



**June 12, 2007**

**To: Progressive Allies**  
**From: Ralph G. Neas, President, People For the American Way and People For the American Way Foundation**  
**Re: Election Reform Update**

As the 2008 election cycle nears, the nation simply cannot afford another election where voters are disenfranchised and key races from the presidency on down the ballot are thrown into question because of faulty voting equipment or poorly administered elections. Election reform is the single most important domestic legislative priority facing the country, and the integrity of our election system is at risk. Many Americans do not know that, according to a Caltech-MIT study, **four million** Americans were disenfranchised in the 2000 elections.

The good news is that the electoral reform coalition\* is making significant progress on Capitol Hill, and success is within our grasp. Now is the time for a final, urgent push to pass federal legislation so that these desperately needed reforms can be implemented in time for 2008. In the words of Martin Luther King, Jr., we must underscore “the urgency of now.”

Both the House and the Senate have held hearings on significant legislation to provide voter-verified paper trails at the ballot box, and to crack down on deceptive practices and dirty tricks meant to keep voters away from the polls. We have been working closely with our coalition allies and members of Congress to move these bills to votes in the full Congress.

We have also seen significant victories on the state level, where scores of burdensome voter ID bills have been blocked or defeated, and measures to make the polls more open and accessible to voters have made progress.

This memo summarizes recent positive developments on Capitol Hill, in the courts and in state legislatures around the country.

*\*Special kudos to key coalition partners Common Cause, MoveOn, the National Education Association, the Brennan Center, the Electronic Frontier Foundation, Verified Voting, the NAACP, MALDEF, SEIU, the Lawyers Committee for Civil Rights Under Law and VoteTrust USA.*

## ***Federal legislation***

**House:** In the House, we're pleased that the Committee on Administration has sent the comprehensive election reform bill sponsored by Rep. Rush Holt of New Jersey to the floor. Rep. Holt has added 223 bipartisan cosponsors to his bill, and a vote may come as early as this month.

The legislation requires voting technology that can be verified by voters before they leave the polls, a paper record for purposes of recount and audit in disputed elections, and mandatory audits. The bill also requires companies that make voting machines to allow their computer codes to be examined, and that election technology must meet the needs of voters with disabilities and minority language voters.

In recent weeks, some state and local election officials have raised concerns that the legislation cannot be implemented in time for the 2008 elections, and that federal funding will not be available. In fact, several states have already shown that it can be done, including New Mexico and North Carolina. Both states converted to all-paper balloting in less than eight months. And the problem-plagued state of Florida has announced its decision to move to all-paper ballots in time for 2008 as well.

Nevertheless, changes have been made in the Holt bill to meet the concerns of state officials, including added flexibility in deadlines for implementation. And the funding authorized by the legislation has been increased to \$1 billion,

In other House action, Reps. Rahm Emanuel (D-Ill.) and John Conyers (D-Mich.) have introduced a bill barring deceptive practices. A companion piece to legislation introduced in the Senate by Barack Obama (D-Ill.), the bill bans attempts to deceive voters and dirty tricks, such as misleading robo-calls and flyers like those distributed in Maryland in 2006 that falsely claimed prominent African American officeholders were endorsing GOP gubernatorial and senate candidates. That legislation has also been reported out of committee and is ready for swift floor action.

**Senate:** As noted above, we're working with Sen. Obama on his bill to ban deceptive practices. The Senate Judiciary Committee held a productive hearing on the bill last week.

We're also working with Sen. Hillary Clinton on her bill to make sweeping electoral reforms, from requiring voter-verifiable, auditable paper records for all elections, to measures that will make it easier for citizens to vote, such as election-day registration and no-excuse absentee voting. (Rep. Stephanie Tubbs-Jones has introduced a companion bill in the House which has our support.)

Sen. Dianne Feinstein has also introduced a comprehensive reform bill with excellent provisions, including a ban on the purchase of paperless voting systems, the establishment of paper ballots as the ballot of record for recounts

and audits, and a requirement that voting system software be subject to inspection by independent experts. Her bill also makes improvements in poll worker training, requires states permit no-excuse absentee voting, requires emergency paper ballots, and standardizes fair guidelines for removing voters from the rolls, as well as requiring states to provide election equipment equitably to all voters.

While we continue to work with Sen. Feinstein on this bill, we are concerned that her bill does not require all voting machines to provide a paper record in time for the 2008 presidential elections, instead opting for a 2010 deadline. With a huge turnout expected in 2008, and many critical contests, from the presidency and Congress through state and local elections on the ballot, voters deserve these safeguards in time for the 2008 general elections, and to know that every eligible voters' vote will count when determining who the next President will be.

### ***Senate Defeats Voter ID Amendment***

Just last week, in a vote that sends an important message about the Senate's bipartisan support for meaningful reform that promotes the voting rights of all citizens, the Senate resoundingly rejected, on a bipartisan vote of 41-52, an effort by Senator Mitch McConnell (R-KY) to attach a voter ID amendment to the comprehensive immigration reform bill. Voter ID schemes, such as the one advanced by Senator McConnell, make it more difficult for voters to exercise their right to vote and significantly increase the chances that eligible, registered voters – particularly poor people, senior citizens, students, minorities, and people from rural areas – will be denied the right to vote. And they do absolutely nothing to prevent voter fraud, which every study agrees is virtually non-existent. As described below there are similar efforts to enact such disenfranchising measures at the state level as well.

### ***Sarasota/Congressional District 13***

PFAW continues its efforts to seek justice for disenfranchised voters in Florida's 13<sup>th</sup> Congressional District, where 18,000 votes simply disappeared in the race to replace Rep. Katherine Harris. We have informed Capitol Hill and coalition allies about problems with the state's process for auditing the obviously flawed election. The House Administration Committee's task force on the election has recently held its first meeting and voted to carry out an investigation, and we will supply information to the task force, including the testimony from voters at a hearing we held immediately after the election. Separately, People For the American Way Foundation and coalition allies are pursuing a judicial remedy for the Sarasota voters in federal court in Florida, but the courts have continued to stonewall. More than six months after an election in which experts agree the flawed performance of the voting machines almost certainly thwarted the will of the voters, the courts refuse to act. See more information [here](#).

## ***State Legislation***

There have been bright spots and challenges on the state scene, most notably the failure of burdensome voter ID requirements that tend to disenfranchise the elderly, students, low-income families and minorities at the ballot box. So far 78 voter ID bills in 22 states have been beaten back, but another 12 states, with 46 bad voter ID bills are still in session, requiring continued vigilance. There have also been at least two court victories on the state level, in Georgia and Missouri.

Key to the defeat of these measures has been the concerted effort by PFAW and other election reform advocates to dispel the myth of widespread “voter fraud” as the justification for these overly restrictive bills. See PFAW’s report [here](#).

Here are state-by-state highlights of election reform efforts around the country:

**California:** PFAW is working with state Senator Ron Calderon to introduce a state-level deceptive practices prevention act, similar to the federal legislation outlawing dirty tricks at the polls. We are also supporting the “Pupils to the Polls” bill to encourage high school students to become poll workers and become involved in civic participation at an early age, along with an Election Day Registration bill to make it easier for Californians to cast their votes.

**Colorado:** PFAW had particular success in Colorado, a key western state where the legislature has ended for the year. Our campaign for permanent no-excuse absentee voting succeeded in the state house, and the bill is now awaiting the signature of the Governor. We also supported an omnibus bill to ease the long lines seen at Denver vote centers that held down the vote in 2006. Progressive legislators and allied organizations, led in large part by PFAW’s staff in Colorado, were able to defeat burdensome voter identification and proof-of-citizenship proposals. Although unsuccessful this year, PFAW staff did push an Election Day Registration bill. Election Day Registration and a change in the laws regarding moving voters to an ‘inactive’ status will be our top priorities in the 2008 session.

**Florida:** In a big year for election reform, Governor Charlie Crist has taken positive steps to restore the voting rights of former felons, and the state passed legislation requiring counties to switch from trouble-prone electronic voting machines to optiscan voting machines. Most voters will be able to vote on paper ballots, and disabled voters will use ballot marking devices such as Auto Mark. The reforms follow years of advocacy, coalition building and legislative work by PFAW staff in Florida and nationally to challenge Florida’s flawed felon lists and restoration policies, and by our campaign to expose the failings of the voting machines in Sarasota County and other Florida counties in the 2006 elections.

**Georgia:** A voter ID bill instituted in 2005 has been challenged in both federal and state courts. A federal judge has ruled it is not in the interest of voters and an appeal is pending; the state Supreme Court recently threw out a state-level challenge (for purely procedural reasons), leaving the final substantive

disposition of the law uncertain. While the court battles continued, State Representative Alisha Thomas Morgan, who is also a staff member of affiliate PFAWF, has been able to hold off new legislation to institute onerous voter ID requirements, as well as additional proof-of-citizenship burdens. She has also introduced progressive reforms like election-day registration and restoration of voting rights for former felons, although the legislature failed to pass these measures before adjourning.

**Maryland:** PFAW testified on and worked for the successful passage of both a paper trail bill and the automatic restoration of rights to former felons convicted of multiple felonies, removing an additional three-year waiting period. We also lobbied vigorously – and successfully – to stop a voter ID bill in Maryland.

**Missouri:** PFAW was among the challengers to a photo ID bill in Missouri that was ultimately ruled unconstitutional in the state Supreme Court. This session we worked with progressive organizations and allies in the legislature to hold off a renewed attempt to pass a voter identification bill. The Missouri legislature is now closed for the session.

**New York:** PFAW's New York office is working closely with ally organizations and participating in public hearings on proposed voting systems to replace the state's outdated lever machines, and supporting legislators who have introduced bills banning deceptive practices.

**Ohio:** Newly elected Secretary of State Jennifer Brunner has begun an aggressive campaign to reform elections and has even created a Voting Rights Institute, and PFAW was asked to participate. Our legislative agenda includes support for permanent no-excuse absentee voting, mandatory random audits of voting machines and better training and recruitment of poll workers. PFAW also convenes and staffs the Ohio Voter Coalition, which we co-founded three years ago.

**Pennsylvania:** After a successful campaign to defeat a voter ID bill and attempts to roll back the voting rights of former felons, PFAW will now concentrate on much-needed reforms in this key state. The need for paper trails and fully auditable, accessible, and secure machines remains a priority. PFAW staff worked with state lawmakers to draft legislation similar to the federal Holt bill, and legislation to ban deceptive practices. A push for no-excuse absentee may gain momentum. PA staff organized a successful forum and lobby day on the need for specific reforms in PA in mid March.

**Texas:** The Texas legislature meets every two years, and the 2007 legislative session was quite successful. In 2005, our Texas office helped lead opposition to a bill requiring all citizens to present multiple forms of identification before voting. In 2007, we opposed a similar effort, as well as burdensome proof of citizenship requirements. While both proposals passed the Texas House this year, both bills died in the Senate. On the side of progress, we supported successful legislation requiring uniform notification to former felons of their right

to register and vote. Unfortunately, Governor Rick Perry vetoed this common-sense legislation with no time left in the session to attempt a veto override.

**Virginia:** PFAW worked closely with the Virginia coalition to push for mandatory paper trails, automatic random audits and better recount procedures, and achieved partial victory with passage of a compromise bill that phases out paperless DRE voting machines starting in July of 2007. We supported a bill banning deceptive practices, which was signed by the Governor making VA the second state in the nation to pass such legislation.

**Wisconsin:** PFAW has been active in opposing voter ID bills – which the Governor has vetoed – and in keeping a voter ID measure off the statewide ballot in an attempt to bypass the Governor. We are also reaching out to state legislators to introduce a deceptive practices ban.

**District of Columbia:** PFAW is working to support a plan to create a new, voting congressional seat for the nation's capital in an innovative effort that would add one seat to the state of Utah at the same time and so draw bipartisan support. So far this session we have mobilized activists, made our presence felt on Capitol Hill, and participated in a march and rally. We continue to play a lead role in the field and lobbying efforts.