in L.A. County and was recently expanded. Likewise, San Francisco and Alameda counties have also been successful in utilizing college and high school students as poll workers. And similarly in New York, the CUNY system successfully implemented a poll worker initiative which organized and trained student poll workers at almost twenty colleges and universities across New York City. EAC continues to identify other currently existing programs that

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can serve as Best Practice models and will facilitate partnerships with colleges and election jurisdictions.

Of course, guidance and voluntary guidelines are just that, guidance and guidelines to election administrators and others who want to know what can be done to improve our election systems and processes. Therefore, all of EAC's Best Practices guidance will be practical, user friendly, easy for elected officials to adopt as they see appropriate for their jurisdictions, and easy to understand by advocates and other stakeholders. And the practical ideas of the guidance will promote the highest possible standards in the administration of elections and management of voting system security.

Before being published, the guidance will be reviewed by the 37-member EAC Board of Advisors and 110-member Standards Board for comment when they meet for the first time at the end of this month.

CONCLUSION

Mr. Chairman, if there is one issue on which Americans have overwhelming agreement, it is that the right to vote may be our most fundamental right. The Help America Vote Act of 2002 established a new role for the Federal government in Federal elections and established the EAC to manage that involvement. We, the EAC Commissioners, are committed to implementing the strict letter of the law, functioning as responsible fiduciaries to protect our Federal investment of funds and creating standards

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that provide voters with the confidence that our elections are administered with the highest level of integrity possible. If given the appropriate resources, the EAC will become the asset to our democracy that HAVA envisioned.

This concludes our formal statement and we are prepared to answer any questions that you and members of the Committee might have for us today.

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Appendix A - Commissioner Biographies³

DeForest B. Soaries, Jr., Chairman

Appointed to an initial four year term, Dr. DeForest B. Soaries, Jr. was elected Chairman of the Election Assistance Commission at the agency's first public meeting on March 23, 2004.

In February 2003, Dr. Soaries was appointed by President Bush to serve as a public director of the Federal Home Loan Bank of New York. He was a member of the affordable housing committee of the bank.

From January 12, 1999 to January 15, 2002, Dr. Soaries served as New Jersey's 30th Secretary of State. Appointed by former Governor Christine Todd Whitman, he managed one of the premier departments of State government and served as a senior advisor to the governor on issues that transcended traditional departmental lines.

Dr. Soaries is also the Senior Pastor of the 7,000 member First Baptist Church of Lincoln Gardens in Somerset, New Jersey. A pioneer of faith-based community development, Dr. Soaries has led First Baptist in the construction of a new \$17 million church complex and the formation of many not-for-profit entities to serve the community surrounding the church.

Highlights of Dr. Soaries' work include: recruiting families to become foster parents to 300 abandoned babies; helping 45 children find adoptive parents; constructing 96 new homes for low and moderate income residents to own; creating the first faith-based Cisco Technology Academy in the country; operating the Central New Jersey STRIVE program for job readiness; serving hundreds of youth in an after school center and homework club; forming a youth entrepreneurship program and redeveloping commercial real estate.

Dr. Soaries earned a Bachelor of Arts Degree from Fordham University; a Master of Divinity Degree from Princeton Theological Seminary; and a Doctor of Ministry Degree from United Theological Seminary. He has also received six honorary Doctorate degrees from institutions of higher learning. Additionally, Dr. Soaries has taught courses at Princeton Theological Seminary, Drew University Theological School, Kean University and Mercer County College.

Dr. Soaries has received numerous awards for his leadership and community service. He was recently recognized by both houses of the New Jersey Legislature for his religious and community leadership.

Dr. Soaries is married to Margaret Donna Soaries and is the father of twin sons, Malcolm and Martin.

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³ The four EAC commissioners were confirmed by the Senate on December 9, 2003, and appointed by the President on December 13, 2003.

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Gracia M. Hillman, Vice Chair

Appointed to an initial two-year term, Gracia M. Hillman was elected Vice Chair of the Election Assistance Commission at the agency's first public meeting on March 23, 2004.

Throughout her career, Commissioner Hillman has effectively handled both domestic and international issues. Her areas of expertise include nonprofit management, public policy and program development, political services, the interests and rights of women and minorities, community affairs and election related matters, including voting rights.

She has traveled extensively throughout the United States meeting with national and local groups and businesses; speaking at conferences, conventions and other public forums; and conducting a variety of training and development seminars. Through her international work, Commissioner Hillman traveled in Africa, Asia, the Caribbean and Europe. She conducted nonpartisan political training in Haiti and Kenya, and participated in UN sponsored conferences in Vienna, Beijing and at the United Nations in New York.

Prior to 2003, Ms. Hillman served as President and CEO of WorldSpace Foundation, a nonprofit organization that uses cutting edge digital satellite technology to deliver audio and multimedia education programs to Africa and Asia. Ms. Hillman also served the U.S. Department of State as its first Senior Coordinator for International Women's Issues where she was responsible for developing agency-wide strategies to ensure that U.S. foreign policy promoted and protected women's rights. She was the State Department's principal liaison with domestic nongovernmental organizations that are concerned with international women's rights and the role of women in development. In 1995, Ms. Hillman was a member of the official U.S. delegation to the United Nation's Fourth World Conference on Women held in Beijing.

Her work experience includes having served as Executive Director of the League of Women Voters of the U.S., the Congressional Black Caucus Foundation and the National Coalition on Black Voter Participation, which sponsored the popular nonpartisan grassroots program, Operation Big Vote. She also held positions as Executive Consultant to the Council on Foundations and Coordinator of the Voter Law Policy Project for the Joint Center for Political and Economic Studies.

Throughout the 1980's, Ms. Hillman championed many nonpartisan and bi-partisan efforts to ensure open access to the voting process for all citizens and the continued voting rights of minority Americans, including her work on the historic 25 year extension of the national Voting Rights Act. Her political experiences include paid and volunteer work on numerous local, state-wide and national campaigns, including having served as a Senior Advisor with responsibility for Congressional and constituent relations for the 1988 Dukakis for President Campaign.

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Ms. Hillman began her long time commitment to public service and the nonprofit sector in 1970, when she worked for a community action program in her home state of Massachusetts. She also held management positions in Massachusetts State government. She has served on the boards and advisory committees of numerous local and national organizations concerned with public service, citizen participation and the development of public policy. Ms. Hillman has one son and currently resides in Washington, DC.

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Paul S. DeGregorio, Commissioner

Appointed to an initial two-year term, Paul D. DeGregorio served as the Executive Vice President and Chief Operating Officer of the of the International Foundation for Election Systems (IFES), a leading institution involved in the promotion of democracy world-wide, where he was responsible for the day-to-day operation of this non-profit with over 400 employees in 23 countries. He also represented IFES at many domestic and international venues focused on democracy-building. DeGregorio has provided technical assistance in election administration in many countries including: Russia, Kazakhstan, Moldova, Ukraine, Romania, Albania, Macedonia, Bosnia-Herzegovina, China, Slovakia, Georgia, Cambodia, Thailand, Indonesia, Sierra Leone, the Democratic Republic of Congo, Nigeria and Japan. At IFES, DeGregorio also provided leadership on U.S. election reform initiatives and led a team that supplied technical advice in Florida and Missouri for the November 2002 election.

From 1985 to 1993, DeGregorio served as chief administrator of the election authority of Missouri's largest county. During his tenure as Director of Elections of St. Louis County, a jurisdiction of one million people, he instituted major improvements in voter registration, training, disability access, counting and management procedures. He was successful in prosecuting voter fraud and in drafting legislation to improve the electoral process and was widely-recognized for his achievements.

In 2001 he was appointed by Missouri Secretary of State Matt Blunt to serve as the Co-Chair of the Missouri Election Reform Commission. Working with the commission and Secretary Blunt, DeGregorio helped to craft an important election reform law which was passed by the Missouri General Assembly in 2002. A member of the International Association of Clerks, Recorders, and Election Officials (IACREOT) since 1986, during his tenure as Chairman of the Education and Training Committee DeGregorio was credited with initiating the University of Missouri Chancellor's Certificate in Public Administration program for IACREOT members.

Serving needs in higher education was important in DeGregorio's career as he served for 8 years as Director of Outreach Development for the University of Missouri-St. Louis, where he initiated and had oversight for four off-site campuses that served nearly 4000 students. He also served as a Research Associate with the University's Center for International Studies. DeGregorio was a Special Assistant in President Ronald Reagan's administration and served as an assistant to John Ashcroft during his first term as Missouri Attorney General.

A native of St. Louis, Missouri, DeGregorio, 51, received his degree in Political Science from the University of Missouri-St. Louis. He is married to Kerry DeGregorio, who is Director of

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Constituent Services for Missouri Congressman Todd Akin. The DeGregorio's are the proud parents of Katie, Annie, Debbie and Emily.

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Ray Martinez III, Commissioner

Appointed to an initial four year term, Ray Martinez III was a practicing attorney in Austin, Texas, focusing primarily on regulatory and administrative law matters, as well as government affairs representation of county governments to the Texas Legislature. Concurrent with his law practice, Martinez also served as executive director and legal counsel of the *Every Texan Foundation*, a non-partisan voter registration and education effort dedicated to increasing voter participation in Texas.

Mr. Martinez began his law practice after serving as Deputy Assistant to the President for Intergovernmental Affairs at the White House. In this position, Martinez was responsible for assisting former President Bill Clinton with various policy issues involving the nation's governors and other statewide elected officials. Before serving as Deputy Assistant to the President, Martinez was Regional Director for the U.S. Department of Health and Human Services in Dallas, where he served as the Department's principal liaison with federal, State and local officials in a five-state region.

From 1995 through the end of President Clinton's first term, Martinez served in the White House as a Special Assistant to the President, frequently traveling with the President and assisting with various policy matters affecting a 13-state Western region of the country. Mr. Martinez' Federal government service began in 1993 when he was appointed as White House Liaison to the U.S. Department of Health and Human Services. Prior to his service in the Federal government, Martinez worked as a legislative liaison for the Texas Attorney General's office, and as the legislative director for State Representative Sylvester Turner of Houston.

A native of Alice, Texas, Martinez, 39, received his law degree from the University of Houston Law Center and his bachelor's degree from Southwestern University. He currently resides in Arlington, Virginia with his wife, Beth Stanley Martinez, a clinical social worker, and their two children.

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Appendix B - Help America Vote Act of 2002 Authorizations & Appropriations

Program	Amounts Authorized	Amounts Appropriated	Amounts Disbursed	Administering Agency
Title I – Payments to States for: •Election Administration Improvement (Section 101) •Punchcard and Lever Machine Replacement (Section 102) Minimum Aggregate Amount Guaranteed to Each State Minimum Aggregate Amount Guaranteed to Each Territory (Amounts unobligated as of September 2003 transferred to EAC for Requirements Payments)	\$650 million, as follows: \$325 million \$325 million \$5 million \$1 million	\$650 million in FY03, as follows: \$325 million \$325 million (GSA was permitted to take \$500,000 of the total for administrative expenses)	\$650 million in FY03, as follows: \$349,182,262 \$300,317,738 (GSA took \$500,000 of the total for administrative expenses)	General Services Administration
Title II –Payments to States to meet Act’s Requirements (including voting equipment procurement, training poll workers, providing voter education, and improving administration of elections – Section 257(a)) Minimum Payment to States Minimum Payment to Territories	\$3 billion, as follows: \$1.4 billion-FY03 \$1 billion-FY04 \$600 million-FY05 .5% of amount appropriated .1% of amount appropriated ⁴	\$830 million-FY03 ⁵ \$1,489,360,620-FY04 ⁶	\$0 FY03	Election Assistance Commission

⁴ Subsequent appropriations legislation limited the Territories to receiving no more than the minimum amount.

⁵ Funds not disbursed remain available regardless of fiscal year, per Section 257(b).

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° Of the \$1.5 billion appropriated, \$1.5 million is for the two Help America Vote student programs, \$200,000 is for the National Student/Parent Mock Election, and \$100,000 is for GSA administrative expenses. A subsequent federal rescission affecting FY04 funds reduced the requirements payments by \$8,839,380.

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Program	Amounts Authorized	Amounts Appropriated	Amounts Disbursed	Administering Agency
Title II – Voting Technology Improvement Research Grants (Section 273)	\$20 million-FY03	\$0	\$0	Election Assistance Commission, in consultation with NIST
Title II – Grants for Pilot Programs to Test New Voting Systems (Section 283)	\$10 million-FY03	\$0	\$0	Election Assistance Commission, in consultation with NIST
Title II – Election Assistance Commission (Operating Fund – Section 210)	Maximum: \$10 million-FY03 \$10 million-FY04 \$10 million-FY05	\$2 million-FY03* \$1.2 million+\$800,000 for OEA -FY04*	\$0 in FY03	Election Assistance Commission
Title II –Payments to States and Units of Local Government to Improve Access to Individuals with Disabilities (Section 264)	\$100 million, as follows: \$50 million-FY03 \$25 million-FY04 \$25 million-FY05	\$13 million-FY03 \$10 million-FY04	\$13 million-FY03	Health and Human Services
Title II – Payments to State Protection and Advocacy Systems To Ensure Full Participation of Disabled Individuals in Electoral Process (Section 292) Minimum Payments	\$40 million, as follows: \$10 million-FY03 \$10 million-FY04 \$10 million-FY05 \$10 million-FY06 \$105,000 (\$70,000 and \$35,000)	\$2 million-FY03 \$5 million-FY04	\$2 million-FY03	Health and Human Services

* These amounts cannot be carried over for use in subsequent fiscal years.

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Program	Amounts Authorized	Amounts Appropriated	Amounts Disbursed	Administering Agency
Title II – Grants to the National Student and Parent Mock Election Organization (Section 296)	\$200,000-FY03 Such sums as may be necessary for each of the succeeding 6 fiscal years	\$0-FY03 \$200,000-FY04*	\$0 FY03	Election Assistance Commission
Title V – The Help America Vote College Program (Section 503)	\$5 million-FY03 Such sums as may be necessary for each succeeding fiscal year	\$1.5 million-FY03* \$750,000-FY04*	\$0 FY03	Election Assistance Commission
Title VI – Help America Vote Foundation (High School) (Section 601)	\$5 million-FY03 Such sums as may be necessary for each succeeding fiscal year	\$1.5 million-FY03* \$750,000-FY04*	\$0 FY03	Help America Vote Foundation

* These amounts cannot be carried over for use in subsequent fiscal years. A subsequent federal rescission affecting FY04 funds reduced the grants to the National Student Parent Mock Election by \$1,180 and the funds for the Help America Vote College Program and the Help America Vote Foundation each by \$4,425.

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Appendix C – Title II Requirements Payments to States

*Payments to be distributed by GSA in June 2004.

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