

NASS Standing Committee on Elections – 02/11/11
MEETING MINUTES

2011 NASS Winter Conference
NASS Elections Committee
Friday, February 11, 2011
JW Marriott
Washington, DC
8:30 AM – 11:15 AM

Members Present:

Hon. Greg Bell, UT – Co-Chair
Hon. Beth Chapman, AL
Hon. Ken Bennett, AZ
Hon. Debra Bowen, CA
Hon. Scott Gessler, CO
Hon. Denise Merrill, CT
Hon. Kurt Browning, FL
Hon. Brian Kemp, GA
Hon. Ben Ysursa, ID
Hon. Kris Kobach, KS
Hon. Mark Ritchie, MN
Hon. Robin Carnahan, MO
Hon. Delbert Hosemann, MS
Hon. Linda McCulloch, MT
Hon. Al Jaeger, ND
Hon. John Gale, NE
Hon. Bill Gardner, NH
Hon. Ross Miller, NV
Hon. Jon Husted, OH
Hon. Kate Brown, OR
Hon. Kenneth McClintock, PR
Hon. Ralph Mollis, RI (by proxy)
Hon. Jason Gant, SD
Hon. Hope Andrade, TX
Hon. Jim Condos, VT
Hon. Sam Reed, WA
Hon. Max Maxfield, WY
Hon. Natalie Tennant, WV

NASS Staff:

Ms. Leslie Reynolds, NASS Executive Director
Mr. John Milhofer, NASS Policy Analyst

Lieutenant Governor Bell called the meeting to order at 8:30 AM.

Committee Business: Consideration of NASS Resolution on Federal Emergency Management Agency (FEMA) Financial Assistance of a Disaster

Lieutenant Governor Bell brought up the first resolution for consideration, which was scheduled to

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sunset. He said it was originally approved in 2006 after Hurricane Katrina, and was drafted in such a way that it continues to be applicable to any future disasters. He added that the resolution was discussed on a recent Elections Committee conference call, and that none of the participants had any issues or questions about the language.

ACTION ITEM

Secretary Reed made a motion to adopt the NASS Resolution on Federal Emergency Management Agency (FEMA) Financial Assistance. The motion was seconded by Secretary Maxfield and it passed unanimously.

NASS Resolution on Federal Emergency Management Agency (FEMA) Financial Assistance after a Disaster

Adopted February 2006

Reaffirmed on February 11, 2011 by Elections Committee

WHEREAS, In September 2005 the gulf south region of America suffered devastating losses as a result of Hurricanes Katrina and Rita, and;

WHEREAS, other geographic areas have in the past and will suffer in the future from devastating disasters whether by act of God or man, that will debilitate the election process, and;

WHEREAS, the Secretaries of State and other local election officials in the affected areas will bear substantial additional costs to restore polling places, voting equipment, and other necessary items which will enable them to resume conducting elections, and;

WHEREAS, we, the members of the National Association of Secretaries of State (NASS) and the chief state election officials in 39 states, agree that accurate, accessible, and accountable elections are the centerpieces of our democracy, and;

WHEREAS, the state and local governments in the affected areas have and will suffer tremendous losses of revenue and have to shoulder additional expenses in the clean up and rehabilitation of their respected areas, and;

WHEREAS, FEMA reports that they have no statutory authority to pay for any of these extraordinary expenses, and;

WHEREAS, FEMA has provided assistance and financial aid for extraordinary expenses to state and local election officials for conducting elections during past disasters;

THEREFORE BE IT RESOLVED that NASS hereby urges and requests the President and Congress of the United States of America to direct FEMA to deem extraordinary expenditures related to the election process as eligible for payment under the Stafford Act and to work with other federal agencies to expediently take appropriate steps to assist those Secretaries of State and local election officials in the areas affected by disaster..

Adopted the ____ of February,
In Washington, DC

Consideration of NASS Resolution on State, Local and Federal Responsibilities for Election Reform

Lieutenant Governor Bell brought up the second resolution for consideration, which was also scheduled to sunset unless reauthorized. He said it was originally introduced in 2001 after a bi-partisan NASS task force review of federal proposals on election reform and was reaffirmed in 2006. He added that the

resolution clarifies the role of election administrators at the local, state, and federal level. He also noted that the language was updated to specify that the recommendation for full funding pertained to federal laws impacting election administration.

ACTION ITEM

Secretary Reed made a motion to adopt the NASS Resolution on State, Local and Federal Responsibilities for Election Reform. The motion was seconded by Secretary Browning and it passed unanimously.

NASS Resolution on State, Local and Federal Responsibilities for Election Reform

Adopted February 6, 2001

Reaffirmed February 5, 2006

Reaffirmed by Elections Committee February 11, 2011

WHEREAS, the nation's Secretaries of State are committed to protecting an individual's right to vote by ensuring access, accuracy and integrity in elections, and;

WHEREAS, the administration of elections is a complex enterprise involving thousands of polling places, and election jurisdictions,, millions of poll workers, hundreds of thousands of voting machines, more than 130 million of voters and tens of thousands of election officials, and;

WHEREAS, the United States was founded upon the principle of self-government in which the right to vote is the most important and fundamental right of the people, and;

WHEREAS, the conduct of elections is primarily the responsibility of state and local election officials, and;

WHEREAS, America's voting systems and election procedures must ensure that all votes are counted accurately and that voting is easily understood and as convenient and accessible as possible, and;

WHEREAS, our collective expertise with election issues and our strong commitment to fair and accurate elections will enhance our democratic process, and;

WHEREAS, to ensure that all eligible voters are afforded their constitutional right to vote and unfettered access to the election process,

The National Association of Secretaries of State recommends that state and local governments and election officials continue to work to:

1. Ensure non-discriminatory equal access to the election system for all voters, including elderly, disabled, minority, military, and overseas citizens.
2. Encourage the adoption and enforcement of Election Day rules and procedures to ensure equal treatment of all voters;
3. Modernize the voting process as necessary, including voting machines, equipment, voting technologies and systems and implement well-defined, consistent standards for what counts as a vote throughout the election process ensuring accurate vote counts and minimal voter error;
4. Encourage states to adopt uniform state standards and procedures for both recounts and contested elections, in order to ensure that each vote is counted and to provide public confidence in the election results;

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5. Provide election officials with increased funding to implement the recommendations of this resolution;
6. Conduct aggressive voter education and broad-based outreach programs;
7. Expand poll worker recruitment and training programs by adopting the innovative practices of other states and localities, with the ultimate goal of providing a satisfactory Election Day experience for all voters;
8. Maintain accurate voter registration rolls with a system of intergovernmental cooperation and communication;
9. Enhance the integrity and timeliness of absentee ballot procedures;
10. Adopt and adhere to the Voluntary Federal Voting Systems Standards for Voting Systems;
11. Provide for continuous training and certification for election officials; and
12. Collect data and election information on a regular and consistent basis to provide a nexus for public consumption and systemic improvements.

NASS further recommends that the Congress:

1. Fully fund the continuous update of the Federal Voting Systems Guidelines developed in consensus with state and local election officials;
2. Fund the development of voluntary management practices guidelines for each voting system;
3. Promote intergovernmental cooperation and communication among state and local elections officials to facilitate the maintenance of accurate voter registration rolls; and
4. Provide full federal funding to the States to implement mandates imposed by federal laws impacting election administration.

THEREFORE BE IT RESOLVED that the National Association of Secretaries of State welcomes the opportunity to work with the Administration, Congress, governors, state legislators and local election officials as well as organizations such as the National Association of State Election Directors and the Election Center, all members of the election community, and concerned organizations, community groups, and the public to ensure our citizens will have accurate, reliable, and efficient systems of elections.

THEREFORE BE IT FURTHER RESOLVED that we, the National Association of Secretaries of State, reaffirm our determination and commitment to ensure that all eligible voters can register and vote, and that all votes will be counted accurately and fairly in each and every election.

Review of 2010 MOVE Implementation and Future Plans

Lieutenant Governor Bell introduced Congressman Gregg Harper (R-MS), Chair of the House Administration Subcommittee on Elections. Congressman Harper's comments included the following:

- The House Administration Committee consists of nine members (six majority, three minority)
- The Chairman of the full Committee is Congressman Dan Lungren (R-CA)
- The Elections Subcommittee consists of four members (four majority, two minority)

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- The Committee handles election matters such as campaign finance, election administration, and oversight of the EAC and FEC
- He was not yet certain which election administration issues the committee might focus on in the 112th Congress
- The Committee will hold a hearing on 2/15/11 to review implementation and enforcement of MOVE
- Congress will have to make difficult decisions in order to make necessary budget cuts
- The EAC has outlived its purpose and he will soon be introducing a bill to eliminate the agency
- The bill would transfer the certification and testing functions of the agency to NIST
- EAC duties involving collection of information and NVRA would be transferred to the FEC

Mr. Adam Thompson asked what would happen to HAVA money that has already been distributed to the states. Rep. Harper said that states would not be required to return unspent funds, and that they will be considering what to do about existing federal funds that have not been disbursed to states.

Panel Discussion on MOVE

Susan Dzieduszycka-Suinat, Overseas Vote Foundation:

- OVF functions include technology, research, conferences, and outreach
- MOVE Act benefits include better communication with voters and increased ballot delivery time
- OVF survey shows 82% of UOCAVA voters received the ballot they requested (up 5% from 2008)
- Only 16.5% indicated they received their ballots after mid-October (down 28% from 2008)
- Only 13% of local election officials reported that online blank ballot delivery worked well
- States are encouraged to consider long term ballot delivery solutions and avoid waivers

Bob Carey, Director, Federal Voting Assistance Program:

- Current FVAP focus is on timely ballot transmission
- Blank ballot delivery systems needs thousands more downloads to be worthwhile
- FVAP's website is designed to direct voters to state election websites
- FVAP is working to develop a \$3 to \$5 million dollar state grant program
- Grant money would distributed by the end of August 2011
- Grants would be for most aspects of military voting, except live online delivery of voted ballots

Kieran Marion, Legislative Counsel, Uniform Law Commission:

- UMOVA drafted by ULC in 2009 and approved in July 2010
- UMOVA applies many of the MOVE provisions to state and local elections
- The Act would harmonize state laws and reduce confusion for military and overseas voters

Secretary Ritchie asked Mr. Carey if FVAP will continue to send legislative initiative letters to states. Mr. Carey said they do plan to do that, and have also incorporated feedback from states into those letters.

Ms. Leslie Reynolds asked Mr. Carey when the legislative initiative letters would be sent out, and Mr. Carey said maybe the end of the month. Ms. Reynolds also asked if the \$3-5 million grant program is already in the budget, or something that is coming. Mr. Carey said that some of it was still in the budget leftover from FY 2010 programs, and the rest would be from potential additional appropriations. He added that they are looking to transfer the money to the states by the end of the summer.

MOVE Roundtable Discussion

Mr. Mark Thomas, Utah Elections Director, led the discussion. He said that Utah was largely compliant with MOVE when it passed, but they are looking at moving the state primary. Secretary Ritchie said that the state legislature in Minnesota changed the state primary date to August after MOVE was passed and there has been a noticeable improvement in getting military ballots back in time. Secretary Reed said that Washington State is currently considering legislation to move the primary date back, and Secretary Husted said that Ohio will be dealing with an early primary in a redistricting year. Secretary Hargett noted that one of the challenges Tennessee faces is developing consistent email addresses for contacting election officials since many officials change after the election.

Federal MOVE Enforcement Efforts – Department of Justice

Hon. Thomas Perez, Assistant Attorney General of the Department of Justice Civil Rights Division spoke about federal efforts to ensure compliance with the MOVE Act. He made the following points:

- The Department of Justice began work on the MOVE Act after it was passed in 2009
- 20 people in the voting section focused on MOVE implementation
- The DOJ sent their first letters to the states in early April 2010
- The DOJ worked closely with DOD on the waiver process
- Late primaries create significant challenges with MOVE compliance \
- The DOJ is working to prepare for redistricting
- DOJ expects 2700 submissions from the 16 states covered by Sec 5 of the Voting Rights Act
- Successful redistricting is the result of a successful process
- The DOJ hopes to have data on language minority jurisdictions to the states by summer

Secretary Miller and Secretary Hosemann both expressed frustration regarding their interactions with DOJ on MOVE compliance matters during the last election. Secretary Husted said that on issues ranging from MOVE to bilingual ballots, election officials in Ohio have said they would benefit from getting more information in advance and trying to work on solutions ahead of time.

Congressional Committee Priorities for the 112th Congress

Mr. Peter Schalestock, Majority Counsel of the House Administration Committee, said that the Committee majority plans to enhance oversight efforts of EAC and FEC. He added that majority wants to focus on ways to relieve the elections costs imposed by relevant laws while maintaining the spirit of those laws.

Mr. Tom Hicks, Minority Counsel of the House Administration Committee, said he hopes there will be hearings on the EAC before any potential elimination of the agency. He added that the minority is still interested in moving forward with a bill for online registration.

Mr. Adam Ambrogio, Majority Counsel of the Senate Rules Committee, said the majority is interested in seeing how UMOVA progresses through the states. He also noted that the DOD is now implementing voter registration offices at military bases.

Mr. Paul Vinovich, Minority Counsel of the Senate Rules Committee, said that based on the new makeup of Congress, any new laws passed would have to be bi-partisan. He added that much of Congress' time and attention will be focused on budget and financial issues.

U.S. Election Assistance Commission Programs and Initiatives in 2011

Commissioner Gineen Bresso and Commissioner Donetta Davidson made the following points in their presentation:

- Currently, the EAC has two commissioners of the same party
- The EAC will continue certifying and testing of voting systems
- The Distribution of requirements payments does not require a commission vote
- Ongoing efforts include the Election Day Survey and election information resources
- The EAC has developed UOCAVA electronic pilot program testing requirements
- The EAC is working on an online information exchange for election officials

The meeting adjourned at 11:25 AM.