



Making New Jersey's

Votes Count

**New Jersey Citizen's Coalition on
Implementation of the Help America Vote Act**

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ACLU-NJ

Alliance For the Betterment of Citizens With Disabilities

American Association of People With Disabilities

Asian American Legal Defense and Education Fund

Asian American Political Coalition

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Garden State Bar Association

Hispanic Bar Association of NJ

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Latino Leadership Alliance of NJ

Leadership Conference on Civil Rights

League of Women Voters of New Jersey

Monday Morning Project Networks of Atlantic, Cape May,
Burlington, Cumberland, Morris, Ocean, Middlesex,
Mercer, Essex, Sussex, Passaic, Gloucester, Somerset,
Hudson, Bergen Regional, and Union Counties.

NAACP Voter Fund- NJ

NAACP Legal Defense and Education Fund

National Council of Jewish Women- NJ

National Organization for Women of NJ

New Jersey Appleseed Public Interest Law Center

New Jersey Association on Correction

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Organization of Chinese Americans- NJ Chapter

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Young Korean American Service and Education Center

(List Complete as of February 24, 2004)

CONTENTS

Introduction	2
Voter Identification.....	3
Statewide Registration Database	5
Voter Education and Information	7
New Voting Machines.....	8
Election Official and Poll Worker Training	10
Provisional Ballots	11
Ensuring Access to People with Disabilities	13
Eradicating Language Barriers.....	14
Reorganizing New Jersey’s Election Administration	15

INTRODUCTION

The Help America Vote Act (“HAVA”) took effect in the fall of 2002 with the aim of reforming elections in the United States. HAVA sets down new federal requirements that every state must meet to assure that states conduct their elections in a way that protects a citizen’s right to vote and the accuracy of that vote.

HAVA deals with such areas as voter identification and registration systems, electronic voting machines and procedures to reduce the chance of anyone’s vote not being counted. To accomplish these objectives, HAVA also provides states with federal money to assist in making the changes needed for compliance. In New Jersey, the state has already received nearly \$17 million as of early 2004 and expects an additional \$87 million to help upgrade voting equipment and improve the structure and administration of elections in the state.

HAVA mandates certain minimum standards for new voting machines, requires provisional ballots in cases where a potential voter’s right to cast a ballot is in question, requires the development of a statewide voter registration base and calls for steps to ensure voting access for persons with disabilities. States, however, retain significant discretion. In fact, HAVA requires the State of New Jersey to take a larger role in many aspects of administering elections that now are in the hands of the 21 counties. This enlarged role, in turn, requires action by the Governor and, in many instances, the Legislature.

The New Jersey Citizens Coalition on HAVA Implementation consists of groups that have traditionally been involved in voting issues as well as others that have an interest in seeing the law successfully carried out. As this process goes forward, the Coalition stresses that HAVA should be seen as more than just a series of federal mandates. It is, rather, an opportunity to enact many initiatives that should be undertaken regardless of new law. Indeed, HAVA is best seen as a floor, not a ceiling: an impetus to bring much-needed consistency, higher participation levels and increased professionalism to our election process that is the very cornerstone of our democracy.

In the spirit of making elections as fair, nondiscriminatory and inclusive as possible, we offer the recommendations on the pages that follow.

VOTER IDENTIFICATION

HAVA requires that voter registration applications include a place for an applicant to provide either a driver's license number or the last four digits of his or her Social Security number. If the individual does not do so or lacks either number, the state must assign that person a unique identifier number. This registration requirement is new to New Jersey. Now the state must redesign its voter registration application to include the above information.

In addition, HAVA provides that anyone who registered to vote *by mail* after January 1, 2003, *and* did not vote previously in a federal election in the state, will be allowed to cast a machine vote only after presenting one of the following items to election officers at the polling place: current, valid photo identification; utility bill; bank statement; government check; paycheck; or a government document with the voter's name and address. If a first-time voter casts a vote by mail, a copy of one of these documents must be submitted with the mail-in ballot.

This identification requirement does *not* apply, however, in the case of a person:

who is entitled to vote otherwise than in person under federal law; *or*

who registers to vote by mail and submits a driver's license number or the last four digits of a Social Security number and whose information the board of elections or other election officer matches with an existing identification record in a state database or file; *or*

who registers to vote by mail and submits as part of such registration either current and valid photo identification, utility bill, bank statement, government check, pay check, or government document that shows the voter's name and address.

In addition, someone desiring to vote, who does not provide the appropriate identification and does not fall within one of the exceptions, may cast a provisional ballot in person or by absentee ballot.

RECOMMENDATIONS:

✓ **Limit applicability of the identification requirement.**

HAVA requires that states cannot require first-time voters who registered by mail to provide identification at the polls if they have previously provided acceptable identification at the time of registration or at any time before the election. To fully comply with HAVA, New Jersey should take steps to ensure that anyone who submits a driver's license number, the last four digits of his or her Social Security number, or other acceptable form of identification with the mail-in registration form or anytime prior to the election is not required to provide identification at the polls.

✓ **When information provided on the registration form cannot be verified, notify citizens in time to correct the problem.**

Driver's license and Social Security information submitted by voters might not match due to inadvertent mistakes as simple as transposing numbers or changing names. The statewide voter registration database should be designed and integrated so that other state databases "talk to each other" so as to provide missing or erroneous data for voter registration applications. In any case, voters should not have to confront this problem when they show up at the polls. Notification should be far enough in advance to allow affected citizens to fix any problems before Election Day. And, until a computerized statewide database is operational and registrants' identities can be verified by a driver's license number or the last four digits of their Social Security number, the state should establish that first-time voters who register by mail and provide one of these numbers do not have to provide any additional identification. The voters of New Jersey should not bear the burden of the state's failure to set up the computerized statewide database by the HAVA deadline of January 1, 2004.

✓ **Put notice of the identification requirement on all registration forms.**

The state should inform people who register by mail and have not voted before about the identification requirement as early as possible to enable them to provide acceptable documentation prior to Election Day.

✓ **Accept a broad list of identifying documents.**

Acceptable forms of identification should not be limited to those specified by HAVA. All forms of photo ID — such as a passport, student identification card, non-driver's ID or credit or automated teller card — should be accepted. And the state should notify all first-time voters who register by mail as to the types of documents that will be accepted as alternatives to a driver's license.

✓ **Have inclusive rules for counting provisional ballots cast by first-time voters who register by mail and fail to provide identification at or prior to reaching the polls.**

Provisional ballots of persons who must present identification at the polls, but fail to do so, should be counted if the state can later verify, through reference to the statewide voter database or other government records, information they do provide in the provisional ballot, such as their driver's license number, the last four digits of their social security number or their residential address. Such voters should also be given a reasonable opportunity to submit their identification after voting in order to ensure that their provisional ballots are counted in the event that information provided cannot be verified.

STATEWIDE REGISTRATION DATABASE

HAVA requires every state to create and use a single, uniform, computerized, centralized, interactive electronic voting registration database. This database must be administered at the state level. It must be as accurate as possible, containing the name, registration information and unique identifying number for every person registered to vote. It is to serve as the official registration list for federal elections, and all election officials must have immediate electronic access to the information in the list.

Under HAVA, it is the states' responsibility to enter voter registration information into the database promptly and ensure that all registered voters appear on the list correctly. States must also take measures to remove duplicate registrations and prevent erroneous removal of eligible voters, while still ensuring removal of ineligible voters consistent with the processes set forth in the National Voter Registration Act.

These voter registration databases must be coordinated with the databases of other governmental agencies, including those kept by the state Motor Vehicle Commission and the federal Social Security Administration. HAVA also specifically requires that the statewide registration database incorporate updated state felon and death records.

These requirements are a major departure from current practice in New Jersey. Currently, election officials in each of the 21 counties maintain their own registration databases and independent lists. New Jersey must thus develop a computerized, statewide registration database from scratch.

RECOMMENDATIONS:

✓ **The state should act as registrar, not just administrator of the database.**

It is the state's responsibility to accept, verify, update and remove names from the official voter registration list. To meet this obligation, the state must establish clear, uniform standards for local officials to avoid disparate treatment of voter registration applications and inconsistent list maintenance procedures.

✓ **Connect or coordinate statewide registration database with all NVRA agencies in addition to the New Jersey Motor Vehicle Commission.**

Where possible without violating relevant confidentiality laws, New Jersey should integrate its DMV database and other state systems (such as Medicaid, public assistance and other social service agencies) with its voter registration database. This will help assure list maintenance and the updating of voter registration information with change of address information; and it will facilitate verification of voters in cases of missing or inaccurate information. For example, if a registrant forgets his or her driver's license number, a matching name, address and birth date should sufficiently verify the voter in the DMV database. The more databases that are integrated into the voter registration process, the less burdensome the identification requirements need to be on voters and election officers.

✓ **Citizens should have read-only, confidential, on-line access to the voter registration database.**

This will allow voters to check their personal registration information for accuracy and receive information about where to vote. Michigan has led the way in creating a statewide database that is accessible to voters through the Internet. Voters there can access their own information to determine whether it is accurate, and instantaneously inform the state of any changes that need to be made. New Jersey should follow Michigan's precedent, while providing security measures to prevent unauthorized access to a voter's confidential information.

✓ **No re-registration for citizens who change residences anywhere within the state.**

With the registration database kept by the state instead of the counties, notifying the state of a change of address should be sufficient for a voter maintaining eligibility. In addition, whenever a registered voter casts a provisional ballot, local election officials should be required to update the person's address, name and other information on the state database.

✓ **Link voter database to appropriate criminal justice agencies.**

In New Jersey, convicted felons are eligible to vote upon completion of probation or parole. But county registrars do not receive timely or systematic notice of a person having left the criminal justice system. Linking the voter database to the Department of Corrections and to other agencies that supervise persons on parole or probation would prevent previously registered voters who are purged due to a felony conviction from facing the burden of providing additional documentation to support their reinstated eligibility.

✓ **Prevent eligible voters from being removed in error.**

Voters cannot be removed simply because they have not voted. A notice to a voter that he or she may be removed from the list must be triggered by some information indicating that the voter has moved from New Jersey or otherwise become ineligible. HAVA incorporates the standard set forth in the NVRA that voters must also be given two federal general elections after the notice is sent to inform the state of any errors.

✓ **Make statewide registration list available to all local election officials on Election Day.**

Online, read-only access at the polling place would enable poll workers to verify the eligibility, identity and appropriate polling place of any voter, speeding the process and minimizing the need for challenges and provisional ballots.

✓ **Keep statewide registration database secure.**

It is important that, in designing the system, the state should take all appropriate measures to ensure that names cannot be added to or removed from the rolls fraudulently and that such identification information as Social Security numbers cannot be accidentally or maliciously released.

VOTER EDUCATION AND INFORMATION

HAVA provides some funding to states for voter education initiatives and to implement new election administration procedures. But the actual mandates are minimal. For example, after July 1, 2004, a sample ballot must be posted at every polling place, along with voting hours, instructions for casting provisional ballots (and finding out if they have been counted), instructions for mail-in registrants who are first-time voters, information on voting rights (including complaint procedures) and details about prohibitions on fraud and misrepresentation. New Jersey is in full compliance with all but the last of these requirements.

The state, however, should go farther than HAVA's minimum posting requirements and make far more effort to reach voters before they arrive at the polling place.

RECOMMENDATIONS:

- ✓ **Voter outreach program with both technological and grassroots components.**

To encourage participation and allow voters to access information about their voting status, a technologically sophisticated public relations campaign is needed. It should include — at a minimum — an advanced and accessible multilingual website, linked to other state, county and municipal websites, and an accessible statewide voter registration list. Methods of communication should allow for multilingual voter education and information, and include on a grassroots level: community meetings; mailings; public service announcements on cable and local radio and at community colleges; videos; posters; hotlines; bus and train billboards; and demonstrations in schools, libraries, houses of worship and shopping centers.
- ✓ **Extensive voter education campaign on new election systems and processes.**

New Jersey officials should make sure there are uniform, quality education programs that would include such issues as: use of new voting machines, mechanics of registration and identification, absentee voting applications and requirements as well as provisional ballot procedures and verification.
- ✓ **Give voters more pre-Election Day information than a sample ballot.**

Citizens deserve a voter service booklet with accessible, detailed information on candidates, issues, polling places and voting hours. California and New York City provide their voters with excellent multilingual voter guides that could serve as models for materials New Jersey should mail to registered voters.
- ✓ **Send anyone completing parole or probation notice of his or her right to register to vote.**

Convicted felons are purged from the registration list upon conviction, after the Department of Corrections notifies county registration officials, because New Jersey citizens who are in prison or on parole or probation are not eligible to vote. Once convicted felons have satisfied the terms of parole or probation, the state should send them notice of their right to vote so they can re-register. Parole officers and prison officials should distribute registration forms when felons have completed their sentences, assist them in completing the forms and collect completed applications for entry into the state database.

NEW VOTING MACHINES

HAVA provides funding to replace lever and punch card machines. It also requires that all voting machines have an error rate that does not exceed rates established by the Federal Election Commission and that each machine have manual audit capacity that produces a paper record for purpose of a recount. States must set uniform standards for what constitutes a valid vote for each type of voting equipment used in the state, and HAVA requires that, by January 1, 2006, all voting systems employed by a state must provide for “second chance voting.” This means that the equipment deployed must allow a voter privately and independently to both verify the vote cast, and correct any error, including an “overvote.” New Jersey’s current voting systems do not fully comply with these requirements. To date, New Jersey is one of only ten (10) states that do not follow the Voluntary Voting Systems Standards, issued by the federal government.

RECOMMENDATIONS:

- ✓ **Issue standards as to acceptable voting systems.**

Current New Jersey’s election law has no voting system standards with respect to electronic machinery. In complying with HAVA, New Jersey should not only look to the Voluntary Voting Systems Standards, but also should design its own technical guidelines. Through a nonpartisan process, the state should research, evaluate and test available voting machinery, ensure the security of new machines, and issue lists of acceptable vendors. The state’s decisions regarding voting systems and particular vendors should be made only after public forums and hearings.
- ✓ **Design election systems to ensure the security of new machines.**

Independent technology experts retained by state officials must fully review the hardware, source-code (*i.e.*, the machine’s commands and instructions) and software of any system employed in New Jersey to test its security and assure the public of the system’s integrity. Source-code and software purchased by the state should preferably be “open source,” (*i.e.*, uncompiled and thus open to be viewed) and all machines must possess adequate energy back-up systems.
- ✓ **Promote use of the same type of machine and facilitate aggregate purchasing and servicing.**

Voters in one county should not confront less accessible or less accurate types of voting machines than those used in other counties. The state should encourage counties to purchase the same type of machine. Short of that goal, New Jersey should consider purchasing equipment on an aggregate basis on behalf of two or more counties and entering into service contracts that embrace these counties. Such aggregated purchasing power might produce lower costs per unit, and facilitate uniform training of election officials and poll workers on use of the new machinery at a lower cost to taxpayers.

✓ **New machines should accommodate diverse needs of voters.**

Voting machines should be fully accessible and useable by persons with disabilities, capable of presenting multiple languages required by law (as well as future or voluntary additions) and be “system ready” to handle a wide range of potential future voting formats such as instant run-off voting (otherwise known as preferential or rank voting).

✓ **Maintain county financial support for elections.**

HAVA requires states to maintain their current level of support for elections—including money budgeted to train election officials—rather than replace existing expenditures with federal funds. Because New Jersey has historically relied upon counties to provide the bulk of electoral funding, the state should seek agreement from the counties to maintain their levels of financial support for elections in similar fashion. As an alternative, the state should commit to funding levels equal to the prior total of all county electoral spending.

✓ **New voting machines should have a “voter-verifiable paper audit trail” and “data to voice” technology.**

A voter-verifiable paper record of each vote cast would lessen security concerns about electronic voting, foster public confidence in the process and assist officials in detecting erroneous vote recording or counting by the voting system. To fully assure access to voting machines and verification of votes for all people, technology with data-to-voice and multilingual capabilities designed to assist blind and visually impaired persons and those with limited English skills should be introduced simultaneously with paper audit trails.¹

¹ Recommendation of a voter-verifiable paper audit trail is not endorsed by: ACLU-NJ, League of Women Voters of NJ, American Association of People With Disabilities, NAACP Legal Defense and Education Fund and the Leadership Conference on Civil Rights.

ELECTION OFFICIAL AND POLL WORKER TRAINING

Under HAVA, states can use federal funds to provide training for poll workers and to implement new election administration procedures. New Jersey already has received \$352,485 for technical assistance to poll workers and other election officials to improve their sensitivity to the needs of disabled voters. The state also expects to use federal funds to establish programs encouraging college and high school students to volunteer as poll workers. But there is no other statewide program for training people in areas involved with conducting elections. None of New Jersey's election officials, except municipal clerks, are certified or officially trained, and counties manage their own poll-worker training programs. Recognizing that even the best, most reliable voting systems require trained staff, New Jersey needs to go farther.

RECOMMENDATIONS:

- ✓ **Require certification of all election officials.**
County Clerks, Superintendents of Elections and Commissioners of Registration should undergo the certification program that the Rutgers University Center for Government Services has developed for New Jersey local government election personnel and used for more than 40 years. The state should contract with Rutgers to design a certification program in consultation with county election officials and require all election officials to be trained in election law requirements and technical aspects of voting equipment—and certified accordingly.
- ✓ **Uniform training for all election officials who have contact with the voting public.**
Election officials and any other government staff who come in contact with the voting public should be trained in voter qualifications, candidate verification and nondiscriminatory ballot placement, election facilities (districts, wards, polling places, voting machinery), balloting (layout, sample ballots, absentee voting, provisional voting, reporting returns, recount challenges), nonpartisan recall and municipal referenda processes, verifying voters and implementing identification requirements and steps to take when election systems fail.
- ✓ **High, state-imposed standards for training for all poll workers.**
The state should develop and oversee training programs for poll workers and election volunteers in both voting technology and election procedures. Poll workers with bilingual ability should be recruited. Training programs should involve interactive role-playing, videos, CDs and other proven pedagogical tools. Cultural, racial, language and disability sensitivity training should be part of the process—with special emphasis on the needs of disabled, elderly and non-English speaking voters. HAVA's new identification requirements make this training even more important than before to ensure that citizens are able to vote.

PROVISIONAL BALLOTS

A voter whose eligibility is in doubt on Election Day must, under HAVA, be allowed to cast a paper provisional ballot at the polling place. The ballot will then be counted if election officials determine the voter is, indeed, eligible. The process is triggered if any of the following four situations takes place:

A voter's name does not appear on the registration list for the polling place where he or she seeks to vote;

An election official challenges the voter's eligibility;

A voter lacks the required identification; and

Someone votes after the polling place has closed.

HAVA does not specify when a provisional ballot will be deemed valid. Nor does it require any particular process for reporting, counting or handling provisional ballots other than to say voters must be given the opportunity to find out whether their provisional ballot was counted.

Provisional ballots are not new to New Jersey but their use has been more limited than what HAVA requires. Until now, they have been used only when a voter moves within the municipality or county without updating his or her registration or when registration information is missing.

RECOMMENDATION:

✓ **Administer provisional ballots in a uniform and nondiscriminatory manner.**

The current process is in the hands of counties and varies greatly across the state. To remedy this, the state must require that standard statements in which a voter affirms or certifies the accuracy of certain information be used in every polling place. In addition, there should be standard procedures for counting and verifying provisional ballots as well as consistent voter education materials and poll worker training.

✓ **Adopt broad standards of validity.**

Provisional voting should not be an empty gesture. Voters using provisional ballots because of failure to produce missing identification at the polls should have a reasonable opportunity to submit such identification after casting their provisional ballot so that the ballot is counted. Further, if information provided by a voter in his or her affirmation statement can be verified in the statewide database or other government records, and the voter was properly registered in any county in the state, the vote should count for all races for which the person was eligible to vote.

✓ **Allow voters to cast a ballot at the polling place where they arrive to vote.**

HAVA allows a person who declares he or she is a registered voter in the “jurisdiction” to vote by provisional ballot. While HAVA does not define “jurisdiction,” the National Voter Registration Act provides a useful precedent in saying it is the largest geographic area governed by a unit of government that performs all the functions of a voting registrar. Under current New Jersey practice, a county is a jurisdiction. But once HAVA’s requirement of a statewide registration database is implemented, jurisdiction for the purpose of provisional voting should be defined as the state. Accordingly, New Jersey should design its provisional voting system to permit a resident’s vote to count in all the races for which he or she is eligible to vote regardless of where the citizen votes. If the person erroneously shows up to vote in the wrong place, he or she should still be allowed to vote for candidates running in the district where the person should have voted.

✓ **Let provisional ballot affirmation statement also serve as a voter registration or change of name/address form.**

When someone’s voter eligibility cannot be verified and their vote is therefore not counted, the form filled out for the provisional ballot should be considered as satisfying the registration requirement for voting in future elections. The current form for affirmation statements contains most of the information required on a registration form and would need only minimal changes for it to obtain the rest. Where possible, the affirmation statement should also serve as a change of name and/or address form.

✓ **Maintain statewide statistics on use of provisional ballots.**

Counties keep statistics on the number of valid provisional ballots, but they do not keep track of how many were requested or were cast. With HAVA now requiring that voters be given the opportunity to find out whether their provisional ballot was counted, and to make it easier to determine whether any voters are asking for provisional ballots but not getting them, the state should keep this information.

ENSURING ACCESS TO PERSONS WITH DISABILITIES

States will be permitted under HAVA to use federal funds to improve access to voters with disabilities. In addition to requiring one accessible voting machine in every polling place by January 1, 2006, HAVA authorizes funds to render polling places “physically accessible” to elderly and disabled voters. New Jersey law currently requires that polling places be accessible but is silent on the voting machines themselves. In any case, advocates for the disabled feel that polling places in the state are not universally accessible.

RECOMMENDATIONS:

- ✓ **Go beyond HAVA’s mandate of one accessible machine per polling place.**

Accessibility needs to be viewed in the wider context of polling places, transportation to them and treatment by poll workers upon a disabled voter’s arrival at the polls. In order to make voting a truly accessible process, New Jersey must address all of these concerns.
- ✓ **Issue all voting materials in multiple accessible formats to meet the needs of citizens with different disabilities.**

This would include registration forms, absentee ballots, educational materials, etc. Voting has many phases, and accommodation to the diverse needs of the disabled must exist at each phase—from registering to any post-voting complaints that might need to be addressed. Examples of what would be required to meet this standard would include Braille and audio assistance.
- ✓ **Involve protection and advocacy groups in design and training.**

The state should enlist assistance in all aspects of creating accessible voting procedures and making sure that persons staffing polling places are helpful. Advocates should evaluate whether a polling place is accessible.
- ✓ **Closely monitor compliance with disability access mandates.**

The state cannot leave the civil rights of disabled people to the discretion of 21 counties. Rather, New Jersey should establish and publicize a hotline to assist voters with disabilities and to handle complaints; coordinate transportation to and from the polls among state and county Para-Transit, New Jersey Transit and other transportation providers; enforce the NVRA by enabling private and public agencies that provide state funded programs to disabled persons to register voters; and ensure polling place accessibility.

ERADICATING LANGUAGE BARRIERS

All new voting machines purchased with HAVA funds must, under the law, accommodate the languages required under the federal Voting Rights Act. HAVA specifically authorizes using federal money to improve accessibility for “individuals with limited proficiency in the English language.” Currently, New Jersey election code includes numerous references to providing assistance to Spanish-speaking voters for counties in which Spanish is the primary language of 10 percent of registered voters. These provisions, however, do not adequately capture New Jersey’s demographic reality or properly serve its burgeoning language minorities. New Jersey is increasingly home to a large number of Latino and Asian American voters. Latinos will soon surpass African Americans as the largest minority in the state. The Asian American population has doubled in New Jersey since 1990, and now numbers more than 525,000—fifth highest in the nation. Specifically, the Korean-speaking population is growing rapidly in Bergen County, as is the Chinese-speaking population in Middlesex. New Jersey should seize this opportunity to improve its election systems by making them more accessible to all Latino and Asian American communities.

RECOMMENDATIONS:

- ✓ **Don’t wait for HAVA mandates to include more than English and Spanish.**
In the near future, federal law will require adding Asian languages in certain counties. New Jersey should act now to provide Asian-language ballots on all new machines in these counties.
- ✓ **Reach out to Latinos and Asian Americans more broadly.**
Printing ballots in a voter’s language does not go far enough to ensure access. All public education campaigns, voter registration forms and related materials, whether in print, broadcast or Internet media formats—as well as on-site voting assistance—must be provided in ways that reach Latino and Asian American citizens. As part of this effort, the state should use HAVA funds to translate voter registration forms and all educational materials into multiple languages in relevant counties, and it should provide paid interpreters or bilingual poll workers in communities with high non-English speaking populations. Public education campaigns should be undertaken that stress the importance of voting, availability of registration forms, location of polling sites, etc.
- ✓ **Implement all HAVA requirements in ways that ensure access for disabled, non-English speaking voters.**
The same grievance procedures and provisional ballots required under HAVA must be widely accessible to non-English speaking voters. Improvements to election systems that address the concerns of the disabled community must also reach limited-English proficient citizens with disabilities. Accommodations must take both differences into account.
- ✓ **Monitor compliance with language minority mandates.**
The right to vote for language minorities should not depend exclusively on the resources of public interest law offices or the U.S. Attorney General. To ensure that the right is a reality, the state must increase its budget allocations to enforce language mandates under federal and state laws. Similarly, the state Attorney General must be prepared to enforce, and litigate if necessary, these guarantees.

REORGANIZING NEW JERSEY'S ELECTION ADMINISTRATION

HAVA requires a significant state role in the administration of elections. Not only are states responsible for implementing HAVA, they also are given added responsibilities in the election process itself.

New Jersey is the only state where the Attorney General is Chief Election Officer, with specific responsibilities for administering the National Voter Registration Act and Title 19 of New Jersey Statutes. The Attorney General also represents the state, county Superintendents of Elections and Boards of Elections in all electoral law enforcement matters involving these entities. Most states house their election functions in the Office of Secretary of State, as used to be the case with New Jersey.

Under administrative regulations in New Jersey, the Division of Elections oversees voter registration agencies in the state; reports election results to the Federal Elections Commission; accepts nominating petitions for federal and state offices and certifies candidates to the county clerks for placement on the primary and general election ballot; serves as the repository for county vote totals; prepares certifications of general election results for the Board of State Canvassers; is liaison to the federal Census Bureau regarding election district maps prepared by county Boards of Elections; and administers the Attorney General's authority regarding voter registration, absentee ballots, election district maps and polling place accessibility. In practice, the Division of Elections acts as a convener of all county and local election officials for the purpose of sharing information. It performs all these functions with a staff of fewer than 10.

RECOMMENDATIONS:

✓ **Broaden the state's role in administering elections.**

Under HAVA, the state will maintain the voter database and assume responsibility for accuracy of all data entries and deletions. HAVA further requires the state to administer all military and overseas absentee ballots, set standard procedures for absentee ballots and provisional ballots, and establish and maintain a uniform, nondiscriminatory administrative complaint system with prescribed procedures. To ensure fairness, accountability and uniformity for all voters, the state should do more. It should register voters and set statewide standards and practices for pre-Election Day voter education as well as oversee the uniform training of poll workers and certification of election officials. To meet these and other responsibilities the state should define and designate management responsibility for elections under HAVA either by revising the jurisdiction of the Division of Elections or creating a new administrative unit. In either case, more resources must be allocated to that unit.

✓ **Make allocation of HAVA funds transparent and subject to public comments.**

HAVA implementation requires legislative and executive branch action, including distribution of money received from the federal government. The state's decisions regarding such funds should be subject to public scrutiny and input before being finalized.

✓ **Re-examine management responsibility for elections by the Attorney General.**

As a matter of public policy, the officer charged with defending the electoral laws of this state should not also serve as administrator of those laws. Management of elections should be supervised by a state official whose sole responsibility is administrative.

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