

then to figure out how they are going to appropriately address it by counting those votes and trying to meet the standard that the State sets.

We need a similar standard for Federal elections. This amendment will provide greater assurance that all voters in any Federal election are protected.

Some people have said in discussing this amendment with me that this may result in suits being brought against States. As I understand the bill, it gives the Attorney General the authority to bring a civil action against States that fail to comply with any standard. This amendment is no different. It does not put an additional burden on the States, nor does it put an additional burden on the Attorney General. In any event, States will have more funding and more than 7 years to comply since jurisdictions that receive grant funds to meet voting system standard requirements will be deemed in compliance until the year 2010.

We are not asking any different process than what has already been established in the bill for the mechanical error rate.

I also think it is important to recognize that this amendment does not address what happened solely in the Presidential election of 2000. In fact, on the contrary, both the Caltech-MIT report and the Ford-Carter commission have told us that we discovered a problem that has been, unfortunately, widespread throughout our country for many elections.

That is why this amendment is supported by the AARP, the League of Women Voters, the NAACP, the National Council of La Raza, the AFL-CIO, the U.S. Public Interest Research Group, the Leadership Conference on Civil Rights, and many other groups that are concerned that if we leave this particular issue unaddressed, we have not given our citizens the assurance they deserve that their votes will count.

In closing, I hope we are able to obtain the support needed for this residual vote error amendment so that we can be sure we are not only taking care of the machines that break down, but we are taking care of those unintentional errors that may cause a breakdown in the individual citizen being able to have his or her vote counted.

I hope for the sake of all Americans we will ensure that we can have the utmost faith in our election system, and I hope my colleagues will support this amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, in consultation with the two leaders and with my colleague from Kentucky, I ask unanimous consent that the Senate vote in relation to the Cleland amendment No. 2883 at 4:55 p.m., with no second-degree amendments in order prior to that vote.

As a source of information for my colleagues, there will be two votes

based on an earlier unanimous consent agreement. There will be a vote on a judicial nomination immediately following the vote on the Cleland amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank the Chair. I believe the hour of 4:55 p.m. has arrived.

The PRESIDING OFFICER. The Senator from Connecticut has correctly announced the time.

#### VOTE ON AMENDMENT NO. 2883

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2883. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND) and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

#### [Rollcall Vote No. 36 Leg.]

##### YEAS—97

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Leahy	Torricelli
Daschle	Levin	Torricelli
Dayton	Lieberman	Voinovich
DeWine	Lincoln	Warner
Dodd	Lott	Wellstone
Domenici	Lugar	Wyden

##### NOT VOTING—3

Ensign	Jeffords	Thurmond
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The amendment (No. 2883) was agreed to.

#### EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the nomination of Cindy K. Jorgenson, which the clerk will report.

The legislative clerk read the nomination of Cindy K. Jorgenson, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. The question is, Will the Senate advise and

consent to the nomination of Cindy K. Jorgenson, of Arizona, to be United States District Judge for the District of Arizona? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND) and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

#### [Rollcall Vote No. 37 Ex.]

##### YEAS—98

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Helms	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Torricelli
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

##### NOT VOTING—2

Ensign	Thurmond
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table. The President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001—Continued

Mr. DODD. Mr. President, I ask unanimous consent that Senator SCHUMER be recognized to offer the Schumer-Wyden amendment; that the amendment be debated this evening, and that

when the Senate convenes on Wednesday at 9:30 a.m., there be 30 minutes for debate equally divided in the usual form, in relation to the Schumer-Wyden amendment, prior to a vote in relation to the amendment, with no-second degree amendments in order prior to the vote.

Mr. REID. Mr. President, reserving the right to object, I should have mentioned this to the two Senators, but I didn't see it. We really need to have the vote at 10 a.m. because there are committees meeting. There will be almost 30 minutes of debate, with the prayer and the pledge and going right to the debate, and that will be equally divided. Could we have the vote at 10? Committee chairmen and ranking members wanted to have the vote at 10.

Mr. MCCONNELL. That is fine, if you want to adjust it.

Mr. DODD. I so modify the request to read on Wednesday at 10 a.m.

The PRESIDING OFFICER. Without objection, the unanimous consent request is modified.

Is there further objection?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, the majority leader has asked me to announce there will be no more rollcall votes tonight and expressed appreciation to the two managers for getting this far on this very complicated issue.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 2937

Mr. SCHUMER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mr. WYDEN, proposes an amendment numbered 2937.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit the use of a signature or personal mark for the purpose of verifying the identity of voters who register by mail, and for other purposes)

Beginning on page 18, line 8, strike through page 19, line 24, and insert the following:

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraphs (3) and (4), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

(A) the individual has registered to vote in a jurisdiction by mail; and

(B) the individual has not previously voted in an election for Federal office in that State.

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification;

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter;

(III) provides written affirmation on a form provided by the appropriate State or local election official of the individual's identity; or

(IV) provides a signature or personal mark for matching with the signature or personal mark of the individual on record with a State or local election official; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification;

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(III) provides a signature or personal mark for matching with the signature or personal mark of the individual on record with a State or local election official.

(B) PROVISIONAL VOTING.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(3) IDENTITY VERIFICATION BY SIGNATURE OR PERSONAL MARK.—In lieu of the requirements of paragraph (1), a State may require each individual described in such paragraph to provide a signature or personal mark for the purpose of matching such signature or mark with the signature or personal mark of that individual on record with a State or local election official.

On page 68, strike lines 19 and 20, and insert the following:

(a) IN GENERAL.—Nothing in this Act may be construed to authorize

Mr. SCHUMER. Mr. President, the amendment I offer on behalf of myself and the Senator from Oregon—joined as cosponsors by the Senators from Washington, Mrs. MURRAY and Ms. CANTWELL; my colleague from New York, Senator CLINTON; the Senator from Illinois, Mr. DURBIN; as well as Senators BINGAMAN, HOLLINGS, AND KERRY—is a very simple amendment. It deals with the issue of signature on first-time voters.

First, before I begin, I commend my colleague, Senator BOND, for his efforts to include provisions in this bill that address voter fraud. All of us—Senators DODD, MCCONNELL, BOND, and TORRICELLI, and I—who worked so long and hard on this bill realize that part of the glue of the compromise of this bill was to make sure there were anti-fraud provisions in it. When an election is tainted by fraud, it not only casts doubt over the outcome and a pall over the victor but, more importantly, it shakes the voters' faith in our system, undermines each and every ballot that was cast. I believe that the Senator from Missouri—and I know my colleague from Connecticut would join me—deserves a great deal of credit for crafting antifraud provisions. One of them has, however, created some real problems that the amendment the Senator from Oregon and I have introduced seeks to correct.

The bill currently requires first-time voters who registered by mail to provide either a photo ID or a copy of a

utility bill, a bank statement, a government paycheck, or other government document that shows the name or address of the voter. On the surface, that sounds to be a very reasonable requirement. But once you begin to scratch the surface, you discover it could easily disenfranchise countless eligible voters.

The amendment I offer today, with Senator WYDEN, will allow States to use signature verification and attestation, in addition to a photo ID and government checks, to verify voters; or a State can opt to only use a signature verification system, which is what we have done for decades in my State of New York with very good results. With these additions, we can be just as tough on voter fraud without turning away eligible voters. And there, my colleagues, is the careful balance of this bill. We do want to come down on voter fraud, but at the same time we must be mindful of the fact that the very thrust of this legislation is to make sure that every vote counts and to make sure that those who wish to vote, and wish to vote properly and legally, are able to do so as easily as possible.

That is the ultimate balance we seek. We believe this amendment restores that balance. When we don't have that amendment, balance is not restored and we will not do anything further to prevent voter fraud, but we will turn away thousands—nay, tens of thousands of eligible voters in States such as mine that have this system.

I have heard from election officials in my State, and I have heard from other States as well. The current provisions will disenfranchise voters and, at the same time, create an administrative problem for the many States that have used signature or attestation as the way of verifying that the person who comes to the ballot, to the polling place, is that person indeed.

I have copies of letters from the secretaries of state of Alaska, Kentucky, and North Carolina, for instance, expressing strong reservations about the provisions and urging that they be changed.

I ask unanimous consent to have those letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF ALASKA,  
February 13, 2002.

Hon. TOM DASCHLE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DASCHLE: I understand that the elections reform legislation, S. 565, is currently being debated by the Senate. I have just returned from a meeting of the National Association of Secretaries of State, at which this election reform bill was a major focus.

The bill contains many positive provisions. Alaska's election system is well ahead in many areas, and many of the major sections in the bill will not have a great impact on Alaska because we are already in compliance with them.

I do have a major concern that I ask you to consider as you and your colleagues work on

this bill. Under the current provisions, the bill would impose federal requirements for verification of voter identification. Verification of some kind is a good idea, but the type of verification should be left up to states so it can be tailored to fit the unique circumstances of each state.

Let me give two simple examples of how mandated federal requirements could lead to the unintended consequence of discouraging or even disenfranchising voters:

S. 565 mandates that voters show photo identification in order to vote. In Alaska, this provision will create an unnecessary burden on rural Alaskans who live in communities with no means of obtaining photo IDs. It will effectively disenfranchise them (even though, ironically, they will almost certainly be personally known to the poll workers).

S. 565 would require first-time by-mail voters to send in proof of their identity with their ballot. This provision is likely to cause confusion and result in many ballots being unnecessarily disqualified because first-time voters forget to send in their documentation, or they send it in the wrong envelope. (These are just the kind of voters we want to encourage to participate in the democratic process, yet they are the most likely to be discouraged by this requirement!) There are other, equally effective ways to verify voter identification, such as allowing states to verify the signature on the voting envelope with the original signature on the voter registration form.

As I understand it, Senator Wyden may propose an amendment to address this issue. If this is the case, I would appreciate your support for this amendment, and if you can co-sponsor it, that would be even better.

I fully support the objective of effectively verifying the identity of voters and even requiring that each state have a system in place to do this, but I ask you to leave it up to states to decide how best to accomplish that. Although well-intended, voter verification mandates in S. 565 will have the unintended consequence of discouraging or even disenfranchising qualified voters, and it will have an especially harsh impact on Alaska.

I appreciate your consideration of this matter, and I truly appreciate the time and effort you are devoting to improving election processes throughout the nation.

Thank you for taking the time to meet with me this week while I was in Washington. I very much appreciated the opportunity to talk with you about issues of importance to Alaska.

Sincerely,

FRAN ULMER,  
Lieutenant Governor.

COMMONWEALTH OF KENTUCKY,  
OFFICE OF THE SECRETARY OF STATE,  
Frankfort, KY, February 14, 2002.

Hon. MITCH MCCONNELL,  
Russell Senate Office Building,  
Washington, DC.

Hon. CHRISTOPHER BOND,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATORS MCCONNELL AND BOND: I am writing to express my concern regarding a provision in the substitute to S. 565, the Equal Protection of Voting Rights Act, that you and Senators Dodd and Schumer recently developed.

This legislation would require states to set up a photo ID program for individuals who have registered to vote by mail. Such a requirement would be administratively burdensome, could lead to discrimination or charges of discrimination, would undermine voter participation through absentee bal-

loting, and is not the best way to meet the stated goal of preventing vote fraud.

The photo ID requirement currently in the legislation would put election workers and election directors in the position of administering the program. They would have to determine what photo IDs are acceptable. They would have to determine which voters would be subject to the requirement. And they would have to administer the program at busy polling places.

A photo ID requirement is widely suspect in minority communities. I am concerned that it would result in additional charges of discrimination at a time when we are trying to build greater trust in our election systems. Election officials would be on the front line defending against such charges.

It is clear that the photo ID requirement would undermine voter participation through absentee balloting. The requirement would make it more difficult to cast an absentee ballot because copies of IDs, as required for absentee voting under the bill, are difficult for many, including the aged and person with disabilities, to obtain. Vote-by-mail has promise for increasing voter participation, and we believe that concerns about fraud can be dealt with in other ways.

I share with the bill's sponsors concern about preventing possible fraud. That is one of the reasons that many states have moved to signature verification systems. I urge you to work with the other sponsors to allow states to accept signatures for verification as part of the ID system. No only are such systems easier to administer at the polling place, they are also consistent with well-run absentee ballot programs.

Thank you for your consideration of this important issue.

Sincerely,

JOHN Y. BROWN III,  
Secretary of State.

DEPARTMENT OF THE  
SECRETARY OF STATE,  
Raleigh, NC, February 12, 2002.

Hon. MITCH MCCONNELL,  
Russell Senate Office Building,  
Washington, DC

Hon. CHRISTOPHER BOND,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATORS MCCONNELL AND BOND: I am writing to express some concerns I have regarding a provision in the substitute to Senate Bill 565, the Equal Protection of Voting Rights Act, recently developed with Senators Dodd and Schumer.

I share with many the concerns about preventing possible fraud. The photo ID program for individuals who have registered to vote by mail creates not only an administrative burden on election officials, but the overall effect will be a tremendous chill on voting rights. In my opinion, it is not the best way to address the issue of potential voter fraud.

The practical application of the ID requirement will create an entirely new layer for misunderstanding, miscommunication, potential discrimination and have serious side effects of suppression of voting in the name of preventing fraud. Election officials should not be in the business of determining what type of photo ID's are acceptable, and what other form of identification will be appropriate.

The photo ID requirement will undermine rather than enhance voter participation. Absentee balloting processes would be impeded, especially in elderly communities, disabled communities and others. While many people in this country have home copy machines, many others have no knowledge as where to find a public copy machine, or access to it within their community.

The concern about preventing possible fraud is an important one, but there are a number of other ways that fraud can be addressed without requiring election officials to be decision makers in this area.

Let me relate a personal story from just this morning that will indicate the photo ID system is certainly not a "be all, end all" answer to this issue. Since September 11, the Capital Police Corp of North Carolina government is providing security for all doors into the building that houses the Secretary of State's Office and the Department of Revenue. A new security officer was on the door I used today. This individual asked for my photo ID. I flipped open my case where my photo ID is usually contained, and demonstrated it to the guard who immediately waved me through after looking at the card. As I closed the holder I noticed that my photo ID was not there, because I had used it the prior day for air travel and it was still in a jacket pocket having not been returned to its regular position. In fact, the guard glanced at my social security card with my name printed and a social security number, but no photo whatsoever, and someone who did not know whether I was the elected Secretary of State or an international terrorist waved me on through.

As you can see the systems we have in place as operated by humans are ripe with many opportunities for either intended or unintended consequences. Thank you for your work on this very important issue, but the photo ID requirement is a burden that does not need to be placed on the electoral system in this country.

Sincerely yours,

ELAINE F. MARSHALL.

Mr. SCHUMER. The public also feels strongly about the Schumer-Wyden amendment, as does the AARP, the League of Women Voters, the American Association of People with Disabilities, NAACP, United Cerebral Palsy Association, and the National Hispanic Leadership Agenda, to name a few of the many groups that oppose the provision as it stands. I say to my colleagues and those in the civil rights community, I thank them for working so closely with us on this amendment. We believe this provision, unamended, could undo lots of the progress we have made in the last decade to allow people to vote. In many areas, it could undo the significance of the motor voter law which allows people to register at their motor vehicle department or other places.

Some of the voters who could be disenfranchised by the current provisions include, first, the elderly. Seniors vote in large numbers. In fact, the FEC estimated that, in 1998, 61.3 percent of all Americans over 65 voted. However, this provision established real barriers to the polls for older Americans. As the AARP explains:

The bill's photo ID requirements are particularly problematic for many senior citizens. Alternate approaches, such as signature match and verification, already successfully used by the majority of States, could enhance the antifraud provisions without having a chilling effect on voter participation.

That is from William D. Novelli, executive director and CEO of AARP. The point he makes is well taken. Again, you have lots of people who cannot use the provisions in the bill. I know my

colleague from Missouri will say: It is easy, everybody has a photo ID.

Well, not everybody does. Lots of senior citizens don't drive, and there is no other photo ID available. Or some might say that everybody can bring a utility bill. What about two people with different names and sharing a house and one has the name on the utility bill? What does the other do? It is not so easy.

Again, since in this bill we want to err on the side of allowing people to vote, provided it is done in an honest way—nobody wants to see fraud—we have to have this amendment.

How about students? Voting-age high school students may not have a photo ID. They certainly—many of them—would not have a government check or a utility bill in their name. College students who live out of State could be affected by these provisions. Again, with one phone in a suite which six college students are sharing—there is no utility bill, no electricity bill in most college dorms. There are lots of students who don't have licenses, particularly in urban areas. What would they do? These are the kinds of people—young people—whom we most have to bring into the system and get into the habit of voting. Turning them away sends the wrong message at a time we can least afford it.

How about the disabled? Don't ask me; talk to the experts. The American Association of People with Disabilities explained:

A photo ID requirement would place an onerous burden on the millions of Americans with disabilities that do not drive—

Obviously, many don't—

or do not live independently, and do not have access to a utility statement or bank account with their name on it. Signature verification is needed as an acceptable form of identification for Americans with disabilities to protect their fundamental right to vote.

That is signed by Andrew J. Imparato, president and CEO of the AAPD.

One of the things my colleague from Connecticut has worked long and hard on, with great success, is making it easier for the disabled to vote. This bill does it. He did a fine job on that. It would be tragic to give with one hand and take away with another by not having the Schumer-Wyden bill added to the provision.

How about those who vote by mail? I am sure my colleague from Oregon and my colleague from Washington, who are cosponsors of this amendment, will discuss the impact of this provision on the mail-in voters, in which their States specialized. I point out that it would make this provision, without the Schumer-Wyden amendment, more difficult for people to vote by mail. In States such as Oregon and Washington, where voter participation has risen following increased reliance on mail-in voting, this provision could cause voter participation numbers to slide.

Finally, minority voters. Both a Federal court and the U.S. Department of

Justice have held that photo ID requirements adversely impact minority voters. Don't listen to me, or even some of the advocates, if you may be dubious of them. What about a Federal judge examining this issue? *Morris v. Lawrence* held that:

The burden imposed by this requirement will fall disproportionately on the Latin American community.

The Department of Justice, which has examined this issue, while enforcing section 5 of the Voting Rights Act, stated:

The imposition of the driver's license picture identification requirement is likely to have a disproportionately adverse impact on black voters in the State, and will lessen their political participation opportunities.

I know if you come from a State that doesn't have a large urban area, you may think: Well, what are they talking about? Everybody has a driver's license. Everybody has a utility bill. The only reason to pass this is to allow people to defraud.

Absolutely not. Absolutely not. In my own State of New York, I have been very concerned as we have debated this bill and crafted this bill, as my good friend from Missouri knows from the many meetings we have had, that this provision could unintentionally disenfranchise many voters, particularly in a city such as New York City where people are less likely to have driver's licenses. Some members of my own staff—people who could not be more involved in the political process—don't have driver's licenses and could be prohibited from voting under this provision.

Let me give my colleagues a statistic. Of the 8 million people who live in New York City—obviously, some are underage, but not half, not close to half—only 3 million have driver's licenses. If you want to keep New Yorkers from voting, it is a good provision; otherwise, it fails on every level.

In fact, we have a system in New York that has been extremely successful at deterring voter fraud without creating new barriers for voters. So do many other States. That is why secretaries of state around the country are scratching their heads and wondering: Why won't we include signature and attestation as a way to allow voters to show they are the voter? We use signatures everywhere else.

When one cashes a check, a bank does not make them send in a utility bill or a driver's license. You can, yes. Can some people work and practice and try to forge a signature? Yes. We have counterfeiters. We have people who forge checks. But believe me—and I have talked about this with my good friend from Missouri—if someone is really out to create fraud, they can do it with a photo ID, and they can certainly do it with a utility bill.

In New York, our system of signature has been more successful. I would argue, than most other systems in preventing fraud. Here is how it works. Every voter in New York—not just

first-time voters—is required to go through the following identification procedure—as my colleagues know, the bill only deals with first-time voters: When you register in New York, you must sign the registration materials. They are then scanned into a computer. The digitalized signature is then pasted into the poll roster.

On election day, each voter is required to sign the poll roster next to, but without seeing, the digitalized signature. Poll workers then compare the signatures, and if there is any question about the signature, the poll worker is authorized to challenge the signature. Poll workers do it all the time, and as a result, we have been able to prevent voter fraud without preventing eligible voters from exercising their rights.

New York is not alone. According to the GAO, 19 States and the District of Columbia use a signature verification or attestation procedure for verifying the eligibility of voters. An additional 22 States—that is 41 all together and the District—use a signature system in conjunction with something else.

This amendment serves a simple purpose. It allows those States to continue to use the signature procedures that they are effectively using now.

I say to my colleagues, this bill has very fine intent. It is to prevent the mistakes of 2000. In addition, it is to prevent voter fraud. I salute the Senator from Missouri once again—I did earlier before he was in the room—for working hard on those provisions, but its overall purpose is to make sure that people who are eligible to vote can vote and have their votes be counted.

It would be tragic if all the progress we made with so many of the other provisions in this bill were taken back by our failure to allow signature verification or attestation, and so many who want to vote would be refused from voting.

I say to my colleague from Missouri, as all of us who are in this profession, I am very interested in polling places, and I am always going around election time. I see the painful looks on people's faces as they wait on line, and in New York, one sometimes has to wait an hour to an hour and a half. Our voting machines are outdated, and we are trying to correct that in other parts of the bill. But working people have come from work, and I can see on their faces that they have to get home to the kids, and they have to wait on line and then they do not get to vote.

We do not want that to happen. Our amendment prevents that from happening. We do not want people to say because you do not have a driver's license or your own utility bill, when you show up that first time to exercise the very franchise that our ancestors have died for you are turned down.

The solution proposed in the Schumer-Wyden amendment of allowing States to use signature verification and attestation is effective, as proven by all the States that use it. It prevents fraud just as well as the existing

provisions in the bill but does not have the very pointed disadvantage of preventing many eligible people from voting.

This is a bill that moves us two desperately needed steps forward: Increasing accessibility to the polls and preventing voter fraud. It would be a shame to include a provision in the bill that takes us one step back.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Missouri.

Mr. BOND. Madam President, it is a great disappointment that I rise to address this amendment. We worked for roughly 6 months in a bipartisan manner, which I previously described in this Chamber, to achieve a bill that truly does make it easier to vote and tougher to cheat.

Many of the ideas and concerns my colleague from New York raised were raised in those discussions, and we made provision to deal with all of those. It was on the basis of the changes and the agreements that we made that we supported this bill.

The Senator from New York has pointed out that maybe people still cheat. Frankly, I would like to have more protections, and if the Senator is interested in building in more protections against cheating, I would be more than happy to work with him on it.

Simply put, if this amendment is adopted, this bill will make it easier to vote and easier to cheat. Certainly, that is not what we are here to achieve.

When the motor voter law became law 8 years ago, one major impact was to create the mail-in registration card. This section was part of the overall effort to make it easier to get people registered, and it has been used in many States.

However, because of fears even then that registration by mail could encourage voter fraud, a provision was also included that granted States the authority to require everyone who registers by mail to vote in person the first time after they register. Thus, the motor voter, or MVRA, included a provision for first-time voters which specifically granted States the authority to require those who register by mail and have not previously voted in that jurisdiction to vote in person for the first time.

To date, several States have used this provision, and now they require those who register by mail to vote in person the first time they vote.

Unfortunately, numerous States have also discovered since the enactment of motor voter and its mail-in registration requirement that a dramatic number of fake names, illegal names, and duplicate names have been registered. Unfortunately, St. Louis, MO, has become the current poster child for this abuse, but as I will show shortly, it is not limited to St. Louis or to Missouri.

In St. Louis this past March on the final day to register before the mayoral

primary, 3,000 mail-in registration cards were dropped off. However, due to the controversies which occurred in the November 2000 election and the overall strain on the election board with just local races on the ballot, election officials did a thorough review of the cards. Some cynics say that maybe in St. Louis it is not important if you are voting for a President, a Governor, a Senator, a Congressman, but when you get down to voting for a mayor, that means jobs, and nobody wants to see cheats in a mayoral race.

Election officials did a thorough review of the 3,000 cards. Immediately, one official noted that a deceased neighbor of his was on the list. He subsequently discovered that a very well-known and highly respected former alderman, "Red" Villa, who had died 10 years ago, was reregistered, along with the deceased mother of another alderman. Might as well get everybody involved. Let's go through the whole ward. It appears that hundreds of the cards were filled out in the same handwriting.

If those people had been allowed to vote by signature affirmation, guess what. I bet the mail-in vote, the mail-in ballot, would have had the same signature that was on those phony mail-in registration forms.

The city attorney was brought in, then the U.S. attorney, as the number of phony-looking cards jumped into the thousands. The criminal investigation is ongoing. We hope maybe we will find out just how much fraud was attempted in the 2001 mayoral primary.

However, big problem: 30,000 cards were dropped off just prior to the registration deadline for the November 2000 election. They received no preelection screening, like nearly every other State in the country. We do not know how many additional false names, dead people, duplicate names, and even dogs are registered. We certainly know one famous St. Louis dog, Ritzy Mekler, the mixed-breed dog registered to vote several years ago. Here is the registration form: Mekler, Ritzy; with address; place of birth is Los Angeles; a Social Security number; date of registration is 10/4/94; and here is Ritzy's signature.

Actually, the Senator from New York goes a little further in saying a mark would be good, so Ritzy could just use a paw print. All he would have to do is affix a similar paw print.

I have a feeling whoever wrote Ritzy Mekler on that registration form probably could duplicate that Ritzy Mekler signature each and every time they wanted to vote. So Ritzy certainly would be advantaged if we got rid of the requirement that you show proof that you are a live human being before you are allowed to vote.

I tell my colleagues this only to get some perspective as to what it is in the underlying Dodd-McConnell amendment, the new requirement that those voters who choose to register by mail must prove, with some form of iden-

tity, an address. Whether they vote in person or by mail, they have to have some proof. It is not the absolute requirement that they vote in person, nor is it the absolute requirement that they provide a photo ID. But what we have learned the hard way in some cases over the past 10 years is that registering by mail and then voting by mail is a recipe for vote fraud.

Obviously, registration by mail makes it much easier to put fraudulent names on the voter lists. Voting by mail makes it very easy to vote these names illegally. Thus, after 6 months of work, we achieved the McConnell-Dodd compromise which sought to address this problem head on: How can we stop dogs, dead people, and people registering under phony names from registering?

Section 103(b) of the Dodd-McConnell substitute recognizes the fraud risks of mail-in registration coupled with mail-in voting. Thus, it creates a requirement that any voter who chooses to register by mail must provide some proof of identity at some point in the registration voting process. Proof of identity can be accomplished by any of the following: A current and valid photo identification. That could be a driver's license, or what you have to show if you get on an airplane, or what you show if you want to buy cigarettes or liquor. Most people have these.

But we didn't want to limit it to people who have a photo ID. So, No. 2, a copy of a current utility bill that shows the name and address of the voter. Or, No. 3, a copy of a current bank statement that shows the name, the address of the voter, or a copy of a current government check that shows the name and address of the voter, or a copy of a current paycheck that shows the name and address of a voter, or a copy of any other current government document that shows the name and address of the voter.

Thus, the point my colleague from New York made about the disenfranchisement brought about by requiring a driver's license, a photo ID, is not applicable. That is what we worked 6 long months to achieve. A voter who chooses to vote by mail to comply with the requirements, by enclosing a copy of any of the above with his or her mail-in registration; or, two, bringing a copy of any of the above to the polling place the first time they vote; or, three, enclosing a copy of any of the above with the mail-in absentee vote.

Now, it is a backstop. We even went further for voters who show up at the poll who have forgotten their ID. They have not brought anything. They can vote provisionally. They will be able to put in a provisional vote so we don't have to guess at the polls. They will cast their ballot. It will be set aside until it can be confirmed that they are a lawfully registered voter entitled to vote from that place in that State. When they are, it will be counted.

Madam President, we must keep in mind that vote fraud is accomplished

in many different ways. Some are very simple. Some have been developed to a high art form in St. Louis. You can place false names on the voter rolls and vote them absentee. It is the easiest, usually the safest, particularly if the registration and voting are all done by mail. No sweat, no problem. Just sign. Have everybody write down their names. Under this system, I could register my colleague from New York. I certainly would not do anything unlawful. But he might wind up as a Republican voter in southwest Missouri with his mail-in registration and his signature which will match that registration on every ballot he casts thereafter.

Or, second, you can use out-of-date voter rolls and then move people around to vote repeatedly, using the names of people who died or moved or the false names that have been placed on rolls over time. Or you can run extra blank ballots through the voting machine at the end of the day or toss out boxes from key precincts. These are the simple things. We do not deal with all of them here. They are problems that afflict our system across the country.

For anybody who thinks it is just a Missouri problem, let me assure you the problem goes on nationwide. Let me give a sample of some of the things we have found from news articles. The Palm Beach Post, May 28, 2001, says that more than 5,600 people appear on a statewide list of suspected felons who voted illegally on November 7, 2000, 766 of them voting in Palm Beach County, 68 percent of whom were registered as Democrats. The Miami Herald, January 19, 2001, reports that 452 felons voted illegally on November 7, 2000; 343 were cast by Democrats, 62 by Republicans. The Miami Herald, January 24, 2001: 90-year-old Cora Thigpen voted twice in the Presidential election. I bet she would have liked to have voted more. I guess she ran out of steam after casting a second ballot. But hers was one of more than 2,000 illegal ballots cast in the election by Floridians who signed affirmations swearing they were eligible to vote but were not. Poll workers never checked, ignoring county rules that were intended to combat fraud. One poll worker pointed out:

There are really no safeguards. This system is set up to allow people to vote.

The Florida Sun Sentinel, January 17, 2002, points out that at least 162 ballots in Duval, 200 in Volusia, 43 in Pinellas County were from voters who were ineligible. The newspaper points out that providing false information for a vote is a felony but prosecutions are rare.

Moving over to Texas, the Houston Chronicle reports that in 1991, a special election in Harris County revealed that in precinct 85 where the election judge hired six relatives as clerks, 600 ballots were counted even though only 316 voters had signed in to vote. After the 1992 Presidential election, the vote registrar found that 6,707 illegal ballots

were cast in Harris County. Prosecutors contend that voting violations are almost impossible to prosecute because the law is set up only to encourage participation in elections, not to prevent voter fraud.

Moving closer to where we are now, in Virginia, the Washington Post, on November 10, 1998, said 11,000 ineligible felons and nearly 1,500 dead people are registered to vote in Virginia, according to State auditors. In the previous November's election, 1,700 felons voted along with 144 dead people. That is quite a theological accomplishment for Virginia.

State and national election specialists were quoted in that article as saying that part of the problem in the Federal motor voter law, which is designed to make it easier to register to vote, is that it also makes it tougher to protect voter lists from fraud and error.

In Wisconsin, January 21, 2001, the Milwaukee Journal Sentinel said 361 felons were found to have voted illegally in Milwaukee on November 7. A review found that there were virtually no safeguards or notification requirements to prevent or discourage ineligible voters from participating. It is basically an honor system. When fraud is discovered, officials say it is rarely enforced.

California has its own problems. I won't go into all of them. February 1, 2002, the California Journal noted that north California artist Judith Selby, who often scours the beach looking for ingredients for her artwork, found a lid from one of the 63 missing absentee ballot boxes. She recognized the importance of it so she turned the castaway ballot box into an artistic poster entitled, "Cast Your Vote—Away."

In Colorado, a Saudi man detained by Federal authorities for questioning about the September 11 terrorist attacks voted in Denver during last year's Presidential election, even though he was not a U.S. citizen. The Denver city clerk and recorder said it is hard for election officials to discover if someone lied about their citizenship unless someone complains.

In North Carolina, a Pakistani man facing a vote fraud charge has been linked to at least two of the September 11 hijackers.

In Indiana, an examination of inaccurate voter rolls shows that tens of thousands of Indiana voters appear more than once, according to the Indianapolis Star of November 5, 2000. More than 300 dead people were discovered to be registered. One woman who died in April 1998 was found to have voted in the fall election.

Motor voter was partially to blame because it allows people to register to vote, but it is far more difficult to rid the rolls of invalid names.

Of course, there are our good friends in Alaska. According to an FEC report, Alaska had 502,968 names on its voter rolls in 1998, but the census estimates that only 437,000 people of voting age were living in the State that year.

How would the Schumer amendment work? Let me go through this for you. A vote fraud planner fills out numerous false names, uses his or her own address as a return address. Typical would have been multiple names at the same address in one household. This is a drop-house scheme. It is identified by the secretary of state in Missouri as one of the more recently used schemes in Missouri. Eight or more adults registered from a single family residence makes us a little suspicious that there may be some phony registrations there.

Under current law in Missouri, as in most States, these new voters request absentee ballots, and just like that fraudulent voters are registered and fraudulent votes are cast, with the same person signing the fraudulent registration and signing the absentee ballot. It works like clockwork.

Under the original compromise bill, the Dodd-McConnell amendment, this huge loophole is eliminated by the simple proposition that if you register by mail, you need to provide an ID before you vote the first time. You can provide the ID in person or by mail, but you must provide an ID. The bill is very careful to provide numerous options for the ID: Driver's license, other photo ID, utility bills, bank statements, government checks, or other documents—something to show name and address and existence. It is pretty simple, common sense.

Is there a real live person behind the name? Or is it a dog? Or is it a dead person? Or is it somebody conjured up to be a ghost resident in your drop-house location?

Under the amendment being offered by the Senator from New York, all you need to do is use the same handwriting you did to register falsely and you will be able to vote falsely. As I said, Ritzzy Mekler could have done it. She got herself registered. Somebody filled out the card. As long as somebody went to the trouble to get the dog registered, follows up and signs Ritzzy's name, pretty much the same way when she votes absentee—no problem. Ritzzy's vote counts.

Sometimes debates are complicated and intricate. There are provisions that we worked through in this bill that are very difficult. We worked hard to straighten them out. But this one is very simple.

Vote fraud is occurring. People are trying to cheat to win elections. The Dodd-McConnell bill takes some basic, commonsense steps toward eliminating some of the most obvious fraud. The Schumer amendment says: No, we need to keep these fraud options open. We need to make drop-house schemes easy. We need to keep voting franchises available to dogs—maybe even cats.

For those who wish to protect the status quo, the Schumer amendment does just that. It guts section 103(b) protections in two ways. First, it adds two additional methods to comply with the in-person voting requirements,



thus effectively abandoning the voter's responsibility to provide some independent proof of his or her identity. Instead, the Schumer amendment would simply require the voter to sign an affirmation that they are who they say they are. It would also require the State and precinct to set up a verification system that would compare the signature of the individual with that of his or her registration document—as another alternative.

Ritzzy Mekler's signature would be scanned into the machine so we would know that whoever signed Ritzzy Mekler was really signing Ritzzy Mekler the next time the dog voted.

Second, for those who vote by mail, the voter would have no responsibility to show proof of identity, as none would be required from the voter. The State would instead have to set up a signature verification system that would, again, match the voter's signature on their ballot with that on their registration card.

Taken together, these provisions eliminate the proof of identity requirement which is the backbone of the antifraud protection. But it appears to me that the Schumer amendment would actually go beyond gutting the identity provisions, as the scheme would roll back the efforts by several States to require first-time voters who register by mail to only be allowed to vote in person the first time after they register.

These States: West Virginia, Virginia, Tennessee, Michigan, Illinois, Nevada, and Louisiana, will have their efforts completely undercut by the Schumer amendment.

Why have we not heard stories from these States that have shown that the groups the Senator from New York mentioned have been so terribly disadvantaged, such as the elderly voting in West Virginia, Virginia, Tennessee, Michigan, Illinois, Nevada, and Louisiana? I think their system makes common sense. St. Louis City, after the threatened vote fraud in the mayor's race in March of 2001, required people to show up with a photo ID with their address on it. Nobody complained. As a matter of fact, the citizens in St. Louis may have had an honest election. It was a show stopper. The media watched closely. They congratulated them, and it worked. I did not hear that people were disadvantaged.

The Schumer amendment would actually protect the law—the drop-house scam, one of the most common vote fraud schemes used today. As I said, this scheme is when one individual fills out registrations for multiple names at one address. Then that same individual requests absentee ballots for all of those names and votes all of those names in the privacy of his or her own home. How simple is that?

The Schumer amendment and those who vote for it are simply saying go ahead. Drop-house schemes would now be specifically protected under Federal law as States would not be required to

allow the new mail-in to register to vote in person, nor would they be allowed prior proof of identity. The drop house is free and clear of any common-sense scrutiny by speeding that provision into States that now take some steps to prevent it.

But this is serious business. This amendment makes a mockery of the business. Americans across this country follow the rules. They fill in applications honestly. They provide an identification. They stand in line. They are not afraid of hard work, and they care deeply about this country.

As the Missouri Court of Appeals said when it struck down an illegal voting scheme to keep the polls open after closing time in November of 2000, it is just as much an important part of your civil right to cast a vote as to make sure it is not diluted by having your vote canceled by somebody who votes illegally.

The end does not justify the means. If you think it is important to win an election in any way rather than win it fairly, then maybe this is something you want to keep open—these loopholes. I don't.

I have listened to an awful lot of people in Missouri who want to get out from under the shame of what the media has shown to have occurred in our elections.

In most of the country, everyday folks—folks you see at the coffee shop, the folks you see at the nursing homes—I talk to them. They express concern. They do not understand when you try to explain to them that it was just too much to ask of a voter who chooses to register by mail to actually provide some proof of who they are and where they live at some point in the process.

So the choice is clear. The choice of the Schumer amendment comes down to the question: Do we want to protect the honest voters from those who would cheat them or do we protect the rights of dogs and the dead to register to vote, the people who operate the drop-house schemes, the people who operate all the other phony mail-in registration schemes to continue to steal votes? What is the most important action we take as citizens in a republic? It is to cast our vote.

I hope my colleagues will join me in rejecting this amendment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from New York.

MR. SCHUMER. Madam President, I yield the Senator from Oregon, my fellow sponsor of this amendment, as much time as he may consume.

MR. WYDEN. Madam President, I never had the chance to negotiate with the distinguished senior Senator from the State of Missouri. But I can tell him that despite his strong views on the subject, I never would have agreed to the photo ID provision in any negotiation because I believe this provision is a poison pill that is going to silence the political voices of seniors, the dis-

abled, young people, and minorities from coast to coast.

The distinguished senior Senator from Missouri talked about discussing it with nursing home residents. Let us talk about that for a moment.

I was director of the Gray Panthers for 7 years before I was elected to the House of Representatives. I served on the aging committee there, and I serve on the aging committee here. I have dedicated my whole professional life to the cause of senior citizens. I can assure the distinguished Senator from the State of Missouri that there are not any nursing home residents in this country asking to be taken to the copy center to make Xerox copies of driver's licenses or other documents. That is just not going to happen. Many of the seniors are voting by mail because physically going to the polls is hard for them. Forcing seniors to get to a library or a copy center to photocopy an identification card would be just as hard as a trip to the polling place.

I don't think the principal way to stop voter fraud is to make it harder for Americans to vote. The way to deter fraud is to go after it early, when people fraudulently register to vote, and punish it hard. That is what this bill does. That is on what the State of Oregon is focusing. If someone submits a false Federal photo ID or a utility bill, or if somebody attempts to register a cat or a dog to vote, the time to catch them is at the beginning, at the point of registration. It will be a lot more difficult once the registration is in.

In Oregon, those who falsify their registration face up to a \$100,000 fine and/or up to 5 years in prison and the loss of their vote. It is a pretty stiff penalty for registering a dog. There are cases outstanding now from the last election.

I tell my colleagues that I think there is also a question, if one really wants to go after fraud. The way my State thinks they can best deter fraud is, Why not figure out a way to make the registration provision kick in in 2002? I think there is a real question about how it is that the registration provision really isn't kicking in until 2004. I think that was an opportunity, had it be sped up, to really meaningfully go after fraud and do it in a way that would not deter voter participation.

The new photo ID or proof of address requirement for first-time voters is going to create many more problems than it will solve. How will the election monitors know exactly who is the first-time voter and whom they should ask for a photo ID? What if only 5 people out of 50 in a line in a polling place are singled out to produce that photo? What if the utility bill that Mabel Barnes brings to the polling place lists her as "M. Barnes" and the election monitor says, How do I know the "M" doesn't stand for "Mark," and they reject the identification? What if Mabel Barnes is an elderly widow who lives

with her daughter, has no driver's license, has no accounts in her name, and has her Social Security check directly deposited to her daughter's bank account? In that case, Mabel Barnes, the senior citizen, wouldn't meet the necessary requirements for the first-time voter in the bill.

I say to my colleague, the distinguished senior Senator from Missouri, that he may be talking to nursing home residents in his State, but I will put my 20 years of working with older people, going back to those days of the Gray Panthers, on the line here and say in the most sincere way that I can that I think this bill's photo ID provision is a poison pill. It is going to disenfranchise an awful lot of seniors. I do not know of any nursing home residents in this country who would be asking to be taken to a copy center if this were to go forward. They are going to be disenfranchised. That is a reality of the provision.

I would like to take a couple minutes to explain Oregon's pioneering vote by mail system so my colleagues will get a sense of why section 103, if left unmodified, would be so damaging to States such as Oregon, and other States that rely on mail-in ballots such as Alaska, New York, and Washington.

I also say to my colleagues, I guess it is worth noting that I am the first mail-in U.S. Senator. I am the first Senator ever elected exclusively by mail in a campaign that was very close with my colleague, my friend, Senator SMITH. By the way, Senator SMITH did not cite any evidence of voter fraud in that very closely contested election, to his credit. Many certainly pushed him to do it, and he did not because our system is working.

Enacted by nearly 70 percent of the voters in the 1998 general election, Oregon's vote-by-mail system does not need fixing by the Federal Government. Our voter registration card already includes an oath swearing the signer is a U.S. citizen. Submitting a false registration is a class C felony carrying a penalty of up to \$100,000 or 5 years in prison. The same penalties apply to anyone who knowingly votes twice or whose signature cannot be matched with the signature on file with the county clerk.

Oregon's counties verify the signature on each ballot return envelope to the original signature on the voter registration card. Because ballots cannot be forwarded, Oregon's voting rolls have been clean.

In the 2000 general election, out of 1.9 million registered voters, about 1.5 million cast votes, about 80 percent. Of the 1.5 million votes, the counties referred a number of ballots to the secretary of state, close to several hundred. In five of these cases, there was enough evidence for the State to prosecute. The remaining 187 votes were not counted because Oregon requires signature verification for counting the vote.

Since the 1996 May primary, 13 cases of fraud have been prosecuted; convictions

won in 5, and 8 cases still pending.

So we want to make it clear that in our State, which has pioneered this innovative approach so popular with seniors and working families, and many who live very hectic and busy lives, the signature authentication system has proven remarkably good at detecting and deterring fraud. Despite that record, this bill, this legislation, says that that system is not good enough.

The photo ID requirement would also be expensive for the States that use voter signature. Election officials at home in Oregon tell me they know of no State that has an easier and more inexpensive way to figure out just who is a first-time voter.

So let's just think about the ramifications. We all—Democrats and Republicans alike—want to encourage young people and first-time voters, those who have not participated in the political process, to participate. So here we are, at a time when it is already difficult, according to the election officials, to try to keep track of who is a first-time voter, and we now have a bill that will make it even tougher to address these issues because of the added expense.

If the provision were in effect, each time a new voter registered in a county, the county clerk would have to call the clerks—at least in my State—in the 35 other counties to determine whether the person was still registered there. Oregon is working to develop a centralized voter registration system, as the bill calls for, by 2004. But it is going to cost about \$7 million to do that.

So here is what is going to happen this fall at polling places across the country if the poison pill that is this photo ID provision remains in the legislation.

Millions of first-time voters who register by mail in 28 States will get up on election day and go to the polls to vote. They will wait in line. And when they finally get to the front, they will be asked for a copy of their utility bill, their bank statement, or a valid photo driver's licence. Suppose they walk to the polls or share an apartment where the utilities are all under a roommate's name? They will not be able to satisfy that new requirement. They will go home. And I think any Member of the Senate who thinks those people are going to come back is just not talking to those people or to those election officials who have worked closely with them.

The photo ID requirement in the bill also applies if you registered by mail and you are a first-time voter in any jurisdiction. That means that a voter who lived in a part of Salem, OR, who was in Marion County and moved to West Salem and Polk County, and was voting there for the first time, would have to mail in, with their ballot, a copy of a photo ID or a bank statement. If they voted at a polling place, they would have to show a proof of

identification. Without the photo ID, an otherwise eligible voter would be turned away and would probably not come back.

Some might say not to worry because there is a provisional ballot. However, every first-time voter who is turned away at the polls this November is not going to be able to use provisional ballots because under another section of the bill provisional ballots do not take effect until 2004.

The defenders of this provision claim they want every vote to count, but, in my view, this requirement almost guarantees that seniors, the disabled, minorities, and others are going to be disenfranchised from coast to coast.

My colleagues, it seems to me there is a lesson from Florida that is relevant to the debate tonight. What the message from Florida was all about is that the elections process needs to be simplified. It needs to be made less complicated. The photo ID requirement is going to take the elections process across this country in just the opposite direction and make it more complicated.

My State is not alone in its opposition to the photo ID requirement because of the damage the provision would cause, and cause nationwide.

The provision, in my view, is going to work a hardship on minority voters. In fact, last November a Federal court ruled against an identification requirement used at a polling place in Massachusetts, finding that:

The burden imposed by this photo ID requirement will fall disproportionately on the Latin American community, thereby violating section 2 of the Voting Rights Act.

There is a reason that this coalition of groups of seniors and minorities and a variety of organizations that have worked to expand the franchise is opposing this legislation. They want to see us expand the franchise. They want to deter fraud, but they do not want to deter voting.

I say to my colleagues, supporting this amendment is going to allow 27 States and the District of Columbia to keep their voters' signature or attestation systems, but even more importantly, it is going to protect an approach, a system for voting to which more and more Americans are attracted. More and more Americans like the appeal and the convenience of this way to vote.

In my view, putting a photo ID system in place at the end of the line, at the very end of the process, rather than taking strong steps to discourage fraud at the outset of the process, when a voter registers, is not the way to go. We ought to be taking steps that are cost effective, that are practical.

I know my colleague from Missouri is sincere in his views. I wish I could have been part of the negotiations that took place in committee because I would have brought to the Senator from Missouri and the Senator from Kentucky some of the senior citizens with whom I have worked over the years, some of



the seniors with whom I have worked in the Meals on Wheels programs and in nursing homes. They are not going to be able to comply with these provisions. These are folks who are having difficulty reading existing government forms.

My goodness, we all hear from seniors who are having difficulty reading some of what is on a pill bottle. And my colleague has said that these are people who are going to be able to go out and find Xerox machines and copy centers and the like. It is just not going to happen.

It is not a debate about my colleague's sincerity. I know he feels strongly about these views. This is a debate about the real-life provisions of this legislation and the hardships that are going to be caused by this photo ID provision. In my view, it is in fact a poison pill that does great harm to an otherwise very good bill that the distinguished Senator from Connecticut and the distinguished Senator from Kentucky have put together.

I hope my colleagues will vote for this amendment. It has great ramifications for the electoral system in our country. I strongly urge the support of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I rise this evening to oppose the Schumer amendment. I think my good friend from New York underestimates Americans. The greatest example of why we vote is in his little domain. It is called Ellis Island, a wonderful place to visit. I recommend all Americans do it.

See the photographs of people who came from everywhere, some having everything they owned in a little bag, not very much money, not speaking the language, not understanding the system, really not knowing what kind of a land this was. It took a lot of get-up-and-go to do that.

The bottom line was freedom—freedom and opportunity. They knew in their own hearts, after they had not been here very long, that that freedom and opportunity also demanded responsibility. They didn't ask if there was a health plan. They didn't ask if there was a minimum wage. They didn't ask for anything. They just wanted that freedom and opportunity.

Here is where I think we underestimate Americans. If you go down and want to pick up tickets to the theater or to a sporting event and they are in "will call," they require a photo ID, don't they? We all fly on airplanes. Yesterday, after Salt Lake City, I don't know how many more lines I want to stand in. But most of us fly on airplanes. If you don't have a photo ID, are you going to get on? No, sir. You step up there. You pull out your little ID before you can even get in to the gate area. I did that.

We all have new ID cards here. Some of you might have noticed; some of you might not. I pulled mine out the other

day and gave it to the one doing the screening. She looked at it. She said: "I don't recognize that kind of an ID card."

I said: "Well, it has on there what I do. It has a picture of a nice-looking fellow and a number."

"It doesn't make any difference. I don't recognize it."

I put that one back. I pulled out one for Sam's Club. That one worked good. I went right on through.

Most of the seniors I know vote absentee if they can't make it to the polls. They preregister. They understand what voting responsibility is and how precious most Americans think that right is to vote.

By the way, I am getting tired of going through these detectors wearing boots because I always have to take them off. They have steel shanks. That requirement has cost me seven pairs of socks. I can't have holes in them anymore, and they have to match.

The seniors in my State of Montana notably have one of the largest percentages of votes in every Federal election. They get absentee ballots. My good friend from Oregon, I am sure, has a mail-in ballot. That is kind of a mail-in absentee. It has to match a registration somewhere. There has to be somebody there.

What this bill requires is the validity of a person. I had an amendment that was rejected by this body—I still think it was a good amendment—that we could purge our lists every 4 years instead of, as this bill requires, every 8 years. Those counties that have universities and institutions of higher learning carry an enormous list of students who desire to vote in that county, and those names have to be carried for 8 years.

I do not have one election administrator in one county out of the 56 in Montana who really thinks they can embrace this legislation at all because there are some mandates in here that maybe we can't comply with.

Let me give an example. We don't have electricity or running water at every polling place in Montana. That is hard to believe, is it not? We have old, abandoned country schoolhouses still used for polling places. But they don't hold school there anymore, so they fire up the old stove and take their lanterns. That is where they vote. And if something comes up, you know everybody in the county. The county is probably as big as Delaware and only has 1,800 people. Everybody knows everybody anyway. There is very little room for fraudulent votes.

What we are saying here with this legislation is that we don't quite trust the American people to do some things for the privilege and the right to vote. If they really want to participate in the political process, they will do all the necessary things.

You are not registered to vote. Would you like to register to vote? Well, I would. So they fill it out. Who mails it in? Usually the guy who is working the neighborhood. That could be me.

The seniors I know and the people I know who have a hard time making it to the polls vote absentee. We forget about this. We go into this debate every time.

I am saying we are talking about something that may be very important, but I don't think it is important because we have underestimated the American people. You never want to do that.

They know what the proposition is. They understand what it is to register to vote. They pay taxes in that county or that township. They protect their right to speak through the polling box. Don't underestimate them.

Everything we do, everything we do, from picking up tickets for the theater or a sporting event or anything else, requires that photo ID. I would admonish anyone to go out and tell anybody, from the first-time voter through the oldest voter, that they can't vote, because they can find ways to do it—register by mail, absentee.

I have to believe what we are trying to do here is to maintain the status quo. We leave ourselves open, with these huge lists, to fraud—we invite it, in fact—when it boils down to the responsibility of each and every citizen to be in a position to vote.

So I ask that this amendment of my good friend from Oregon—and we know each other's States very well, and we also understand the people there very well. I venture to say you would get a higher percentage of voter turnout in eastern Oregon than you do in western Oregon. They know the responsibility, and they understand it, and they welcome it.

So I hope my colleagues will vote to table or defeat this Schumer amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank the Senator from Montana for his observations. He certainly makes the point well that what we are asking here in the underlying bill—insisted upon by Senator BOND—is not at all unreasonable.

I heard the Senator from Oregon talk about the failure to pass this amendment being a poison pill. Let's make it clear what the poison pill is. The poison pill is passing this amendment, which unravels the core bill that was negotiated over a lengthy, and sometimes painful, process of many months. If the motion to table the Schumer amendment is not agreed to, then I fear passage of this bill is seriously in question.

As the Senator from Missouri and the Senator from Montana have pointed out, requiring identification is not unusual. I thought I heard the Senator from Oregon talk only about photo ID, and I will defer to my friend from Missouri. Is the Senator from Kentucky correct that a photo ID is only one of a number of different options that could satisfy the antifraud provisions

insisted upon, and agreed to, in the underlying bill?

Mr. BOND. Mr. President, to respond to the Senator from Kentucky, this in fact was one of the areas we negotiated for a long time. There is no single requirement that you must have a photo ID. We provided all of the options for other forms of identification that are set out in the bill. I respond further to the Senator from Kentucky that the U.S. Department of Justice, Assistant Attorney General Carl Thorse, for Daniel J. Bryant, advises:

As to acceptable forms of identification, by the Department's reading, voters lacking photographic identification may nonetheless meet the requirement by presenting utility bills, bank statements, government checks, paychecks, or "other government documents" showing the name and address of the voter. Nothing in the Department's preclearance activities or other experience implies that minority voters would be less able than other voters to provide at least one of the documents accepted under this flexible requirement.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, February 26, 2002.

Hon. CHRISTOPHER S. BOND,  
U.S. Senate,  
Washington, DC

DEAR SENATOR BOND: This letter responds to your letter of February 21, 2002, inquiring about the Department of Justice's ("Department") views on whether a covered jurisdiction, which implemented a change in voting procedure consistent with proposed Section 103(b)(2) of S. 565, would thereby violate Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. We interpret proposed Section 103(b)(2) as requiring persons to provide photographic or other identification, in certain circumstances, as a prerequisite to voting. [See below.] As discussed further below, assuming preclearance were needed for such a change, in the Department's view a change in voting procedure requiring voters to provide documentation of identity does not necessarily have the purpose or effect of denying or abridging the right to vote on account of race or color. Far from automatically violating Section 5, identification requirements can be an efficient and effective means of combating voter fraud.

Initially, we assume for the purpose of this letter that Section 103(b)(2) of S. 565 would require a change in pre-existing voting "qualifications, prerequisites, standards, practices, or procedures" cognizable under Section 5. It is far from clear that a federally mandated change in voting procedure, which granted the covered jurisdiction little or no discretion in implementing the change, even would be reviewable by the Department under Section 5. See, e.g., *Young v. Fordice*, 520 U.S. 273, 285-86 (1997). By the Department's reading, proposed Section 103(b)(2) appears to vest almost no discretion in local officials with regard to identification requirements; the forms of acceptable identification, for example, are enumerated in the statutory text.

Assuming for purposes of this letter that proposed Section 103(b)(2) is even subject to Section 5 review, we first note that, in responding to your letter, we have not examined the voting systems currently in place in all covered jurisdictions, and we reach no

conclusions as to whether those systems are now compliant with proposed Section 103(b)(2), or whether any change in a particular jurisdiction would require Section 5 preclearance. After reviewing the text of proposed Section 103(b)(2), the Department concludes that, as written, nothing in it would require an objection under Section 5. First, identification is required for all voters, and the accepted forms of identification are designated (§ 103(b)(2)(A)(i)). Moreover, provisional balloting is provided for those who lack the required identification on election day (§ 103(b)(2)(A)(ii)). As to acceptable forms of identification, by the Department's reading, voters lacking photographic identification may nonetheless meet the requirement by presenting utility bills, bank statements, government checks, paychecks, or "other government documents" showing the name and address of the voter. Nothing in the Department's preclearance activities or other experience implies that minority voters would be less able than other voters to provide at least one of the documents accepted under this flexible requirement.

Thank you for giving the Department the opportunity to express its views on this important issue. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

DANIEL J. BRYANT,  
Assistant Attorney General.

Proposed Section 103(b)(2) of S. 565 states in relevant part:

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other Government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter.

(B) PROVISIONAL VOTING.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under Section 102(a)

(3) INAPPLICABILITY.—Paragraph (1) shall apply in the case of a person—

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either—

(i) a copy of a current and valid photo identification; or

(ii) a copy of a current utility bill, bank statement, Government check, paycheck, or Government document that shows the name and address of the voter; or

(B) who is described in a subparagraph of section 6(c)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)(2)).

Mr. MCCONNELL. Mr. President, I thank the Senator from Missouri. He pointed out clearly that the photo ID is only one of a number of acceptable options. The goal is not to deny people the opportunity to vote, but to verify there are actual people who are voting.

The notion that somehow it is an onerous requirement to provide photo ID is, frankly, absurd on its face.

I have behind me an advertisement that appeared in the Washington Post recently. It is an advertisement for a cell phone. It says: "Add Nextel to your holiday list." In the ad it says: "In-store purchases require at least two forms of valid identification." That is, to buy a cell phone, two forms of valid identification are required.

Now the sanctity of the vote, the sanctity of the ballot, voting only once, and being a legitimate voter are considerably more important than the purchase of a cell phone. There is almost nothing of consequence you can do in our society today without providing some kind of ID. The Senator from Missouri has been quite generous in providing a number of different options, not just a photo option, which obviously would be the clearest way to make certain that the first time registrant was indeed a person who did live where he was being registered. But the Senator from Missouri was quite generous, I thought, in providing a number of different options to meet that requirement—short of a picture ID.

Secondly, referring to another chart, we have a voter in Maryland—these are two long-time registered voters in Maryland. One is a person named Mabel Briscoe, 82, and the other long-time registered voter in Holly Briscoe, her terrier. Mabel finally got caught, and they gave her community service instead of jail time because she indicated she was trying to make a point in registering her terrier: that they had an absurd registration system in Maryland.

Now surely the Senate is not going to pass an amendment that makes it easier to register to vote than to buy a cell phone. The sanctity of the ballot is extremely important in this country. As the Senator from Missouri said repeatedly, we want to make it easier to vote—but vote only once—and harder to cheat.

So this amendment is the poison pill. It is the deal breaker. If this amendment passes, this bill is in serious trouble. These provisions that the Senator from Missouri negotiated and insisted upon have made this a much better bill and have given it an opportunity to pass on a bipartisan basis. To break faith with the core compromise in this bill, I fear, renders it unfit for passage. That is how serious this vote is.

We are not going to have much time to debate it in the morning. There are not many of our colleagues around tonight. But there is no way I can underscore, as somebody who cares deeply about this bill, that it should pass. It bears my name in the second position, along with the Senator from Connecticut, and I think it moves us in the right direction. I will be darned if I will be party to unraveling the critical elements of this bill that were negotiated by the Senator from Missouri. These elements, which go right to the very

heart of our democracy, are that you are only entitled to vote once—and you need to be a person. Nobody has referred yet to “60 Minutes,” but they ran a segment within the last year or so. I happened to catch it one night when I was watching television. It was about the current situation in California, where there have been a number of different animals that have registered and voted repeatedly under the current system.

We made it a lot easier to vote a few years back. We certainly made it a lot easier to register. It didn't have any impact on turnout. So now we have these voluminous voting rolls all across America. It is pretty hard not to be registered to vote. All the Senator from Missouri is asking here is that there be clear evidence that a first-time registrant be a real person who is eligible to vote and actually living at the address. I don't think that is asking too much.

I certainly hope that tomorrow, when a motion to table is made, it will be successful. Otherwise, we will still be debating this amendment for quite some time.

I thank the Senator from Missouri again for his important contribution to this bill in the antifraud area. I think it is a core part of the underlying bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I enjoyed listening to the debate from my colleagues from Kentucky, Missouri, and Montana. I say at the top of this that I respect their views and where they are coming from. I don't believe there is any ill motivation. Some would say, well, they really don't want people to vote, or whatever else. I don't buy that. I don't think that is fair. But I would make a couple of observations.

As I was listening to the debate, something struck me.

First, we have a little bit of an obsession of dogs voting. I do not think that is bringing down our system. I say to my friends from Kentucky and Missouri, if someone wants to go out of their way to sign their dog's name, they can very easily, under the proposal of the Senator from Missouri, put their picture in there. The owner of Ritzy could put his or her—I do not know if it is a his or her, the lone Ritzy—could put their picture ID in the envelope and then vote.

We cannot stop people who are totally committed to being fraudulent from doing that. There is no system that will stop everybody. Whether our amendment is adopted or not, whether even the original amendment of the Senator from Missouri is in there or not, the .001 percent, who for their own sick reasons want to have two votes or have their dog vote, are going to get around this provision, and they can easily get around the amendment of the Senator from Missouri. Ritzy can. This nice lady from wherever she is can. We know that.

Let's not say because there are a few people who are totally driven to commit fraud—and they will, and they should be prosecuted. This bill, to the credit of the Senator from Missouri, does a lot to minimize it, particularly the voting rolls provisions which everyone has talked about but will change in this bill unless it does not become law. That is the No. 1 way to stop it. We know that some people are going to commit fraud.

What I am befuddled by is the argument that because a few people will commit a ridiculous type of fraud and can whether or not the Schumer-Wyden amendment is adopted, that we should disenfranchise probably millions, certainly hundreds of thousands of people.

I noticed who the Senator from Kentucky and the Senator from Montana were talking about in their debate: Average folks.

I have a cell phone. I shut it off because I am in the Chamber. Sure, if I wanted to go to Nextel and get a cell phone, I have two or three photo IDs in my wallet. That is not at whom this bill is aimed. I am going to be able to vote easily.

We are talking about people who have a rough time voting. We are talking about realizing the American dream. We are talking about people who do not go to airports regularly and check in and show their photo IDs. Those are not the people who need the help.

We are talking about struggling people who cannot afford a car, do not fly in an airplane, do not own a cell phone, and certainly those who do not have their photo IDs, their United States Senate card, which is given to us so we do not have to do any work for it. As the example my friend from Montana uses: I got my photo ID. Yes, he does; he has a Senate card whether he drives or not.

There are millions of Americans—immigrants, poor people, elderly people, disabled people—who do not have that. Should they be disenfranchised because of Ritzy and Ritzy's owner?

This is not a zero sum game. That is a bogus argument.

The Senator from Connecticut and the Senator from Kentucky, to their credit, along with those others of us who were on for the ride, were looking at people who have a rough time voting because they live in the corners of American life, but our Constitution says their vote is every bit as important as ours, even if they do not have a cell phone, even if they do not fly in a plane regularly, even if they are not a Member of the Senate. There are millions of them, not 10, not 20.

They do not want to vote twice, and they do not want their dogs to vote, but they want to vote. That is what we are doing tonight. We are allowing them to vote. We are allowing the people in the corners of America who struggle, who have enough trouble—they cannot make a political contribu-

tion; oh, no. They cannot travel 30 miles to see their Congressman, their Senator, their assemblyman, their State senator. Oh, no. They do not have time to sit at a computer and write a letter to a newspaper. Oh, no. They are too busy trying to eke out a life, and are we to say to them: We are going to treat you just as the guy making \$150,000 who flies around the country, who owns two cell phones, who has photo IDs in his pocket, we are treating you the same?

It is very easy for my good friend from Montana, again with best of intentions, to say that it is a responsibility to vote and we should put as many barriers in the way as we have to, to eliminate every last fraudulent voter before they can vote.

That is not the balance this bill seeks, in my judgment. The balance this bill seeks is, yes, prevent fraud and do things that do not unnecessarily disenfranchise people. Cleaning up the voter rolls is not going to disenfranchise people, especially with provisional voting. Do not do things to disenfranchise those who are different because they are generally poorer or disabled or older.

Let's make no bones about it, the outcry that occurred in Florida was not because of fraud. It was because of disenfranchised voters. For one reason or another, they could not vote. It was because we found in so many poor districts a number of people who could not somehow exercise their constitutional right to vote, every bit as protected by our Founding Fathers as yours and mine. They could not vote. That is what this bill is about.

When the Senator from Missouri came to us and said: Let's also try to knock out fraud because that is important, the Senator from Connecticut wisely said: He is right. But there has to be a balance, and if to knock out every Ritzy you are going to disenfranchise 100,000 people because they do not have a cell phone and they do not fly in the planes and they cannot just pull out of their pocket a voter ID card, then you are creating the wrong balance.

I do not think I buy this, but I have heard it from my colleagues and many others, if the Schumer-Wyden amendment is not adopted, the balance in this bill is such that a lot of people are saying the heck with it. The Senator from Oregon is right.

The Senator from Kentucky said if this amendment is adopted, it will slow down the bill. What? We are going to see a lot of amendments to slow down the bill? I will tell my colleagues something. The whole goal of this bill was not an antifraud bill, it was not to disenfranchise, it was not to make it harder to vote, it was to make it easier to vote and, at the same time, as a corollary, try to eliminate fraud, not eliminate fraud and, at the same time, as a corollary, try to make it easier for people to vote.

Again, the lady in that picture, Ritzy, whom we have heard a lot about,

Ritzzy is going to find a way to vote illegally, incorrectly, whether we have this amendment or not. Again, I repeat, all the owner of Ritzzy has to do is put a photo ID in that envelope. So do not make it like this amendment allows that fraud to be created.

What allows that fraud to be created is, again, someone resolute on doing it will do it. I think the proposal of the Senator from Missouri, again, done with good intention, throws out the baby with the bath water. It disenfranchises so many who are not typical middle-class Americans, and I ask my colleagues to think about that; not to say, me and my 20 best friends, we can vote easily.

The only reason we would not want a photo ID is because we would be committing fraud. That is right, but that is not true of a poor person who does not have a car and does not have a phone and does not own a home. It is not true of a disabled person who cannot drive and cannot operate their own bank account. It is not true of an elderly person who has to have most of their things done for them by somebody else.

Yet our Constitution—not CHUCK SCHUMER, not RON WYDEN, not CHRIS DODD—says their right to vote is every bit as sacred as ours. And that is what this bill seeks to protect.

Mr. MCCONNELL. Will the Senator from New York yield for a question?

Mr. SCHUMER. Yes, I will yield to the Senator from Kentucky.

Mr. MCCONNELL. Would the Senator of New York think there would be hundreds of thousands of people, as I heard him say, who would not have one of the following—he keeps talking about a valid photo ID, but as I read the underlying bill, and the provisions by the Senator from Missouri, any one of the following would satisfy—and we are talking only about first-time registrants—photo ID, utility bill, bank statement, government check, paycheck, or other government document. How many people in America could there be who would not have one of those things? Who in America would not have had one of the things the Senator from Missouri insists be part of the underlying bill?

Mr. SCHUMER. OK. I would answer my good friend, do not ask me, ask the groups that represent them. The AARP says there are lots of their people who do not have any of those provisions. That is why they came to us and said do the signature and do the attestation. The groups that represent minorities in this country say there are lots of their citizens who do not have any of these. These days, I say to my good friend from Kentucky, most welfare checks—I know in my State—are sent by wire to an account.

Mr. MCCONNELL. Will the Senator yield for a further question?

Mr. SCHUMER. When I finish. The groups who represent lots of these people, who I daresay know more about their lives and their abilities to meet the requirements of this bill than ei-

ther he or I do, say the lengthy list, which the Senator read, does not work. I ask the Senator if they believe, which I do, too, that signature, which has worked in my State without any large reports of fraud, will make it easier for these people to vote, these people who live in the corners of America to vote, why is adding that in so significant that it would, in the words of the Senator from Kentucky, bring down the bill?

Yes, I posit to the Senator from Kentucky that there are lots of people who cannot meet the requirements in this section of the bill. If we did not believe that, we would not be offering this amendment.

Mr. MCCONNELL. Will the Senator yield for a further question?

Mr. SCHUMER. Please.

Mr. MCCONNELL. Since the Senator is asserting there are some Americans who would not have a valid photo ID, utility bill, bank statement, government check, paycheck, or other government document, could they not then vote provisionally?

Mr. SCHUMER. First of all, they cannot vote provisionally in the year 2002. That is in the bill now. I believe that was insisted on either by the Senator from Kentucky, Missouri, or somebody else, so they will be disenfranchised in this election.

Second, I have seen it in the polling places in New York—maybe this is not true—I have seen it with first-time voters, the ballot officer says: Here, sign this paper and put it in the box, but it is not going to count on the machine. And there are arguments at the polling place, particularly from new immigrants who say: No, I want to be on the machine like everybody else because my vote is not counting there.

They come from countries where they do not have the trust we have in government. They may come from a Communist country. They may come from a dictatorship. When they are forced to vote provisionally, they believe they are being treated as second-class citizens.

Now we have put the provisional voting system in as a backup. I would not want to make it the norm because somebody does not have the ability to meet the requirements that most middle-class people could.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am afraid we have seen a bunch of straw men set up and beaten up talking about all of these people who do not have any of these means of showing their identity. We negotiated 6 long months, and we had input from all of these people. The various groups to which my colleagues from New York and Oregon have referred have looked at this bill, and we came to an agreement. Certainly, we did not expect everybody to have a photo ID. Only about 90 percent of adults have driver's licenses that show the photo ID. So we went down the list and found out that the utility bill,

bank statement, paycheck, or other documents could show the ID.

Provisional voting, yes, we agreed on provisional voting. I did not happen to write the section that made the provisional voting effective in 2004. I would be happy to move it to 2002. That does not cause me any problem. Let us match them up.

As far as somebody not wanting to vote provisionally, we have laid out everything in the world that they can bring in to show their identity. That new arrival who just qualified to vote in this country, if he or she writes in, sends in a mail-in registration form, he or she is going to get a form back saying: OK, the first time you vote you have to have one of these. That is going to be in plenty of time for the person who takes the responsibility to register to vote to find the proper means of identification.

Now, the Senator from New York talked about how the system worked just fine. I was a little concerned, reading the December 2000 article in the New York Post—and I do not have it with me, but I will bring it in tomorrow—which said they had found that 14,000 people were registered both in New York City and South Florida. I would be interested to find out how many of them voted once or twice. It could be a little problem there.

We are not going to solve all the problems. The Senator from New York is right. We said we were going to make it easier to vote and tougher to cheat. We never said it was going to be automatic that everybody is going to vote. Nor did we say that we are absolutely going to knock out every cheat. What we need is good prosecution. The Senator from Oregon talked about that. He said there are some prosecutions underway in Oregon. I sure hope there are because I have not seen it.

Most of the prosecuting authorities find it is too difficult because they do not have the means to identify the people who voted fraudulently. Yes, we need good, strong prosecutions. We also need in the polling place good, strong Republicans and good, strong Democrats watching each other making sure the voters get what they are entitled to.

Frankly, when the Senator from Oregon said these nursing home residents cannot get up and go to a copy machine to copy a utility bill, or even the stub of a government check or a statement from a bank—if they get a Social Security check deposited in a bank, they are going to get a statement. You know what they could do; they do not even have to photocopy. They can send it in after they paid it or after they received the statement. They could send it in. Maybe somebody is going to have to get up in that nursing home and go get them a stamp and then get them a notary public. I just bet that person, if they spend enough time, put a little time and effort into it, can get them a photocopy or get them one of their ID documents to send in.

I agree we ought to catch them at the beginning. We ought to catch them when they register. That is the whole purpose of the bill. That is what we negotiated when we negotiated the Dodd-McConnell compromise. We are just going to deal with the people registering the first time and say, yes, you have to prove you are a real live human being, adult citizen meeting the standards of the State registrar. The only thing we can do to prove you are a human being is with one of the multitude of provisions we have for showing that. Provisional voting is the way, if they are knocked out, that they can still come back in. We may not have solved 100 percent of every single problem. This bill certainly does not. It certainly does not prevent 100 percent of the fraud.

Let me go back to the State of Oregon to talk about percentages. My friend from Oregon believes the anti-fraud protections included in his bill should not apply to Oregon because they have sufficient protections already in place. My colleague from Oregon was elected in the first mail-in election, and I understand there is a court challenge to the constitutionality of the system. We will be interested to see how that develops.

But it was with great interest I read an article in the Los Angeles Times printed in December 2000 about a range of issues that should give everyone pause, particularly the idea that political operatives can act as mailmen. Let me read a relative portion of that article.

The article is headlined: "Decision 2000/America waits; A 'Modern' Democracy That Can't Count Votes; Special Report: What Happened In Florida Is The Rule And Not The Exception. A Coast-to-Coast Study By The Times Finds A Shoddy System That Can Only Be Trusted When The Election Isn't Close."

They say:

An Oregon practice that many considered foolhardy is allowing anyone, including campaign workers, to collect ballots. Political operatives go door-to-door to gather them. In the crush of election day, people walked away with ballots collected from cars pulling to the curb outside the county clerk's office in Portland.

Vicki Ervin, the Multnomah County director of elections, says she has no idea where they were going, but she has no evidence of foul play.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Dec. 11, 2000]

DECISION 2000/AMERICA WAITS; A 'MODERN' DEMOCRACY THAT CAN'T COUNT VOTES; SPECIAL REPORT: WHAT HAPPENED IN FLORIDA IS THE RULE AND NOT THE EXCEPTION. A COAST-TO-COAST STUDY BY THE TIMES FINDS A SHODDY SYSTEM THAT CAN ONLY BE TRUSTED WHEN THE ELECTION ISN'T CLOSE

Because ballots can be bought, stolen, miscounted, lost, thrown out or sent to Den-

mark, nobody knows with any precision how many votes go uncounted in American elections.

For weeks, Florida has riveted the nation with a mind-numbing array of failures: misleading ballots, contradictory counting standards, discarded votes—19,000 in one county alone. But an examination by The Times in a dozen states from Washington to Texas to New York shows that Florida is not the exception. It is the rule.

State and local officials give priority to curbing crime, filling potholes and picking up trash. That often leaves elections across the country underfunded, badly managed, ill equipped and poorly staffed. Election workers are temporaries, pay is a pittance, training is brief and voting systems are frequently obsolete. "You know why we never paid attention to this until now?" asks Candy Marendt, co-director of the Indiana Elections Division. "I'll tell you: because we don't really want to know. We don't want to know that our democracy isn't really so sacred. . . .

"It can be very ugly."

The examination shows:

New York City voters use metal lever-action machines so old they are no longer made, each with 27,000 parts. Similar machines in Louisiana are vulnerable to rigging with pliers, a screwdriver, a cigarette lighter and a Q-Tip.

In Texas, "vote whores" do favors for people in return for their absentee ballots. Sometimes the canvassers or consultants, as they prefer to be called, simply buy the ballots. Failing all else, they steal them from mailboxes.

Alaska has more registered voters than voting-age people. Indiana, which encourages voting with sign-ups by mail and a driver's license bureaus, has jammed its registration lists with hundreds of thousands of people who should not be on them. They include felons, the dead and many who have registered repeatedly.

In Oregon, a preliminary survey indicates that more than 36,000 of the state's 1.5 million voters may have mailed in ballots this year that were signed by someone else. Some students in Wisconsin say they voted as many as four times.

Louisiana's former election commissioner, Jerry Fowler, pleaded guilty 14 days ago to a kickback scheme with a voting machine dealer. Even when relationships are legal, lines of authority blur. In the state of Washington, dealers program vote counters. In Arizona, they go as far as to help feed in the ballots.

To many Americans, the right to vote is sacred, a hard-won legacy of the women's suffrage and civil rights movements. Memories of those 20th century struggles remain fresh among voters of the new century. Yet the system that counts their ballots has fallen into disarray and dysfunction.

The voting system is so troubled that the National Bureau of Standards, a federal agency now known as the National Institute of Standards and Technology, said 12 years ago that an election mainstay, prescored punch-card ballots, should be junked—but more than 500 counties throughout the nation still use them.

Federal standards for voting equipment took effect in 1990, but they are not mandatory. A number of states, including Florida, have written some or all of the standards into their own codes. But all existing equipment was excepted, meaning that decades-old systems in Florida and elsewhere are exempt.

America has learned two things from the 2000 election, says Robert Richie, executive director of the Center for Voting and Democracy, a nonprofit, nonpartisan election

watchdog group in the Washington suburb of Takoma Park, Md.: "Your vote certainly counts.

"On the other hand, your vote may not be counted."

#### LONG-TERM NEGLECT

If the problem were out-and-out fraud, many would recognize it as an object so familiar on the political landscape as to be a running joke. They late Earl Long used to say that he wanted to be buried in Louisiana so he could stay politically active.

This year's election did include corruption, but the real problem was less obvious: In almost innumerable ways, the election system that counts the votes has suffered from long-term neglect and mismanagement.

Much of the bumbling is caused by inexperience and lack of funding. "People ask, 'If we can put a man on the moon, why can't we have an election system that works?'" says William Kimberling, a deputy director at the Federal Election Commission. "I say, 'Yes, and it will cost just about as much.'"

The Board of Elections in New York City, for instance, hired 25,000 temporary workers this year. The job pays \$130 for a day that stretches from before 6 a.m. until after 9 p.m. "Would you sit there for 15 hours for \$130?" asks Danny DeFrancesco, the board's executive director.

"Most of the workers can't read the manual," said Martin Connor, state Senate minority leader and one of New York's leading election lawyers. "You're not going to get bankers, businesspeople and teachers sitting there."

New York has trouble finding voting machine technicians who will start at \$21,000 a year. "You make more money servicing laundry machines," says Douglas Kellner, a commissioner on the election board. As a result, machines break down, voting is delayed and people leave.

Some critics blame patronage. Election workers in New York get their job through political leaders. Former Mayor Edward J. Koch calls it "a terrible system."

But much is ineptitude. Four years ago, Susan Marler, the Yuma County, Ariz., recorder enlisted two female inmates from the Yuma jail to help send out ballots. Some were mailed more than two days late. By that time, says County Supervisor Tony Reyes, many migrant laborers, mostly Latinos, had left to work on farms in California and could not vote.

Some places cannot even keep election directors. Several years ago, Tamira Bradley held the job in Longview, Wash. She was paid \$1,800 a month. "I really felt that nobody took me seriously," she says, so she quit to become a waitress at a Sizzler. "I made more money."

Long-term neglect introduces so many errors into voting and counting ballots that it is impossible to know after an election exactly what the totals are and how many people may have been robbed of their votes.

Rebecca Mercuri, a computer scientist at Bryn Mawr College in Pennsylvania, and Curtis Gans, director of the nonpartisan Committee for the Study of the American Electorate, estimate that at least 2 million ballots did not get counted this year across the country.

That would disenfranchise a city the size of Houston.

But these estimates include deliberate race skipping, when voters do not like any of their choices. Experts do not know how much of that goes on.

The only mistakes that can be estimated with any confidence are those committed by vote-counting machines. Providers say the machines have error rates of 0.01% to 0.1%. If that is true, counting machines alone could

have made as many as 100,000 mistakes this year—an average of 2,000 votes per state.

That is far more than Texas Gov. George W. Bush's margin in Florida for the presidency.

But machine counts do not differentiate race skipping, either, and that makes it impossible, even in the case of machines, to know with any certainty how much voters get robbed.

"Counting votes is like playing horse-shoes," says Jim Mattox, a former Texas attorney general who investigated the voting machine industry in the 1980s. "You get points for being close."

#### WEAK EQUIPMENT

Voting jurisdictions across the country use five varieties of lever-operated machines, six kinds of punch cards, 10 sorts of optical scanning systems and six types of touch-screen computers.

Every system has its weaknesses.

In 1998, the most recent year with records available, New York City reported trouble calls on 474—or nearly 8%—of the 6,221 metal lever-action machines that it deployed.

Each is a 900-pound hunk of metal parts crammed into a gray steel cabinet that stands 6 feet, 4 inches and looks like it dispenses cigarettes. Voters flip toggle switches to choose their candidates, then pull a big lever to record the choices on a mechanical counter.

The machines are called Shoups, after the Ransom Shoup family in Pennsylvania that began making them decades ago. They are stored in five warehouses and hauled each election day to 1,300 polling sites from the northern reaches of the Bronx to Rockaway Beach in Queens.

For 38 years, these clunky monsters have taken a pounding. "We had one that fell onto the hood of a Buick," says Richard Wagner, a voting machine technician since 1968. "An automobile has 5,000 parts; a voting machine has 27,000 parts. If a guy drops it from the moving truck, it goes out of alignment. If it's put out of alignment enough, it won't work."

The machines also are comparatively easy to rig. Louisiana changed to a Shoup competitor in lever machines several years ago after state Rep. Emile "Peppi" Bruneau showed fellow lawmakers, with coaching from a voting machine technician, how to steel a Shoup-equipped election.

With his cigarette lighter, Bruneau softened a lead plug that sealed the machine. With a pair of pliers, he removed a copper wire embedded in the plug. With a screwdriver, he took off the back cover and a Plexiglas lid protecting the vote counting mechanism. With a Q-Tip, he prodded the counter digit by digit, manipulating the vote total as easily as he might reset an alarm clock.

Punch card systems that produce chads are particularly prone to problems.

Sometimes the chads—tiny rectangular pieces of cardboard—are left hanging. Counting machines force them back into their holes and read what should be a vote as a non-vote.

Prompted by problems in last month's election, officials in Wisconsin have decided to scrap their chad-producing systems by the end of next year. The systems deliver votes at only 7 cents a ballot, however, and they remain popular in voting jurisdictions coast to coast. Nine are in California, including Los Angeles, San Diego and Alameda.

Optical scanners have their own special problems.

They require precisely printed ballots, and they cannot count ballots when voters mark them with Xs, circles or check marks instead of filling in ovals, boxes or arrows. When the

scanners fail to count those ballots, election workers in some states may create duplicate ballots or enhance the originals with a small graphite stamp to clarify voter intentions. They are meant to work in pairs with members from competing political parties.

Election officials say this system works, but Shawn Newman, an attorney who represents Citizens for Leaders with Ethics and Accountability Now (CLEAN), based in Tacoma, Wash., considers the practice a sham. "Your ballot can be re-marked, remade totally," he says, "without your knowledge or permission. . . ."

More than 8% of counties nationwide have upgraded to fully computerized touch-screen systems, similar to automated teller machines at banks.

Apart from their expense—an estimated \$100 million to outfit Los Angeles County, for instance—some election officials do not trust them. Some of these systems provide no paper records for recounts or disputed elections.

Even those that do, some experts say, might be programmed to lie.

Other security concerns are raised by Internet voting. Despite what Arizona Democrats regard as a successful experiment in their primary this year, William Kimberling, the Federal Election Commission deputy director, calls it "a breeding ground for fraud."

What is never trouble-free is the combination of computers and humans.

Four years ago in Yolo County, Calif., a system reversed results between the first- and last-place candidates in a City Council race.

Someone had positioned two of the six candidates out of order when the computer was programmed.

"The actual winner knew something was wrong," says County Clerk-Recorder Tony Bernhard, "when he got one vote in the precinct where his mother and father lived."

#### TROUBLE WITH ROLLS

Just as troubling is voter registration.

Alaska has 38,209 more names on its rolls than it has voting age population. Virginia Breeze, spokeswoman for the state Division of Elections, says the rolls are hard to purge because people come and go. "Alaska has always been boom or bust."

One of every five names on the Indiana rolls is bogus, according to Aristotle International, a Washington, DC-based firm that helps clean up registration rolls. Indiana officials dispute the number, but most agree it is somewhere between 10% and 20%.

Aristotle representatives say six other states have rolls with bogus names of 20% or higher: Arizona, Idaho, Texas, Oklahoma, Utah and Wisconsin. Officials in those states too believe the figure is inflated, but none denies that his or her state has serious problems.

In many cases, much of the blame rests with the so-called motor-voter law. Passed by Congress, its provisions were adopted by Indiana on Jan. 1, 1995. Under the law, Indiana makes it possible for voters to register by mail or by filling out a form at any of 3,000 state offices, including every branch of the Bureau of Motor Vehicles.

During the five years since the beginning of Indiana's motor-voter program, the number of new registrations has increased by 1 million. Tens of thousands, however, are the names of people who have registered more than once. Others are people who no longer live in Indiana. Still others are in prison—or dead.

To compound these troubles, Indiana makes it very difficult to remove voters from the rolls. One person might register six variations of his name. On the rolls, he

would become six different people. Unless he got caught, he could vote six times.

#### VOTES FOR SALE

Voting repeatedly is one kind of election fraud. Another, says Jack Compton, police chief in Alice, Texas, is hiring a "vote whore" to help you win.

While they prefer to be called political consultants or canvassers, vote whores are paid by campaigns to do favors for people in return for their absentee votes. "The last I heard," Compton says, "it was \$20 a vote."

Alice is where operatives stuffed Ballot Box 13 with 200 votes to save Lyndon B. Johnson's political career. The extra ballots were cast in alphabetical order and marked in the same handwriting and with the same dark ink. Johnson had planned to abandon politics if he lost his second campaign for the U.S. Senate in 1948, but Box 13 gave him enough votes to win. He went on to become vice president and finally president.

Since the bad old days, much of Texas has gone straight, says Buck Wood, an Austin attorney who specializes in electoral law. But South Texas is distinctive, he says, because its vote whores are so integral to its political system. "They're generally elderly. They're retired. You can make \$6,000 or \$7,000 a year. Of course, they don't pay income tax on it. That's a lot of money. It's kind of like a little part-time job."

Rick Sisson, an Alice businessman, pushed for a recent investigation. "They are paid to go out and solicit people for their mail-in ballots. Sometimes they actually pay people for these ballots. . . . The political prostitute comes to me and says, 'I will pay you \$3, \$5. You put your signature, I vote it the way I want. Here's your money.'"

Sometimes they steal votes outright. "My brother and a co-worker and a lady were stealing ballots from mailboxes to vote for a candidate in 1986," says an Alice resident, who declines to be identified. "My brother wasn't being paid; he just wanted the candidate to win. So they would take the ballots and give them to him. They'd put them in the microwave. The heat would open the envelope. They'd make the vote for whoever they wanted. . . ."

"My brother knew when the mailman was coming by. They stole hundreds of ballots. My brother told me about it. He said he was scared."

One woman in the trade describes the people she solicits as "customers."

The woman, who requested anonymity but agreed to be called Anita, says she actually cares about her customers and does many small kindnesses for them throughout the year. In return, they permit her to request mail-in ballots for them and let her tell them how to vote. Many, she says, also give her "gifts" of votes for the candidates of her choice.

Anita says each of her candidates pays her \$150 a week during the election season. "By the time the politics is over, you'll have \$1,500. I have 167 people on my list."

"There's a girl in my neighborhood that I bring beer to. I see her three times a year. She says, 'Oh, it's you! It must be election time.' I go to get her mail-in ballot request, and she says, 'Do you have any money?' When I say yes, she says, 'Go get me a quart of beer.' So I do, and then I'll request her ballot. . . ."

"You keep up with obituaries. If somebody dies, you get a new person."

Students are more straightforward. At Marquette University in Milwaukee, where the campus newspaper polled 1,000 of them, 174 said they voted two, three or four times.

One told *The Times* he voted twice for Bush—once at a polling place on the Marquette campus and then by absentee ballot



in Florida, where he would have been among those who gave Bush his whisper-thin margin.

"It's easy to vote more than once," the student said. "No one seems to care."

But most accounts, however, the preferred way to cheat is with mail-in ballots. And that makes Oregon a target, as well.

This was the first presidential election in which all Oregon votes were cast by mail. The ease of send-in voting gave the state an 80% turnout—among the highest in the nation.

Part of the concern is about possible intimidation from family or friends when voters mark their ballots at home—or at "ballot parties," where group leaders might pressure others to vote as instructed. But a bigger worry is about forged signatures.

It is a felony to sign someone else's ballot. Workers try to match signatures on ballot envelopes with those on the voter rolls.

"I don't have much faith in that process," says Melody Rose, an assistant professor of political science at Portland State University. "I can forge my husband's signature perfectly."

In a pilot study, Rose gathered preliminary survey data this year on voters in Washington County, outside Portland. About 5% of 818 respondents said other people marked their ballots, and 2.4% said other people signed their ballot envelopes. Rose suspects the real number is higher, because people are reluctant to admit being party to a crime.

If the trend holds, it could mean that more than 36,000 or Oregon's 1.5 million voters submitted illegal ballots.

Bill Bradley, the Oregon secretary of state, says it is troubling if some people are signing other people's ballots. But Bradbury maintains that he still has confidence in voting by mail.

An Oregon practice that many consider foolhardy is allowing anyone, including campaign workers, to collect ballots. Political operatives go door-to-door to gather them. In the crush of election day, people walked away with ballots collected from cars pulling to the curb outside the county clerk's office in Portland.

Vicki Ervin, the Multnomah County director of election, says she has no idea where they were going, but she has no evidence of foul play.

#### TURNED AWAY AT POLLS

While some people vote more than once, others are barred from voting at all.

Thousands on the mostly African American east side of Cleveland went to vote this year, only to be turned away.

Because of a 1996 state law cutting Cleveland precincts by a quarter, their polling places had been changed. The Cuyahoga County Board of Elections says it sent postcards to registered voters telling them of the switch.

But of 85 blacks who were asked about the postcards during the 2½ days of interviews in east Cleveland, only one said he received notification.

"I never got a card, never," says Francis Lundrum, an east side native. He says he belatedly at an election worker: "I am a veteran of the United States armed forces! I want to vote!"

It did no good.

Lundrum and the others who were turned away should have been given provisional ballots, to be certified later. Among those who did not get one was Chuck Conway Jr. "I think there was some stinky stuff going on."

Sometimes the post office robs people of their votes. In a few counties in Oregon, long and heavy ballots were returned this year for postage due. But the most egregious postal failure came in Washington state.

Steven and Barbara Forrest and their 29-year-old son mailed in ballots from Bellevue on election day. Several days later, two of the ballots were found on the island of Fyn, 100 miles from Copenhagen, in Denmark.

Brian and Helle Kain of Odense, Denmark, discovered them in a large envelope containing navigational charts they had ordered from a company on Shaw Island, 50 miles north of Seattle. They called the U.S. Embassy in Copenhagen, which told them not to worry because it was too late to count the ballots anyway.

A Danish reporter telephoned Forrest, and he called Julie Anne Kempf, the King County election superintendent. Kempf was miffed. She phoned the embassy. Her country, she said, was far from certifying its election.

At last notice, the two ballots were on their way home. But the Forrests have no idea what happened to their son's vote. "We hope it got counted," Forrest says. "We feel very strongly about voting."

"We told the department of elections that we are upset about it. But I guess if you're going to assess blame, it almost certainly had to go to the Postal Service."

#### VOLUNTARY STANDARDS

Some of this voting chaos is because there is actually no such thing in this country as a national election. Americans vote in a hodgepodge of 3,141 counties with 10,000 local jurisdictions.

Yet, election officials have never come up with uniform, binding rules for voting.

Federal standards, now in the process of being updated, are voluntary. Each state, for instance, decides which voting machine systems can be sold within its borders. Then, like patients in a health insurance network, counties and cities make their purchases from the state list.

Gary L. Greenhalgh says he favored "mandatory standards with teeth" when he directed the Federal Election Commission's national clearing house on election administration from 1975 to 1985, while election rules were under discussion.

But Congress did not want to impose new cost requirements on the states, he says, and the standards became voluntary.

The Federal Election Commission had no money to enforce standards, and vendors were wary of picking up the cost. So an association of state election directors hired a consultant to find laboratories to test voting systems. The group agreed to mediate among vendors, labs and authorities.

It became an example of interdependence between public election officials and private companies that critics say can grow too intimate. In this instance, there was no illegality, not even over-reliance upon the vendors to do official duties—but there was unchallenged secrecy.

The first vendor to sign up for testing complained about Election Technology Laboratories, says R. Doug Lewis, executive director of the Houston-based Election Center, which helps administer the program. Among the vendor's concerns was the lab's desire to examine its actual lines of computer programming code.

Administrators sided with the vendor, saying they had not intended such a deep level of examination.

"What's going on inside the machine is of no concern," said consultant Robert Naegele, who wrote the standards. "My major concerns were accuracy, reliability and maintainability."

"That's not rigorous testing," counters Arnold B. Urken, a co-founder of the Election Technology lab. Mischief or mistakes could go undetected.

"I'm not saying vendors are evil, but unless you test the code, you don't know,"

Urken says. Cars and airplanes are regulated at that deep level, he adds. "Why should we demand anything less when we're electing the president of the United States?"

#### PROPOSALS FOR IMPROVING NATIONAL ELECTION SYSTEM

There is no unanimity on how to fix the myriad problems with the election system nationally that have been spotlighted by the razor-thin presidential vote in Florida. But among the many proposals circulating, the following have been culled from interviews with scores of county, state and federal elections officials, voting equipment vendors and other experts:

- \* Adopt minimum mandatory national standards for voting equipment used in elections for federal offices and provide funds to help counties meet them. This could include hardware, software and ballots that would be phased in.

Current standards are voluntary. Congress has been reluctant to intervene in election procedures, which the U.S. Constitution delegates to states.

- \* Require periodic recertification of all voting equipment.

Some current equipment, which has never been certified, is decades old and the manufacturers are no longer in business.

- \* Encourage states and counties to upgrade training for county election officials and poll workers. This could be done through federal mandates, federal grants or both.

- \* Urge all states to set uniform standards for how to determine a voter's intent if it is not clear.

Many states already do this, but there is no national consistency, as evidenced by various counties imposing different standards in the Florida recount.

- \* Adopt uniform standards and provide funding to help prevent voting in more than one state by purging county rolls of voters who have moved or died.

Currently, in many counties, when new residents register to vote, the information is sent back to the county where they previously resided. But the practice is uneven.

- \* Establish an ethics code for county elections officials to prevent revolving-door and conflict-of-interest problems. Set standards as well for gifts from vendors.

Mr. BOND. In addition to the story about the people coming in with ballots from who knows where, an even more interesting series of facts was unearthed in a study by Portland State University professor Melody Rose who did work assessing the potential for fraud and coercion in Oregon's mail-in voting. Her preliminary data is quite revealing. This is a sample, not exact, but she said 5 percent of voters in Oregon had someone else mark their ballot; 2.5 percent of voters had someone else sign their ballots; 4 percent of voters either signed or marked someone else's ballot.

In a State such as Oregon with about 1.6 million ballots cast in 2000, those percentages could equate to fairly high numbers. If the preliminary data were to hold up across the entire population, that might mean 80,000 voters had someone else mark their ballots, 40,000 voters had someone illegally sign, and 64,000 voters signed or marked someone else's ballot.

I am not comforted by the assertions that Oregon has everything under control and thus should be exempt from antifraud protections in this bill. We

are not going to get everybody who commits fraud. I certainly hope my colleague from Oregon was correct when he said prosecutions are underway. I feel like "Waiting for Godot" to see the successful prosecution of election fraud. Too often they find there are better things to do. Colleagues from other States have told me about people voting freely and admitted they voted multiple times and are never prosecuted.

I mentioned Cora Thigpen who voted twice. She was just getting up a head of steam. I am afraid she will not get prosecuted. We need more prosecutions. We cannot do that here. We can assess the penalties. We need strong poll workers watching each other, Republicans watching Democrats. We need strong prosecution. The minimal provisions to protect against drop houses and phony registration—which, yes, includes permitting dogs to register in Missouri and permitting lots of other people to vote illegally; there were 3,000 phony ballots for a mayor's race; 30,000 uninvestigated ballots before a general election in Missouri in November of 2000. We have to do something. We have to begin to get a handle on it and make it more difficult, if not impossible—I wish we could, and I will take any ideas anyone has to make it impossible to commit fraud.

This compromise language we worked on for 6 months was designed to take into account the need of all the special individuals who we want to make sure can vote. At the same time, we are providing money and resources for voting machines, for voter education. This bill comes at all of these problems in a coordinated way and says yes, we have to do a better job. We have to do a better job making sure that everybody who is entitled to vote gets to vote, and to make sure that those who cast the vote are not having their vote canceled or diluted by people setting up drop houses, registering phony names, whether they be non-existent people, dead people, or dogs.

The amendment of the Senator from New York undoes the compromise we have reached.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I will take a couple of minutes to respond to the comments the distinguished Senator from Missouri made about Oregon and offer up a proposal for how we might avoid the gridlock that looks as if it may be at hand.

With respect to vote by mail and how it is working in the State of Oregon, in the special election held in 1996 where the principal candidates were myself and our colleague, Senator SMITH, we had almost two-thirds of all eligible voters participate in that election. The level of participation was three times as high as that held in the previous special election for a Senate seat. We in effect broke all the records for participation in a Senate special election.

As I stated earlier, our colleague, Senator SMITH, to his credit, when

pressed on the subject, said that there was no evidence of voter fraud that he in any way believed affected the election. What we have in the State of Oregon is tremendous benefit in terms of voter participation. The level of participation is three times as high as that seen in the previous Senate special election that certified new Senators in this body with my colleague Senator SMITH—the person who might well have expressed concerns and did not state any whatever at the time, or since.

My sense is that the distinguished Senator from Missouri is basically now saying he is against mail-in voting as well. He has said he is following the constitutionality of various issues relating to mail-in voting, and I think this raises again that there is a lot being presented to the Senate other than deterring fraud. I am certainly interested in working with our colleagues, Senator MCCONNELL and Senator BOND, in particular, on this issue because I think we are in a very difficult position, given the last hour and a half of debate. The distinguished Senator from Kentucky has essentially announced if our side prevails, if the amendment prevails and the photo ID is struck, he will in effect have to take to the floor for a considerable length of time, and that will obstruct our ability to go forward.

I certainly do not want to respond in kind. I have passed on that effort up to this point. I was not party to the negotiations that took place in committee. I can tell the President and our colleagues I very much wanted to put a hold on this bill and would have come to the floor and publicly announced that hold in line with the procedural reforms that Senator GRASSLEY and I have advocated, stipulating that all holds ought to be public, but I didn't do it in deference to the distinguished chairman of the committee, Senator DODD, who made it clear he would work with me and others to try to resolve this issue.

So there has been a lot of good faith on this side of the aisle. I would offer up the idea, even at this late hour, that rather than having this sort of mutual assured destruction, where everybody takes down everybody else's work product—and there is so much that can be agreed upon—I think we ought to have another round of negotiations. As one Senator who did not get to participate in the first round, I am anxious to meet our colleagues halfway.

For example, if our colleagues are willing to talk about getting rid of the photo ID, which I and others believe is so onerous for seniors, minorities, and others, I think we ought to be looking at ways to figure out how to put the voter registration requirement into effect in 2002.

If we are going to be tough on fraud, let's be tough now rather than waiting to get so far down the road. I know it is difficult to do, but I think those kinds of ideas would provide an oppor-

tunity for at least some further discussion in an effort to try to work this out.

I know there have been months and months of negotiation in good faith in the committee. But this Senator, who has a State where vote by mail has worked, a State that has empowered so many through vote by mail, I didn't participate in any of those negotiations. On top of that, I probably, without thinking about Senators DODD and MCCONNELL, I probably would have put a hold on this bill until this issue had been resolved because of my concern for the State.

I am anxious to meet my colleagues halfway in an effort to resolve this issue. But I think at the end of the day we have to figure out ways to make it easier to vote, easier to participate in the political process, as we deter fraud. The fact is, this is going to make it tougher to vote.

The hour is very late. I cannot believe the distinguished chairman of the committee, Senator DODD, and the distinguished ranking minority member, Senator MCCONNELL, are all that wild about staying here until the wee hours trying to figure out another way to deter fraud without having this photo ID requirement. But I want to make that offer.

This is so important. There is so much good work that has been done on this issue. Let us try to find common ground on the issue of deterring fraud—that is something both Democrats and Republicans feel strongly about—rather than taking this bill down, which is where we appear to be headed tonight.

I would like to participate in the negotiations. I have made it clear I wish I had the opportunity as a member of the committee to do so. This basically is my first opportunity to have a chance to formally participate in the discussion. I would like to look at ways to deter fraud aggressively. If we are serious about it, we should not be waiting until 2004, we should be trying to do it now. We should be trying to do it for this upcoming election.

I think it is just one of several ideas that we might possibly, even at this late hour, figure out a way to come together on and make sure we are united in terms of fighting fraud, not going forward with something which is going to disenfranchise so many voters, which I believe is the end result of photo ID.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment in order to offer an amendment.

Mr. DODD. Will my colleague wait for a minute or so? Then I will be glad to turn to him.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President, my colleague from New Hampshire has been

here quite some time, seated. I want to give him a chance to engage in this.

First of all, let me thank our colleague from Missouri and colleagues from New York and Oregon. They have been engaged in meaningful debate. I regret there are not more Members here—it has been a long day—not here to listen to this, what I think has been a very valuable discussion. Hopefully, through the vehicles of C-SPAN and other such methods, people in the country have had a good opportunity to hear what I think has been a very worthwhile discussion about a very important issue.

I thank all of them for their very generous comments about the miles we have traveled to get us to this point, which is only a few yards away from what could be final passage of a historic piece of legislation. Significant resources are being committed by the Federal Government to our States and localities to improve what I think the Senator from Missouri properly described as a shoddy system, and I think maybe he was being polite about not one State but the entire country, one which is desperately in need of repair, so that our great Nation should be a model to other societies on how a great democratic society chooses its leaders.

Certainly anyone who has looked at this has concluded that this is a system in need of repair. The Senator from Kentucky and I have worked very hard to bring us to this point. We have adopted over 30 different amendments, in addition to what we tried to do ourselves. We thought we were thinking about a lot of things that people might anticipate. This is a subject matter where every Member of this Chamber is an expert. We are talking about elections, and everyone had to go through one to get here. So this is not a subject matter about which any Senator believes he or she does not bring something to the table when it comes to a discussion about how people vote and how those votes are counted.

What I would like to suggest—we are planning, obviously tomorrow, now, at sometime around 10 a.m., to have a vote. I am hopeful that everyone will try, even at this late hour, the Senator from Oregon has raised the prospect, to see if there might not be, despite our efforts over the weeks to find a resolution—maybe there is a possibility of finding some common ground that might avoid what I think might be a very close vote on this subject matter.

I don't know the votes. I haven't been participating in any vote counts. I haven't called Members. I haven't asked Members how they would vote on this. The leader has done that. I have stayed out of it. But I hope we might find some way to resolve this issue without having it come to a vote.

Maybe we can't. Every now and then you can try your best to bring people together and ultimately they decide they just want to cast a ballot. That being the case, and I don't know the outcome, all I want to say is that this

is how the process works. You have to accept to some degree, I suppose, allowing the process to function. I just hope in the passions, the emotions that people feel on this, we would not place ourselves in a situation where we take out literally dozens of amendments and dozens of ideas in the hopes of crafting something worthwhile. So I am hopeful we may work something out.

That is all the comment I want to make this evening, except to thank the two Senators who have spoken so eloquently on the subject matter. Senator SCHUMER was involved for a long time and introduced one of the first bills, with our colleague from Kentucky, on this subject matter over a year ago. Senator WYDEN cares about it clearly, and his State uniquely, along with the State of Washington, is acting as sort of pioneers in the area of 21st century voting with mail-in voters that has successfully worked in his State. He has very rightly sought, along with his colleague, Senator SMITH and others, to see to it that we would not in any way jeopardize his State or the State of Washington from continuing to pursue some novel, unique, and very worthwhile ideas on how people can cast their ballots. I thank him and his colleagues for those efforts to bring us to this particular point.

Of course, I thank again my good friend from Kentucky. He has a lot on his mind. He is in the middle of the campaign finance reform debate and there has been no more diligent and articulate spokesman for an alternative point of view in that debate. I admire his courage. He has taken a real beating around the ears from people all across the country. While I disagree with him, I admire immensely his guts; that he doesn't back down on something in which he believes.

He has been a great ally in this effort. It has not been easy trying to juggle a lot of different balls in the air. The one on campaign finance reform is one in which he has been deeply involved, and has borne, I think, the brunt of unfair criticism about what he cares about. I didn't want the evening to end without expressing my emotional appeal to my colleague from Kentucky that my respect for him is unlimited in terms of his commitment to the things and principles in which he believes. I just hope we might find some way to resolve this matter.

Senator BOND was one of the first people I talked to about this bill, in addition to my colleague from Kentucky, and about his determination to try to reduce and eliminate, to the extent possible, fraud in the country. My colleagues from New York and Oregon have identified their remarks with his ambition to seek a system that would be devoid of fraudulent behavior. We deplore it wherever it occurs. But my hope is that with the balance struck between where Senator BOND wants to be and where others raise legitimate points, there is still room to find common ground. That is my fervent hope—

to the staff, and to others who are involved in this—before we cast votes or find ourselves in a position where the middle ground becomes impossible to find or is lost.

With that simple plea, let me yield the floor to others who want to make any closing comments. My colleague from New Hampshire has an amendment he is going to raise. I will certainly be happy to sit here and listen to his proposal as he offers it, and then urge our staff, Senator BOND's staff, and the staff of Senators WYDEN and SCHUMER to maybe sit down and see if there isn't some common ground, along with the staff of Senator MCCONNELL. We are prepared to stay around as well to see if we can help in that regard.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from Connecticut for his kind remarks, not only on this issue but the other issue that has kept us largely preoccupied in the last few days. Hopefully, we will have a vote in the morning and will know where we stand on the future of this bill.

I commend all of those involved. The Senator from New Hampshire has been waiting patiently. Therefore, we look forward to what he has to say.

I yield the floor.

Mrs. MURRAY. Mr. President, I rise in support of the Schumer/Wyden amendment. The 2000 election clearly illustrated that there are significant flaws in our election system. In many places our systems of voting are antiquated and people are being disenfranchised.

The bill we have before us seeks to correct those problems.

It improves voting systems, provides a mean for provisional voting, cuts down on voter fraud, and provides grants to States so they can improve their methods of voting.

The bill is not perfect. During consideration of this bill, I had worked with my colleagues on both sides to make sure that the intent of this reform bill is realized.

We want fewer people turned away from the polls, and we want to bring our states' election systems into the 21st century.

In my home State of Washington, 69-percent of votes in last November's election were cast by mail. Every election that percentage increases, and those numbers are larger for new voters.

In the state of Oregon, by law every voter casts their ballot by mail. This method has made it much easier for those who lack adequate transportation, or are elderly, or disabled or are single mothers to vote. Previously disenfranchised voters now can exercise their most important civic duty because of vote by mail.

This legislation has several provisions that make the vote by mail process more difficult and in some cases could kill this method of voting. Two weeks ago, I worked with Senators

CANTWELL, DODD, MCCONNELL, WYDEN, and others to perfect a provision in the bill that would have placed an undo burden on jurisdictions utilizing vote by mail.

I thank those Senators who worked on that amendment.

There is a remaining obstacle to mail-in balloting in this bill that requires first-time voters to show some identification prior to voting.

Many voters don't have access to a polling place because they lack transportation, they are working too hard to provide for their families or are elderly or disabled.

The ability to vote by mail gives them the opportunity to participate in our democracy. These are the voters we cannot abandon as we address some of the obvious deficiencies in our nation's current electoral system.

The provision in the underlying bill places new and cumbersome hurdles on these types of voters and could potentially displace many new voters who want to get involved in the election process but could not without vote by mail.

I agree with many Senators that we must cut down on voter fraud and this bill does that.

In Washington, we run clean elections. We have had some very close races, and the integrity of the system has only been enhanced by the way the State has conducted those elections and the professionalism of the individuals involved.

I strongly support the Schumer/Wyden amendment.

Simply, this amendment would allow States like Washington and Oregon, who have significant numbers of mail-in voters, to create a signature verification system where signatures are matched against their registration.

This is a common sense approach that will insure that those that vote by mail don't have to go through overly burdensome hurdles in exercising their civic duty.

If we are unable to adopt this amendment, systems like those in Oregon and Washington could become unworkable and many new voters would find themselves without a say in the election of their public officials.

That would be an unacceptable result to this Senator.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleagues for their courtesy.

I ask unanimous consent that the pending amendment be set aside for the purpose of offering another amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2933

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2933.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, between lines 17 and 18, insert the following:

**SEC. \_\_\_\_ PROHIBITION ON BROADCAST OF CERTAIN FALSE AND UNTIMELY INFORMATION ON FEDERAL ELECTIONS.**

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following new section:

**"SEC. 315A. PROHIBITION ON BROADCAST OF CERTAIN FALSE AND UNTIMELY INFORMATION ON FEDERAL ELECTIONS.**

**"(a) FALSE INFORMATION ON LOCATION AND OPERATING HOURS OF POLLING PLACES.**—A licensee who, on the day of a Federal election, knowingly broadcasts using a facility covered by the license any false information concerning the location or time of operation of a polling place designated by the appropriate State authorities for use by electors in such election shall be fined not more than \$10,000,000, imprisoned not more than five years, or both.

**"(b) UNTIMELY RESULTS OF EXIT POLLS.**—A licensee who, on the day of a Federal election, knowingly broadcasts using a facility covered by the license the results of an exit poll or election projection taken within a jurisdiction covered by the license as an actual election result before all polling places in the jurisdiction designated by appropriate State authorities for use by electors in such election have closed shall be fined not more than \$10,000,000, imprisoned not more than five years, or both."

Mr. SMITH of New Hampshire. Mr. President, I know the hour is late. I don't want to inconvenience my colleagues for too long. My purpose in rising now is to get an amendment in for tomorrow. I will try to keep that in mind and be as brief as possible.

I was listening to my colleague, Senator WYDEN, talking about getting voters to the polls and encouraging them to go to the polls. One of the ways to encourage them to go to the polls is to not have the broadcast media tell the voters the polls are closed before they are. That is really what my amendment is about.

I am hopeful that the Senate will agree with me and realize it is improper to do that for obvious reasons, and join me in perhaps agreeing to this amendment overwhelmingly.

I call it the broadcast fraud amendment. It simply prohibits the broadcasting of certain false information on election day. Unfortunately, this amendment is necessary to strengthen Federal prohibitions on the broadcast of false election information—information, by the way, that the broadcasters know full well is false before they broadcast it. It could change the outcome of a Federal election.

There are two provisions in this amendment.

First, the amendment prohibits a broadcaster from knowingly broadcasting false information concerning the location or time of operation of a polling place. In other words, if the broadcaster went on the air at 6 p.m. saying all the polls are closed when he knew they were actually open until 7 p.m., that act would be a clear violation of this amendment.

Second, this amendment prohibits a broadcaster from knowingly broadcasting the results of an exit poll or election projection as an actual election result before all polling places in the jurisdiction have closed. That would also be a violation of this amendment. For example, a broadcaster goes on the air saying at 6 p.m. the race is over and the winner is candidate A when the polls are actually open until 7 p.m. It is one thing if the broadcaster says based on exit polling, but that is not what we are talking about.

So the act of calling the election at 6 p.m. would be a violation of this amendment because that act by a broadcaster would lead thousands of voters to not vote because they would believe their vote would not count. If they were being told on the television that the polls were closed over and over again, why would they vote unless they were to challenge the broadcaster and begin to ask questions? Supposedly, the press is supposed to be telling you the truth when they talk to you.

Let me be clear, because there will be critics, this amendment does not prohibit a broadcaster at any time from saying we have exit poll numbers that show this trend or that trend, and, if the trend continues, candidate A is supposed to win the race. That is not the issue.

This amendment only prevents the broadcasting of exit polls that project the actual election results. That is the issue. If they project these results as actual, that is what it precludes; in other words, saying candidate A has won the State when in fact it is only the exit polls that say that, not the actual poll.

Furthermore, it only prohibits the broadcasting of this sort of information after the polls are closed. If you want to go on the air and broadcast false information to the voters, this amendment allows you to do it, but wait until the polls are closed.

Let us say you have exit polls which say candidate A is a winner based on the exit polls. But the polls close at 7, and you have this information at 6. Wait until 7 when all the polls are closed, and then you can say anything you want. You can say the exit polls say this guy won regardless, and actually won. Then say anything you want. That is all we are saying. It is very important to understand that because that is a very serious distinction.

Another serious problem with the premature broadcast of exit polling is that on occasion the exit poll is incorrect. Our 43rd President, Al Gore, and

Senator Dick Swett of New Hampshire discovered that they were victims of false exit polls, because there was no Senator Swett. He was told he was the winner when in fact he wasn't. And there was no President Al Gore even though he was told he was President. He wasn't.

If the media wants to make a total fool of themselves and say Gore was elected and Swett was elected to the Senate, they can go out there and say it. That is fine, but wait until the polls are closed. Then you can say it.

That is all we ask. I don't think that is unreasonable.

Most people do not know too much about my race, although it happened. In Florida, everybody knows about it.

I bring it up because it really goes to the heart of the amendment. To understand the ramifications of voters receiving false information about the closing time of the polling place, we need to look no further than the recent Presidential election in Florida. The Florida polling places closed at 7 p.m. Eastern Standard Time. That meant that in the Florida panhandle, which is in the Central Zone, polling places actually closed at 8 p.m. Eastern Standard Time. The voters in the panhandle had their votes suppressed in that election because the media broadcasted explicit information that the Florida polls had closed.

I know some I will say they really didn't say that. I will give you the actual quotes from most of the major networks and anchors in a few moments. This action happened 1 hour before the polls closed in the Florida Panhandle, and it was repeated constantly time after time and network after network throughout that final hour. No matter what channel you watched, you were going to hear that the polls in Florida were closed. If you were going to vote or wanted to vote, you were told by Peter Jennings or Tom Brokaw that the polls were closed. You would believe them. That is what they were saying. I will give you the quotes in a moment.

The suppression of votes could have a dramatic effect on the election. I am not getting into intent. I don't know the intent, but I can show that they knew. The events that transpired in Florida have been studied to understand how the suppression of a few votes almost changed history.

According to the Committee for Honest Politics, there were two interest studies of the Florida Panhandle situation in the last Presidential election. At 7 p.m. Eastern Standard Time, or 6 p.m. Central Time, the major networks stated that the polls in Florida were closed one hour before the polls in the Florida Panhandle actually closed. They said the State of Florida polls were closed when in fact only on the eastern side of the State was that true, and in the panhandle it was not true.

The major networks went a step further. They called the Florida election for Al Gore as President at 7:50 p.m.

Eastern Standard Time, ten minutes before the panhandle polls closed, and 50 minutes after the major networks announced that the Florida polls had closed.

John McLaughlin & Associates compiled a survey that estimated the early call of the election discouraged more than four percent of Republicans more than Democrats to go to the polls. But that is a political issue, take it or leave it, like it or dislike it. The real issue here is that people were discouraged from voting no matter of what party.

Another study by John R. Lott, Jr. of the Yale Law School estimated the dropoff at about 3 p.m., or a range of 7,500 to 10,000 Republican voters.

Why do I say that? Because the Florida panhandle is traditionally Republican.

Obviously, when you are talking about a few hundred votes—indeed a few dozen votes at times deciding an election—several thousand is a huge, huge issue.

Here are excerpts from affidavits about what happened in the Florida Panhandle in 2000. There were some 40 affidavits from poll workers, poll clerks, poll inspectors, and bailiffs. This is what they had to say. I will repeat a few of these.

A poll worker in Bay County, Precinct No. 23:

I have been a poll worker since the 1970's. Voting was steady all day until 6:00 p.m. Between 6:00 and 7:00 p.m.—

This is panhandle time—

it was very different from past elections. It was very empty. The poll workers thought it was odd. It was like "the lights went out." We joked with the deputy on duty because there was no one in line for the deputy to be placed behind when the polls closed.

The clerk for elections, Okaloosa County, Precinct No. 37:

We had over 1,300 people turn out with an average of about 100 voters per hour until the last hour.

This is when the media was on the air saying the polls were closed—every media.

When the doors were open, there were quite a number of people waiting in line to vote. There was a heavy flow throughout the day. . . . Soon after 6:00, I noticed that the volume dropped to almost zero.

So those are two poll workers saying that the numbers dropped to almost zero after the broadcasters began talking about this on national television.

He said further:

In past elections, there was usually a rush of people coming from work, trying to get to vote [in that last hour] before the polls closed.

I think we have all experienced that. Clerk of elections, Okaloosa County, Precinct No. 34:

As the Clerk, my duties included working the books, instructing people to vote, and handling the ballots, and making sure that things go smoothly and courteously. When the doors were open, there were about 50-60 people waiting in line to vote. During the rest of day, there was a constant flow of voters. We were expecting a rush after Hurlburt

Field let out about 4:30. I began to get my workers to take their dinner breaks before 6:00 anticipating people coming before the polls closed. Between 6:15-6:20, I looked around and asked, "Where is everybody?" My poll workers were just as perplexed as I was. I don't think we had more than five people from 6:15 until we closed at 7:00. We had averaged 80 voters per hour until the last hour.

Deputy for elections, Santa Rosa County, Precinct No. 34:

On Tuesday, November 7, 2000, I was on duty and worked at the precinct from 6:00 AM until 8:00 PM. We have the second largest precinct in the county with 4,678 voters. I kept track of the number of voters per hour. There were many voters waiting to vote in the first hour and then there was a steady flow all day. By the last hour, there was a dramatic decline in voters. It is the deputy's job to stand behind the last voter in line at 7:00 PM. Eight years ago in the presidential election, there were so many people in line that the last voter did not vote until nearly 10:30 PM. When I went outside at the end of the day to tell people to hurry along, there was no one in the parking lot.

Poll inspector, Escambia County, Precinct No. 8:

I have worked elections for the past three years to include local and Congressional. On Tuesday, November 7, 2000, I was on duty and worked at the precinct from 7:00 AM until 7:00 PM for the general election. We had the usual rush in the early morning, at noon and right after work. There was a significant drop in voters after 6:00. The last 40 minutes was almost empty. The poll workers were wondering if there had been a national disaster they didn't know about. It was my observation that this decline in voters between 6:00 and 7:00 was very different when compared to previous elections. The last 30 minutes was particularly empty. There is usually a line after the poll closes. In this election there was no one.

I think what the review showed clearly is that all five networks announced to the public, at the top of the hour, that the Florida polls had closed; that is, at 6 p.m. Central Time the polls throughout Florida had closed when, in fact, there was still a full and crucial hour of voting left. That is not right.

Stated another way, when 361 polling places were open and expecting a normal end-of-the-day voter turnout, the west Florida public was told, falsely, that no voting places remained open.

Let me say that again. In the last hour of the election in the Florida Panhandle, 361 precincts were ready to go in that last hour, expecting a rush of people coming home from work, and the public was told, on all of the major networks, that the polls were closed.

I am not exaggerating. I am going to show you that in a second. With the exception of Fox, all the other networks repeated the Florida poll-closing information throughout the 7 p.m. eastern time broadcast over and over again. They reported that the Florida polls had closed, and so implied by calling the Senate race or discussing exist polling data from Florida in a way that implied or assumed the polls were closed.

We cannot tell what was in the hearts and the minds of the network

executives and producers who made the decision to air incorrect information. That is not for me to say. All I can tell you is that the facts are they aired incorrect information. I think, although they will say they did not know because they were never informed, that is not true. I would like to call your attention to this news release. The one thing the press does is they do take a look at their news releases.

The election was November the 7th in 2000. This news release is dated October 30, 2000. It was put out by the Florida secretary of state, Katherine Harris. As I say, it was a news release.

Secretary of State Requests Patience in Predicting Winners of Races.

This is 8 days prior to the election. The news release says:

Tallahassee, FL—Secretary of State Katherine Harris today requested the media to delay predictions of the outcome of elections until after 8 p.m. Eastern Standard Time. Florida has six counties in the Central Time zone and the Secretary wants all Floridians' votes to be cast prior to predictions on the winners of races.

With several races too close to call, full voter involvement is imperative for Floridians to participate in the electoral process. "The last thing we need is to have our citizens in the Central Time zone think their vote doesn't count—because it certainly does!"

Waiting until 8 p.m. Eastern Standard Time allows all Floridians the opportunity to decide the outcome of races within Florida.

It is very interesting that is from Katherine Harris because Katherine Harris became a very famous person after November 7. But this was 8 days prior to November 7. A lot of people had a lot of things to say about Katherine Harris, but she is not Nostradamus. She had no idea how this election was going to be counted and recounted and overcounted or undercounted, and dealing with the chads and all that. She did not know anything about that on October 30. She was trying to point out to the media: Be careful. Central Time is part of Florida and East Coast Time is part of Florida. Please be careful and be accurate.

That went to every media outlet—every one—and they ignored it. The networks either ignored it or they did not read it. Now, come on, with all the people in every one of these news outlets, are we going to say they did not read it, no one read it? And I can prove to you, in a moment, that they did.

Mr. President, I ask unanimous consent that this news release be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF STATE REQUESTS PATIENCE IN  
PREDICTING WINNERS OF RACES

Tallahassee, FL.—Secretary of State Katherine Harris today requested the media to delay predictions of the outcome of elections until after 8 p.m. Eastern Standard Time. Florida has six counties in the Central Time Zone and the Secretary wants all Floridians' votes to be cast prior to predictions on the winners of races.

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Waiting until 8 p.m. Eastern Standard Time allows all Floridians the opportunity to decide the outcome of races within Florida.

Mr. SMITH of New Hampshire. Mr. President, I urge my colleagues to please—I know you get a million pieces of mail, and I know you have a lot of things to do—view a 7-minute video that I sent to each and every one of your offices. You all have it. Maybe your staff is hiding it from you or maybe they looked at it. I don't know. Maybe they didn't, but it is there. If they lost it, ask me. I will give you another one. It is excerpts of each and every one of these networks saying the same thing, over and over and over again, ad nauseam, between 7 and 8 o'clock: The polls are closed. Dan Rather: The polls are closed. Tom Brokaw: The polls are closed in Florida. Peter Jennings.

If it was not so serious in terms of the consequences, it would be funny; it would be hysterical. When you watch it, you will laugh. But nobody was laughing then. It was serious. Think about the pain we went through in this Nation that night, and for weeks to come, and all the way to the U.S. Supreme Court.

I believe, honestly, that all of it would have been avoided had it not been for what the networks did that evening. I think the turnout would have been more and the election would have been decided, I think overwhelmingly in favor of President Bush; but maybe it would have been the other way. The point is, it would have been decided. I do not think we would have had all the problems.

Let me read this just briefly, and then I will stop. Although I hope you all watch the tape, I have a feeling some of you will not watch the tape. So here are a few excerpts from some of the biggest names—the biggest names—in the media. Listen carefully. I am not exaggerating one word. These are quotes right off the air. And they are on the tape if you watch it.

This is now between 6 and 7 p.m. Central Time, between 7 and 8 p.m. Eastern Time; 6 and 7 p.m. panhandle time, with an hour yet to go at the polls. At 7:01 they started.

Al Hunt, CNN:

We now go to our election headquarters in Atlanta where it is 7:00 p.m. in the East. Polls have just closed in Florida, New Hampshire, and Virginia.

No doubt about that: "Polls have just closed in Florida, New Hampshire, and Virginia." There is no qualifier. It did not say it was open in the Florida Panhandle.

Brit Hume, Fox News:

All right folks, we're coming up—right now it's 7:00 and we are in position to project a number of races. Looking at the State of

Florida, where the polls have just closed, that race remains too close to call.

Then he goes on to talk about the Senate race of which our colleague, BILL NELSON, won.

Dan Rather, CBS News:

The polls just closed in six states, with 66 electoral votes including Florida's big 25, but no call yet in what both campaigns say may be the key to this election—Florida.

Peter Jennings, ABC News:

And now the polls have closed in six more states, so first, in Florida, in the Presidential race in Florida, we simply believe it is too close to call.

Tom Brokaw, NBC:

The polls have just now closed in six additional states representing 66 electoral votes. Let's take you through them now. Look at this, states that are too close to call—even though the polls have closed now. Here we are in Georgia, with 13 electoral votes; New Hampshire, with 4; and a big prize, the brass ring for this evening—to start everything off, the State of Florida [where the polls have just closed].

Bernard Shaw, CNN:

At 7:00 the polls have closed in certain states, and CNN is looking at what is going on in Florida.

I am repeating these because they are saying it over and over again. They are not saying it just once.

Dan Rather, CBS, again:

Also just closed their polls, but the races are too close to call. Look at this—Florida—25. The States in white—these are all the States where the polls have closed, but where it is too early to make a call. Florida the biggun'.

Bernard Shaw, CNN:

For your viewers, watching our coverage, this is the electoral map, every time we call the states, we will tell you what the totals are. What's going on at this hour across this country is a massive ground, war, he talked about Florida, he took it up the east coast, talked about the Republican strength in the panhandle.

Peter Jennings, ABC:

But the white states, as they appear on the map at the moment, are too close to call.

Cokie Roberts:

The Democrats are hoping to take advantage of some of the new people who have moved into Florida, and to pick up maybe one, maybe two, maybe three Republican held seats in Florida. We don't know the results there, even though the polls are closed.

Peter Jennings again:

It's also not true that turnout has been going down steadily over the last few years and that some of the places in Florida in the exit polls we looked at, so far, we don't see necessarily a vigorous turnout by young people. For example, but we do see many young people in that exit poll going for Mr. Gore.

Dan Rather:

Hold the phone all these states in gray here, all these states, are places where the polls are still open, and that includes Pennsylvania, with 23 electoral votes.

Where the polls have closed, but no decision is in yet —Florida with 25 electoral college votes.

Peter Jennings:

270 electoral votes needed to win, I'm going to say it time and again, and there is our national map. The white are states in which we currently believe it is too close to call.



Sam Donaldson, ABC:

The Democrats have just picked up another important seat in Florida. It is an open seat. Connie Mack, the Republican, was retiring. ABC News projects that Bill Nelson, the insurance commissioner, has won that race.

Bernie Shaw:

Where ever you see yellow—that's an ooh-ooh, we can't tell you anything about that state.

On and on.

Cokie Roberts:

It was called the Senate race for the Democratic candidate there. So these are very important seats for the Democrats. The polls are closed, we don't have any results yet.

Judy Woodruff:

We've had polls close in let's see—one, two, three, four, five, six, seven, eight states—eight states so far. We have been able to call George Bush the winner in four of those states.

Dan Rather:

It's 7:30 here in the East, and this is the electoral vote right now—with 270 needed to win. Bush 41, Gore 3.

Jeff Greenfield:

As we look at the electoral map we are obviously putting none of these states in anybody's column.

Dan Rather:

It's early—don't be misled by the early Bush lead. Right now, the polls have just closed in three more states.

And on and on. This is about 7:45.

Dan Rather again:

Let me show the electoral map. In Florida, the polls have closed. No decision yet.

That is a sample of the networks' awareness of the importance of voter turnout which aired between 6 and 7 p.m. central time that night. I ask you, if you lived there and you were hearing that, you flip the channel, you go to another channel, flip the channel, you say: Man, I thought I got a notice somewhere that the polls were open, and they are telling you they are closed. People believe what they see and hear in the media. They were wrong. They were misled. This was out there. That is not the only thing that was out there. I will point that out in a second.

Listen to what else was out there. This is CNN now, the same networks calling the election. Here is what else they are saying:

The Vice-President and Senator LIEBERMAN we're told are still making calls.

This is between 6 and 7 p.m. central time. These people are reporting this. And rightfully so, Vice President Gore and Senator LIEBERMAN should be making calls. The election is not over. Guess where they are making them. Right into the Florida Panhandle.

The Vice-President and Senator LIEBERMAN we're told are still making calls, satellite interviews, radio interviews, their wives both making calls. Just spoke to a White House official who says the President of the United States has made 40 calls himself. Still making some at this hour, trying to turn out the Democratic vote.

So they are telling everybody on one hand the polls are closed, and they are

telling them on the other hand that the Vice President and the President are making calls to get out the vote.

One final piece of evidence: There was further evidence that the national news media—I will be kind and say—recklessly ignored the fact that the polls were still open. That is pretty reckless to ignore that. That was out 7 or 8 days prior to the election.

Let me read some excerpts from Jeff Greenfield's book "Oh, Waiter! One Order of Crow!" This is Jeff Greenfield, a very respected guy in the media. He is basically telling them what they knew.

At 7:48 p.m., NBC called Florida for Gore, an act that raised the competitive juices at the other networks.

So it was that CNN Political Director Tom Hannon, at 7:50 p.m., opened the microphone to the anchor desk and announced in our ears, "We are calling Florida for Gore—Florida for Gore."

("I was surprised by the early call for Florida," Hannon said, weeks later. "But it's like a laboratory situation. You look at the numbers, the models, the percentages. There was no reason to assume there was a problem.")

And for the next two hours, our coverage focused on one question: Could George W. Bush win the White House without Florida?

So they kept right on talking about how Florida was not decided. They said it was decided, and then told everybody for the next 2 hours, could Bush win the Presidency without Florida, or Gore, for that matter.

What we did not do was assume that Gore had the race won. What we did do was assume the accuracy of our call, even as the Bush campaign and its partisans were loudly questioning the call—and question it they did—loudly, urgently, almost desperately. In Austin, Bush political strategist Karl Rove was calling correspondents and news executives alike, with one message. Your Florida call is wrong! The polls in the Panhandle are still open! You're gonna have egg all over your faces!

They dismissed it as partisan rhetoric from partisans, even though they had it in their press releases that the polls were still open. Still quoting Greenfield:

Did anyone at the networks take these complaints seriously? No. After all, what were partisan voices against the cool objective certainty of the numbers and the models and the system that had worked so well for so long.

Dan Rather, in 1996 on my election, called my opponent and congratulated him on his victory. Then he called me a couple of hours later wanting to know what went wrong. I said: Nothing went wrong, Dan. I won. It went right for me.

I couldn't figure out how it worked.

I said: In New Hampshire, we count the votes before we declare the winner. Maybe that is what you should do.

It is pretty telling the kinds of things we have here. I think we know now that the arrogance is unbelievable. They used their polling results. They dismissed entirely people who were telling them over and over again, early in the hour, that the polls were still open, not to call the race, but they still did.

I want to answer one or two constitutional questions before I stop because I am going to be told that it is unconstitutional. It is not. My amendment would be constitutional pursuant to the Supreme Court case *Burson v. Freeman*. There is no violation of the first amendment to the U.S. Constitution with these commonsense regulations.

My amendment creates a new Federal statute to ban false or misleading information that confuses a voter. The whole issue, rightfully so, by the Democrats in this election was, Were the voters confused by looking at these butterfly ballots? That was the whole issue, the whole test.

They were confused. They were misled. Yet not a word uttered about the confusion and absolute flat out misleading information put out by the media, not by political operatives. It wasn't Karl Rove on television saying the polls were closed or open either.

It was Carl Rove trying to get the media to tell the truth. It was Katherine Harris trying to get the media to report the truth 8 days before the election. That is all.

In the *Burson* case, the Court upheld a Tennessee statute that prohibited the solicitation of votes and the display or distribution of campaign materials within 100 feet of the entrance to a polling place.

The Tennessee statute was subjected to strict scrutiny and the state had to prove that the regulation serves a compelling state interest and is necessary to serve the asserted interest.

The compelling state interest in my amendment is preventing the suppression of votes.

If a broadcast company willfully broadcasts information that it knows is incorrect about polling closing times, the broadcast company would be willfully suppressing an individual's right to vote.

My amendment provides for criminal penalties for the willful broadcast of incorrect polling information and is the most effective means to prevent a broadcast company from knowingly and willfully changing the outcome of an election.

Mr. President, I have here a memo from Henry Cohen, a Legislative Attorney for the American Law Division at the Library of Congress. Mr. Cohen gives an excellent legal analysis of my amendment and specifically addresses potential first amendment questions.

According to Mr. Cohen, it is not even close.

He says "It appears that a court, following the decision in *Burson V. Freeman* would uphold the statute on the grounds that it served "a compelling interest in protecting the voters from confusion" and was necessary to serve that interest.

He goes even further, citing the dissent in *Burson*. In his view, even under the dissent in *Burson*, this amendment would be constitutional.

I ask unanimous consent that this memorandum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 21, 2002.

To: Hon. Bob Smith, Attention: Edward Corrigan

From: Henry Cohen, Legislative Attorney, American Law Division

Subject: Whether Prohibiting Broadcasting False Information About Federal Elections Would Violate the First Amendment

This memorandum is furnished in response to your question whether there would be a First Amendment problem with Congress's prohibiting, on the day of a federal election, knowingly broadcasting (1) a false statement concerning the location or times of operation of any polling place, or (2) the results of an exit poll, or a projection of the winner of an election, in a manner that could mislead viewers or listeners to believe that the results of the exit poll or the projection of the winner was the outcome of the election itself. We consider only the concept of such a prohibition and not any specific legislation.

In *Burson v. Freeman*, 504 U.S. 191 (1992), the Supreme Court upheld a Tennessee statute that prohibited the solicitation of votes and the display or distribution on campaign materials within 100 feet of the entrance to a polling place. The Court recognized that this statute both restricted political speech, to which the First Amendment "has its fullest and most urgent application," and "bar[red] speech in quintessential public forums," the use of which for assembly and debate "has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens." *Id.* at 196, 197. Further, the statute restricted speech on the basis of its content, as it restricted political but not commercial solicitation, and therefore was not "a facially content-neutral time, place, or manner restriction." *Id.* at 197.

The Court therefore subjected the Tennessee statute to strict scrutiny, which means that it required the state to show that the regulation serves a compelling state interest and "is necessary to serve the asserted interest." *Id.* at 199. Although applying strict scrutiny usually results in a statute's being struck down, in this case the Court concluded "that a State has a compelling interest in protecting voters from confusion and undue influence," and "in preserving the integrity of its election process." *Id.* A campaign-free zone, the Court believed, would help "preserve the secrecy of the ballot" (*id.* at 207-208) and prevent "voter intimidation and election fraud" (*id.* at 206). The next question, then, was whether a 100-foot restricted zone is necessary to serve this compelling interest. The Court, noting that "all 50 States limit access to the areas in or around polling places," said that, though it would not specify a precise maximum number of feet permitted by the First Amendment, 100 feet "is on the constitutional side of the line." *Id.* at 206, 211.

Turning to your question, a statute that prohibited, on the day of a federal election, broadcasting false statements about the location or times of operation of a polling place, or misleading statements about exit polls or election projections, would, like the Tennessee statute in *Burson v. Freeman*, restrict political speech on the basis of its content, and would therefore apparently be subject to "strict scrutiny" if challenged in court. But it appears that a court, following the decision in *Burson v. Freeman*, would uphold the statute on the ground that it served "a compelling interest in protecting voters from confusion" and was necessary to serve that interest.

In fact, though *Burson v. Freeman* was a 4-3 decision, it appears that the constitutionality of the proposal under consideration might be not as close a case. This is because the conduct that was restricted in *Burson v. Freeman*—solicitation of votes and the display or distribution of campaign materials within 100 feet of the entrance to a polling place—did not, like the proposal under consideration, involve false or misleading information, which, by its very nature can cause confusion. Rather, *Burson v. Freeman* involved conduct that merely had the potential to cause confusion.

The dissenting opinion in *Burson v. Freeman* believed the Tennessee statute to be unconstitutional in part because it "does not merely regulate conduct that might inhibit voting; it bars the simple 'display of campaign posters, signs, or other campaign materials.'" §2-7-111(b). Bumper stickers on parked cars and lapel buttons on pedestrians are taboo. The notion that such sweeping restrictions on speech are necessary to maintain the freedom to vote and the integrity of the ballot box borders on the absurd." *Id.* at 218-219. It does not appear that a comparable complaint of overbreadth could be raised with regard to the concept of prohibiting, on the day of a federal election, broadcasting false statements about the location or times of operation of a polling place, or misleading statements about exit polls or election projections. If a statute banned only false or misleading information that can confuse voters, then it would not be overbroad.

Mr. SMITH of New Hampshire. This is the first amendment on the right of the major media networks to knowingly broadcast false information leading to thousands of voters believing their vote doesn't count. In this case, it happened to be a Republican situation. It could be the other way around tomorrow. I would say the same thing if it were the reverse. It is not about party or about anything other than misleading information put out in a time zone where the election was still open. The secretary of State made a point of that, having no idea how important that statement was going to be.

Clearly, it should not be allowed under the first amendment. Supreme Court precedents agree with that. I have cited that in my statement. This amendment bans the willful broadcast of false or misleading information that suppresses potentially millions—in this case thousands—of people to believe that they don't have to vote, that their vote isn't important, they won't vote because they have been told the election is over.

I ask the Senate to give serious consideration to this amendment. I don't know what time we will vote tomorrow. That is up to the leaders. I ask you to look at the tape, because with me speaking about it, you can say he is putting the inflection wrong. Watch the tape and the body language and the way these broadcasters said this. It is very, very intimidating. They are basically saying, hey, go home, stop and get a beer, have a hot dog, stop at McDonald's, go home, don't worry about voting because the election is over, the polls are closed. That is what they are saying. I hope that you will watch the tape before the vote tomorrow.

I can't show it on the floor, unfortunately. I will have it in the cloakrooms. I will bring down a copy tomorrow. I ask you to look at it before you vote.

Thank you, Mr. President.

Mr. DODD. Mr. President, first, let me thank our friend and colleague from New Hampshire for showing patience, first of all, and for staying around this evening. I appreciate that immensely. It will help us move the final product along tomorrow because he has taken time this evening to discuss it. I, for one, have not seen the tape. I will look for it. I haven't been in my office for so many days because I have been working on election reform.

Let me suggest that what the Senator has raised in this particular fact situation is not the first time. I recall, going back to 1980, there were concerns when there were exit polls that came out to the media reported before Western States had actually voted. There were colleagues of the U.S. Senate who allegedly lost reelections because the word was that the Presidential race was over. Even before Pacific coast time when literally thousands of people standing in lines walked out of line and didn't vote because they were going to vote for the Presidential race and decided not to show up.

As a result of that, according to many—I am not suggesting this is absolutely the case—many students of previous elections claimed that the decision to announce that exit polls had closed caused other races from local legislative races, gubernatorial races and Senate races, to be adversely affected. There are other suggestions dealing with the exit polls, making announcements about how States are likely to vote based on exit polls in the afternoon.

A number of issues were raised about how the media can more properly conduct themselves during the election process. The Senator from New Hampshire, I think, rightly points out the reason that you have these competitive juices in these control rooms. The media are watching what their competitors are saying and nobody wants to be left behind. I suspect in some cases they took what otherwise would have been reliable models and jumped ahead and found themselves saying, as in Jeff Greenfield's properly entitled book, "Oh, Waiter, One Order of Crow."

We are not going to vote tonight. I suggest this to my colleague because he brought up a very valuable point. I understand he has attempted to address the constitutional issue. This is a very important issue he raised. Thanks to Senator MCCONNELL, we are going to have a permanent election commission established in this country. My hope would be—because I have heard at least from the major media outlets that they understand they went over the top on these issues the Senator has raised. We might talk about a way, in the very early consideration for the Election

Administration Commission, to work out some agreements. There will also be potential challenges in courts.

The point he is driving home is we need to come up with an response. I think my colleague felt the answer, however arrived at, would be that we never again see what happened in Florida, where you have time zones—and he has been going through it, where person after person after person announcing the vote where polls were closed. I don't have any doubt that had some effect on the outcome of those areas. We might explore ways in which to avoid the obvious litigation that may ensue about whether or not we can require media outlets to do certain things or make it a violation of law to do it. I just raise that as a thought. I would like to be supportive of something that this Commission could come back to us, with the media, and say here are the things we are concerned about and these are the things that will never happen again because we have made certain changes.

I thank the Senator for staying around this evening to offer the amendment.

If I can, we have a couple amendments we are going to agree to, so we will temporarily lay the Senator's amendment aside. I encourage my staff to meet with Senator SMITH's staff to see if we might work on language that will give this issue he raised a prominent position in the bill. We will seek a way to accept it in a bipartisan fashion and see if we can achieve an important issue that needs to be addressed.

Mr. President, I ask unanimous consent that we temporarily lay aside the Smith amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENTS NOS. 2938 AND 2939 EN BLOC

Mr. DODD. Mr. President, I have two amendments that we have cleared on both sides which I am going to offer. One is by Senator SARBANES and the other is an amendment by Senator SESSIONS. I think both may have other cosponsors. If they do, their names can be added later. I will briefly describe to the chair what these amendments do. Then I will call them up.

Senator SARBANES's proposal was included already in the House-passed Hoyer bill. It establishes a program to encourage college students to participate in the election process in the country. Among other things, the students work as poll workers and the like. It is one that I think our colleagues would consider to be a very worthwhile proposal. It would encourage students enrolled at institutions of higher education, including community colleges, to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants, and to encourage State and local governments to use the services of the students participating in the program. In carrying out the program, the commission shall develop materials, sponsor seminars

and workshops, engage in advertising targeted at students, make grants. The idea is to get as many young people involved in the election process as possible. It is a worthwhile amendment.

Senator SESSIONS offers a similar approach—one that enjoys terrific support. I know one of the major newspapers in my State every year strongly advocates mock elections. Others, I know, around the country have called for them. We have actually authorized this program under the Elementary and Secondary Education Act. The problem has been that while we have authorized the funds, we have never appropriated any money for it. So the program has been sitting over at the Department of Education and never getting the backing at the local level to support this effort. Senator SESSIONS moves that program from the Department of Education to the new permanent commission we will be establishing with his bill. It becomes an obligation of the commission to see to it that we get these mock elections that Senator SESSIONS has called for. The National Student/Parent Mock Election is the proper title of the amendment. It would include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas, and consist of school forums and local cable call-in shows on the national issues to be voted upon in an "issues forum"; speeches and debates before students and parents by local candidates.

This is a very laudable and it is regrettable we haven't done more with this. We need to do everything we can early on in education to involve young people in this process.

Despite the efforts of those who preceded us in this institution, who fought very hard to adopt the constitutional amendment that gave the right to vote to 18-year-olds, we all know that the weakest group of participants in the election process are younger voters. There are a lot of reasons for that. There has been a lot of discussion.

I am not suggesting these two amendments are going to be the complete answer, but I think they go a long way, to the extent we are willing to commit resources to do everything we can to engage people in the excitement of debate.

I am told after the debacle, if you will, of last year, of the 2000 election and the news accounts, the one positive that came out of all that was a heightened degree of interest of young people in the election process. Many became interested because of the nightly news stories.

I commend Senator SARBANES and Senator SESSIONS, cosponsors of these two amendments. I think they are worthwhile and add considerably to this product. I thank Senator MCCONNELL and others for agreeing to accept both of these proposals.

Mr. President, I send both amendments to the desk. I ask unanimous consent they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. SARBANES, proposes an amendment numbered 2938.

The Senator from Connecticut [Mr. DODD], for Mr. SESSIONS, proposes an amendment numbered 2939.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

#### AMENDMENT NO. 2938

(Purpose: To establish the "Help America Vote College Program")

On page 68, between lines 17 and 18, insert the following:

#### SEC. \_\_\_\_ HELP AMERICA VOTE COLLEGE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the appointment of its members, the Election Administration Commission (in this section referred to as the "Commission") shall develop a program to be known as the "Help America Vote College Program" (in this section referred to as the "Program").

(2) PURPOSES OF PROGRAM.—The purpose of the Program shall be—

(A) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(B) to encourage State and local governments to use the services of the students participating in the Program.

(b) ACTIVITIES UNDER PROGRAM.—

(1) IN GENERAL.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in subsection (a)(2).

(2) REQUIREMENTS FOR GRANT RECIPIENTS.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(3) COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each succeeding fiscal year.

AMENDMENT NO. 2939

(Purpose: To authorize the Election Administration Commission to award grants to the National Student/Parent Mock Election to enable it to carry out voter education activities for students and their parents)

On page 47, after line 19, insert the following:

**Subtitle D—National Student/Parent Mock Election**

**SEC. 231. NATIONAL STUDENT/PARENT MOCK ELECTION.**

(a) IN GENERAL.—The Election Administration Commission is authorized to award grants to the National Student/Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for students and their parents. Such activities may—

(1) include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an “issues forum”;

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences, and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) REQUIREMENT.—The National Student/Parent Mock Election shall present awards to outstanding student and parent mock election projects.

**SEC. 232. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out the provisions of this subtitle \$650,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

Mr. DODD. Mr. President, I ask unanimous consent that both amendments be adopted.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 2938 and 2939) were agreed to en bloc.

Mr. DODD. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, we did a lot of work today. I know we are not done. I am hopeful by tomorrow we will complete this bill. We are working on a couple of amendments which I did not think could be worked out. It may be that we actually work out a couple of amendments that looked as if they clearly were headed for votes. We may have compromise language to accommodate Senators. Some Senators have withdrawn their amendments. Others have changed their amendments to studies, which the Senator from Kentucky and I are more than happy to

bring into the fold and take a look at on the very important issues that have been raised.

I think we are very close to final passage. I do not want to overstate the case. I know the leaders want to get to the energy bill. Last week there was an understanding we would get to the Schumer-Wyden proposal and give Senator BOND plenty of opportunity to contest that amendment and to consider maybe some compromise. I say that again to try and encourage them to resolve this issue.

After the completion of the vote tomorrow, my hope is we can move to these remaining few amendments, go to third reading, and get to conference. We are not through, obviously. We have to get to conference with the House and work with the White House, obviously, to try to iron out any differences before we can bring back a conference report on election reform. Our work is hardly over, even with passage of this bill. That will be a major step forward. I thank all for their participation today.

AMENDMENT NO. 2865

Mr. GRASSLEY. Mr. President, in recent months, we in this country have been reminded of the sacrifices that are made every day for our Nation by the men and women serving in the U.S. Armed Forces. We owe a debt of gratitude to the brave individuals that are prepared to lay down their lives in defense of our liberty and the rights which we enjoy as citizens of the United States of America. One of the most fundamental rights we enjoy in a democratic society is the right to vote. No American should be unfairly denied this right, least of all the very men and women charged with defending our way of life. However, this is precisely what happened November 2000 in Florida. I am sure that many senators were as appalled as I was when I learned that military ballots received in Florida during the last election were targeted for rejection. Whether the votes of our servicemen and women were not counted because they failed to meet a state postmark requirement or because they arrived too late, it is essential that we do everything in our power to ensure that future ballots cast by military personnel overseas are delivered in time and in such a fashion that they will not be rejected.

Items mailed from one of our overseas military installations or one of our ships at sea is the responsibility of the Department of Defense until it can be delivered to the U.S. Postal Service. While all the blame for uncounted military ballots cannot be laid at the feet of the Department of Defense, it is only logical that we should fix any kinks in the military mail system so that State and local election officials have no reason to reject ballots cast by members of the armed forces stationed overseas. My amendment takes some common sense steps to improve the delivery of election mail under the responsibility of the Department of Defense.

To start, my amendment requires the Secretary of Defense to implement measures to ensure that absentee ballots collected at U.S. military facilities or vessels overseas are postmarked. The lack of a postmark or proof of mailing date was one of the excuses used in the Florida election to reject overseas absentee ballots cast by military personnel. Second, my amendment requires the Secretary of each military service to notify servicemembers stationed at an installation of the last date before a general election that absentee ballots should be mailed in order for them to arrive in time to state and local election officials back home. A soldier or sailor overseas can't know how long it will take from the time he or she drops a ballot in the mail until it arrives in their home State and guessing wrong could result in a late arrival and votes not being counted. Finally, my amendment requires the Secretary of Defense to report to Congress about the measures he will take to ensure the timely transmittal and postmarking of voting materials and identify the persons who will be responsible for implementing these measures. Any shortcomings in the handling of military mail are not because of poor intentions, but rather lack of accountability for failures in the system. The requirement of a report to Congress ensures accountability for the implementation of the measures Congress has spelled out for the proper handling of voting material.

I don't pretend that this amendment is the only solution to the problems that have surfaced with military overseas voting or that states shouldn't be asked to do more to ensure that military absentee ballots are treated fairly. But, shouldn't we do everything we can to make sure that the votes of our men and women in uniform arrive in the hands of election officials so they can be counted? My amendment seeks to do just that so that our forces overseas are able to enjoy the very rights they protect for those of us back home.

Mr. KOHL. Mr. President, I am pleased to offer my support to the election reform legislation we are considering today. The election of 2000 lay bare many problems in our election system and highlighted some of the barriers to voting which have kept too many from the polls over the years. If we are to eliminate these barriers and conduct federal elections which truly ensure equal access to the polls and protect voters' rights, as already required by law, we need to have consistent standards for voting systems and the administration of elections. And, if we are sincere about instituting reforms then it is not enough for us to set standards. We must also provide the funding to help implement these standards. Fortunately, the bipartisan substitute amendment to S. 565 authorizes \$3.5 billion over the next five years for grants to states and localities to do just that.

While the Justice Department will have a prominent role in the implementation of this election reform legislation, the bill before us also creates a new federal agency, the Election Administration Commission. This Commission will administer voting system standards, provisional voting requirements, the establishment of computerized, statewide voter registration systems, and grant programs and it would assume the functions of the Office of Election Administration of the Federal Election Commission. The new Commission will conduct studies on election technology and administration and submit a report to Congress and the President with recommendations for administrative and legislative action.

I am especially pleased we are directing the Commission to study and make recommendations for us to consider future reforms because I believe that there are other reforms worth considering and implementing. One such reform I have advocated for many years now is to change our election day, and I was pleased to join with my colleagues in offering an amendment which addresses this issue.

Senators HOLLINGS, REID, and I offered an amendment which was adopted late yesterday which directs the Election Administration Commission to study the viability of changing the day for congressional and presidential elections from the first Tuesday in November to a holiday or the weekend, with the possibility of looking at Veterans Day or the first weekend in November. Last year, and earlier back in 1997, during the 105th Congress, I introduced legislation that would move federal elections to the weekend.

The legislation already directs the new Commission to study the feasibility and advisability of conducting elections for federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform closing time and establishing election day as a federal holiday. Our amendment requires that they complete such a study within 6 months after the establishment of the Election Administration Commission.

Last year, the National Commission on Federal Election Reform, presented its recommendations to the President on how to improve the administration of elections in our country. One of the Commission's recommendations was that we move Election Day to a national holiday, in particular Veterans Day. As might have been expected, this proposal was not well received by veterans groups who rightly consider this a diminishment of their service and the day that historically has been designated to honor that service. While I agree with the Commission's goal of moving election day to a non-working day, and I am interested in exploring the possibility of moving election to an existing Federal holiday such as Veterans Day, I believe we can achieve all

the benefits of holiday voting without offending our veterans by moving our elections to the weekend.

My weekend voting proposal, which I hope the Commission will consider in its study, would call for the polls to be open the same hours across the continental United States, addressing the challenge of keeping results on one side of the country, or even a State, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for polling stations and people available to work at the polls, addressing the critical shortage of poll workers. Weekend voting also has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls without creating a national holiday.

Weekend voting would have polls open nationwide for a uniform period of time on Saturday and Sunday. Polls in other time zones would also open and close at this time. Election officials could close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open on Saturday and Sunday, they also would not interfere with religious observances.

Amidst all the discussion about election reform, there is growing support for uniform polling hours. The free-wheeling atmosphere surrounding election night in November 2000, with the networks calling the outcome of elections in States when polling places were still open in many places, and in some cases even in the very States being called, cannot be repeated. While it is difficult to determine the impact this information has on voter turnout, there is no question that it contributes to the popular sentiment that voting doesn't matter. At the end of the day, as we assess how to make our elections better, we are not only seeking to make voting more equitable, we are also looking for ways to engage Americans in our democracy.

Mr. President, I come from the business world where you had a perfect gauge of what the public thought of you and your products. If you turned a profit, you knew the public liked your product; if you didn't, you knew you needed to make changes. If customers weren't showing up when your store was open, you knew you had to change your store hours.

In essence, it's time for the American democracy to change its store hours. Since the mid-19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land-owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. Sixty percent of all households have two working adults. Since most polls in the

United States are open only 12 hours, from 7 a.m. to 7 p.m., voters often have only one or two hours to vote. As we saw in this last election, even with our relatively low voter turnout, long lines in many polling places kept some waiting even longer than 1 or 2 hours. If voters have children, and are dropping them off at day care, or if they have a long work commute, there is just not enough time in a workday to vote.

We can do better by offering more flexible voting hours for all Americans, especially working families.

Since I introduced my weekend voting legislation in 1997, a number of States have been experimenting with novel ways to increase voter turnout and satisfaction. Oregon conducted the first Presidential elections completely by mail, resulting in impressive increases in voter turnout. Texas has implemented an early voting plan which also resulted in increased turnout. And California has relaxed restrictions on absentee voting, and even had weekend voting in some localities. Although there are security concerns that need to be ironed out, Internet voting has tremendous potential to transform the way we vote. In Arizona's Democratic primary 46 percent of all votes came via the Internet. The Defense Department coordinated a pilot program with several U.S. counties and the Federal Voting Assistance Program to have overseas voters, primarily military voters, cast their votes via the Internet. It is becoming increasingly clear that these new models can increase voter turnout, and voters are much more pleased with the additional convenience and ease with voting.

For decades we have seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote; that number dropped to 49 percent in the 1996 election. We saw a minor increase in the 2000 Presidential election with voter turnout at 51 percent of eligible voters, however, not a significant increase given the closeness of the election. Non-Presidential year voter turnout is even more abysmal.

Analysts point to a variety of reasons for this dropoff. Certainly, common sense suggests that the general decline in voter confidence in government institutions is one logical reason. However, I would like to point out, one survey of voters and nonvoters suggested that both groups are equally disgruntled with government.

Thus, we must explore ways to make our electoral process more user friendly. We must adjust our institutions to the needs of the American public of the 21st century. Our democracy has always had the amazing capacity to adapt to the challenges thrown before it, and we must continue to do so if our country is to grow and thrive.

Of 44 democracies surveyed, 29 of them allow their citizens to vote on holidays or the weekends. And in nearly every one of these nations, voter turnout surpasses our country's poor performance. We can do better. That is

why I believe we should consider week-end voting.

Mr. President, I recognize a change of this magnitude may take some time. But the many questions raised by our last election have given us a unique opportunity to reassess all aspects of voting in America. We finally have the momentum to accomplish real reform. How much lower should our citizens' confidence plummet before we adapt and create a more "consumer-friendly" polling system? How much more should voting turnout decline before we realize we need a change?

Weekend voting will not solve all of this democracy's problems, but it is a commonsense approach for adapting this grand democratic experiment of the 18th century to the American family's lifestyle of the 21st century.

I am pleased that the Senate saw fit to adopt our amendment and I am looking forward to hearing the views of the new Election Administration Commission on this matter.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators permitted to speak therein not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ENERGY POLICY

Mr. THOMAS. Mr. President, later this week I hope we will move on to our energy bill on which all of us have worked for so long, certainly recognizing that energy policy is one of the most important issues we will consider this year. Although we have the pressure of other bills—campaign reform and so on—I hope we move, as was promised, to energy later on this week so that we can move forward.

We need this policy out there. The President has put forth a policy. The House has passed a policy. We need to deal with the situation with regard to oil and gas, and of course the opportunity to increase our production domestically so we are not as reliant as we have become on foreign imports. We need to look, obviously, to a balanced bill and different energy sources such as renewables. We need to do more research in terms of coal, and clean coal, and using those resources which we have in abundance.

We haven't yet really, it seems to me, defined where we want to go, particularly with the electric component of energy, but I have to tell you that I think it is very important. People are certainly touched as much by electric energy as any other source. The issue to a large extent is transmission and transportation.

As we develop more and more opportunities to generate electricity, it has to be moved where the market is. Of course, selfishly, in my State, an energy-producing State, the problem is

being able to move that energy to where the markets are.

I hope we will try to get together to act. I am afraid we are going to get all wrapped up in Enron, and so on, which has very little to do, frankly, with the energy aspect of it. But we can take a long look at that and take action that will help us more efficiently use those energies that are available.

#### HADASSAH INTERNATIONAL'S 90TH ANNIVERSARY

Mr. DASCHLE. Mr. President, we are all, by now, too familiar with reports of cowardly terrorist attacks in the streets of Jerusalem. With each of these terrible attacks, we also hear amazing stories of heroism.

I recently read a powerful account of the health care professionals who cared for the victims of the bombings on Ben Yehudah Street last December. It was written by Barbara Sofer, and it featured the work of the doctors and nurses of the Hadassah Hospital in Jerusalem who saved the lives of dozens of young people under the most trying circumstances.

Two things were clear from the account. First, the contributions of Hadassah members make an undeniable difference in improving lives around the world. Second, in our international war against terrorism, the compassion and dedication personified in Hadassah will defeat terrorists whose only interest is destruction.

Today Hadassah celebrates 90 years of excellence in health care and social justice. Hadassah started as a movement to bring health care to a poor people in a troubled land. It has become much, much more. Hadassah has energized women for nine decades. It helped build modern Israel. It has created world-renowned medical and education institutions in Israel, which provide trained medical experts not only for Israel, but for countries the world over. In fact, Hadassah-trained health professionals have responded to health care crises in Rwanda and Bosnia.

We have felt the impact of its excellent work right here in America, as well, on issues of concern to women and to the American Jewish community. Hadassah has over 300,000 members in 1500 chapters across our Nation, and its work has benefitted Americans of all backgrounds.

We are reminded day in and day out that there are forces who want to destroy Israel, weaken America and destabilize the world. But Israel is more secure, America stronger, and the world more stable because of the work of Hadassah. It is only fitting, therefore, that we celebrate Hadassah International's 90 years of excellence.

I extend my congratulations to Bonnie Lipton, National President of Hadassah, and the women who serve on the Hadassah Foundation's Board of Directors. To each of them, and to each of the 300,000 members in this country, I say, thank you.

Mr. SARBANES. Mr. President, this month, Hadassah, the Women's Zionist Organization of America, will celebrate its 90th Anniversary. Hadassah is a unique organization, which has distinguished itself in many arenas over nearly a century. With priorities that range from women's advocacy to developmental health care, Hadassah has consistently made significant contributions around the globe.

I take great pride in the Baltimorean, Henrietta Szold, who founded Hadassah in 1912. Henrietta Szold was a remarkable woman, a person not only of high principles, great intelligence and inexhaustible energy, but someone with the rare and precious ability to translate principles into reality. It was she who set out for Jerusalem in 1918 with staff and supplies for a 50-bed hospital. Today that hospital is known as the Hadassah Medical Organization in Jerusalem; it cares annually for more than 600,000 patients, sets standards for excellence in health care, teaching and research both in Israel and around the world, and opens its doors to everyone in need.

Henrietta Szold's greatest contribution may not have been her own devotion to her community, but the framework she instituted for Hadassah members under which they could carry on the principles that inspired her—service, generosity of spirit, human kindness, and commitment. Hadassah members have acted on these principles, over the past nine decades turning Hadassah into the largest women's group and largest Jewish membership organization in the United States, with nearly 1,650 chapters and a membership of over 300,000.

In Baltimore alone, Hadassah has contributed to health education and community outreach through a number of award-winning programs. These include Check it Out, a program to increase breast cancer awareness and prevention; Act Against Osteoporosis, a campaign to teach prevention and promote the early detection of osteoporosis; Prostate Cancer Awareness Program, a program to educate men about early detection and awareness of prostate cancer; and the 5K Race for Research, an annual race for breast and prostate cancer research. Hadassah has also contributed greatly to education and advocacy in Baltimore through programs like Reach Out and Read, a program in which volunteers read aloud to children in the pediatric offices at Sinai Hospital, Read, Write, Now! an elementary school tutoring program, and Lunch and Learn, a weekly women's study group. Baltimore Hadassah also offers a number of programs for Jewish youth, including Al Galgalim (Training Wheels), Wheeling On and Young Judaea, exceptional programs designed to foster an interest and devotion to Zionism and Jewish heritage.

The welcome evidence of Hadassah's efforts is everywhere around us. The work of Hadassah has contributed very