

# *Revitalizing Democracy in Florida*

*The Governor's  
Select Task Force  
on  
Election Procedures,  
Standards and  
Technology*



*March 1, 2001*



**The Governor’s Select Task Force On Election Procedures, Standards and Technology**

**March 1, 2001**

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## **Governor's Select Task Force on Election Procedures, Standards and Technology**

March 1, 2001

The Honorable Jeb Bush  
Governor  
State of Florida  
Tallahassee, FL

Dear Governor Bush:

We are pleased to present the final report of the Governor's Select Task Force on Elections Procedures, Standards and Technology.

For the past two months, the 21 members of your Select Task Force have worked tirelessly, meeting six times in four cities, hearing testimony from the experts and the good citizens of Florida. The recommendations made here are a result of careful deliberation and thoughtful discussion. Most of the recommendations were made unanimously.

It has been heartening to work with this bi-partisan group, so committed to making our State the nation's model for elections. This is democracy at its best.

On behalf of our colleagues on the Select Task Force, it has been our privilege to serve the State of Florida. We look forward to your and the Legislature's consideration of these vital issues.

Sincerely,

Edward T. Foote II  
Co-Chairman

Jim Smith  
Co-Chairman

# EXECUTIVE ORDER NUMBER

## 00-349

**WHEREAS**, the Year 2000 Presidential Election was extremely close and concerns were raised regarding the election procedures, standards and technology employed in each of the 67 counties of the State of Florida, and

**WHEREAS**, regardless of the outcome of the election, all Floridians would benefit from an immediate review of the State's election procedures, standards and technology, and

**WHEREAS**, any review of the State's election procedures, standards and technology should be conducted on a non-partisan basis in an effort to ensure the highest level of public confidence in Florida's system for conducting elections;

**NOW, THEREFORE, I, JEB BUSH**, Governor of the State of Florida, by the powers vested in me by the Constitution and laws of the State of Florida, do hereby promulgate the following executive order, effective immediately:

### **Section 1.**

**A.** There is hereby created the Select Task Force on Election Procedures, Standards and Technology.

**B.** The Select Task Force shall be comprised of no more than 21 members, ten of whom shall be Republicans, ten of whom shall be Democrats and one of whom shall be affiliated with neither party. At least two of the members shall be representatives from a county Supervisor of Elections Office, and four members shall be legislators, a Republican and Democrat from the Florida House of Representatives and a Republican and Democrat from the Florida Senate. The Governor shall designate two members, of different parties, to serve as Co-Chairs. Select Task Force members shall receive no compensation, but shall be entitled to per diem and travel expenses while attending meetings of the Select Task Force, to the extent allowed by Section 112.061, Florida Statutes. Per diem and travel expenses shall be paid by the Secretary of State's Office in accordance with Chapter 112, Florida Statutes. The Select Task Force may include an executive director who shall serve at the pleasure of the Co-Chairs and the Secretary of State's Division of Elections will provide technical assistance. The Select Task Force may also call upon experts to testify, and such experts shall be reimbursed for reasonable and necessary expenses of attending Select Task Force meetings.

**C.** The Select Task Force shall act by a vote of the majority of its members. A quorum of at least eleven members shall be required for an act of the Select Task Force to have effect. No member may grant a proxy for his or her vote to any other member except with the prior approval of the Co-Chairs.

**D.** The first meeting of the Select Task Force shall be held no later than January 3, 2001.

**Section 2.**

The Select Task Force shall study and make written policy recommendations and/or propose legislation to improve the election procedures, standards and technology employed in each of Florida's 67 counties. Such recommendations and/or proposed legislation shall be submitted by March 1, 2001, to the Governor, the President of the Florida Senate, the Speaker of the House of Representatives, and the Secretary of State. In the interest of facilitating immediate action during the 2001 Legislative Session, the two Co-Chairs shall limit the scope of the Select Task Force's study and written policy recommendations to those issues which can, in the opinion of both Co-Chairs, be manageably addressed by the entire Select Task Force within the time limits set herein. The Co-Chairs shall, in addition, identify any issues raised by Select Task Force members which cannot be manageably addressed, but which may merit further study or examination in an alternative forum at a later time.

**Section 3.**

All agencies under the control of the Governor are directed, and all other agencies are requested, to render full assistance and cooperation to the Select Task Force.

**Section 4.**

The Select Task Force shall continue in existence only until its objectives are achieved, but not later than March 1, 2001.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 14th day of December, 2000.

## Select Task Force Members

The Honorable James C. Smith  
Co-Chairman  
Former Attorney General  
Former Secretary of State  
Tallahassee

Mr. Edward T. Foote II  
Co-Chairman  
President, University of Miami  
Miami

The Honorable Cecilia Altonaga  
Circuit Court Judge  
Miami

The Honorable Kurt S. Browning  
Supervisor of Elections, Pasco County  
Dade City

Ms. Anne Jolley Thomas Byrd  
Governmental Consultant  
Tallahassee

Mr. Carl N. Cannon  
Publisher, *Florida Times Union*  
Jacksonville

The Honorable Jane Carroll  
Former Supervisor of Elections, Broward County  
Plantation

Dr. David R. Colburn  
Provost, University of Florida  
Gainesville

The Honorable Earl Hutto  
Former U.S. Congressman  
Pensacola

The Honorable Daryl Jones  
State Senator, District 40  
Miami

The Honorable Phillip D. Lewis  
Former State Senator  
Riviera Beach

The Honorable Warren Newell  
County Commissioner, Palm Beach County  
West Palm Beach

The Honorable Joe Peavy  
Sheriff, Madison County  
Madison

The Honorable Marco Rubio  
State Representative, District 111  
Miami

Mr. E. Thom Rumberger  
Attorney  
Tallahassee

The Honorable Jim Sebesta  
State Senator, District 20  
St. Petersburg

The Honorable Barbara Sheen-Todd  
County Commissioner, Pinellas County  
Clearwater

The Honorable Chris Smith  
State Representative, District 93  
Ft. Lauderdale

Mr. H. Kenza van Assensderp  
Attorney  
Tallahassee

The Honorable Gertrude Walker  
Supervisor of Elections, St. Lucie County  
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Reverend Joseph T. Wright  
Pastor, Tallahassee

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## **Governor's Select Task Force on Election Procedures, Standards and Technology**

America's grand and noble experiment with democracy is just that – an experiment. Through trial and error, we Americans have learned a great deal about voting and elections and have mounted an increasingly open and fair system for determining the will of the people. Florida's experiences with the 2000 presidential election were a very visible part of learning how to do better. That task continues.

The Governor's Select Task Force on Election Procedures, Standards and Technology was established by Executive Order 00-349 by Governor Jeb Bush on December 14, 2000. The Governor called for a non-partisan review by appointing 10 Democrats, 10 Republicans, and one unaffiliated member; by naming Edward T. Foote II, a registered Democrat, and James "Jim" C. Smith, a registered Republican, as Co-Chairs; and by engaging the non-partisan and independent Collins Center for Public Policy, Inc., to serve as staff.

The Governor recognized that Florida's experiences with the 2000 presidential election required immediate review and action. He charged the Task Force with completing its work and submitting a final report by March 1, 2001, so that the Florida Legislature could consider recommendations during its Regular Session in March and April 2001.

The Task Force has been very serious about its assignment and responsibility and has kept very busy. It has held five meetings in four Florida locations within a month: January 8 and January 9 in Tallahassee, January 23 in Orlando, February 1 in Davie near Ft. Lauderdale, and February 6 in Jacksonville. During its short life, it has heard 16 invited speakers, listened to 83 members of the public who chose to testify, received thousands of inquiries at its Internet site, and responded to hundreds of E-mails, phone calls, proposals and recommendations. Its deliberations have been broadcast and publicized widely.

More than 90% of the members of the Task Force attended all of its meetings and most stayed through all of its deliberations to hear public testimony early in the evenings in Orlando, Davie, and Jacksonville.

This Final Report is an important step along the way of continuing to improve Florida's elections system.

The goal is perfection: **every registered voter should have the opportunity to vote and every vote should count.** To reach that goal, we must persist in learning more, experimenting, and changing old ways of thinking to encourage new ideas and new technologies. But new ideas and new technologies should be based on old, enduring principles:

## Enduring Principles of Elections

- **Elections are first and foremost acts of millions of individual people: citizens who register and vote, candidates who offer themselves and their platforms for public judgment, poll-workers who put in long days at precincts, and elections officials who supervise the process. Honest, responsible, intelligent people will make most systems of technology work well.**
- **Voting should be a simple, convenient and friendly process that encourages each responsible citizen to express his or her choices.**
- **Voting systems should be designed to determine voter intent, to the extent that is humanly possible.**
- **Voting methods for statewide and national elections should meet uniform statewide and national standards for fairness, reliability and equal protection of voting opportunity.**
- **Elections must achieve two competing goals: certainty (making every vote count accurately) and finality (ending elections so that governing can begin).**
- **While voting should be individual and private, procedures for counting and challenging votes should be open, transparent, and easily documented to ensure public confidence in the results.**

The Governor's Select Task Force on Election Procedures, Standards and Technology affirms its faith in these basic principles and believes that its recommendations will help to achieve them.

During the November 2000 general election, Florida's extremely close presidential vote exposed some frailties in our democratic experiment. This election was decided by less than 537 votes out of a total presidential vote count of 5,963,110, resulting in a 0.009% margin of victory. There was no room for error and yet there were errors. These errors, translated into "lessons learned" for the Governor's Select Task Force, enabled the group to focus on the most important aspects of improving Florida's election process:

## Lessons Learned from November 2000

- Florida will always have voters who will mark ballots incorrectly or voters who will choose not to mark their ballots, making their intent difficult to determine.
- Florida has a decentralized and imperfect system of choosing and operating voting machines with widely varying overvote and undervote percentage rates that can cast doubt on the results of a very close election.
- Florida's lack of consistent and clear standards for recounting ballots in close statewide and regional elections raises serious equal protection issues under the Florida Constitution and the United States Constitution.
- Florida's inconsistent processes for counting absentee ballots of overseas military personnel and nonmilitary voters prevent some absentee ballots from being counted properly.
- Florida's voter education programs are decentralized and funded (if at all) by individual counties.
- Florida's decentralized voter registration data base is not complete or accurate and in some instances allows unregistered voters to vote while denying the right vote to qualified registered voters.
- Florida's voter registration process does not guarantee that applicants will know in advance if they are registered to vote in a particular election.
- Florida's poll-workers become one of the State's largest work forces on election day and their abilities and skills are critical to a flawless election.
- Florida's election officials who actively participate in political campaigns sometimes hurt the perceived independence and credibility of the election process.

This report will focus on how Florida can learn from these well-publicized drawbacks in our election process and make improvements to our democratic experiment.

The report is organized into three parts. The *first part* describes Florida's decentralized organizational structure for elections, mandated by its Constitution. The *second part* focuses the Task Force's findings and recommendations on **Putting People First, Encouraging Reliable Technology**, and **Improving Procedures and Law**. The *third part* outlines future work that needs attention and that the Task Force could not undertake because of its mandate or because of the very limited time available to it.

The findings and recommendations of this report will not be the final chapter in Florida's quest to improve its representative democracy. The Governor's Select Task Force hopes that Florida's recommendations will lead the way to more reliable elections and stronger credibility in our great democratic experiment.

## **I. FLORIDA'S DECENTRALIZED ELECTIONS SYSTEM**

Florida has a highly decentralized system for administering elections rather than the tightly-structured, hierarchical systems found in many other states. Pam Iorio, Supervisor of Elections in Hillsborough County, Florida, and President of the Florida State Association of Supervisors of Elections, described this decentralized system for the Governor's Select Task Force at the Task Force's first meeting in early January 2001:

"The authority for the proper conduct of elections in the State of Florida rests with the Supervisor of Elections in each county. There are 67 supervisors and all are elected, except the Miami-Dade supervisor who operates under a county charter and is appointed. The supervisors are Constitutional officers, named in the 1968 Florida Constitution along with the Sheriff, the Clerk of the Circuit Court, the Tax Collector, and the Property Appraiser [for the various counties]. A few Supervisors run on a non-partisan basis under their county charters; all others run by party affiliation. The Secretary of State is the chief elections officer of the state and the Division of Elections is under this cabinet position. The Division administers some aspects of elections such as qualifying state candidates for office and receiving financial disclosure forms. They formally certify election results. They certify election systems for their purchase by individual counties. They promulgate rules so that supervisors adhere to certain standards or guidelines. They provide legal opinions to supervisors on the interpretation of election law. During this process some have asked if the Division has authority over the operations of a supervisor's office, and the answer to that is no. The Division acts as an interpreter of election law, and as a guide for standardization of procedures throughout the state. The actual administration of elections, however, is a local responsibility. The voters evaluate the performance of the supervisor every four years." (See **Chart 1** on page 13.)

Florida's Constitutionally-mandated decentralized system of elections administration is complicated yet very important to understand so that responsibility for making improvements can be assigned properly. Florida's Governor is the State's chief executive and a member of the statewide Elections Canvassing Board. The Secretary of State is independently-elected<sup>1</sup> and appoints the head of the statewide Division of Elections. Both the Secretary of State and the head of the statewide Division of Elections round out the membership of the statewide Elections Canvassing Board. Both the Secretary of State and the head of the statewide Division of Elections have very important roles to play, but they do not have unilateral authority over elections administration and must react with and depend to a large extent on independently-elected Constitutional officers—Florida's 67 Elections Supervisors—for proper election administration.

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<sup>1</sup> The Florida Secretary of State will be appointed by the Governor, rather than independently elected, after the 2002 general elections.

Florida's 67 county governments also play critical roles in election administration by funding the work of the Elections Supervisors. At the present time, decisions by the County Commissions to provide full, or less than full, funding of budget requests for Elections Supervisors is a major factor in the types of voting systems, in voter education, and in other important elements of effective elections.

## Chart 1

### Administrative Structure

### Florida's State and Local Election Offices

#### Secretary of State

1. Elected chief election officer—4-year term
2. Provides guidance to 67 Supervisors of Elections
3. Provides technical assistance to Supervisors of Elections
4. Prescribes voter registration forms and procedures
5. Prescribes rules concerning voting systems

#### Election Canvassing Commission

1. Governor, Secretary of State, Director of Division of Elections (appointed by Secretary of State)
2. Canvasses all county returns and prepares election abstract

#### County Supervisors of Elections

1. Local chief election official—4-year term
2. Appoints other local election officials
3. Administers voter registration
4. Administers absentee voting
5. Conducts poll worker training
6. Distributes election materials to each precinct

#### County Canvassing Board

1. Supervisor of Elections, County Court Judge, Chair of the County Board of Commissioners
2. Tabulates County vote and prepares abstracts for transmittal to Secretary of State

#### Election Day Officers

1. Election Board: Inspectors and Clerks (appointed by Supervisor of Elections)
2. Administers elections at precincts

Source: Federal Elections Commission and Florida Statutes

The Florida Legislature has great powers for creating a system of statutes, within the overall commands of the State Constitution, that defines the duties of the Governor, Secretary of State, statewide Elections Canvassing Board, county Elections Supervisors, County Canvassing Boards and others to ensure a proper elections administration. Florida has an elaborate Elections

Code with some inconsistencies and with some lack of clarity that the Select Task Force addresses in this report.

Florida's courts, limited by the constraints of the State and Federal Constitutions, also have important roles to play, sometimes individually (serving as members of County Canvassing Boards and as county or circuit court judges) and sometimes in groups (as District Courts of Appeal or as the Supreme Court of Florida).

The decentralized system of administering elections is an important reality that the Select Task Force considered throughout its deliberations.

## **II. FINDINGS AND RECOMMENDATIONS**

The Governor's Executive Order instructed the Select Task Force to conduct an immediate review of election procedures, standards and technology. The Select Task Force's strategy was to understand how Florida's electoral process works, listen to the concerns of voters and experts about areas that needed improvement, and debate and recommend workable solutions.

The Collins Center for Public Policy, Inc., and the Co-Chairs of the Select Task Force immediately began to put in place the operations and the research agenda for the Select Task Force. Within the first few days of Governor's Bush's announcement, a special phone line and telephone number, (850) 219-9982, was installed for people who wanted to learn more about the Select Task Force or who wanted to submit suggestions to the Select Task Force. Next, a special website was placed on the Internet at [www.collinscenter.org](http://www.collinscenter.org) to provide the general public and the press with agendas, transcripts, research materials, and other important information. Finally, a specific email address [ETF@collinscenter.org](mailto:ETF@collinscenter.org) was established on the Internet to provide the general public with another means for submitting comments and suggestions to the Select Task Force.

In addition to setting up the operations of the Select Task Force, the Collins Center's staff and the Co-Chairs worked together to establish a research agenda. There were several substantive areas where the Select Task Force concentrated its research: voting systems; ballot design; absentee ballots; voter registration; voter education and responsibility; polling places; and election recounts, contests and certification. These issue areas were selected because they were and are the most important aspects of conducting elections in Florida.

The Co-Chairs requested that the Select Task Force receive the best information possible on the different research subjects. Florida's decentralized election process made it difficult to obtain reliable information from a single source. The Collins Center's staff relied on experts from Florida and the United States to locate the best sources of information. It called on experts to provide advice and searched out best practices on voting systems, absentee ballots, polling places, voter registration, and election law.

Every effort was made to ensure that the meetings were open to the public. Prior notices of the Select Task Force's meetings were published in advance, in accordance with Florida law, in the State's *Administrative Weekly* and through a statewide network of reporters and journalists. The Internet website also published all meeting dates and times as well as agendas in advance and provided summaries of actions and transcripts after meetings were concluded. Members of the press received the same briefing books and the same handouts as members of the Select Task Force. The research, meeting process, and recommendation process were transparent. Several of the meetings were broadcast nationally over C-SPAN and other cable networks.

The Select Task Force concluded its work on time. It confidently submits these recommendations to improve Florida's experiment with democracy. The findings and

recommendations are presented in three categories: **Putting People First, Encouraging Reliable Technology,** and **Improving Procedures and Law.**

**A. PUTTING PEOPLE FIRST**

In our representative democracy, the tasks of citizenship are never easy. We are responsible for making sure that our government works in the best interests of all people. We exercise that responsibility in many ways. Understanding issues, debating policies, and voting in elections are a few of the many responsibilities we have as citizens of a free country.

The Select Task Force intends to make an important statement by “Putting People First.” We can easily get lost in debates about which voting technology is best or what law should control recounts. But, ultimately, elections are not primarily about technology or legal procedures. They are about people, their belief in democracy, and their faith in free and open elections as a reliable way to make their choices known. The interests and skills of people—citizens voters, poll-workers, candidates, and officials—can make or break any voting system. It is essential to put people first and to invest in their abilities to do their jobs well.

**A-1. Citizens as Voters**

Florida is one of the largest and fastest growing states in the nation. As new residents arrive, it is important to help them to understand Florida’s system of government and to encourage their participation. Indeed, since 1970, the number of registered voters in Florida has nearly tripled as the following table illustrates (**Chart 2**).

**Chart 2**  
**Registered Voters in Florida Since 1970**

Year	Republican	Democratic	Other	Total
70	711,090	2,024,387	61,523	2,797,000
71	777,261	2,162,185	76,485	3,015,931
72	984,999	2,394,604	117,855	3,497,458
74	1,035,510	2,438,580	147,166	3,621,256
75	1,138,751	2,750,723	204,834	4,094,308
78	1,178,671	2,812,217	226,299	4,217,187
80	1,429,645	3,087,427	292,649	4,809,721
82	1,500,031	3,066,351	299,254	4,865,636
84	1,895,937	3,313,073	365,462	5,574,472
86	2,038,831	3,214,753	377,604	5,631,188
88	2,360,434	3,264,105	422,808	6,047,347
90	2,448,488	3,149,847	432,926	6,031,261
92	2,672,968	3,318,565	550,292	6,541,825
94	2,747,074	3,245,518	567,006	6,559,598
96	3,317,501	3,740,351	1,050,419	8,108,271
98	3,292,589	3,691,742	1,235,935	8,220,266
00	3,477,428	3,850,534	1,552,434	8,880,396

*Other* includes voters who specified no party affiliation and voters who specified minor parties

Source: Division of Elections

Yet, the number of voters who participate in our national elections is far less than those who are registered to vote (**Chart 3**). As the next section explains, voter responsibility and voter education play important roles in making sure that everyone participates effectively in Florida’s representative democracy.

**Chart 3**  
**Voter Participation in Presidential Elections in Florida Since 1992**

	<b>Voted for President</b>	<b>Registered Voters</b>	<b>% Voted</b>
2000 General Election	5,963,110	8,752,717	68.1%
1996 General Election	5,297,021	8,072,532	65.6%
1992 General Election	5,314,001	6,519,297	81.5%

*Sources: The Florida Legislature and the Florida Division of Elections*

### **Voter Responsibility and Education**

**RECOMMENDATION 1. Establish Minimum Standards for Voter Education. The Florida Legislature should direct the Supervisors of Elections to provide minimum standards for high-quality voter education in every county and report the success of voter education programs to the Division of Elections.**

The 2000 election focused on two important concepts: **voter responsibility** and **voter education**. Nearly 180,000 ballots were not properly marked. There were thousands of “overvotes,” or ballots marked with more than one candidate for a single office. There were also thousands of “undervotes,” or partially unmarked ballots and ballots not marked at all for one or more offices.

Some people attributed overvotes and undervotes to a lack of voter responsibility, such as voters who were uninformed, careless, apathetic or otherwise not acting responsibly in exercising their right to vote. Others blamed the situation on a lack of voter education such as unfamiliar or faulty ballot designs, new polling precincts, faulty voting technology, or general confusion by first-time voters.

The Select Task Force believes that the election process depends on voter responsibility and voter education.

Voter responsibility begins with the individual voter taking the initiative to register, learn about candidates and issues, and properly exercise the right to vote. Voting is the voluntary act of a single individual expressing his or her belief in a representative democracy.

Voter education is designed to ensure that voters are ready, willing and able to participate in electoral politics. Voter education programs should be geared to the special characteristics of the local community. Voter education can encompass specific information about candidates, ballots, or polling places and much broader concepts such as civic education. Voter education

should respond to the needs of first time voters and others, changes in election technology, or increases in the numbers of candidates or public initiatives voters are being asked to consider.

Florida Statutes Section 98.451 provides the following guidelines about voter education:

**Each supervisor of elections is authorized to provide voter education programs and materials of a nonpartisan nature in his or her county as he or she may deem appropriate. Such programs and materials shall not include any questionnaire or survey relating to candidates or issues.**

In developing minimum standards for a high-quality voter education and training program, county Supervisors of Elections should give careful consideration to strategy, program elements, implementation and evaluation. It will be essential to understand the context in which elections take place in a particular county, i.e. the legal framework, political dynamics, the electorate, and the resources available to implement a voter education program.

The supervisors' strategies for a voter education program should encompass the delivery of information to voters, the process for aiding and assisting voters at the polls, and, more broadly, specification of civic education needs to complement each county's voter education program.

Potential elements of each county's program might include outreach through media, distribution of printed materials through mail or other means, workshops, information centers, hotlines, and public service announcements on radio or television, for example. Getting information to people where they live, work, study, and recreate everyday should be accompanied by strategies that meet the needs of individuals seeking information at the time of voting or in the period immediately prior to an election.

The implementation and evaluation of voter education programs will be critically important. Supervisors' programs should include detailed plans for each. Delivery of the program's elements should take into account staffing needs, materials, distribution mechanisms, and monitoring systems. In addition to measuring how cost effective or efficient the program has been, evaluation measures should focus on how much value the voter education program has added to the voting process. Indicators, such as changes in numbers of spoiled ballots or in voter turnout might be employed to gauge the impact of the program and assess how much learning has taken place among the electorate. Critiques of the public delivery of voter education will inevitably come from many sources, so each county would be wise to build an evaluative process into the program from the start.

## Voter Education Best Practices and Funding

**RECOMMENDATION 2: Best Practices and Funding for Voter Education. The Florida Legislature and the county governments should provide adequate funding to the Supervisors of Elections for high-quality voter education and training throughout the state based on “best practices” documented and disseminated by the state Division of Elections and the Florida State Association of Supervisors of Elections.**

According to several Supervisors of Elections, the funding of voter education programs is presently a county – and not a State - responsibility. One supervisor observed that the State spends \$30 million annually to instruct people on how to buy lottery tickets but allocates nothing for statewide voter education programs.

The State should assist counties with adequate funding and with developing high standards to ensure that the new voting systems are well understood by Florida voters. As Florida moves toward a new unified system of voting, it will be critical that counties provide voter education and training programs to familiarize new and established voters about registration, balloting procedures, and other aspects of voting. Programs could include a variety of voter education initiatives, including wide distribution of training videos to individuals and groups; the provision of videos for continuous play at polling places on election days; deployment of sample voting machines at community and civic events, malls, local churches and synagogues; distribution of sample ballots through the media and various public institutions, such as the post office, library and local government; and radio and television public service announcements.

In Leon County, Florida, the Supervisor of Elections attributes the low rate of 0.18% of spoiled ballots cast for President at least partly to effective voter education. Leon County mails a sample ballot to every household with a registered voter before every election or primary, puts a sample ballot in the Sunday paper preceding an election, and mails an additional brochure with voting information to all newly registered voters who have not yet voted in the county. In a county with 145,000 registered voters which held four elections in the year 2000 (presidential preference, first primary, second primary, and the general election in November), these voter education programs cost \$1.75 per registered voter, including \$.17 per registered voter for the mailed sample ballot, \$.06 per registered voter to place the ballot in the Sunday paper before election day, and \$.19 per new registered voter for the mailed new voter brochures (not including postage).

## Voter's Bill of Rights and Responsibilities

**RECOMMENDATION 3: Create and Publish Voter's Bill of Rights and Responsibilities. The Florida Legislature should direct the Supervisors of Elections to create and publish prominently in every precinct a "Voter's Bill of Rights and Responsibilities" to define clearly and succinctly the duties and responsibilities of voters, poll-workers, elections officials, and candidates to each other.**

Several members of the general public suggested to the Select Task Force that a Voter's Bill of Rights should be published at every voting location. The Voter's Bill of Rights would serve to inform Florida voters about their basic rights while voting, such as the ability to receive assistance or to obtain a replacement ballot when errors are made. Task Force members agreed with this concept and suggested that it should be balanced with references to voter responsibilities.

At the initial meeting of the Select Task Force, State Senator Daryl Jones of Miami-Dade County and State Representative Chris Smith of Broward County recommended a Voter's Bill of Rights that would be "...a statement of the rights of voters and responsibilities of the elections officers posted very conspicuously at every precinct [with the] enumerated rights and the posting of those rights...left to the legislature...."

At a later meeting, State Senator Ron Klein of Palm Beach County, testified before the Select Task Force. Senator Klein presented a sample of what the bill of rights should embody and it is presented as follows:

### **VOTER RIGHTS**

1. To be provided with another ballot if you made a mistake,
2. To have written and oral voting instructions, if requested,
3. To request and receive assistance in voting,
4. To bring an aide or interpreter if you are disabled or have a language barrier,
5. To not be prevented from voting for any reason if you are a registered voter,
6. To vote if you are in line by the time the polls are closing,
7. To prove your identity by signing an affidavit if officials doubt your identity,
8. To be given an explanation if you are refused the right to vote and to be allowed to cast a provisional ballot,
9. To vote on a machine in working condition that will accurately count and provide confirmation of your vote,
10. And, finally, to have your vote counted.

The Task Force also strongly suggests that the responsibilities of voters, poll-workers, election officials, and candidates to one another be a major part of such a statement. Voting is an act of an individual expression and should be carried out by some of the following acts:

### **VOTER RESPONSIBILITIES**

1. To study and to know candidates and issues,
2. To keep your address current,
3. To know precinct and hours of operation,
4. To bring proper identification to the polling station,
5. To know how to operate voting equipment properly,
6. To treat precinct workers with courtesy,
7. To respect the privacy of other voters,
8. To report problems or violations of election law,
9. To ask questions when confused,
10. And, finally, to check your ballot for accuracy.

The Select Task Force has not endorsed a specific statement of rights and responsibilities that should be included in a Voter's Bill of Rights and Responsibilities but suggests that the foregoing lists are a good place to start in developing one.

### **Civic Education**

**RECOMMENDATION 4: Strengthening Student Civic Education. The State Board of Education should direct local school boards to improve the focus and expand the offerings of civic education courses, including teaching of voting skills, throughout all of Florida's high schools.**

In the long term, civic education programs in high schools should be expanded to all students and be more focused so that students have background knowledge and experience to be good citizens and specific knowledge about voting to exercise their citizenship rights.

Florida has experienced an influx of new voters, some of them young, first-time voters. Few have been offered the voter education they need to be successful in the voting booth. The results of a study conducted by Dr. Susan MacManus at the University of South Florida found that college students educated in Florida high schools had graduated with little knowledge of the "practical how to's of registering and voting." Her survey revealed that:

- 40% say they were never taught how to register to vote in their high school government class.
- 66% say they did not learn how to change their voter registration, even though the average American moves every five years.

- 61% acknowledged that they were never taught how to vote with an absentee ballot, even though a sizable proportion of college-age students temporarily live away from their permanent addresses or the locations where they first registered to vote.

Dr. MacManus concluded that students know little or nothing about state and local politics and about various ways of being active in their own neighborhoods. It was not surprising that voter turnout rates of the youngest eligible voters have plummeted in recent years.

Florida Statutes Section 233.061 requires high school students to take courses that include a broad range of topics that probably were part of traditional civics courses a generation ago: the Declaration of Independence, the United States Constitution, the Federalist Papers, flag education, and the elements of civil government, including the functions and interrelationships among the Federal government, the State, counties, municipalities, school districts, and special districts. But State law does not mandate a specific civic education course for all of Florida's students nor does the State test for civic education knowledge.

Some will argue that high schools already have too many mandated subject requirements ranging from "kindness to animals" to "elementary principles of agriculture." But an understanding of and ability to participate actively in our representative democracy should be part of the basic knowledge and skills for all of Florida's graduating high school students, not just an additional elective or "frill." Sadly, they are not.

## ***A-2. Poll-workers as Helpers***

### **Recruiting Poll-workers**

**RECOMMENDATION 5: Recruit More Qualified Poll-workers. The Florida Legislature and the county governments should increase the numbers of qualified poll-workers by, for instance, reassigning government workers who will serve as poll-workers on election days and by encouraging and recognizing private employers and qualified college students who do the same.**

The flood of voters to the polls in the 2000 elections strained our system of staffing over 4,500 precincts on election days. Statewide, there were many first-time poll-workers on duty with minimal training and pay. Many of them worked through a hectic 14-hour election day, handling high volumes of new voters, most of whom expected that poll-workers would make no mistakes.

In Hillsborough County, the average poll-worker is 67 years old, receives three hours of training, and works from 15 to 16 hours on election day for pay that ranges from \$75 for new hires to \$115 for more experienced workers. Turnover from one election to the next is high. The county had to hire 1,200 new workers, out of a total poll-worker force of about 3,000, for the 2000 elections.

Statewide, the problem seemed most serious in precincts with large numbers of elderly, low-income, immigrant, minority, or inexperienced voters with special needs that required immediate, informed responses. Serious problems also were found in precincts with inaccurate voter rolls, communications problems between precincts and county offices, or unclear procedures.

More qualified poll-workers and supervising judges are sorely needed to help all voters, including those with special needs. Given the growing number of voters in Florida, Supervisors of Elections need to revisit the staffing needs of their polling places and determine what numbers of workers will be required in upcoming elections. They then need to work together on regional and statewide methods for increasing the numbers of qualified poll-workers and supervisors.

To increase the supply of qualified poll-workers, the Florida Legislature and county governments should provide Supervisors of Elections with sufficient assistance to ensure more successful recruitment and retention of experienced poll-workers. Training and management will aid considerably in recruiting and retaining poll-workers. The goal should be to increase the number and use of experienced poll-workers with advanced skills, reduce turnover, and develop a customer service management approach to polling place management so that the needs of elderly, disabled, immigrant and inexperienced voters are better met.

To increase the numbers of qualified workers available, State, county and local governments should be able to reassign government workers who volunteer for the task to serve as poll-workers on election days. They also should encourage private employers to do the same and recognize public and private workers who contribute to successful elections in this way. Qualified college students also should be encouraged to participate.

Supervisors of Elections might consider a public-private recruitment strategy like that employed by the Kansas City Board of Election Commissioners in Missouri since 1998. Through partnerships with businesses, schools and other organizations, the Kansas City Board is working—through its bi-state cooperative “Making Voting Popular” effort in six jurisdictions—to increase the supply of qualified poll-workers. Businesses are asked to either release employees, on a paid basis when possible, or to encourage their employees to use vacation (or similar paid time off), to serve as election day workers. Members of organizations are invited to work as poll-workers and donate their day’s salary to their group, rather than retain it as personal income. Student poll-workers also are recruited through the local school district. Local news media have provided widespread publicity. The Kansas City program was implemented at a cost of just \$2,419, used primarily for printing of flyers and forms, resulting in over 275 new workers as a direct result of the campaign.

## Training Poll-workers

**RECOMMENDATION 6: Regional and Internet-based Distance Learning Training Programs for Poll-workers. The Division of Elections in cooperation with the Florida State Association of Supervisors of Elections should establish regional training programs and Internet-based distance learning training programs for county-based poll-workers.**

Most counties in Florida, from large urban places to small rural ones, experienced problems in the 2000 election that apparently were caused by insufficient poll-worker training. Voters complained about many problems, including the refusal by poll-workers to provide a second ballot to replace a spoiled one and the dismissal by poll-workers of registered voters in line at 7 p.m. without voting.

Some of these problems are explained by the inherent difficulties of assembling a statewide workforce of over 30,000 poll-workers for only three days every two years and expecting them to perform their unpracticed duties perfectly. In fact, it seems remarkable that more problems do not occur, given the nature of a large, temporary work force. Yet, many of the problems at the polls can be reduced significantly by providing good training of poll-workers.

Supervisors of Elections should have resources to improve the training and management of poll-workers in Florida. The goal should be to foster a higher level of skills for poll-workers and to develop a customer service approach to polling place management so that the needs of voters, with special attention to the elderly, disabled, immigrant, and inexperienced voters, are better met.

Training may be improved by setting concrete and measurable standards, meeting those standards through regional or Internet-based distance learning programs, and developing more effective election day management practices that will help poll-workers put their training into actual practice. Training poll-workers to effectively use basic telephone, E-mail, and audio-visual technologies should permit them to communicate important information to voters more effectively and to resolve problems for voters at polling places. The addition of central elections office staff dedicated to problem-solving might be appropriate in some counties, and the cultivation of a “customer service” management approach in the polling place would benefit most.

Training programs might include the following types of skill-building and information dissemination: voting procedures and protocol, communicating with the central elections office, helping voters with special needs, polling place security, voter rights as delineated by the U.S. Constitution, the Florida Constitution, and working with audio-visual, electronic and/or telephone technologies at the polling place.

## Precinct Communications

**RECOMMENDATION 7: Improve Precinct Communications. The Supervisors of Elections should determine where precinct-to-central office communications problems occur and provide satisfactory communications capabilities for these precincts, including possible use of county emergency operations centers on election days.**

Every election generates many questions from voters at polling places about voter eligibility and other voting procedures. During each general election, precinct poll-workers report difficulties in contacting county elections offices by telephone or otherwise to find answers to these polling place questions.

Many communications problems result from over-reliance on telephone calls, resulting in jammed phone lines and overloaded central office workers. Other factors are inadequate phone lines in many precinct locations, lack of laptop and other computer equipment that could send and receive E-mail or needed data, equipment breakdowns, and poll-workers with few or no computer and other communications skills. With increasing numbers of voters in our state, these problems promise to magnify over time.

While large urban counties experience the greatest volume of these communications problems, other counties experience enough problems to warrant concern.

Every precinct, to the maximum extent feasible, should have reliable two-way communications with the county Supervisor of Elections' office that provide instant data to resolve such problems as voter eligibility and correct voting precincts for voters who have changed addresses. These communications systems could include a variety of useful equipment and other resources, such as leasing wireless telephones, leasing laptop computers with on-line connections for E-mail or database inquiries, or using county emergency management centers with staffed telephone banks.

In 100 Orange County precincts during the November 2000 election, county officials leased laptop computers for \$100 each to keep up with polling place questions. The strategy was so effective that the county will lease laptops for all of its 250 precincts in the 2002 general election. Where a polling place has inadequate telephone lines, temporary lines could be installed or wireless devices could be used. Supervisors of Elections should further explore these possibilities within their individual counties.

## Voter Comment Cards

**RECOMMENDATION 8: Voter Comment Cards and Suggestion Boxes. The Supervisors of Elections should provide voter comment cards and/or suggestion boxes at every precinct on election days. Comment cards should be easily understood by voters and simple to complete. Elections Supervisors should prepare and publicize such comment cards and their responses to them.**

Many voting problems that should receive serious attention go unnoticed in many counties because voters do not have a convenient way to tell elections officials about them. These problems do not go away with the election but build until they have serious consequences or until voters decide not to vote in future elections.

Every county should use business postage-paid voter comment cards, available at every precinct, so that all voters can communicate operational or service problems, or compliments, in writing to Supervisors of Elections or State election officials.

The voter comment card should be simple and easy to understand, and it should request the following information: location of the polling place for which a complaint or compliment is being registered; description of a specific problem (or positive experience) that occurred; whether a problem experienced was related to equipment failure, a lack of needed information, or customer service; and how the sender can be contacted for follow-up (if the sender so desires).

Polling places also should be equipped with suggestion boxes into which voters could place their comment cards before they leave. Supervisors of Elections should note the comments on each card and publish a written report of the types of problems experienced and the remedies instituted by the supervisor's office.

### ***A-3. Elections Officials***

#### **Non-Partisan Elections Supervisors**

**RECOMMENDATION 9: Non-Partisan Elections Supervisors. The Florida Legislature should change the elected county Supervisors of Elections to non-partisan positions.**

Florida has 67 Supervisors of Elections, one for each county. The position is mandated by Florida's Constitution with duties specified by the Florida Legislature and budgets approved and funded by each County Commission. Each Elections Supervisor is elected by the people of his or her county, except in Miami-Dade County whose unique charter calls for the supervisor to be appointed by the County Manager. Most of the supervisors run by party affiliation, although a few run on a non-partisan basis under their county charters.

Florida's decentralized system of responsibility for elections administration gives each county a full-time person, some with substantial staffs, to concentrate on elections in a full-time

capacity, to experiment with new ways of meeting the needs of voters, and generally to act strictly on a non-partisan basis so that all voters of whatever party affiliation (or without such affiliation) can have confidence in a fairly-administered system. These are valuable elected officials.

The Select Task Force was greatly impressed with the professionalism and the commitment of Florida's election supervisors to the democratic process. Many supervisors assisted the Select Task Force these past six weeks. Each election official that helped the Select Task Force exhibited competence, passion, and commitment to the integrity of the election process. During the November 2000 election, some of these officials were unjustly criticized.

The Select Task Force believes that election supervisors should not be elected on a partisan basis. Voters must perceive and see the reality of a free and fair election, administered neutrally and competently. A well-organized, credible election administration system can build trust in elections and, generally, in democratic institutions. A professional election administration must be perceived as being fair or it will lose credibility in voters' eyes even if it is acting fairly and correctly. To avoid the perception that they favor a particular outcome, those who administer elections must be neutral and transparent, with as much information as possible made available on a timely basis to voters, the media, and political parties.

Tightly contested elections, such as Florida experienced in November 2000, contribute to a partisan appearance. In that election, voters in both major political parties alleged partisanship by State and local officials and believed that such partisanship influenced the final result of the election.

The Select Task Force believes that electing such officials on a partisan basis significantly undermines the appearance, if not the reality, of fairly-administered elections. The Florida State Association of Elections Supervisors long has endorsed a change in the way supervisors are elected so that they would run on a non-partisan basis, using standards currently in state law for the election of judges. The Select Task Force wholeheartedly agrees with the Association's position.

### **Restrict Partisan Political Activity**

<p><b>RECOMMENDATION 10: <u>No Political Involvement of County Canvassing Boards and State Elections Canvassing Commission.</u> The Florida Legislature should prohibit members of County Canvassing Boards and of the statewide Elections Canvassing Commission from being active in partisan political activity while serving as members of these boards and require them to excuse themselves from service in any election cycle in which they have personal political interests.</b></p>
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With very limited exceptions (such as in Miami-Dade County where the Elections Supervisor is appointed by the County Manager rather than elected by the people), members of County Canvassing Boards are local elected officials (the Elections Supervisor, the Chair of the County Commission and a county court judge). Members of the statewide Elections Canvassing

Commission either are elected officials (the Governor and the Secretary of State) or appointed directly by one of these (the Director of the State Division of Elections who is appointed by the Secretary of State).<sup>2</sup>

The integrity of an independent, non-partisan elections process is compromised if any of these people has personal political interests in an election cycle in which he or she must perform duties as a member of a County Canvassing Board or of the statewide Elections Canvassing Commission. Florida's Governor laudably recognized that fact when he recused himself from participating as a member of the Elections Canvassing Board in the 2002 general election.

The Select Task Force believes that any member of these groups who is active in partisan political activity in any election in which he or she has a personal political interest should recuse himself or herself from any involvement whatsoever in the activities and decisions of a County Canvassing Board or of the Elections Canvassing Commission, as appropriate, for the applicable elections cycle.

Florida Statutes Section 102.141 requires that members of County Canvassing Boards be replaced if they are candidates who have opposition in the election being canvassed or are active participants in the campaign or candidacy of any candidate who has opposition in the election being canvassed. No such statutory requirements exist for the statewide Elections Canvassing Commission.

The Select Task Force thinks that these rules should apply to the Elections Canvassing Commission as well as to the 67 County Canvassing Boards and that they should be strengthened to prohibit any kind of partisan political conduct by members during any election in which they serve.

The Select Task Force tabled the idea of an independent, non-partisan elections board to replace the existing state Division of Elections. There are current efforts by the Florida Legislature for reorganizing the Florida Department of State, including the governance and duties of the Division of Elections, as part of ongoing statewide governmental reorganization following actions by the voters to change the Florida Constitution in 1998.

### **Elections Supervisor Budget Process**

**RECOMMENDATION 11: Appeal of Budgets for Elections Supervisors. The Florida Legislature should authorize county Elections Supervisors to appeal to the State Cabinet decisions made by County Commissions about budgets for the operations of Elections Supervisors, similar to the appeals authorized for other Constitutional officers.**

Florida's 67 Supervisors of Elections must obtain approval of their election budgets from local County Commissions. They are not funded by the State or any other entity, except for an

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<sup>2</sup> In 2002, the Florida Secretary of State will be appointed by the Governor instead of being elected by the people. The Division of Elections may or may not be part of the Secretary of State's office after that time.

occasional special public or private grant for a particular purpose. A number of supervisors reported to the Select Task Force that they could not obtain adequate funding for staff and up-to-date voting equipment from County Commissions. As a result, the Select Task Force recommends that the Supervisors of Elections should have the ability to appeal the budget decisions of the County Commissions to the Governor and State Cabinet (statewide elected officials, including the Secretary of State, the Attorney General, the Treasurer, the Comptroller, the Commissioner of Education and the Commissioner of Agriculture).<sup>3</sup>

As Constitutional officers, Supervisors of Elections have the same independent standing as locally-elected Sheriffs, Tax Collectors, Property Appraisers, and Clerks of Circuit Courts. Yet, except for the Supervisors of Elections, each one has the ability either to obtain approval of budgets by the Governor and Cabinet or to appeal budgetary decisions of County Commissions to the Governor and Cabinet.

The Select Task Force recognizes the great importance of providing adequate funding for the election administration and voter education tasks of Supervisors of Elections and recommends that the Florida Legislature grant the Supervisors the same ability to appeal budgetary decisions to the Cabinet that the Legislature has granted to other locally-elected Constitutional officers.

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<sup>3</sup> After the general election of 2002, Florida's statewide elected executive officials will be the Governor, Lieutenant Governor, Attorney General, a Chief Financial Officer and a Commissioner of Agriculture. The Cabinet will include the Attorney General, Chief Financial Officer and Commissioner of Agriculture.

## **B. ENCOURAGING RELIABLE TECHNOLOGY**

### **Uniform and Standardized Voting System**

**RECOMMENDATION 12: Uniform and Standardized Statewide Voting System for 2002 Elections Cycle. The Division of Elections should certify a uniform voting system for use throughout the State of Florida in the 2002 statewide election cycle that meets both Florida’s “Voting Systems Standards” and “user standards” such as low voter error rates compared to other equipment; ease of set-up, use, voter error corrections, and maintenance; documentation for vote-auditing purposes; cost; and availability. The Task Force notes that the state-certified “marksense” voting system with precinct level tabulation currently meets all of these standards (both the “Voting Systems Standards” and “user standards”) and that no other system currently is certified that meets all of the standards. Election Supervisors and County Commissions in counties without the uniform system should consider leasing it for the statewide 2002 election cycle so that they are open to future advances in new technology.**

Like many states, Florida lacks a unified voting system for its 8.4 million voters. Voting systems must be certified by the state Division of Elections, but decisions about which system to use and how to purchase it are made by county Supervisors of Elections and County Commissioners. There are five different voting systems used in Florida’s 67 counties: punch cards (24 counties), marksense—central tabulation (15 counties), marksense—precinct tabulations (26 counties), paper ballot (one county), and machine lever (one county).

Punch card voting systems are used in many of Florida’s most populous counties. Punch card voting technology is nearly 40 years old and works well when the ballot design is simple and the margin of victory is large. During extremely close elections like the recent presidential contest, the punch card system lacks precision. Pam Iorio, the Hillsborough County Supervisor of Elections, noted that “...the 2000 election represented an unusual circumstance: when the margin of error exceeded the margin of victory.” That error rate was greater in Florida counties using punch card voting systems than in counties using a newer technology. (See **Chart 4** for an updated analysis of the “error rates” of different kinds of voting technologies used by Florida’s counties in the 2000 general election, prepared by *The Orlando Sentinel*. Please note that the final vote tallies do not reflect the precise certified totals.)

## Chart 4

### Lost Votes?

Blank or spoiled ballots in the last presidential election, by percentage

Source: Orlando Sentinel survey of all 67 county elections supervisors in Florida (11/14/00). With updates by Collins Center for Public Policy, Inc. (1/30/01).

COUNTY	VOTING SYSTEM	TOTAL PRES. VOTE**	ALL BALLOTS CAST***	BLANK OR SPOILED BALLOTS	
				NUMBER	%
Martin	Lever machine	62,013	62,570	557	0.89%
<b>TOTAL</b>		<b>62,013</b>	<b>62,570</b>	<b>557</b>	<b>0.89%</b>
Bradford	Optical (central)	8,673	9,414	741	7.87%
Charlotte	Optical (central)	66,896	70,100	3,204	4.57%
Franklin	Optical (central)	4,651	5,070	419	8.26%
Gadsden	Optical (central)	14,727	16,812	2,085	12.40%
Gulf	Optical (central)	6,144	6,565	421	6.41%
Hamilton	Optical (central)	3,964	4,353	389	8.94%
Hendry	Optical (central)	8,139	8,949	810	9.05%
Jackson	Optical (central)	16,300	17,470	1,170	6.70%
Lafayette	Optical (central)	2,505	2,679	174	6.49%
Lake	Optical (central)	88,611	91,989	3,378	3.67%
Levy	Optical (central)	12,724	13,490	766	5.68%
Liberty	Optical (central)	2,410	2,598	188	7.24%
Okeechobee	Optical (central)	9,864	10,722	858	8.00%
Suwannee	Optical (central)	12,457	13,189	732	5.55%
Taylor	Optical (central)	6,808	7,413	605	8.16%
<b>TOTAL</b>		<b>264,873</b>	<b>280,813</b>	<b>15,940</b>	<b>5.68%</b>
Alachua	Optical (precinct)	85,729	86,144	415	0.48%
Baker	Optical (precinct)	8,160	8,300	140	1.69%
Bay	Optical (precinct)	58,857	59,520	663	1.11%
Brevard	Optical (precinct)	218,395	218,989	594	0.27%
Calhoun	Optical (precinct)	5,178	5,256	78	1.48%
Citrus	Optical (precinct)	57,251	57,468	217	0.38%
Clay	Optical (precinct)	57,353	57,764	411	0.71%
Columbia	Optical (precinct)	18,513	19,206	693	3.61%
Escambia	Optical (precinct)	116,769	121,141	4,372	3.61%
Flagler	Optical (precinct)	27,111	27,194	83	0.31%
Hernando	Optical (precinct)	65,219	65,500	281	0.43%
Holmes	Optical (precinct)	7,400	7,539	139	1.84%
Leon	Optical (precinct)	103,196	103,377	181	0.18%
Manatee	Optical (precinct)	110,221	111,676	1,455	1.30%
Monroe	Optical (precinct)	33,887	34,095	208	0.61%
Okaloosa	Optical (precinct)	70,747	71,512	765	1.07%
Orange	Optical (precinct)	280,125	282,529	2,404	0.85%
Polk	Optical (precinct)	168,607	169,582	975	0.57%
Putnam	Optical (precinct)	26,248	26,416	168	0.64%
Santa Rosa	Optical (precinct)	50,319	50,684	365	0.72%
Seminole	Optical (precinct)	137,634	137,970	336	0.24%
St. Johns	Optical (precinct)	60,781	61,313	532	0.87%
St. Lucie	Optical (precinct)	78,060	78,709	649	0.82%
Volusia	Optical (precinct)	183,653	184,153	500	0.27%
Walton	Optical (precinct)	18,318	18,537	219	1.18%
Washington	Optical (precinct)	8,024	8,353	329	3.94%
<b>TOTAL</b>		<b>2,055,755</b>	<b>2,072,927</b>	<b>17,172</b>	<b>0.83%</b>
Union	Paper/hand	3,826	4,084	258	6.32%
<b>TOTAL</b>		<b>3,826</b>	<b>4,084</b>	<b>258</b>	<b>6.32%</b>

Chart 4 (continued from p. 31)

COUNTY	VOTING SYSTEM	TOTAL PRES. VOTE**	ALL BALLOTS CAST***	BLANK OR SPOILED BALLOTS	
				NUMBER	%
Broward*	Punch card (central)	573,306	587,928	14,622	2.49%
Collier	Punch card (central)	92,141	95,325	3,184	3.34%
DeSoto	Punch card (central)	7,811	8,512	701	8.24%
Dixie	Punch card (central)	4,666	4,998	332	6.64%
Duval	Punch card (central)	264,717	291,626	26,909	9.23%
Gilchrist	Punch card (central)	5,395	5,688	293	5.15%
Glades	Punch card (central)	3,365	3,722	357	9.59%
Hardee	Punch card (central)	6,233	6,645	412	6.20%
Highlands	Punch card (central)	35,149	36,158	1,009	2.79%
Hillsborough	Punch card (central)	360,295	369,467	9,172	2.48%
Indian River	Punch card (central)	49,614	51,559	1,945	3.77%
Jefferson	Punch card (central)	5,643	6,214	571	9.19%
Lee	Punch card (central)	184,377	188,978	4,601	2.43%
Madison	Punch card (central)	6,162	6,642	480	7.23%
Marion	Punch card (central)	102,656	106,001	3,345	3.16%
Miami-Dade*	Punch card (central)	625,362	653,963	28,601	4.37%
Nassau	Punch card (central)	23,782	25,387	1,605	6.32%
Osceola	Punch card (central)	55,658	57,341	1,683	2.94%
Palm Beach*	Punch card (central)	432,286	461,988	29,702	6.43%
Pasco	Punch card (central)	142,731	146,648	3,917	2.67%
Pinellas	Punch card (central)	398,469	406,956	8,487	2.09%
Sarasota	Punch card (central)	160,942	163,749	2,807	1.71%
Sumter	Punch card (central)	22,261	23,032	771	3.35%
Wakulla	Punch card (central)	8,595	9,017	422	4.68%
<b>TOTAL</b>		<b>3,571,616</b>	<b>3,717,544</b>	<b>145,928</b>	<b>3.93%</b>
<b>TOTALS</b>		<b>5,958,083</b>	<b>6,137,938</b>	<b>179,855</b>	<b>2.93%</b>

\*Uncertified figures from three counties result in unofficial statewide totals

\*\*Includes all 10 presidential candidates on Florida ballot, plus valid write-ins

\*\*\*Includes absentee ballots, which tend to increase the number of "blank or spoiled ballots"

Optical (precinct) means marked ballots are tabulated by machines at precinct level

Optical (central) means marked ballots are tabulated by machine at a central elections office

Punch card (central) means Punch card ballots are tabulated centrally

Florida voters have lost confidence in “punch card” voting systems. There is general consensus that Florida must renew its voting systems in time for the next statewide election in 2002 so that each voter in statewide and Federal elections will experience the same opportunity to have his or her vote accurately counted.

The Supreme Court of the United States, in **Gore v. Bush**, acknowledged “...that punch card balloting machines can produce an unfortunate number of ballots which are not punched in a clean, complete way by the voter. After the current counting, it is likely that legislative bodies nationwide will examine ways to improve the mechanisms and machinery for voting.”

There are three likely replacements for punch card systems. The first alternative is known as a “**marksense**” or “**optical scanning**” voting system and is a Florida certified voting system currently used in 41 counties. The marksense voting system has two different types of ballot tabulation processes. The marksense voting system with precinct-level tabulation is used

in 26 of the 41 counties and has an overall lower spoiled ballot rate than counties using the marksense central tabulation system.

The second voting system is known as a **Direct Recording Electronic (DRE) or “touch-screen” voting system**. The DRE is a relatively new system that is not yet certified as a voting system in Florida. It has been used sporadically around the country.

The third system is known as **“Internet” voting** and is considered experimental by most voting experts.

None of the alternative systems under consideration is considered flawless and each carries its distinct advantages and disadvantages. Each is discussed briefly in turn.

**Marksense—Precinct-Level Tabulation (Optical Reading Technology):** The Federal Elections Commission (FEC) describes a marksense system as one in which a ballot card has candidates’ names preprinted next to an empty oval, circle, rectangle, or an incomplete arrow. A voter records his or her choices by filling in the empty oval, circle, or rectangle or by completing the incomplete arrow with a pencil. Once the voter is finished completing the ballot, it is fed into a tabulating device at the precinct and the voter has the opportunity to correct any errors before leaving the precinct.

#### ***Advantages***

- Estimated costs at \$4,000-\$5,000 per precinct are less than per precinct cost for DRE systems.
- Fewer units marksense system are needed than the DRE system requires; DRE systems require a DRE machine for each booth in a polling place while marksense/precinct tabulation systems require only one scanner per polling place.
- 41 Florida counties already are using some type of certified marksense system.
- Voter errors such as “overvotes” can be corrected by voters at the polls, eliminating a large percentage of “spoiled” ballots.
- Marksense systems are proven systems; 26 Florida counties using the marksense precinct-level tabulation system had the lowest percentage of “spoiled” or blank ballots during the November 2000 election.
- Counties converting from punch cards to marksense can use existing privacy booths.
- Storage space is minimal compared to larger systems.
- Number of staff to operate and maintain a marksense system is smaller than the more technologically advanced DRE voting system; more sophisticated staff are required to operate the DRE system.
- Some voters generally feel more comfortable with paper ballots, and a paper “audit trail” exists in marksense systems for possible vote recounts.

### *Disadvantages*

- Voter errors such as “undervotes” or blank ballots may go undetected.
- Ballots must be preprinted and can be a costly recurring expense for counties.
- Elections with large numbers of candidates and issues may require more than one ballot per voter.
- Visually impaired and other disabled individuals will still need assistance to mark their ballots.

**Direct Recording Electronic (DRE):** The Federal Elections Commission (FEC) describes the DRE as “an electronic implementation of the old mechanical lever systems.” There is no paper ballot. The voter sees a display of possible choices and then directly enters choices by touching a video-screen or by pushing a button or similar device. More recent DRE models have the ability to display photographs of candidates. Often an alphabetical keyboard is supplied to allow the voter to enter a write-in candidate. Currently, there are no DRE voting systems certified in Florida. Other states permit voters to use DRE devices. During the November 2000 election, Riverside County in California used a DRE voting system throughout the entire county and reported great success.

### *Advantages*

- DRE machines are more expensive to purchase and maintain but their overall, long-term costs may be less than marksense machines because they have no paper ballots and therefore reduce recurring costs for County governments.
- “Overvotes” are impossible to make thus eliminating a large percentage of “spoiled” ballots.
- It is easy to change one’s vote if a mistake is made; no assistance is required from a poll-worker.
- Some DRE machines are easier to use for illiterate voters because candidates’ photographs can be displayed.
- Some DRE machines have audio features and large fonts that make them easier to use for visually impaired voters and other disabled voters.

### *Disadvantages*

- DRE machines are more costly per precinct than marksense machines because it takes more DRE machines per voter at the polling place than marksense systems and maintenance costs are higher.
- Many DRE machines produce no paper ballots, making recounts difficult.
- DRE machines require more technologically competent staff for maintenance.
- Poll-workers are not prepared to troubleshoot DRE machines if they fail.
- It is unclear whether manufacturers can meet Florida’s demand for DRE machines by the 2002 primary and general elections.

**Internet Voting:** Voters in some elections have used computer devices connected to the Internet. These systems are still experimental and have not been tested for a national election except in a

very limited way (including tests in two Florida counties that the Division of Elections has monitored) by the Department of Defense for overseas military personnel.

### *Advantages*

- Internet voting can be more convenient for voters who have computers at home or at work.
- Computers could be leased and set up any place with Internet connections for ease of voter use.
- Internet voting could be less costly than marksense machines because there are no paper ballots, reducing recurring costs for county governments.
- The “ballot” could be posted on a secure website making it easy for the voter to use and cost efficient for the government to design.
- Vote tabulation software could eliminate “overvotes.”

### *Disadvantages*

- Adequate protection is not yet widely available to ensure that the person voting from home is the one who is registered and qualified to vote.
- No current technology adequately ensures security and privacy of the voter.
- Internet voting would favor people who have computers at home or at work turning the “Internet Divide” into the “Democracy Divide.”
- There is no paper trail, making recounts impossible.
- Internet voting is a largely untested application for a national or statewide election.

The Select Task Force recommends that voting systems in Florida meet two sets of standards: (1) those specified by Florida law in Florida Statutes Section 101.015 (Standards for Voting Systems) as elaborated by the Division of Elections in “Florida Voting System Standards” effective July, 1998; Section 101.28 (Requirements for Voting Machines); minimum security requirements specified by rules of the Division of Elections; and other provisions of Florida law and regulations that focus primarily on the technical specifications for and reliability of voting equipment.; and, (2) standards that focus on the users of the equipment – voters, poll-workers, and elections officials – and include voter error rates compared to other equipment; ease of set-up, use, voter error corrections and maintenance; documentation for vote-auditing purposes; cost; and availability.

The first set of standards – “Florida Voting System Standards” and related requirements – already are among the best in the nation. All voting systems should meet these standards and the Division of Elections should be staffed and equipped to ensure that equipment manufacturers receive thorough, but rapid, review of their applications for certification.

The second set of standards is not yet promulgated by law or regulation but is high in the minds of voters and Elections Supervisors and could be known as “user-friendly standards.” Ion Sancho, Supervisor of Elections for Leon County, testified before the Select Task Force that he used such “user-friendly standards” when he recommended a new voting system for purchase in Leon County over a decade ago. Mr. Sancho stated that any system he recommended should meet the following standards, or criteria:

- Be accurate;
- Be simple for voters to use;
- Provide the ability to correct common errors made by voters;
- Be easy for poll-workers to set-up on election days;
- Allow for re-creation of voter intent independent of technology;
- Allow the Elections Supervisor and his or her staff to set up and take down the equipment from beginning to end without being dependent on any third party outside his or her office;
- Be cost efficient so that the local county government could afford to purchase it.

Given the experience of the 2000 general election, several of these “user-friendly” standards used by Mr. Sancho stand out in importance, including accuracy, the ability to correct voter errors, and the ability to re-create voter intent independent of technology. In addition, equipment that is simple for voters to use has taken on greater importance as voting machines become more technologically sophisticated in a society that still experiences a significant “digital divide.”

Error rates in the 2000 general election varied widely by type of voting system (see **Chart 4, p. 31-32**). As long as a single voting system is used throughout the jurisdiction covered by an election (such as a city or a county), then every voter will have the same chance to have his or her vote counted accurately. In statewide or national elections, when different kinds of voting systems with different error rates are used, every voter does NOT have the same chance to have his or her vote counted accurately.

In the 2000 general election, the punch card voting system in Duval County had a spoilage rate of 9.23% while similar-sized Orange County, with a marksense precinct tabulation system, had a sharply lower “residual” (or error) rate of 0.85% - less than 1%. It is difficult to argue that the voter in Duval County had the same opportunity in 2000 to have his or her vote counted accurately as did the voter in Orange County. Different kinds of voting systems have different “spoilage” (or error, reliability or accuracy rates). Using different systems with different “spoilage” rates for voters in the same statewide or national elections creates substantial questions about equal protection.

Some voter errors are caused primarily by uneducated, uninformed, or disinterested voters, but the error rates for those reasons seem to be less than 1%. Voters in counties which used marksense equipment with precinct tabulation in the 2000 general election had an average error rate of only 0.83% compared to an average error rate statewide, for all types of equipment, of 2.93%; 5.68% for marksense equipment with central tabulation; 6.32% for the one county with paper ballots; and 3.93% for the counties with punch card systems. Only the one Florida County still using lever machines (Martin County) experienced an undervote error rate close to the average error rate for marksense/precinct tabulation systems (Martin County’s error rate was 0.89%.) These are significant differences and should not be ignored. The differences appear to be **directly** related to the type of equipment used. It does not seem likely that the numbers of uneducated, uninformed or disinterested voters are substantially different in Duval County (with

a 9.23% error rate using a punch card system) and Orange County (with a 0.85% error rate using a marksense/precinct tabulation system). To blame the differences solely on voters, and to ignore the effects that voting systems may have, seems difficult to justify. Doing so seems somewhat like the failing business owner who blames his customers for not buying enough of his product rather than realizing that he must sell and promote a product that customers will buy.

At this time, the Select Task Force believes that the substantial difference in error or reliability rates for different kinds of voting systems argues strongly for installing a uniform, standardized voting system for use by all voters in the statewide 2002 election cycle.

A February 2001 report by the California Institute of Technology and the Massachusetts Institute of Technology found varying rates of “residual” votes among different types of voting systems. According to the Caltech/MIT Voting Project, “residual votes provide the best available measure of the extent to which technology enables or interferes with the ability of voters to express their opinion.”

The Caltech/MIT Voting Project examined nationwide county-level election returns for President for the 1988, 1992, 1996, and 2000 elections. They examined the number of residual votes (ballots that have recorded no vote for one of three reasons: voters may choose more than one candidate—commonly referred to as an “overvote,” voter that may mark the ballot in a way which is uncountable, and voters that indicated no preference).

The study found that the marksense or “optical scan” system had a lower residual rate than DRE or touchscreen systems. An even bigger surprise was that the DRE or touchscreen systems had a residual rate as high as punchcard systems. The authors were surprised and reported that the residual effect is entirely due to “undervoting.” They concluded that the results probably indicate how “people relate to technologies, more than actual machine failures.” (See **Chart 5** on p. 38 for the average residual vote by some of the machine types surveyed for the 1988-2000 Presidential Elections.)

In the meantime, voting systems that are uniform throughout a county (as all systems in Florida are) will meet reliability and accuracy standards for local elections that are only for voters in one county (or some component of it). Every voter in such elections has the same chance to have his or her vote counted accurately as have every other voter in the county. Municipal elections between now and the 2002 statewide election cycle should be able to use existing voting systems without significant concern for equal protection challenges.

But voters in multi-district, statewide, and Federal elections will not be treated equally if some use systems with documented high error rates and others use systems with much lower error rates. The differences in error rates among various kinds of voting systems are much too high to be accounted for solely by uneducated, uninformed or disinterested voters.

**Chart 5**  
**Average Residual Vote By Selected Machine Types in U.S. Counties**  
**1988-2000 Presidential Elections**

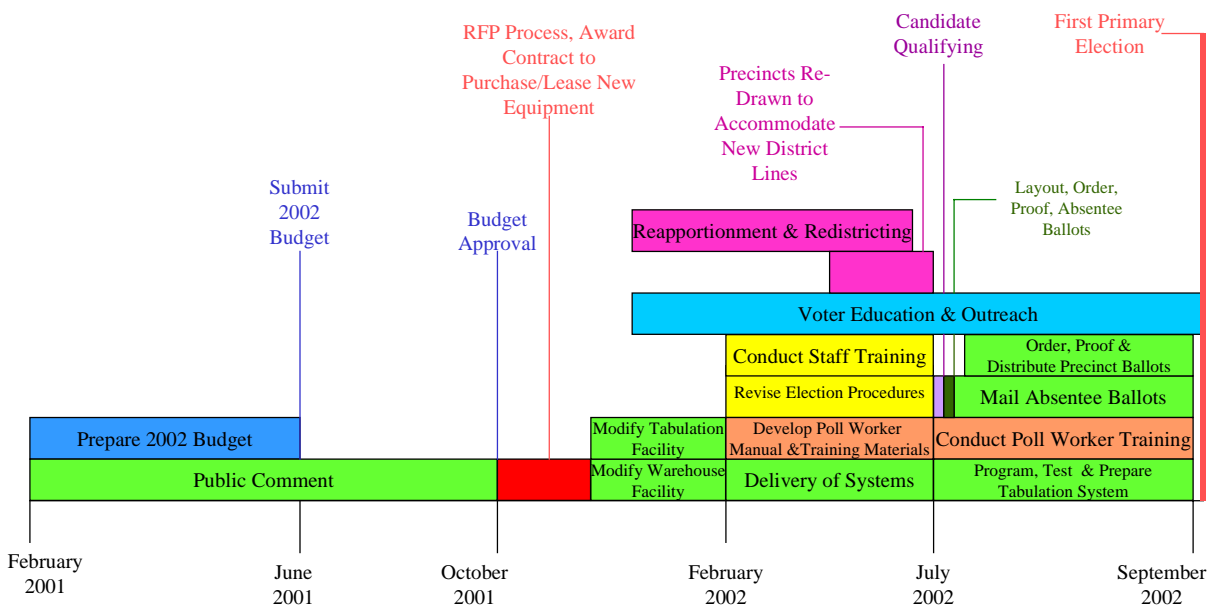
<i>Machine Type</i>	<i>Residual Average</i>	<i>Residual Median</i>	<i>Counties (Observations)</i>
<i>Marksense (optical scan)</i>	<i>2.3%</i>	<i>1.6%</i>	<i>958</i>
<i>DRE (touchscreen)</i>	<i>3.0%</i>	<i>3.1%</i>	<i>294</i>
<i>Punch card: "VotoMatic"</i>	<i>2.9%</i>	<i>2.5%</i>	<i>1,462</i>
<i>"DataVote"</i>	<i>3.2%</i>	<i>2.3%</i>	<i>296</i>

*Source: The Caltech/MIT Voting Project, February 1, 2001*

For multidistrict, statewide or Federal elections, only one voting system currently meets all of these standards: the state-certified marksense voting system with precinct level tabulation. It already is being used by 26 of Florida's 67 counties. Another 15 counties use marksense equipment but tabulate the ballots centrally. They should be able to convert to precinct level tabulation easily. In effect, 41 counties (the 26 with precinct tabulation and the 15 with central tabulation) already are in position to comply with statewide standards by the 2002 election cycle. Leon County's Elections Supervisor, Ion Sancho, chose the marksense voting system with precinct level tabulation when he reviewed all voting systems and has testified before the Select Task Force that he would make the same choice today.

Because technology is changing rapidly, and because elections technology may change dramatically in light of the state and national interest in it generated by the 2000 general elections, the Select Task Force recommends that counties that do not now have the "marksense" voting system with precinct level tabulation lease the equipment for the 2002 election cycle. This will keep open their options for purchasing other equipment, such as DRE or other to-be-developed equipment, that may be able to meet all of Florida's standards in time for future elections cycles. (See **Chart 6** on p. 39 that illustrates timeline for purchasing and using voting systems in time for 2002 election cycle.)

## Chart 6 Sample Timeline for Installation of New Voting System



Source: Florida State Association of Supervisors of Election, February 6, 2001

### Funding for New Voting Systems

**RECOMMENDATION 13: Funding for New Voting Systems. During the 2001 Legislative Session, the Florida Legislature should establish a matching grant or loan program to help Florida counties lease, replace, or upgrade their state-certified voting systems so that a uniform, standardized voting system is in use throughout the state for the 2002 statewide elections cycle. The matching grant or loan program should include appropriate reimbursements for counties that already have invested in a state-certified voting system that is part of a future statewide uniform, standardized system.**

The cost of converting to a unified voting system for Florida has raised more questions than answers.

Precise estimates on voting systems costs are difficult to gauge for many reasons. No two voting systems operate in the same way. Some voting systems have ballots and others do not. Some voting systems require special storage and maintenance and others do not. Some voting systems require computer programming and others do not.

As a result, one has to make awkward comparisons between different types of equipment costs, software costs, training costs, storage costs, transportation costs, and maintenance costs.

Another reason costs are difficult to ascertain is because voting system vendors are reluctant “to play their hand” and provide exact cost information. They will provide a range of costs that are subject to changes in market conditions, manufacturing conditions, volume buying, financing programs, and new model availability.

The Select Task Force obtained cost estimates from several sources—the Division of Elections, Florida Tax Watch, vendors, county Supervisors of Elections, and other independent sources such as the Center for Voting and Democracy and the Administration and Costs of Elections Project (ACE Project). The Select Task Force compared the different sources and came up with a range of costs for converting to a unified, standard system for the 2002 statewide elections cycle.

### **Lease Marksense (optical scanning) for 2002**

#### ***Option 1—Lease Marksense (optical scanning) systems***

***One election cycle (3 elections) for 4,000 precincts for a total of \$20,400,000--\$24,000,000\****

\*estimated statewide ballot costs are \$4,994,780 per major election cycle

### **Purchase Marksense (optical scanning) for 2002**

#### ***Option 2—Purchase Marksense (optical scanning) system***

***Purchase 4,000 units @ \$10,000 for a total of \$40,000,000--\$44,000,000\****

\*estimated statewide ballot costs are \$4,994,780 per major election cycle

For comparison purposes, the Select Task Force utilized research obtained by Florida Tax Watch and obtained estimated costs for purchasing a unified DRE (touchscreen) system.

### **Purchase DRE System for 2002**

***One DRE System /150 voters \$ 206,872,940***

***One DRE System/200 voters \$ 156,075,125***

***One DRE System/350 voters \$ 92,020, 704***

The Select Task Force heard testimony from the Florida Association of Counties concerning the ability of counties to afford the lease or purchase of new voting systems or the upgrading of existing systems to meet statewide standards, given the constraints of state-imposed millage rates (See **Chart 7** on pages 41-42). In addition, the Task Force heard from some counties who purchased “marksense” voting systems with precinct tabulation years ago and are concerned about the fairness of any decision by the State to assist counties that do not have such equipment to purchase it.

**Chart 7  
County Voting Systems and Estimated Tax Revenue**

<b>County</b>	<b>Voting System (Tabulation Location)</b>	<b>2000 Millage</b>	<b>Tax Revenue From One Mill 1999</b>
<b>Martin</b>	Lever Machine	5.6210	\$9,689,310
<b>Bradford</b>	Optical (Central)	10.0000	Not Available
<b>Charlotte</b>	Optical (Central)	4.7141	\$6,970,247
<b>Franklin</b>	Optical (Central)	5.6110	\$757,135
<b>Gadsden</b>	Optical (Central)	10.0000	Not Available
<b>Gulf</b>	Optical (Central)	6.6248	\$752,964
<b>Hamilton</b>	Optical (Central)	9.5000	\$534,561
<b>Hendry</b>	Optical (Central)	9.0000	\$1,321,907
<b>Jackson</b>	Optical (Central)	8.5050	\$780,641
<b>Lafayette</b>	Optical (Central)	10.0000	Not Available
<b>Lake</b>	Optical (Central)	5.1170	\$6,943,141
<b>Levy</b>	Optical (Central)	9.0000	\$865,436
<b>Liberty</b>	Optical (Central)	10.0000	Not Available
<b>Okeechobee</b>	Optical (Central)	8.1067	\$975,741
<b>Suwannee</b>	Optical (Central)	9.0500	\$667,997
<b>Taylor</b>	Optical (Central)	8.0760	\$726,978
<b>Alachua</b>	Optical (Precinct)	8.7500	\$5,586,256
<b>Baker</b>	Optical (Precinct)	8.7699	\$312,572
<b>Bay</b>	Optical (Precinct)	5.6600	\$5,591,436
<b>Brevard</b>	Optical (Precinct)	4.1042	\$15,875,104
<b>Calhoun</b>	Optical (Precinct)	10.0000	Not Available
<b>Citrus</b>	Optical (Precinct)	7.7410	\$4,897,966
<b>Clay</b>	Optical (Precinct)	8.9885	\$3,934,411
<b>Columbia</b>	Optical (Precinct)	8.7260	\$1,156,671
<b>Escambia</b>	Optical (Precinct)	8.7560	\$7,291,888
<b>Flagler</b>	Optical (Precinct)	4.9612	\$2,575,372
<b>Hernando</b>	Optical (Precinct)	8.3204	\$4,111,490
<b>Holmes</b>	Optical (Precinct)	9.1800	\$255,481
<b>Leon</b>	Optical (Precinct)	8.5800	\$7,719,736
<b>Manatee</b>	Optical (Precinct)	7.4312	\$11,693,203
<b>Monroe</b>	Optical (Precinct)	4.2181	\$9,039,865
<b>Okaloosa</b>	Optical (Precinct)	4.3755	\$6,980,212
<b>Orange</b>	Optical (Precinct)	5.1639	\$46,763,385
<b>Polk</b>	Optical (Precinct)	7.7270	\$14,507,148
<b>Putnam</b>	Optical (Precinct)	8.8000	\$2,243,643
<b>Saint Johns</b>	Optical (Precinct)	6.0600	\$7,169,302
<b>Saint Lucie</b>	Optical (Precinct)	7.6794	\$8,190,167
<b>Santa Rosa</b>	Optical (Precinct)	6.9720	\$3,803,314
<b>Seminole</b>	Optical (Precinct)	4.9989	\$14,324,774
<b>Volusia</b>	Optical (Precinct)	6.3670	\$15,000,014
<b>Walton</b>	Optical (Precinct)	6.3150	\$3,519,494
<b>Washington</b>	Optical (Precinct)	9.0000	\$418,753

**Chart 7 (Continued from p. 41)  
County Voting Systems and Estimated Tax Revenue**

<b>Union</b>	<i>Voting System (Tabulation Location)</i>	<i>2000</i>	<i>Tax Revenue From One Mill 1999</i>
<b>Union</b>	Paper/Hand	10.0000	Not available
<b>Broward</b>	Punch Card (Central)	6.8900	\$70,294,093
<b>Collier</b>	Punch Card (Central)	3.5028	\$24,422,201
<b>Desoto</b>	Punch Card (Central)	8.4800	\$738,300
<b>Dixie</b>	Punch Card (Central)	10.0000	Not Available
<b>Duval*</b>	Punch Card (Central)	10.5498	\$28,093,246
<b>Gilchrist</b>	Punch Card (Central)	10.0000	Not Available
<b>Glades</b>	Punch Card (Central)	10.0000	Not Available
<b>Hardee</b>	Punch Card (Central)	8.7500	\$831,899
<b>Highlands</b>	Punch Card (Central)	8.5000	\$2,688,132
<b>Hillsborough</b>	Punch Card (Central)	7.5336	\$34,671,754
<b>Indian River</b>	Punch Card (Central)	4.1014	\$6,995,097
<b>Jefferson</b>	Punch Card (Central)	10.0000	Not Available
<b>Lee</b>	Punch Card (Central)	6.3031	\$25,234,573
<b>Madison</b>	Punch Card (Central)	9.8290	\$338,126
<b>Marion</b>	Punch Card (Central)	6.1800	\$6,694,203
<b>Miami-Dade</b>	Punch Card (Central)	5.8090	\$92,349,704
<b>Nassau</b>	Punch Card (Central)	6.9545	\$2,616,962
<b>Osceola</b>	Punch Card (Central)	5.9945	\$7,540,527
<b>Palm Beach</b>	Punch Card (Central)	4.6000	\$67,459,795
<b>Pasco</b>	Punch Card (Central)	9.1320	\$9,101,425
<b>Pinellas</b>	Punch Card (Central)	7.4800	\$36,532,259
<b>Sarasota</b>	Punch Card (Central)	4.3770	\$21,889,741
<b>Sumter</b>	Punch Card (Central)	9.5650	\$1,018,773
<b>Wakulla</b>	Punch Card (Central)	9.7500	\$422,060

*Source: Florida Association of Counties, February 26, 2001*

The Select Task Force recognizes that the existence by the 2002 statewide elections cycle of a uniform, standardize voting system throughout Florida is in the best interests of the State and of the counties. It recommends that the State and local governments share in the costs of leasing, purchasing or upgrading equipment through a grant or loan formula to be determined by the Florida Legislature, after consulting with the counties. The Task Force also recommends that the State treat the counties equally and fairly by providing for an appropriate reimbursement to those counties who already have purchased “marksense” precinct tabulation systems.

## Decertification of Punch Card, Lever, Paper, and Marksense Central Tabulation Systems

**RECOMMENDATION 14: Decertification of Punch Card, Mechanical Lever, Paper Ballot and “Marksense” Central Tabulation Voting Systems. The Division of Elections should decertify the punch card voting system, the mechanical lever machine voting system, the paper ballot voting system, and the “marksense” central tabulation voting system for failing to meet standards for a uniform statewide voting system when the new uniform, standardized voting system is ready throughout the state for use in the 2002 statewide elections cycle.**

The punch card voting system has obvious flaws for a statewide election. During the November 2000 election, the “spoiled” and blank ballot rates were extremely high and unpredictable. The lever machine has a much better rate of overvotes and undervotes, but they are no longer being manufactured and only one county is using them in Florida. The use of paper ballots is not a reasonable option for statewide use with a state that has nearly 9,000,000 registered voters. Finally, the marksense “central tabulation” does not provide voters the option to correct ballots and thus has higher spoiled and blank voter rate than marksense precinct tabulation. These voting systems will, however, be useful and valid for elections that occur only in one county (or a portion of a county) because they provide the same opportunity to every voter to have his or her vote accurately counted.

These systems should remain certified until a uniform standardized voting system is ready throughout the state for use in the 2002 statewide elections cycle.

### Acceleration of Certification Process and Continuous Review of Standards

**RECOMMENDATION 15: Acceleration of Certification of Voting Technology and Continuous Review of Standards. The Secretary of State should direct the Division of Elections to conduct an immediate review of current voting system standards so that new technologies that meet Florida’s “Voting Systems Standards” and “user standards” are available for selection by County Commissions. The Division of Elections should continuously review its voting system standards to make sure that new technologies can be appropriately certified for all elections in a timely manner and that they encourage lively competition to develop new ways of measuring the will of the people.**

Florida is reputed to have some of the most sophisticated voting system certification standards in the United States. It is listed as one of 31 states that have adopted the Federal Elections Commission’s voting system standards. These standards contain specifications that certify things that voting equipment must do (functional criteria) along with technical requirements for items such as hardware, software, security, quality assurance, and documentation.

Florida's certification standards were published in a 76-page 1998 booklet entitled *Florida Voting System Standards*. The Division's booklet states that:

No electronic or electromechanical voting system may be used by any county or municipality in Florida unless the Division of Elections has issued a certification of provisional certification of the voting system's compliance with Florida's requirements pursuant to the applicant and evaluation processes described in this document. (Florida Voting System Standards, p. 2)

Companies submitting voting systems for certification in Florida must meet functional operational requirements: pre-voting operations; election day and follow-up operations; and maintenance and storage. In addition, the voting systems must endure a battery of tests such as hardware qualification tests, transit drop tests, bench handling tests, vibration tests, low temperature tests, high temperature tests, humidity tests, rain exposure tests, sand and dust exposure tests, software qualification tests, and system level tests. Accredited Independent Testing Authorities may also conduct these tests and the results sent to the Division of Elections.

The Select Task Force received many requests by members of the general public and voting system companies to include DRE voting systems in their recommendations. The Select Task Force resisted because DRE voting systems are not certified in Florida, because voter user data raises questions about their ease of use and therefore their accuracy, and because the costs of DRE systems are high compared to other systems. However, it was brought to the attention of the Select Task Force that some of these DRE voting systems are used successfully in other parts of the United States. Some have asked if Florida's current voting system standards unnecessarily exclude or inhibit the introduction of voting systems that might be used successfully in the Sunshine State.

Even the Federal Elections Commission stated that:

Standards are not permanent. They must evolve alongside technological advancements. Indeed, it is common to practice to review and update technical standards every five years or so...Some revisions are needed to update the standards to cover the newer technology as well as to change standards that currently unduly restrict design.

The Select Task Force recommends that the Secretary of State direct the Division of Elections to accelerate its review of voting system standards so that new technologies that meet technical standards and "voter-friendly" standards of reliability (such as error rates; ease of set-up, use, voter error corrections and maintenance; documentation for vote-auditing purposes; cost; and availability), provide more acceptable choices for Supervisors of Elections and County Commissions. It also recommended that the Division of Elections should continuously update its standards so that new voting system technologies may be available for future certification.

It is very important for Florida to continue to improve its voting systems. As Pam Iorio, Hillsborough County's Supervisor of Elections, testified:

...we must first discard an old notion, and one that is deeply ingrained: that voting systems are purchased once a generation. It is that very static thinking that landed us in trouble. Many election officials have delayed making a recommendation for new equipment in order to wait until there was a system that represented the future and could last for 20 to 30 years. That same standard is not applied to any other computer purchase.... We are all aware that technology and obsolescence go hand in hand. The punch card counties were utilizing a technology that was so out-of-date, the punch cards were ONLY used in elections – and in no other environment.... We have an obligation to ensure that our election technology keeps pace with all other technological advance. We cannot rest the fate of our democracy on the back of outdated technology. The consequences are too great. Should our voting systems change perhaps once a decade? Yes. That is one way we will ensure the very best for our voters....

The Division of Elections, as the certifying agency for voting systems in Florida, should ensure that it is encouraging new technology and finding the very best ways to find and record voter intent.

### **Uniform Statewide Standards for Each Type of Voting System**

**RECOMMENDATION 16: Uniform Statewide Standards for Counting Ballots and for Recounts for Each Type of Voting System. Uniform statewide standards for both machine and manual counts and recounts of votes in all types of voting systems now being used in Florida should be adopted immediately, whether or not a statewide uniform voting system is in all counties in time for the 2002 elections cycle.**

Florida is a “voter intent” state. Elections officials are committed by law to try to determine how a voter intended to cast his or her vote when any question about the vote arises. Florida Statutes Section 101.5614 (5) declares that “No vote shall be declared invalid or void if there is a clear indication of the intent of the voter as determined by the canvassing board.”

Some other states do not try to interpret “voter intent” but instead rely solely on “voter actions.” They do not count any ballot that is unclear on its face.

The Select Task Force believes that Florida should continue to be a “voter intent” state. The entire purpose of public elections is to determine the will of the people. As the 2000 general elections demonstrated, that task sometimes is accomplished with great difficulty, especially in a very close election. Very few guidelines exist for determining voter intent from a physical examination of ballots. Discarding ballots that may have errors caused by machines or faulty ballot design, rather than caused by voters, seems to be the height of bureaucratic arrogance, a “Catch 22” situation that permits elections officials to ignore the realities of voter education, language, age, disability, experience – where voters “are” rather than where we might like them to be – and to design an elections system that is destined to fail for some voters.

In Florida, **every registered voter should have the opportunity to vote and every vote should count.** To accomplish that goal, the Select Task Force recommends in this report that all 67 Counties in Florida use a uniform, standardized system of voting for the 2002 general election cycle. A major part of that goal is the need to have a voting system with very low historical voter error rates so that manual efforts to interpret voter intent can be minimized.

Between now and then, existing voting systems (marksense/precinct, marksense/central, punchcard, paper, and lever systems now in place) will be used in Florida's counties. Counties must hold municipal elections and special elections. The processes of electing and governing will not wait on the installation of a statewide uniform, standardized voting system. Most, if not all, of these "interim elections" avoid equal protection concerns because every voter in the jurisdiction (primarily counties and cities) will be using the same voting system. (Any "interim elections" for multi-county districts – such as special districts - with different voting systems in the counties in the district probably will raise equal protection concerns.)

Because of these "interim elections," the Select Task Force believes strongly that the State's Division of Elections and the 67 Elections Supervisors must take action quickly to provide clear guidelines for each kind of voting system now in place for County Canvassing Boards to use when they are trying to interpret voter intent. The 2000 general election in Florida was epitomized in the public mind by attempts to interpret voter intent by looking at "hanging chads" and "dimples" – characteristics of punchcard voting systems that raised many questions. That spectacle should never occur again.

Existing laws and regulations provide little guidance. "Marksense" or "optical scan" ballots, for instance, are used in 41 of Florida's 67 Counties. During recounts of "optical scan" ballots after the 2000 general elections, caused by protests or contests, County Canvassing Boards tried to follow Florida law to determine voter intent by visually inspecting ballots. The only guidance was in Florida Statutes Section 102.166 (Protest of Elections) and Section 102.168 (Contest of Elections). Those statutes required a visual inspection to determine whether the voting equipment correctly read all attempts by the voter to vote where the voter properly marked the ballot and where miscellaneous marks made by the voter clearly indicated the voter's intent. These "miscellaneous marks" included (but were not limited to) marking the candidate's party in lieu of the candidate and circling, pointing, marking an incomplete mark, or making any other mark on the ballot indicating that the voter has made a choice. These guidelines, although better than none, are not sufficient.

Guidelines for punchcard systems are even less sufficient. At least two counties – Broward and Pinellas – now have published standards for interpreting voter intent for punchcard systems. Although very helpful for elections solely for voters in those counties, the standards are different from each other and may add to the confusion in statewide and Federal elections. Statewide standards are needed urgently. In statewide and Federal elections, all counties should use the same standards in order to provide equal protection to voters. The voters of Florida deserve more than a checkered, hodgepodge system of interpreting votes differently in different counties.

These statewide standards for counting ballots to determine voter intent should be very specific for each type of voting system now in use. For example, standards for punchcard systems would be very specific about when to count a “hanging chad” – i.e., whether hanging by one corner, or two corners, or three corners is sufficient – and whether to count any “dimples.” As long as they are uniform statewide, they should result in the fair and equal treatment of voters.

## **C. IMPROVING PROCEDURES AND LAW**

### **C-1. Voter Registration**

#### **Voter Registration Applications**

Voter registration in the United States is voluntary and is conducted at the initiative of the voter. Each state controls how its citizens may register to vote. The **Florida Voter Registration Act of 1995**, responding to similar Federal legislation, significantly amended Florida law regarding registration of voters, making it easier for eligible citizens to register to vote. No longer did an applicant have to appear personally before a supervisor of elections, deputy supervisor, or volunteer deputy voter registrar to become a registered voter.

Under the provisions of the “motor voter” law, voters may register mail and can easily find applications at many locations throughout the state. Applicants may pick up a uniform statewide voter registration application, fill it out without any requirement for notarization or for a witness, and mail it to the Elections Supervisor in the voter’s county.

In addition to registration by mail, voters may get help in preparing and submitted applications for voter registration at drivers’ license offices. Other voter registration agencies include offices that provide public assistance (food stamps, Medicaid, WIC, and AFDC programs), offices that serve persons with disabilities, centers for independent living, and public libraries. Staff in those offices are required to provide the same degree of assistance for completing a voter registration application as they provide for completing the agency’s own forms (See **Chart 8** on p. 49 to see other sources for voter registration applications.)

To keep voter lists current and accurate, Supervisors of Elections are required to identify voters whose addresses have changed and to take other steps to obtain information about ineligible voters, such as those who have died or been convicted of a felony but whose rights have not yet been reinstated or are mentally incompetent.

#### **Voter Registration Database**

Each state has great flexibility in devising and maintaining a state voter registration system, although Federal law increasingly has governed how voters are registered for Federal elections, especially overseas military and other overseas voters. Some states have central, statewide databases while other states rely on local governments to maintain accurate and complete voter registration lists. In Florida, each Supervisor of Elections in the 67 counties receives voter registration applications from various sources and completes the final act of registering voters and issuing proof of registration. As a result, Florida’s voter registration records are currently kept on 67 different databases, periodically combined into a Central Voter File through a quarterly “batch” update and, following each election, examined by a private data processing company to detect ineligible voters such as duplicate registrations, felons, the mentally incompetent, and the dead. A recent survey found that none of the 67 counties is connected to the Central Voter File through the Internet or any private network.

**Chart 8**  
**Sources for Voter Registration Applications**

	<b>SOURCE</b>						
<b>Date</b>	<b>DHSMV</b>	<b>MAIL</b>	<b>PUB. ASST.</b>	<b>DISABILITY</b>	<b>RECRUITERS</b>	<b>PL/CIL</b>	<b>OTHER</b>
1995	703,989	280,778	120,916	6,838	1,102	29,119	211,988
1996	552,322	506,138	41,891	2,889	5,458	37,963	447,725
1997	543,969	205,946	24,620	2,104	750	11,348	185,060
1998	554,913	314,660	18,304	2,296	959	14,622	237,715
1999	533,673	271,316	14,717	2,143	521	10,046	196,220
2000	609,389	657,883	15,644	2,206	4,827	42,046	479,232
<b>Totals</b>	<b>3,498,255</b>	<b>2,236,721</b>	<b>236,092</b>	<b>18,476</b>	<b>13,617</b>	<b>145,144</b>	<b>1,757,940</b>

*Source: Division of Elections*

### Statewide Voter Database

**RECOMMENDATION 17: Statewide Online Voter Registration Database. The Florida Legislature should fund at \$3,000,000 the design of a comprehensive statewide online voter registration database to replace the current “batch” system and begin implementing the database as soon as possible.**

During the November 2000 general election, some voters complained that they were denied the right to vote at the polling place because their names were not on the voting rolls. Testimony provided by election officials and others cited three primary reasons for voter registration confusion: voter error, administrative error, and an inaccurate and outdated Central Voter File. (See **Chart 9** on p. 50 for changes in voter registration since 1995.)

Voter error can be addressed through improved voter education and by more responsible behavior of voters. Administrative error can be addressed through better procedures and follow-up between the Supervisors of Elections and the various groups that provide voter registration applications. Florida’s Supervisors of Elections are most concerned that the State’s Central Voter File does not provide current or accurate voter registration records for use on election days.

**Chart 9**  
**Changes in Voter Registration**

<b>Date</b>	<b>New Valid</b>	<b>Deleted</b>
1995	991,596	310,940
1996	1,180,050	298,052
1997	601,656	285,708
1998	618,681	350,738
Dec-00	1,042,225	365,318
<b>Totals</b>	<b>4,434,208</b>	<b>1,610,756</b>

Some election officials report that Florida's Central Voter File was designed to provide statewide lists of voters for use by campaigns, political analysts, and statistical analysts and not by Elections Supervisors for accurate and complete voter registration services. The Central Voter File functions very nicely for its apparently intended purpose, but it has limited usefulness as a current, complete, and accurate voter roster for election days. Accordingly, Florida's efforts to use the Central Voter File as a voter registration control list during the election process have proven ineffective.

Our representative democracy demands that all eligible voters have the opportunity to participate in the election process. A reliable and valid voter registration system is an important prerequisite to free and fair elections in a mobile society. The voter registration system must be comprehensive, inclusive, and constantly maintained.

A well-maintained voter registration system will check for currency and accuracy of the voter rolls. Currency makes sure that voters are registered at their places of residence at the time of the election. Accuracy means that those who are on the voter rolls should vote and those who should not be on the voter rolls do not vote.

The State of Kentucky is one of ten states that has an on-line, centralized registration database. Kentucky's on-line voter registration system is reputed to be one of the best. The on-line voter registration system was designed and built by the State. It was a joint effort between the Kentucky Board of Elections, the Technology Office of the Governor, and various state agencies that assist in the voter registration process.

The Kentucky Board of Elections houses the computer mainframe in the Capitol building. Election officials in each of the 120 counties have access to the voter registration database from terminals throughout the state. State officials at the Capitol regularly remove from the database the mentally incompetent, convicted felons, dead citizens, citizens who did not vote in the past two national elections, and citizens who leave the state.

Local county officials in Kentucky like the statewide database because they can instantaneously update voter registration records and get written confirmation the next day.

When election day arrives, each local election official feels confident that the records are accurate and will have the names of every one of Kentucky's 2.7 million registered voters. The Board of Elections is preparing to provide Internet access to the voter registration database for officials to use at the precincts on election days.

Elections Supervisors and other elections officials have urged the Select Task Force to recommend the creation of an on-line centralized voter registration database to improve the accuracy of voter rolls in Florida. The Select Task Force recommends that the Florida Legislature provide funds for the design of a comprehensive statewide online voter registration database to replace the current "batch" system and begin implementing the database as soon as possible.

***Advantages***

- An on-line voter registration database will replace a decentralized system that is never accurate or current.
- Voter registration is the most costly function of election administration and a centralized system can decrease redundant registration functions around the state and thereby reduce costs.
- Poll workers can use a laptop at the polling place to verify information on voters instantaneously.
- Supervisors from around the state will have immediate access to the system and can update records instantaneously.

***Disadvantages***

- Data in the database is only as good as those individuals putting data into the system.
- No one knows with certainty if most voter registration errors are due to voter error, administrative error, the inaccurate central voter file or a combination of these factors.
- Some local election officials do not want a state-run on-line centralized voter database.
- A centralized on-line database is another government intrusion into the private lives of its citizens.

**Voter Registration and Identification Cards**

**RECOMMENDATION 18: Voter Registration and Identification Cards. The Florida Legislature should amend Florida Statutes so that a voter registration identification card is not required. Supervisors of Election should substitute the voter registration identification with a voter information card to ensure that all voters know where to vote before every election.**

Voter registration cards can range from simple paper signature cards to highly sophisticated photo ID's with security mechanisms. There is no uniform voter registration card for Florida's voters like a uniform driver's license. Each Florida county issues a voter registration card to voters after they are properly registered to vote. Each registration card provides basic information, specified by Florida Statutes Section 97.071, such as a voter

registration number, registration date, birth date, political party, precinct information, and a change of address notice.

There appear to be two purposes for voter registration cards in Florida. The first reason is to confirm the address of the voter by sending it by non-forwardable, return-if-undeliverable mail. The second is to provide information to the voter. When voters go to the polls on election days, the voter registration cards are not required. Voters are asked to bring a photo ID and a signature ID. If the voter does not have a photo ID, he or she can sign a “no photo ID affidavit” and continue the voting process. The voter is then asked to sign the precinct register and the poll-worker verifies that signature with the signature ID.

During the November 2000 general election, some voters reported that they were denied the right to vote because they did not have proper identification. Some citizens feel that Florida should provide a statewide photo voter registration ID to facilitate voting identification at the polls.

Some Supervisors of Elections have stated that the voter registration card is no longer useful. The voter registration card is not required at the polling place and most voters use alternative signature ID’s such as drivers licenses, credit cards, student ID’s, or retirement center ID’s. In addition, some Supervisors of Elections say that there are other ways to verify the address of voters.

***Advantages***

- Voter ID cards are necessary because they are reliable forms of information for the voter and the poll workers.
- Voter ID cards facilitate voting in areas where the voter may not be known personally.
- Voter ID cards promote a feeling of citizenship among voters.

***Disadvantages***

- Voter ID cards have no use on election days since other ID’s will suffice.
- Voter ID cards are costly to produce and it’s difficult to maintain the records at the Supervisors of Elections’ offices.
- Voter ID cards often have to be replaced because they wear out, voters change addresses, or the cards are lost or stolen.

## ***C-2. Election Dates and Times***

### **Change in Dates for Primary Elections**

**RECOMMENDATION 19: Change in Dates for Primary Elections. The Florida Legislature should continue the Second Primary Run-off Election but change the dates of the First and Second Primary Elections so that there is adequate time between the First and Second Primaries and between the Second Primary and the General Election to provide adequately for ballot preparation and absentee voting.**

One of the biggest complaints heard from Supervisors of Elections focused on the negative effects of the second primary or runoff election upon local election administration. The second primary is a vestige of when Florida was a one-party state and when the winner of the primary usually meant that person was going to be the winner of the general election. The compressed fall schedule of statewide primary and general elections, all within nine weeks, creates serious time problems for elections officials, such as:

- Sending and receiving overseas and other absentee ballots. There is not enough time to print and mail accurate primary run-off and general election ballots and receive them before Election Day.
- Contests, recounts and appeals of disputed primary results or systemic problems with voter eligibility or registration or voting systems. There is too little time to sort out what are often complicated systemic problems before the deadline for completing the next election's ballots.

A proposed solution is to eliminate the run-off primary and award the party nomination to candidates who win a plurality in the first fall primary, which would be held later in September than the week of Labor Day.

#### ***Advantages***

Eliminating the runoff primary would provide election officials more time to print ballots and to prepare for the general election, especially disseminating ballots to U.S. registered voters overseas.

#### ***Disadvantages***

Run-off primaries allow underdog candidates a second chance and have produced many of Florida's leading statesmen. Plurality winners tend to be incumbents or candidates with greater name recognition and money.

Another solution is to retain run-off primaries by scheduling elections six weeks between the first and second primaries and six weeks between the second primary and the general election, or shifting both the first and second primary to the Spring.

*Advantage*

This would provide ample time for elections officials to settle election disputes and to prepare and distribute final absentee ballots.

*Disadvantage*

Spring primary elections would create campaign cycles that are too long and would conflict with state legislative sessions in March and April and thus disadvantage incumbent legislators.

A final solution would be to replace the current run-off election with an “instant runoff” in which voters in the first Fall primary election could select first, second and third choices or use some other form of weighted voting.

*Advantage*

“Instant run-offs” have been successful elsewhere and provide voters the flexibility and choice available in the current run-off primary.

*Disadvantage*

“Instant primary” voting is too unfamiliar and complicated for many voters.

**Uniform Poll Closing Times**

**RECOMMENDATION 20: Uniform Poll Closing Times. The Florida Legislature should send a Joint Resolution to the United States Congress requesting that Congress consider enacting legislation requiring uniform closing times or the counting of votes simultaneously in all time zones for presidential elections, taking into consideration the needs of poll-workers if polling times are to be extended.**

Florida is divided into two time zones. Most of the Florida’s population is located within the Eastern Time Zone while the northwestern panhandle region is located within the Central Time Zone.

The Select Task Force held a brief discussion on the effects of two different time zones on Florida’s poll closing times. The issues focused on how the national media prematurely reported the results of the Florida presidential race before the polls were closed in the panhandle region. There were claims that the premature call of the presidential race by the news media adversely effected voters who had not yet voted.

Members of the Select Task Force saw this as the purview of Congress and recommended that the Florida Legislature send this issue to Congress for their consideration and action.

### **C-3. Ballots**

#### **Review Ballot Designs**

**RECOMMENDATION 21: Review Ballot Designs. The Division of Elections should review ballot designs for statewide and national elections so that voters clearly understand the ballots and can properly execute their votes.**

The design of ballots became a focal issue during the November 2000 election. There were allegations that some ballot designs confused voters and therefore contributed to the number of spoiled or blank ballots.

According to the international Administration and Cost of Election Project, ballot design will have an impact on two important aspects of the election process:

1. The ability of voter to understand the choices of candidates or parties running in the election and select in a valid manner their choices. Elements on the ballot such as party symbols, candidate photographs, a short description of the party's and/or candidate's goals, and clear instruction on the ballot as to the method of casting a valid vote will support this.
2. The accuracy of counting of votes. Poorly designed ballots, with, for example, small and closely aligned preference squares, can lead to voters' marks overlapping more than one square, with consequent dispute at the count over whether the voter is valid, and, if valid, which party or candidate the voter selected.

Current Florida Statutes Sections 101.141, 101.171, and 101.5609 provide a mix of general and specific instructions on ballot design. However, there is no process at the state or local government levels to test whether these ballot layouts are clearly understood by voters.

Whether Florida adopts a unified voting system or not, the State should work with local governments to establish a process where ballots can be reviewed for clarity and accurate execution. In addition, all elections for statewide and national offices should reflect the same ballot design if Florida adopts a unified voting system.

#### ***Advantages***

- Ballots that have been reviewed for voter understanding and execution will generate fewer spoiled ballots.
- Voters will gain a sense of trust that the government is making the voting process easier to carry out.
- Voters will feel more certain about making their selections for office.

### *Disadvantages*

- There is no ballot design where 100% of voters will accurately reflect their choices for statewide and national offices.
- Elections Supervisors do not have the time to test all ballot designs in advance and are worried that failure to follow the wishes of those who test ballots may create legal challenges.

### **Provisional Ballots**

**RECOMMENDATION 22: Provisional Ballots. The Division of Elections should examine viable options for using provisional ballots so that voters whose eligibility is in question at the polling place on election days can submit votes in appropriate races subject to verification of their eligibility.**

During the November 2000 general election, a number of Florida voters reported through the media that they had been denied the right to vote after they arrived at the polls. The reasons were varied. Some voters showed up at the wrong polling stations, some voters moved and did not change their addresses, and some voters did not register in time to vote. While the purpose of this Select Task Force is not to investigate individual events, it is the Select Task Force's responsibility to recommend ways to ameliorate these unfortunate incidents.

One way to reduce such incidents is to use a provisional ballot. A provisional ballot is issued to a voter at a polling place if there is a question about the voter's eligibility. If an election official issues a provisional ballot, the voter's ballot is sealed in a special provisional voter's envelope which the voter signs under penalty of perjury stating his or her eligibility to vote, and on which the election official notes the reasons for issuing the provisional ballot. The election official delivers the provisional voter envelopes to the County Canvassing Board in a special envelope that contains a log listing the provisional voters in the precinct. Provisional ballots then are counted during the official canvass when there is time to research each individual's eligibility.

Testimony before the Select Task Force revealed confusion about the exact nature of provisional ballots. Some thought that a precinct would have to have all varieties of ballots available so that a provisional voter could have the ballot most appropriate for him or her. Others thought that provisional ballots should be limited to multidistrict, State, and Federal races and should not include local races. Several states, including California, have experimented with provisional ballots.

The Select Task Force endorsed the concept of provisional ballots as a way of encouraging votes by those who registration status could not be clarified quickly at the polls but urged the Division of Elections to look carefully at various alternatives.

### *Advantages*

- Provisional ballots ensure that the right to vote is not denied because of an administrative error or poll worker error.
- Provisional ballots could relieve poll workers of dealing with angry citizens that may be justly or unjustly denied their right to vote.
- Provisional ballots can be a way to update voter registration rolls because new information is provided at the polling site.

### *Disadvantages*

- There may be added cost in staffing, material production, and investigating eligibility.
- There may be further delays in certifying results because of the eligibility inquiry.
- Election officials will need more training in order to use the provisional ballot at the polling place.

## **C-4. Absentee Ballots**

### **Convenience Voting**

**RECOMMENDATION 23: Absentee/Convenience Voting. The Florida Legislature should repeal the current restrictions on absentee voting in Florida Statutes Sect. 101.64 and acknowledge that absentee voting is now a convenient and widespread alternative means of voting that should be encouraged.**

Growing numbers of voters are using absentee ballot voting instead of going to their precincts to vote in person. There are several options for the voters. They cast absentee ballots by mail, or deliver them to the Supervisor of Election's office in person or send them by a designated person, or cast them at the supervisor's office or courthouse on or before election day. This type of voting is often referred to as *convenience voting*.

These voters have come to disregard the requirement in F.S. 101.64 that electors certify on their absentee ballots that they are using such ballots because they are unable to vote in person at the polls without someone's assistance, may not be in the precinct during the election, have religious reasons for being unable to attend the polls, or have other reasons.

As a result, the Florida State Association of Supervisors of Elections has recommended that absentee ballots be considered an alternative method of voting and that the current restrictive language be repealed.

### *Advantages*

- The current restrictions are unenforceable, widely disregarded, and no longer serve a useful purpose.
- Improved convenience voting should be promoted as a good way to help improve voter turnout and voter satisfaction.

- While the potential for voter fraud increases with the use of absentee ballots, improved security measures can prevent most of them.
- When more voters use convenience voting before the actual election day, supervisors can deploy staff and resources to precincts where turnout is still heavy.

***Disadvantages***

- Voting absentee will increase the number of rejected, problem and “spoiled ballots,” increasing work for Canvassing Boards that must review these ballots carefully to determine if they are acceptable or clearly show voter intent.
- Voting by mail rather than in-person on election days may increase the chances for a “spoiled” or blank ballot because the voter will not have the benefit of a precinct tabulator.
- Voting fraud with absentee ballots may increase as their use increases.

**Information on Absentee Ballots and Requests for Absentee Ballots**

**RECOMMENDATION 24: Changes in Requirements for Information on Absentee Ballots and Requests for Absentee Ballots. The Florida Legislature should change statutory requirements for information on absentee ballots and on requests for absentee ballots: (1) Absentee Ballots: eliminate the requirement for a notary or other witness; increase the penalty for fraudulent absentee voting to a second degree felony; eliminate the requirement for a postmark for absentee ballots from overseas electors and accept all ballots from overseas voters that are received with 10 days following the election, regardless of postmark; eliminate the requirements in the “Voter’s Certificate” that specify a statutory reason for using an absentee ballot; (2) Requests for Absentee Ballots: eliminate the requirements for a voter registration identification number and for the last four digits of the voter’s social security number on the application and substitute a requirement for the voter’s date of birth.**

Florida seems to be moving toward “convenience” voting that permits voters to vote “absentee” if they so desire without having to justify their physical absence from the polls on election days. Assuming that the trend toward more “convenience” voting continues, changes need to be made in the information required for absentee ballots and for applications for absentee ballots.

Certain information, such as the requirement for the signature of a notary public or a witness, is unnecessary, according to many Elections Supervisors. No effective way to police the requirement exists. Certifications by convenience voters that they are complying with the law in executing and submitting the ballot seem sufficient. Other information, such as the requirement for a voter registration identification number or the last four digits of the social security number, is irrelevant if the voter registration identification cards are eliminated.

Most absentee ballot problems are generated by overseas voters, especially military and merchant marine voters, who require long processing times. The 1995 Federal Voter Registration

Act (the “motor voter” law), implemented in Florida with the Florida Voter Registration Act, and litigation relating to that law, require Florida to take special care in dealing with overseas voters and impose very specific timing requirements.

For those electors wishing to vote absentee because they are overseas during an election cycle, Congress established the Federal Voting Assistance Program in the Office of Secretary of Defense. The Program provides detailed information for military, merchant marine, and non-military families residing abroad about registering to vote and obtaining an absentee ballot. State laws in Florida give more detailed information on how absentee ballots may be requested, received, delivered, and counted.

Citizens who are overseas and wish to vote in Florida’s general election cycle are subjected to a complex process because of the tight election cycle.

As the President of the Florida State Association of Supervisors of Elections Pam Iorio explained:

Florida has one of the most compressed election schedules in the nation, with a September Primary, an October run-off, and a General Election in all within a 90-day period.... In 1982, a consent decree was ordered out of concern that overseas voters did not have enough time to receive, vote and return their absentee ballots for the General Election because of the Second Primary. The decree did two things. First, it established an Advanced Absentee ballot, which is a very confusing ballot that supervisors must send to overseas voters 45 days prior to the General Election, before we know the results of the Second Primary. After the Second Primary, we send the overseas voter a “normal” absentee [ballot], so that they actually receive two absentees [ballots] for the same election. The second thing that the consent decree did was to allow certain overseas ballots to be counted up to 10 days after the date of the General Election, if it was postmarked or dated by the date of the election, and if it bore a foreign postmark. These requirements have been in place since the early 1980’s and no concerns have ever been raised, but this election was different. When overseas ballots were rejected by Canvassing Boards for lack of postmark or date, it was perceived as a slight to military voters.

Details of Florida’s complicated overseas ballot process are summarized below. Each Elections Supervisor is required to mail:

- *a different colored absentee ballot for the first primary to qualified overseas electors not fewer than 35 days before the election day;*
- *a different colored advanced absentee ballot for the second primary not fewer than 45 days before the election day;*
- *a different colored advanced absentee ballot for the general election not fewer than 45 days before the election day;*
- *a different colored absentee ballot for the general election if needed.*

Several problems emerged during the November 2000 elections. It was reported around the state, for instance, that hundreds of absentee ballots were rejected because they lacked proper postmarks. Frequently, military and other overseas mail is not processed through post offices that use postmarks, making it impossible for County Canvassing Boards to comply with this requirement. Florida Statutes Section 101.62 (6)(b) (Request for Absentee Ballots) states that, “With respect to marked ballots mailed by absent qualified electors overseas, only those ballots mailed with an APO, FPO, or foreign postmark shall be considered valid.” The Select Task Force recommends that this postmark requirement be eliminated and that a ballot be accepted if received within 10 days following the election, whether or not it has a postmark to indicate that it was mailed before or on election day.

Other absentee ballots were rejected because they did not have a witness signature. Florida Statutes Section 101.64(1) (Delivery of absentee ballots; envelopes; form) requires that a voter execute an envelope that contains his ballot and that the signature be witnessed or notarized. The Select Task Force recommends that the requirement for a witness or notary be eliminated as unnecessary and as unenforceable. There was some concern that eliminating the witness signature might encourage more voter fraud. As a result, the Task Force recommends that the penalty for voter fraud be increased from a third degree felony to a second degree felony.

### **Challenges to Absentee Ballots**

**RECOMMENDATION 25: Challenges to Absentee Ballots. The Florida Legislature should clarify that an error in absentee ballots or in requests for absentee ballots does not automatically result in throwing out all absentee ballots or requests. The Florida Legislature should strengthen the provision that challenges to absentee ballots must be raised before outer envelopes are opened, except in cases of illegality or fraud that could not be ascertained before absentee ballots were opened.**

Absentee ballots, whether from overseas or from domestic locations, present special problems for Elections Supervisors and County Canvassing Boards. Florida Statutes Section 101.68 lists requirements for receiving, authenticating, opening, and counting absentee ballots. Florida Statutes Section 101.62 contains requirements for requests for absentee ballots. If other

recommendations of the Select Task Force are followed, the only remaining requirements for absentee ballots will be the voter's signature on the envelope containing the ballot. The only remaining requirements for requests for absentee ballots will be the voter's name, address, (and, if available, driver's license number), and date of birth. Reducing the information required in this manner should reduce the problems faced by Elections Supervisors and County Canvassing Boards in accepting ballots and requests.

Challenges to an absentee ballot and/or to requests for absentee ballots should be made **before** the envelope containing a ballot has been opened for canvassing purposes. Once the envelope has been opened and the ballot placed with other absentee ballots, challenges are impossible to resolve in a way that preserves the rights of absentee voters to have their votes counted. If a challenge succeeds after an envelope has been opened and a ballot has been placed with other absentee ballots, then the only "resolution" is to discard all absentee ballots since the challenged ballot cannot be identified and separated from the group. That seems a drastic and unnecessary remedy. The Select Task Force recommends that Florida law be clarified to state clearly that all challenges to ballots and/or to requests for ballots **absolutely must** occur before envelopes containing ballots are opened. The only exception would be a strong showing of illegality or fraud, such as misconduct by elections officials, that could be found only after the envelopes have been opened.

## **Internet Voting**

**RECOMMENDATION 26: Internet Voting. The Florida Legislature should authorize the Division of Elections and the Supervisors of Elections to accelerate research and develop programs involving electronic Internet voting for overseas voters who are absent on election days, including but not limited to overseas military personnel.**

Unless Florida's compressed fall schedule of two primary and a general elections (all within nine weeks) is changed, the problem of sending and receiving absentee ballots to overseas voters will continue to be a significant barrier to voting. A 10-day extension after the November general election, imposed by a consent order, helps relieve some pressure, but such tight deadlines may discourage many military and civilian overseas voters from even trying to vote.

Because more than six million U.S. citizens were potential overseas voters in the 2000 nationwide elections, even a small percentage of voters discouraged or prevented from voting by current problems can translate into large numbers. Of the some six million potential voters, 3.7 million are overseas civilians, not affiliated with the government, 1.4 million are U.S. military personnel overseas at some time during the year, 1.3 million are military dependents of voting age, and 200,000 are Federal civilian employees overseas. With a disproportionately large number of military personnel registered to vote in Florida, this state has a special responsibility to meet their needs.

Expanding the use of electronic absentee voting by the Internet may solve this problem for many such voters, as suggested by the U.S. Department of Defense's (DoD) experience with

its pilot project that included Okaloosa and Orange counties, as well as the State of South Carolina and one county each in Texas and Utah. In fact, the DoD's system is certified and accredited by Florida's Division of Elections. It provided absentee registration and voting for the 2000 general election, using the Internet as the communications backbone, mostly commercial off-the-shelf technologies, and multiple layers of security to reduce risks for misuse. While a full evaluation report will not be available until March or April 2001, early findings were positive. The pilot project was on a very small scale. Only 84 votes were cast in all participating jurisdictions, and more research and development will be needed.

Retired Admiral LeRoy Collins, Jr., in an appearance before the Select Task Force, proposed an alternative system based on ATM debit card technology using either debit cards and PIN numbers or the new identification chip card being distributed by DoD, with secure communications links, many of them already in place. Such a system has not yet been tested for absentee overseas voting.

Electronic overseas absentee voting, then, is still in development, but offers a promising alternative to the present reliance on slow, uncertain international mail services. Florida should continue to participate in such research and development projects.

#### ***Advantages***

- With so many financial and legal transactions now carried by electronic means, primarily the Internet, electronic absentee voting is a logical extension and technologically feasible.
- The unique difficulties that overseas voters face to apply for, receive and send absentee ballots to Florida jurisdictions merit innovative approaches, such as Internet voting.
- Continued small-scale pilot projects will permit careful planning and trials to refine electronic voting systems that may ultimately be secure and convenient, at reasonable costs.

#### ***Disadvantages***

- While proponents are optimistic, the results of one pilot project that served only 84 voters are far from conclusive. This and other proposed systems may not be workable.

Other means of sending applications and ballots to and from overseas absentee voters, such as express mail or a similar service, may be more feasible and desirable. Simply expanding the time between primary and general elections, or eliminating the second run-off primary, can eliminate the need.

### **C-5. *Recounts, Contests, and Certification of Election Results***

Recounts, contests, and certification of election results were major issues in Florida in the aftermath of the 2000 general elections. Although the Florida State Association of Elections Supervisors and others had been working for years to provide clarity and eliminate inconsistencies in Florida's laws and practices for such important events, it was clear in late 2000 that a number of problems persisted, such as:

- the absence of clear, uniform standards for conducting **recounts** in a single county and in more than county, especially when different kinds of voting machines had been used in multiple counties;
- the timing and conduct of election **contests**, especially those that involved more than one county (including the entire state); and
- the timing of **certifications** of election results, given the difficulties created by unclear and inconsistent approaches to recounts and contests.

## **Recounts**

### **Broad Jurisdiction of State Elections Canvassing Commission**

**RECOMMENDATION 27: Broad Jurisdiction of State Elections Canvassing Commission.** The Florida Legislature should provide that the statewide Elections Canvassing Commission have jurisdiction for resolving all protests, including ordering recounts, relating to any elections for multi-county district, state or federal offices or issues and shall have the power to direct County Canvassing Boards involved in such elections to assist in specific, uniform ways.

### **Clear Threshold for Automatic Manual Vote Recounts**

**RECOMMENDATION 28: Clear Threshold for Automatic Manual Vote Recounts.** The Florida Legislature should establish a clear threshold for invoking the automatic manual recount process, such as an error in the tabulation of ballots by equipment being used (codifying an opinion of the Division of Elections) without needing to determine that the error could affect the outcome of the election, and instruct the Division of Elections to adopt clear standards for counting votes for each kind of voting system now in use so that manual recounts are uniform throughout the state. As recommended previously, uniform statewide standards for both machine and manual counts and recounts of votes in all types of voting systems now being used in Florida should be adopted immediately, whether or not a statewide uniform voting system by all counties is in place for the 2002 election process.

### **Machine and Manual Recounts**

**RECOMMENDATION 29: Machine Recounts Deemed Correct; Manual Recounts Limited to Ballots Not Counted by Machines.** The Florida Legislature should clarify by statute that a machine count of votes is deemed correct in interpreting voter intent unless the machine count is clearly demonstrated to be erroneous, and that only ballots not counted by machines, i.e., overvotes and undervotes, are subject to manual recounts.

## Margins for Automatic Recounts

**RECOMMENDATION 30: Margins for Automatic Recounts.** The Florida Legislature should authorize automatic machine recounts if the margin of approval or rejection was not more than one-half of a percent and no less than one-quarter of a percent of the votes cast, and automatic manual recounts only if a prior machine recount had a margin of approval or rejection of less than one-quarter of a percent.

## Manual Recount Process Open

**RECOMMENDATION 31: Manual Recount Process Open.** The Division of Elections and the Elections Supervisors should prepare and publish guidelines to carry out the mandate of the Florida Legislature that all manual recounts are open to the public, subject to normal needs for decorum, and should monitor and enforce the mandate.

## Automatic Recounts in All Parts of Multi-County Election Districts

**RECOMMENDATION 32: Automatic Recounts in All Parts of Multi-County Election Districts.** The Florida Legislature should provide that if one county conducts a manual recount in a multi-county district, state or federal election, then all counties involved in that race should conduct manual recounts, using standards for determining voter intent published by the Division of Elections, so that the process is consistent throughout the multi-county district or the state, as appropriate.

## Recounts for Entire County or District Not Limited to Three Precincts

**RECOMMENDATION 33: Recounts for Entire County of District Not Limited to Three Precincts.** The Florida Legislature should require that any recounts apply to an entire county (and to all counties involved in multi-county district elections) and are not limited to three precincts as now permitted by law.

Florida law now requires, in Florida Statutes Section 102.141, that a recount of votes shall occur when an elective office or issue is decided by one-half of a percent or less of the votes cast for that office or issue, unless those who lost by one-half of a percent or less request in writing that a recount not be made.

Recounts are ordered by the appropriate County Canvassing Board. If the votes were cast by machine (only one Florida county still uses paper ballots), then the Canvassing Board first checks to see whether there is a discrepancy between the returns and the counters of the machines. If there is no discrepancy, then the ballots are presumed correct and the results are certified.

The County Canvassing Board can order a manual recount of the votes cast if there is a discrepancy between the returns and the counters of the voting machines, or if any candidate on

the ballot, any political committee supporting a candidate or an issue, or any political party with a candidate on the ballot protests the election returns and requests a manual recount in writing.

The initial manual recount is a recount of the votes in at least three precincts and must include at least one percent of the total votes cast. The person who requested the recount chooses the three precincts and the County Canvassing Board chooses any other precincts where recounts may occur.

If this initial manual recount reveals discrepancies, then the County Canvassing Board shall correct the error and recount the remaining precincts, request the Florida Department of State to verify the tabulation software used for the voting machines, **or** manually recount all ballots.

The statewide and presidential elections in the fall of 2000 revealed several major problems with these recount procedures. They may work fairly well when an election is limited to the voters of one county, served by one Elections Supervisor and one County Canvassing Board. They do not work well in multi-county district, statewide, and Federal elections involving the voters, Elections Supervisors and Canvassing Boards of more than one county. In such larger elections, for instance, manual recounts can be requested and three precincts selected in one or a limited part of a single county regardless of the interests and actions of voters in other counties in a multi-county district. The statewide Elections Canvassing Commission has little authority to work with and review the work of the County Canvassing Boards to ensure uniformity and clarity throughout the state in elections involving multi-county districts or the entire state for statewide and Federal elections.

Canvassing Boards have no clear, statutory guidelines to determine when to grant a manual recount, resulting in a lack of uniformity across counties. In the 2000 general elections, Canvassing Boards received differing interpretations by the State Division of Elections and the state Attorney General of such phrases in the law as “If the manual recount indicates an error in the vote tabulation...” Even if a Canvassing Board is clearly able to determine whether there was “...an error in the vote tabulation...,” the Board then must also determine that the error could affect the outcome of the election, a very difficult task if only three precincts in one county of a multi-county district have been manually recounted. Canvassing Boards also have no clear timetables for completing manual recounts and certifying results based on recounts.

Despite the requirement in Florida Statutes Section 102.166(6) that “[a] manual recount shall be open to the public,” some incidents in the 2000 election cycle raised questions about how that mandate is carried out by elections officials. The Legislature, the Division of Elections, and the Supervisors of Elections need to ensure that guidelines for opening manual recounts to the public, and for otherwise maintaining the transparency of the recounting process, are published and strictly followed throughout the state.

The Select Task Force reviewed these concerns, heard testimony about them from the Florida Division of Elections, the Florida State Association of Elections Supervisors and others, and received specific proposed statutory revisions.

## Contests

### Vagueness of Standards for Election Contests

**RECOMMENDATION 34: Vagueness of Standards for Election Contests. The Florida Legislature should clarify the grounds for contesting an election and eliminate any vague parts of the Florida Elections Code that permit challenges without clear standards.**

Any unsuccessful candidate, elector, or taxpayer may contest the certification of election of any person to office, or the result on any question submitted by referendum, by filing a complaint with a Circuit Court within 10 days after the results have been certified or within 5 days after certification following a protest, whichever date is later. (An exception is the election of members of the Florida Legislature. That body is the sole judge of the qualifications, elections, and returns of its members.)

Grounds for a contest are specified in Florida Statutes Section 102.168(3) and include misconduct, fraud, or corruption of elections officials; ineligibility of a candidate; illegal votes; bribery; or,

**Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question or that the outcome of the election on a question submitted by referendum was contrary to the result declared by the canvassing board or election board.” Florida Statutes Sect. 102.168(3)(e).**

The vague standard presented by this last statutory provision opens the door to continual contests, perhaps unnecessarily delaying the finality of election results and the ability of the governing process to begin. The Select Task Force recommends that the Florida Legislature clarify this section of the Elections Code.

## Certification of Election Results

### Expand the Time Between Elections and for the Certification of Election Results

**RECOMMENDATION 35: Expand the Time Between Elections and for the Certification of Election Results. For primaries and for the general election, the Florida Legislature should significantly increase the amount of time between primaries and between the day of election and the time results are certified. Substantial additional time is needed to receive and count overseas absentee ballots and to allow for protests, recounts and contests prior to certification. The time permitted for multi-county district, state and Federal elections should be substantially longer than the time permitted for local and single district legislative elections because of the greater need to coordinate responses to protests, conduct recounts and participate in contests when more than one county is involved.**

After reviewing returns of local elections inspectors, canvassing absentee ballots, and resolving protests (perhaps through recounts), County Canvassing Boards certify elections results by publicly declaring the numbers of votes for each candidate or measure and forwarding results for multi-county district, statewide and Federal offices to the Florida Department of State. This task must be completed for any statewide or Federal office by 5 p.m. on the 7<sup>th</sup> day after the general election.

The statewide Elections Canvassing Commission also certifies election results by issuing certificates to statewide and Federal officers, including presidential electors. State certification of election results for Federal officers must meet deadlines imposed by Congress. A Federal “safe harbor” of December 12 for certifying presidential electors, for instance, is imposed by Congress, not by the states.

All elections need to be resolved as quickly as possible to maintain public confidence in the elections system. Sometimes, as in the 2000 presidential election, the need for quick resolution conflicts strongly with the major purpose of elections to record accurately the will of the people. Rapidity and finality sometimes must give way to the need for protests, recounts, and contests to ensure that vote counts are accurate. Reasonable time is needed after an election to allow for these various challenges.

Local and single county district elections need not have the same timetable as multi-county district, statewide and national elections. Local officials take office quickly after election; disputes need to be resolved quickly, and can be resolved quickly because voting is under the supervision of a single Elections Supervisor and a single County Canvassing Board.

Multi-county, statewide and Federal elections require coordination among several jurisdictions and elections officials and therefore need more time for protests, recounts, and contests than elections in a single county.

Florida’s elections system presents additional complications in trying to meet, at times, the competing goals of rapidity and accuracy. For multi-county, statewide, and Federal offices, Florida has a “second primary” system that squeezes three election days – a first (or nominating) primary, a second (or run-off) primary (if needed), and a general election – into a total of nine weeks. The first primary is held on the Tuesday nine weeks prior to the general election and the general election is held on the first Tuesday after the first Monday in November of each even-numbered year. If a candidate does not receive a majority vote in the first primary, then a second primary is held on the Tuesday five weeks prior to the general election between the top two vote-getters in the first primary. The candidate with the highest number of votes cast for the office in the second primary is nominated.

Persons wishing to run for office must file qualification papers with the Department of State. Those seeking Federal offices must file not later than the 116<sup>th</sup> day prior to the first primary (or about 16 ½ weeks) and those seeking multi-county district or state offices must file not later than the 46<sup>th</sup> day prior to the first primary (or about 6 ½ weeks).

As a result, Elections Supervisors - who must print ballots, arrange polling places, and find poll-workers for all of these elections - will know the names of all first primary candidates 6½ weeks prior to the first primary, the names of all second primary candidates only 4 weeks prior to the second primary, and the names of all general election candidates only 5 weeks prior to the general election (if some were determined in a second primary).

County Canvassing Boards then have 7 days after the general election to certify results. The state Elections Canvassing Commission has until December to certify presidential electors.

In addition to elections for multi-county, statewide, and Federal elections, each county will have additional elections for municipal and county offices and for special purposes.

All of these time periods must allow for protests, possible vote recounts and contests.

The Select Task Force heard substantial testimony from Elections Supervisors and voters that the time frames were too tight for all of the tasks that Elections Supervisors, County Canvassing Boards and courts must undertake to ensure accurate results. Some sentiment existed to recommend abolition of the second primary in order to provide more time. The Task Force also considered specific calendar days that would enlarge the time between the first and second primaries, the second primary and the general election, and the general election and final certification of results.

Given its limited time, the Task Force decided that changes in these days, although very important to the integrity of the elections process, should be debated and decided by the Legislature.

### **III. RECOMMENDED FUTURE STUDIES**

The Select Task Force has identified several important matters that require separate and independent study and analysis in the future:

**Review Voting Rights of Ex-Felons with Completed Sentences.** The Florida Legislature should review issues related to the restoration of voting rights to ex-felons with completed sentences, whether convicted in Florida or elsewhere, especially when voting rights have been restored in other states, and recommend possible changes that might be required to the Florida Constitution or to statutes and rules and regulations of the Clemency Board.

**Investigate Contract to Prepare Lists of Possibly Disqualified Voters.** The Legislature should conduct a full investigation of a contract with a private company, and performance under that contract, related to preparing lists of possibly disqualified voters prior to the 2000 elections. A report of investigation should be issued by March 1, 2002, prior to the 2002 elections cycle.

**Revise Elections Code.** The Florida Legislature should commission and fund a task force, including elections supervisors, other elected officials, academic experts, attorneys, and lay citizens to prepare a total revision of the Florida Elections Code by the 2002 Legislative Session, building on work already undertaken by the Florida State Association of Elections Supervisors.

**Review Third Party Voter Registration and Ballot Delivery Activities.** The Division of Elections and the Supervisors of Elections should jointly study the problems caused by third party voter registration and ballot delivery activities and present their findings and recommendations to the Governor, the Secretary of State, and the Florida Legislature no later than January 1, 2002. Their study should include, but not be limited to, completed applications not being delivered to the Supervisors of Elections, possible postage-paid applications to encourage rapid delivery, reluctance of some agencies to properly register voters in addition to performing other tasks, lack of accountability and control, inappropriate deadlines, and inappropriate or duplicate information on application forms.

**Strengthen Sanctity Of Polling Places.** The Florida Legislature should review laws relating to the security of polling places. Voting places should have an environment of neutrality. They must be free of disruptive activities and order should be maintained by prohibiting campaigning, including a prohibition on campaign signs or political activity within 100 feet or more of the polling location. Loitering by groups or individuals should not be allowed, including those of individuals before or after voting.

# Governor’s Select Task Force on Election Procedures, Standards and Technology

## List of Recommendations

### A. PUTTING PEOPLE FIRST

#### Voter Responsibility and Education

**RECOMMENDATION 1: Establish Minimum Standards for Voter Education.** The Florida Legislature should direct the Supervisors of Elections to provide minimum standards for high-quality voter education in every County and report the success of the voter education program to the Division of Elections.

#### Voter Education Best Practices and Funding

**RECOMMENDATION 2: Best Practices and Funding for Voter Education.** The Florida Legislature and the county governments should provide adequate funding to the Supervisors of Elections for high-quality voter education and training throughout the state based on “best practices” documented and disseminated by the state Division of Elections and the Florida State Association of Supervisors of Elections.

#### Voter Bill of Rights and Responsibilities

**RECOMMENDATION 3: Create and Publish Voters’ Bill of Rights and Responsibilities.** The Florida Legislature should direct the Supervisors of Elections to create and publish prominently in every precinct a “Voters’ Bill of Rights and Responsibilities” to define clearly and succinctly the duties and responsibilities of voters, poll-workers, elections officials, and candidates to each other.

#### Civic Education

**RECOMMENDATION 4: Strengthening Student Civic Education.** The State Board of Education should direct local school boards to improve the focus and to expand the offerings of civic education courses, including teaching of voting skills, throughout all of Florida’s high schools.

## Recruiting Poll-workers

**RECOMMENDATION 5: Recruit More Qualified Poll-workers.** The Florida Legislature and the county governments should increase the numbers of qualified poll-workers by, for instance, reassigning government workers who will serve as poll-workers on election days and by encouraging and recognizing private employers and qualified college students who do the same.

## Training Poll-workers

**RECOMMENDATION 6: Regional, Internet, and Distance Training Programs for Poll-Workers.** The Division of Elections in cooperation with the Florida State Association of Supervisor of Elections should establish regional training programs and Internet-based distance learning training programs for county-based poll-workers.

## Improving Precinct Communications

**RECOMMENDATION 7: Improve Precinct Communications.** The Supervisors of Elections should determine where precinct-to-central office communications problems occur and provide satisfactory communications capabilities for these precincts, including possible use of county emergency operations centers on election days.

## Voter Comment Cards

**RECOMMENDATION 8: Voter Comment Cards and Suggestion Boxes.** The Supervisors of Elections should provide voter comment cards and/or suggestion boxes at every precinct on election days. Comment cards should be easily understood by voters and simple to complete. Election Supervisors should prepare and publicize such comments and their responses to them.

## Non-Partisan Elections Supervisor

**RECOMMENDATION 9: Non-Partisan Elections Supervisors.** The Florida Legislature should change the elected county Supervisors of Elections to non-partisan positions.

## Restrict Partisan Political Activity

**RECOMMENDATION 10: No Political Involvement of County Canvassing Boards and State Elections Canvassing Commission.** The Florida Legislature should prohibit members of County Canvassing Boards and of the statewide Elections Canvassing Commission from being active in partisan political activity while serving as members of these boards and require them to excuse themselves from service in any election cycle in which they have personal political interests.

## Elections Supervisor Budget Process

**RECOMMENDATION 11: Appeal of Budgets for Elections Supervisors.** The Florida Legislature should authorize county Elections Supervisors to appeal to the State Cabinet decisions made by County Commissions about budgets for the operations of Elections Supervisors, similar to the appeals authorized for other Constitutional officers.

## B. ENCOURAGING RELIABLE TECHNOLOGY

### Uniform and Standardized Voting System

**RECOMMENDATION 12: Uniform and Standardized Statewide Voting System for 2002 Elections Cycle.** The Division of Elections should certify a uniform voting system for use throughout the State of Florida in the 2002 statewide election cycle that meets both Florida's "Voting Systems Standards" and "user standards" such as low voter error rates compared to other equipment; ease of set-up, use, voter error corrections, and maintenance; documentation for vote-auditing purposes; cost; and availability. The Task Force notes that the state-certified "marksense" voting system with precinct level tabulation currently meets all of these standards (both the "Voting Systems Standards" and "user standards") and that no other system currently is certified that meets all of the standards. Election Supervisors and County commissions in Counties without the uniform system should consider leasing it for the statewide 2002 election cycle so that they are open to future advances in new technology.

### Funding for New Voting Systems

**RECOMMENDATION 13: Funding for New Voting Systems.** During the 2001 Legislative Session, the Florida Legislature should establish a matching grant or loan program to help Florida counties lease, replace, or upgrade their state-certified voting systems so that a uniform, standardized voting system is in use throughout the state for the 2002 statewide elections cycle. The matching grant or loan program should include appropriate reimbursements for counties that already have invested in a state-certified voting system that is part of a future statewide uniform, standardized system.

### Decertification of Punch Card, Lever, Paper, and Marksense Central Tabulation Systems

**RECOMMENDATION 14: Decertification of Punch Card, Mechanical Lever, Paper Ballot and "Marksense" Central Tabulation Voting Systems.** The Division of Elections should decertify the punch card voting system, the mechanical lever machine voting system, the paper ballot voting system, and the "marksense" central tabulation voting system for failing to meet standards for a uniform statewide voting system when the new uniform, standardized voting system is ready throughout the State for use in the 2002 statewide elections cycle.

## Acceleration of Certification Process and Continuous Review of Standards

**RECOMMENDATION 15: Acceleration of Certification of Voting Technology and Continuous Review of Standards.** The Secretary of State should direct the Division of Elections to conduct an immediate review of current voting system standards so that new technologies that meet Florida’s “Voting Systems Standards” and “user standards” are available for selection by County Commissions. The Division of Elections should continuously review its voting system standards to make sure that new technologies can be appropriately certified for all elections in a timely manner and that they encourage lively competition to develop new ways of measuring the will of the people.

### Uniform Statewide Standards for Each Type of Voting System

**RECOMMENDATION 16: Uniform Statewide Standards for Counting Ballots and for Recounts for Each Type of Voting System.** Uniform statewide standards for both machine and manual counts and recounts of votes in all types of voting systems now being used in Florida should be adopted immediately, whether or not a statewide uniform voting system is in all counties in time for the 2002 elections cycle.

## C. IMPROVING PROCEDURES AND LAWS

### Statewide Voter Database

**RECOMMENDATION 17: Statewide Online Voter Registration Database.** The Florida Legislature should fund at \$3,000,000 the design of a comprehensive statewide online voter registration database to replace the current “batch” system and begin implementing the database as soon as possible.

### Voter Registration and Identification Cards

**RECOMMENDATION 18: Voter Registration and Identification Cards.** The Florida Legislature should amend Florida Statutes so that a voter registration identification card is not required. Supervisors of Election should substitute the voter registration identification with a voter information card to ensure that all voters know where to vote before every election.

### Change in Dates for Primary Elections

**RECOMMENDATION 19: Change in Dates for Primary Elections.** The Florida Legislature should continue the Second Primary Run-off Election but change the dates of the First and Second Primary Elections so that there is adequate time between the First and Second Primaries and between the Second Primary and the General Election to provide adequately for ballot preparation and absentee voting.

## Uniform Poll Closing Times

**RECOMMENDATION 20: Uniform Poll Closing Times.** The Florida Legislature should send a Joint Resolution to the United States Congress requesting that Congress consider enacting legislation requiring uniform closing times or the counting of votes simultaneously in all time zones for presidential elections, taking into consideration the needs of poll-workers if polling times are to be extended.

## Review Ballot Designs

**RECOMMENDATION 21: Review Ballot Designs.** The Division of Elections should review ballot designs for statewide and national elections so that voters clearly understand the ballots and can properly execute their votes.

## Provisional Ballots

**RECOMMENDATION 22: Provisional Ballots.** The Division of Elections should examine viable options for using provisional ballots so that voters whose eligibility is in question at the polling place on election days can submit votes in appropriate races subject to verification of their eligibility.

## Convenience Voting

**RECOMMENDATION 23: Absentee/Convenience Voting.** The Florida Legislature should repeal the current restrictions on absentee voting in Florida Statutes Sect. 101.64 and acknowledge that absentee voting is now a convenient and widespread alternative means of voting that should be encouraged.

## Information on Absentee Ballots and Requests for Absentee Ballots

**RECOMMENDATION 24: Changes in Requirements for Information on Absentee Ballots and Requests for Absentee Ballots.** The Florida Legislature should change statutory requirements for information on absentee ballots and on requests for absentee ballots: (1) Absentee Ballots: eliminate the requirement for a notary or other witness; increase the penalty for fraudulent absentee voting to a second degree felony; eliminate the requirement for a postmark for absentee ballots from overseas electors and accept all ballots from overseas voters that are received with 10 days following the election, regardless of postmark; eliminate the requirements in the “Voter’s Certificate” that specify a statutory reason for using an absentee ballot; (2) Requests for Absentee Ballots: eliminate the requirements for a voter registration identification number and for the last four digits of the voter’s social security number on the application and substitute a requirement for the voter’s date of birth.

## Challenges to Absentee Ballots

**RECOMMENDATION 25: Challenges to Absentee Ballots.** The Florida Legislature should clarify that an error in absentee ballots or in requests for absentee ballots does not automatically result in throwing out all absentee ballots or requests. The Florida Legislature should strengthen the provision that challenges to absentee ballots must be raised before outer envelopes are opened, except in cases of illegality or fraud that could not be ascertained before absentee ballots were opened.

## Internet Voting

**RECOMMENDATION 26: Internet Voting.** The Florida Legislature should authorize the Division of Elections and the Supervisors of Elections to accelerate research and develop programs involving electronic Internet voting for overseas voters who are absent on election days, including but not limited to overseas military personnel.

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## Recommended Future Studies

**Review Voting Rights of Ex-Felons with Completed Sentences.** The Florida Legislature should review issues related to the restoration of voting rights to ex-felons with completed sentences, whether convicted in Florida or elsewhere, especially when voting rights have been restored in other states, and recommend possible changes that might be required to the Florida Constitution or to statutes and rules and regulations of the Clemency Board.

**Investigate Contract to Prepare Lists of Possibly Disqualified Voters.** The Legislature should conduct a full investigation of a contract with a private company, and performance under that contract, related to preparing lists of possibly disqualified voters prior to the 2000 elections. A report of investigation should be issued by March 1, 2002, prior to the 2002 elections cycle.

**Revise Elections Code.** The Florida Legislature should commission and fund a task force, including elections supervisors, other elected officials, academic experts, attorneys, and lay citizens to prepare a total revision of the Florida Elections Code by the 2002 Legislative Session, building on work already undertaken by the Florida State Association of Elections Supervisors.

**Strengthen Sanctity Of Polling Places.** The Florida Legislature should review laws relating to the security of polling places. Voting places should have an environment of neutrality. They must be free of disruptive activities and order should be maintained by prohibiting campaigning, including a prohibition on campaign signs or political activity within 100 feet or more of the polling location. Loitering by groups or individuals should not be allowed, including those of individuals before or after voting.

**Review Third Party Voter Registration and Ballot Delivery Activities.** The Division of Elections and the Supervisors of Elections should jointly study the problems caused by third party voter registration and ballot delivery activities and present their findings and recommendations to the Governor, the Secretary of State, and the Florida Legislature no later than January 1, 2002. Their study should include, but not be limited to, completed applications not being delivered to the Supervisors of Elections, possible postage-paid applications to encourage rapid delivery, reluctance of some agencies to properly register voters in addition to performing other tasks, lack of accountability and control, inappropriate deadlines, and inappropriate or duplicate information on application forms.