

U.S. Senator Dianne Feinstein  
U.S. Senate Rules and Administration Committee  
July 30, 2008

**Hearing on S. 3212,**  
**The Bipartisan Electronic Voting Reform Act**

Good morning. When I first became Chairman of the Rules Committee in January 2007, I announced that my top priority was working to ensure the accuracy and reliability of our nation's voting systems.

It's now 18 months later. We've had two hearings on the issue, and long discussions across the aisle toward developing a proposal that is both workable and bipartisan.

My preference would be for a system that requires every voter throughout the nation to personally mark a paper ballot, or use an accessible system to mark that ballot and then have the votes tabulated by an optical scanner.

Indeed, with serious questions being raised about direct recording electronic voting systems that have no paper record, a growing number of states are moving to optical scans. In 2004, 35% of registered voters voted on optical scan systems, compared to 30% voting on electronic voting systems. In 2008, it is projected that 55% of voters will vote on optical scan systems, compared to 35% voting on electronic voting systems.

But our nation has a long history in which the voting process has been largely controlled independently by the states – and there are a number of states that will not support such a restriction.

In May 2007, I introduced the S. 1487, the Ballot Integrity Act, with 11 cosponsors – all Democrats.

This bill would require a paper record of every vote cast, and it declared that this paper ballot would be the official ballot in situations where audits found a disparity between the paper ballots and the electronic count.

NO Republicans signed onto this bill, including those Members on the Rules Committee. And it became clear that we would not have the votes to pass it during this Congress.

So at a hearing on the bill last July, I reached out across the aisle to my Ranking Member and asked him if we could work together on developing bipartisan legislation to bolster election security and reliability.

Senator Bennett agreed and since that hearing, our staffs – including his former chief counsel who is currently an FEC Commissioner – worked closely together.

And we now have a balanced compromise bill,  
S. 3212, the *Bipartisan Electronic Voting Reform Act*.

Make no doubt about it, I still personally believe that utilizing optical scan voting systems, with an accessible system in a polling place, provides the greatest security for ensuring that every vote cast is counted.

However, I agree with Senator Bennett, and I will support voting systems that allow for non-paper voter verification of the vote, so long as the systems are consistent with the law and provide for verifiable audits.

It is through the principals of vote verification, audits of elections, and appropriate security procedures that we will ensure fair and accurate federal elections for every eligible voter.

The major provisions of the legislation include:

## **INDEPENDENT VERIFICATION OF BALLOTS**

- Our bill requires electronic voting systems to provide for the independent verification of each ballot cast by means of a paper, electronic, audio, video, pictorial or other independently produced record by January 1, 2012, with the option of a waiver until January 1, 2014.

## **AUDITS**

- Our bill requires each state to conduct audits of federal elections – but allows the states to establish their own procedures taking into consideration best practices recommendations from the Election Assistance Commission.

## **ELECTION SECURITY**

- Our bill requires each state to establish chain of custody protocols for voting systems, components and records. This will ensure only appropriate election officials have access to machines.
- It requires voting system software to be disclosed and subject to review under certain circumstances, with procedures in place to ensure the protection of trade secrets and intellectual property rights. This will allow appropriate government experts to determine if voting software malfunctioned during an election.
- It requires each state to establish standards for ensuring the integrity of the voting process, developing emergency contingency plans, and training poll workers.

## **TESTING and CERTIFICATION**

- Our bill requires testing laboratories to meet conflict-of-interest standards and establish procedures for voting system certification and testing, including assigning testing laboratories on a random basis.

## **RESEARCH and DEVELOPMENT**

- Our bill authorizes \$30 million in grants for research, development and testing of independent verification technologies.

## **PAYMENTS TO STATES**

- Our bill authorizes such sums as necessary for states to carry out the requirements of the act, with funding distributed in accordance with formulas set forth in the Help America Vote Act.
- It establishes a task force to recommend the appropriate level of funding.

## **MILITARY and OVERSEAS VOTERS**

- Our bill removes arbitrary roadblocks that have prevented military and overseas voters from registering to vote and casting their ballots.

## **BALLOT LAYOUT DESIGN**

- Our bill requires each state to establish procedures for improving ballot design, taking into consideration guidance provided by the Election Assistance Commission.

In total, I believe this is a strong bill that will provide real baseline improvements in the rights of voters and states to have verifiable, auditable elections.

The Committee has a duty to be fully informed before considering election reform legislation. So, in addition to the testimony today, the record will remain open for 5 business days to receive other submissions for the record, as well as statements and questions for the witnesses from the Members of this Committee. The record will close for these submissions on Wednesday, August 6, 2008.

I now yield to Senator Bennett, my ranking Member on the Committee.