

Why Congress Must Repeal The HAVA Act

by Art Ticknor

In 2002, Congress was duped into supporting the Help America Vote Act (HAVA), which resulted in the Federal government encouraging, and even subsidizing, the use of unverifiable, fraud-prone electronic voting systems by the states. As an estimated 56% of the votes this Fall are anticipated to be cast on computerized voting machines, Democratic Presidential candidate Lyndon LaRouche warns that Cheney, Bush, and their friends are planning to steal the November elections—and if Congress waits until then to act, it will be too late. HAVA must be repealed now.

With touch-screen electronic voting, there is no way for officials to conduct a recount or to verify the results, because there is no ballot card, and no paper trail. The computerized tallying of votes, in either touch-screen or optical-scanning systems, is easily rigged, as recent tests conducted by the State of Maryland demonstrated (See *Editorial, EIR*, Feb. 6).

Under the conditions of systemic global financial collapse that will be hitting full force by this Fall, you can't underestimate the desperation of Cheney and Company and their financial backers, to take whatever measures they deem necessary to install a fascist dictatorship, rather than giving up power. If they have the capability to commit fraud through rigging electronic voting systems, they'll use it.

Merely amending HAVA to require a voter-verified paper trail, as some members of Congress have proposed, is inadequate. It is imperative for the sponsors of this legislation, and those who voted for it, to repeal HAVA, and ban computerized voting *now*. Otherwise, we will have forfeited the Constitutional right to fair elections, because the results will be meaningless.

Using the smokescreen of fixing the Florida punch-card fiasco in the 2000 elections, the Republican-controlled Congress, with the support of hoodwinked Democrats, passed HAVA in October 2002—as their attention was focussed on the impending Iraq war. HAVA authorized \$3.9 billion in Federal government monies to subsidize and promote replacement of the old lever-type and punch-card voting machines, with new electronic systems such as optical scanning and DRE (Direct Electronic Recording) touch-screens. HAVA-funded machines—not required, but encouraged—were supposed to be in place for the November 2004 elections, unless the state applies for an extension—which many have.

Moreover, under the pretext of assisting persons with disabilities, by 2006 *every* polling place used in a Federal elec-

tion is required to have at least one DRE device, or another device “equipped for individuals with disabilities.”

During the so-called “debate” on the HAVA bill on the floor of the House, on Oct. 10, 2002, virtually no opposition was voiced, and apparently no one blew the whistle on the susceptibility of these systems to fraud and election-rigging. Republicans and Democrats alike praised HAVA as ensuring the right to vote, and the right to have every vote “counted equally and fairly.” Rep. Robert Ney of Ohio, the lead Republican sponsor, proclaimed, “No more will voters have to wonder if their vote was properly recorded or not.” Rep. Steny Hoyer of Maryland, the lead Democratic sponsor, called HAVA “the first Civil Rights Act of the 21st Century.”

Ironically, many members of the Congressional Black Caucus threw their enthusiastic backing behind HAVA—with members calling it “the most important,” or “the most historic piece of election and voting rights legislation since the Voting Rights Act of 1965”; and “the civil rights bill of the new millennium.”

The irony of this, as pointed out by former Nebraska State Senator Don Eret below, is that HAVA actually violated the Voting Rights Act, which requires that observers be able to watch the counting of votes—which is impossible when the counting is done by a computer “black box.”

Who Lobbied for HAVA?

Who duped Congress into supporting HAVA? Although a lot of the public-relations window-dressing was pitched in terms of enabling disabled persons to vote (a rather dubious claim), the heavy lifting was done by a consortium of defense contractors and voting-machine companies, which same group has now launched a public relations campaign touting computer voting.

The Information Technology Association of America (ITAA), a lobbying firm for technology firms, set up the “Election Systems Task Force”—composed of defense contractors and procurement agencies—to push the legislation through Congress. The major companies involved in the task force were: Northrup Grumman, Lockheed Martin, Accenture, and EDS.

During a conference call meeting on Aug. 22, 2002, it was stated that the Task Force's top agenda item was simply: “How do we get Congress to fund a move to electronic voting?” The discussion was about the importance of getting

Fair Election Means Ability To Recount

Don Eret is a former Nebraska State Senator, presently the vice chairman of the Saline County Democratic Party, and is the authorized representative in Nebraska for the LaRouche in 2004 campaign. Eret is a farmer and a retired space engineer. Having known Mr. Eret for many years, and being aware of his interest in voting rights issues, *EIR* spoke with him on Jan. 28.

Former Senator Eret expressed his strong belief that the ability to conduct a recount is essential for citizens to be able to have confidence in elections. While it is possible to conduct a recount with optical-scanning voting machines which use a paper ballot card, Eret notes that it is impossible with touch-screen machines, unless they are modified to produce a printed ballot or receipt.

“We know they’ve been mandated by the Help America Vote Act, and are mandated now in all precincts in the United States for handicapped accessibility—which we don’t fully understand,” Eret told *EIR*. “HAVA calls for them to be fully operational for the 2006 elections. . . . I would have thought this would have made it very easy for someone to challenge that whole mandate. It’s one Congressional act conflicting with another, because in 1965, they passed the Voting Rights Act, which mandated that all ballots be auditable. It calls for observers, to be able to observe the tabulation of the vote.”

Eret cites Title 42 of the United States Code, Sec. 1973, which provides for Federal observers in jurisdictions covered by the Voting Rights Act, and that such observers can be present at any voting location “for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.”

That, of course, is impossible to do, if the votes are being counted by a computer, which is true for both optical-scanning and touch-screen systems.

Eret believes that the credibility of a state’s elections are dependent on its recount laws. “If you don’t have a procedure that allows for an audit of actual ballots, suspicions develop about the way a race might have turned out, if it is quite close. We’ve had several races in Nebraska that fit my category of being suspicious. We feel that if the law was corrected, so that it did allow this, that should remove those suspicions. It would remove the temptation for someone to think about manipulating a vote count.”

“This whole business with the machines—you can’t help but feel that there’s a partisan element, because these companies are all owned by Republican people,” Eret says. He notes that one company, or even one person in the company, has to service all the state’s voting machines, “because the counties can’t program their own machines; they have to go on contract with ES&S to get their machines programmed.” He points out that “local election officials don’t know what’s going on, and have no right to investigate it.”

“People I know, just see that this as a big bold move by Bush to get himself re-elected.”

—Edward Spannaus

the HAVA legislation enacted as a means of creating more business opportunities for the companies involved.¹

On Sept. 6, 2002, ITAA demanded that House and Senate conferees resolve their differences over their respective versions, and pass HAVA. Just over a month later, they did. HAVA was signed into law by President Bush on Oct. 12, 2002.

Where It Stands Today

More recently, amid Congressional moves to amend HAVA, ITAA escalated and established a group—made up of electronic voting machine companies—to “raise the profile” of electronic voting, and peddle its “benefits” to the American public. Members of the Election Technology Council (ETC), formed on Dec. 9, 2003, are Advanced Voting Systems, Diebold Election Systems, Election Systems & Software, Hart InterCivic, Sequoia Voting Systems, and

Unilect.

ITAA says the ETC builds on the work of its Voting Reform Task Group, the which lobbies for HAVA funding.

HAVA called for the appointment of an Election Assistance Commission (EAC) by February 2003, which was to oversee the establishment of standards for voting equipment. The White House stalled for a year after passage of the bill, and didn’t forward its nominations for the EAC to Congress until October 2003. The nominees were only recently confirmed, and the Commission is just now getting off the ground. It was only given \$2 million of the \$10 million it was promised.

The states are caught in a conundrum, as the National Association of Secretaries of States has pointed out. In order to meet Federally-mandated HAVA deadlines—and to be eligible for Federal monies—and prompted by aggressive lobbying and salesmanship by voting machine companies, state and local officials have already been rushing to purchase and install DRE voting systems. Companies such as Diebold and Sequoia are taking advantage of the fact that there are still no

1. Bev Harris, *Black Box Voting: Ballot Tampering in the 21st Century* (Renton, Wa.: Talion Publishing, 2004), Chapter 16.

Federal standards for voting equipment.

On the other hand, as reported and complained about in a recent electionline.org survey, debates over the security and integrity of electronic voting systems have caused a number of states to delay their plans to replace older voting machines. The electionline report even cites what it calls the “backlash against electronic voting.”

Many Democratic Congressmen who had voted for HAVA, have now apparently realized they made a mistake, and are supporting legislation mandating that electronic voting machines be fitted with printers, so that voters can see and approve their choices on paper. For example, Rep. Rush Holt (D-N.J.), in May 2003, introduced legislation to amend HAVA, to require a voter-verified paper trail; the bill has 114 co-sponsors. Such actions, while well-meant, are inadequate (see article, below); Congress must repeal HAVA.

Sponsors of the HAVA Disaster

Following are listed the HAVA bill’s original co-sponsors (on Nov. 14, 2001), which grew to 172 as of Oct. 10, 2002. The bill passed by a vote of 357-48 in the House, and 92-2 in the Senate, and was signed into law on Oct. 29, 2002. (Asterisks denote those who are now co-sponsoring the Holt bill to *amend* HAVA.)

Republicans: Lead sponsor: Bob Ney (Ohio); co-sponsors: Todd Akin (Mo.), Cass Ballenger (N.C.), Roy Blunt (Mo.), Sherwood Boehlert (N.Y.), Steve Buyer (Ind.), Michael Castle (Del.), Lincoln Diaz-Ballart (Fla.), John Doolittle (Calif.), Vernon Ehlers (Mich.), Phil English (Penn.), Ernie Fletcher (Ky.), Mark Foley (Fla.), Randy Forbes (Va.), Greg Ganske (Ia.), James Greenwood (Penn.), Melissa Hart (Penn.), Robin Hayes (N.C.), Peter King (N.Y.), Ray LaHood (Ill.), Steve LaTourette (Ohio), Jerry Lewis (Calif.), John Linder (Ga.), John Mica (Fla.), Todd Platts (Penn.), Rob Portman (Ohio), Silvestre Reyes (Ind.), Tom Reynolds (N.Y.), Lee Terry (Neb.), Pat Riberi (Ohio), Greg Walden (Ore.), Curt Weldon (Penn.), Frank Wolf (Va.).

Democrats: Lead sponsor: Steny Hoyer (Md.); co-sponsors: Gary Ackerman (N.Y.), Robert Andrews (N.J.), *Brian Baird (Wash.), *Corrine Brown (Fla.), *Sherrod Brown (Ohio), *Lois Capps (Calif.), Ben Cardin (Md.), Brad Carson (Okla.), Joe Crowley (N.Y.), *Elijah Cummings (Md.), Jim Davis (Fla.), *John Dingell (Mich.), Bob Etheridge (N.C.), *Chaka Fattah (Penn.), *Alcee Hastings (Fla.), Baron Hill (Ind.), Ruben Hinojosa (Tex.), *Joe Hoeffel (Penn.), *Rush Holt (N.J.), *Eddie Bernice Johnson (Tex.), *Stephanie Tubbs Jones (Ohio), Jim Langevin (R.I.), *Rick Larsen (Wash.), *John Lewis (Ga.), *Jim Matheson (Utah), Karen McCarthy (Mo.), *Dennis Moore (Kan.), *Bill Pascrell (N.J.), Earl Pomeroy (N.D.), *David Price (N.C.), Bobby Rush (Ill.), John Spratt (S.C.), *Pete Stark (Calif.), Ellen Tauscher (Calif.), *Bennie Thompson (Miss.), *Albert Wynn (Md.).