



Ten Proposals for Electoral Reform State Legislation FairVote - The Center for Voting and Democracy - 2005

Founded in 1992 and chaired by former Congressman and presidential candidate John B. Anderson FairVote -The Center for Voting and Democracy promotes electoral fairness through fair and representative voting systems and a fully protected right to vote. Our proposals on instant runoff voting (IRV) have been debated in more than two dozen legislatures in recent years. Several cities have passed IRV, and San Francisco successfully implemented it in 2004. In the past two decades approximately 100 jurisdictions have adopted full representation voting methods like cumulative voting and limited voting to settle voting rights cases. At the federal level, FairVote helped develop HJ Resolutions 28 and 109, our board member Congressman Jesse Jackson Jr.'s proposals for a constitutional right to vote and direct election of the president.

Following are suggested reform proposals relating to our program focus that are broken down into the categories of full representation, IRV and the right to vote, although there is some crossover. In each of these reforms, we present both incremental and more sweeping proposals.
Note: this is not meant to be a comprehensive list of important electoral reforms.

Legislation on Full Representation:

1. Voting machine standards to preserve options *also pertains to IRV*
2. Local options legislation *also pertains to IRV*
3. Expanding options for redistricting commissions to full representation
4. Statewide Voting Rights Act *also pertains to right to vote*
5. Citizens' assembly to review and propose reforms *also pertains to other reforms*

Legislation on Instant Runoff Voting:

6. Adopting IRV to fill vacancies
7. Adopting IRV for overseas voters in runoffs
8. Implementing IRV for major offices: electing statewide offices and replacing primary runoffs

Legislation on the Right to Vote:

9. Advances toward universal voter registration; pre-election and post-election accountability for election administration; exploring publicly-owned voting equipment
10. Resolution to support direct election of the President

1. Ensuring Options through Voting Machine Standards

Problem: As communities seek new and better ways of conducting elections, many are finding instant runoff voting and full representation systems to be sensible alternatives to the problems that arise in current winner-take-all, runoff and gerrymandered electoral systems. Full representation systems such as choice voting and cumulative voting have been adopted to settle approximately 100 voting rights cases since 1987, while San Francisco has successfully adopted instant runoff voting (IRV) for its major municipal offices such as mayor and city council. Santa Clara County (CA), Vancouver (WA), San Leandro (CA), Ferndale (MI) and Burlington (VT) have passed stand-alone IRV provisions, and some of these localites seek to implement IRV as soon as compatible equipment is purchased.

Readiness vs. Compatibility: Instant runoff voting and full representation are under discussion in a number of other communities, but a key concern is often voting machine compatibility. One of the realities of our current electoral process is that privately-owned, for-profit election equipment vendors can act as gatekeepers on public interest standards. As states continue upgrading voting equipment and spending their Help America Vote Act (HAVA) funds, voting machine certification standards and Request for Proposals (RFPs) should include a requirement for machine-readiness with all voting systems and ballot designs used in the United States – a requirement that all major vendors can meet, as attested by the fact that all have bid to for contracts that require compatibility, but will not necessarily meet unless required.

Note here, that the term “machine readiness” should be distinct from being merely *ranked-ballot capable*. Machines that are ranked-ballot compatible are merely those where the vendor assures that the capability exists to upgrade or retrofit the machines to use ranked-ballots. Machines that are ranked-ballot ready, on the other hand, are immediately ready to use the ranked-ballot voting systems.

San Francisco’s experience demonstrates that there is a key difference in these terms; its vendor ES&S responded to a RFP requiring capability, but after IRV was passed by voters, that compatibility turned out to be far different than being ready to run the system. It took more than two years and \$1.6 million for the company to produce certified equipment able to run IRV, resulting in confusion and a lawsuit against the city when it missed implementing IRV on schedule for the mayor’s race in 2003. In contrast, when Cambridge (Mass.) sought for readiness for a ranked-choice ballot in its RFP in January 1996, it had machines by that fall at the extra cost of only \$40,000 that were ready to run an IRV election.

Foreseeing the Need: In San Francisco, the city’s machine vendor promised its machines were ranked-ballot compatible, but when the city sought to actually implement instant runoff voting, the vendor then demanded \$1.6 million to retrofit the machines to be ranked-ballot ready. The process of approving the contract, making the changes and receiving certification took far longer than the law required, forcing one major city election to be run under the old system despite a citizen lawsuit and confusion about which system would be used in that 2003 election. Having a flexible machine that can anticipate the potential use of an alternative voting system will ease the work of election administrators and make policy more predictable.

Note too that approximately 100 jurisdictions have adopted full representation methods in the last two decades to resolve Voting Rights Act lawsuits. Systems like choice voting and cumulative voting can involve unconventional ballot designs and different vote tabulation needs.

Settling a voting rights case with an alternative voting system could allow it to comply with the law and save a jurisdiction hundreds of thousands of dollars, but if its machines cannot support such a change, it loses that option.

Solution: FairVote believes that machine limitations and costs of retrofitting existing voting machines should not limit debate on the merits of full representation and instant runoff voting systems. To ensure that this does not occur, we advocate that machine certification standards and requests for proposals (RFP's) require any new machine purchases to be ready to use any and all types of ballots in use within the United States.

U.S. Ballot Types: If a jurisdiction is paying large sums of money to buy new voting equipment, it should accommodate any ballot type that the jurisdiction might want to adopt in the future. There are currently four ballot types in use in US public elections:

1. Vote for one candidate only (plurality and runoff elections)
2. Vote for more than one candidates (at-large plurality and limited voting)
3. Give more than one vote to one or more candidates (cumulative voting)
4. Rank candidates in order of choice (instant runoff and choice voting)

Legislative Proposal or Sample RFP/Legislative Language: Several HAVA commission have recommended that new voting equipment accommodate different ballot types, and some proposed legislation has advanced in several states. The clearest way to ensure equipment compatibility is to include in an RFP or legislation the following requirement:

"In the first election in which the equipment is used, the system must be able to implement ranked ballot and cumulative voting as specified in the Federal Election Commission's Voting System Standards, Vol. 1, Sec. 2.2.8.2. m. and n."

2. Ensuring Options for Localities

Problem: A locality's interest in adopting instant runoff voting and full representation electoral systems can be blocked by limitations on the power of local governing bodies to choose their own voting systems. In many cases, a municipality seeking to implement a new electoral system must seek enabling legislation or petition the state legislature for a statutory change that would remove legal impediments to their chosen system. These restrictions can occur for a variety of reasons, including state laws that mandate specific methods of election or limit the types of voting systems that can be used in local government elections. Lack of local options has prevented cities from moving to instant runoff voting and full representation in recent year. For instance, an Austin (TX) charter commission unanimously recommended adoption of instant runoff voting, but was thwarted by an interpretation of state law that blocked implementation of the system. Cleveland County (NC) adopted limited voting to settle a voting rights case, but the court of appeals disallowed the change because limited voting wasn't legal under state law without the legislature approving it and the local state legislator was adamantly against the settlement.

Solution: We support the adoption of state-level "local options" legislation for all fifty states. This would allow the representatives and the citizens of localities to select electoral systems that address the concerns of their community, rather than have these methods dictated by the state government. Another important benefit to "local options" bills is that they provide communities

with a range of options to settle Voting Rights Act litigation and thereby avoid the enormous costs associated with constantly defending against lawsuits seeking fair representation.

Legislative Proposal: Local options legislation allowing local governing bodies, such as municipalities and counties, to select their electoral systems without need for state constitutional amendments or state legislative approval. This would explicitly allow for use of full representation voting methods and instant runoff voting systems.

3. Ensuring Options for Independent Redistricting Commissions

Problem: As states begin revisiting their redistricting processes in response to current complaints about the current gerrymandering regime, many are exploring or have implemented independent redistricting commissions. But balancing sensible objectives in the redistricting process can be complicated. More competitive or compact districts can lead to distortions in partisan representation and in under-representation of racial minorities. Full representation methods can be a sensible alternative, particularly when seeking to comply with the Voting Rights Act (VRA) and state constitutional provisions about preserving whole counties. These requirements can pose a barrier to options commission members have in drawing single-member district lines. By ensuring more voters elect candidates of choice, full representation systems lessen the impact of choices in redistricting and can best meet seemingly contradictory criteria. Many redistricting bodies must follow certain statutorily prescribed guidelines when reapportioning seats. These often include requirements that single-member districts be used, thereby precluding full representation systems, such as choice voting, cumulative voting, and limited voting.

Solution: We suggest that the redistricting commissions not be restricted to single-member districts, but either implicitly or explicitly be allowed to consider multi-seat district plans with full representation if such plans best meet the criteria driving the commission's choices.

Legislative Proposal: When drafting legislation for redistricting criteria or independent redistricting commissions, we advocate deletion of language requiring single member districts and/or insertion of language specifically allowing redistricting bodies to consider multi-seat full representation districts, especially should Voting Rights Act compliance become an issue.

4. Giving Citizens a Direct Role in Evaluating and Proposing Reform

Problem: Currently, electoral systems in many ways dictate what the outcome of a given election will be, with voters often left with little choice but to ratify this predetermined outcome. A clear example of this exists in the state of our Congressional elections and most state legislative elections, where gerrymandered districts exist for little purpose but to protect incumbents, leading to most legislators being reelected in landslides. Much of this is the result of a lack of citizen involvement in electoral systems selection, and the accompanying overreliance on partisan operatives selecting systems based on self-interest rather than the public interest.

Solution: A model from Canada provides a refreshing alternative to the currently rigged system of electoral systems design. Responding to widespread public discontent over the state of its

democracy, the Canadian province of British Columbia in 2003 created a Citizen's Assembly to study electoral reform. 161 British Columbians were randomly selected from the province's voter rolls. For 10 months the Assembly studied, researched and debated different election methods, including single-member districts and choice voting. They also held 50 public hearings, and received 1,603 written submissions from the public on their opinions about electoral reform. At the end of this objective, transparently-conducted and widely-respected study, the citizens overwhelmingly rejected their current winner-take-all election method and supported choice voting (a.k.a. single transferable vote) as their preferred method of election. As a result, choice voting will go before voters of the province in a May 2005 ballot question.

This process for engaging citizens in policymaking presents an exciting new model that legislators in the United States should emulate in crafting much-needed electoral reforms. It also can be applied to a wide range of policy issues. At the same time, this model is a particularly powerful one for crafting electoral reforms, as there is a particular value in having citizens decide not just *who* represents them, but *how* they will choose their representatives. The ballot question that caps this process allows the initial group of citizens to report back to the population at-large, with the voter ultimately making the decision. This also eliminates incentives for legislators to choose an electoral system that allows for incumbent-protection or partisan gain to overtake considerations of the greater good. For more information on the British Columbia experience, visit: <http://fairvote.org/pr/global/bcgetstv.htm>

Legislative Proposal: A scaled-down version of this model for the United States could include a commission of unbiased political science, electoral, or legislative experts who convene meetings to study and assess all alternatives to their current election method, and later present their findings and recommendations to the public – with the potential option of having that choice go before voters in a ballot question.

5. Establishing a State-Level Voting Rights Act

Problem: Currently, there exists a large problem with how federal judges have interpreted the Voting Rights Act. The Voting Rights Act was originally designed to ensure that racial and ethnic minorities would not have their ability to elect representatives of their choice hampered by the voting system in a given community. To win a VRA case, plaintiffs must show both evidence of racially polarized voting and that a reasonably compact single-member district can be drawn in which the racial minority is well-positioned to elect a candidate of choice. But this interpretation of the VRA is based on the faulty assumption that single-member districts are the only remedy available for minority vote dilution. As a result, geographically dispersed communities of color are unfairly left without standing in potential VRA suits even if large in number and facing the exact same problem of racially polarized voting as they would if living in a concentrated area. Multi-seat district, full representation systems provide a reasonable VRA remedy for geographically dispersed communities.

Solution: In the past decade the courts have narrowed the scope of Section Two and Section Five provisions of the federal Voting Rights Act (VRA) designed to ensure racial minorities have fair opportunities to elect candidate of choice. Passing a similar law at a state level will ensure that protection of minority voting rights is not left only to the U.S. Department of Justice and federal judges. Having state protections for voting rights is analogous to having a state minimum wage that is higher than the federal minimum wage. We advocate state-level VRA's that should clarify

that winning a case depends on proving minority vote dilution due to racially polarized voting and on having a reasonable remedy to that vote dilution.

California provides a model for a state Voting Rights Act that both better secures protection of minority voting rights and allows different approaches to remedying vote dilution. In 2002, Governor Gray Davis approved the California Voting Rights Act of 2001. This bill expands on voting rights granted under the federal Voting Rights Act by, among other things, granting standing to groups who are too geographically dispersed to elect their candidate of choice from a single member district. Hence, it is possible for states to independently strengthen the federal VRA with a state-level VRA, while allowing for full representation remedies in vote dilution cases.

Legislative Proposal: State-level Voting Rights Act legislation that would expand on the federal VRA by allowing geographically dispersed communities of color to challenge unfair electoral systems, with full representation systems being one means of attaining a remedy.

6. Implementing/Studying IRV for Electing State and Federal Offices and Replacing Primary Runoffs

Problem/Solution Overview: Instant runoff voting (IRV) is a system of majority voting that is gaining increasing support and interest in the United States. IRV identifies a majority winner in one election by simulating a series of traditional runoffs. Voters rank candidates in order of choice: first, second, third. Their rankings are used to determine which candidate has support from a popular majority if no candidate wins a majority of first choices. If your first choice runs weakly and gets eliminated from the "instant runoff," your vote counts for your second-ranked candidate – that's the candidate you would support if forced to come back to the polls.

With cross partisan support from Republicans and Democrats like John McCain, Jesse Jackson Jr. and Howard Dean, legislative bills for IRV were introduced into 22 states in 2003-04, and several states are poised for real action in 2005. Ballot measures supporting IRV passed by margins of two-to-one in all three cities where it was on the ballot in 2004: Berkeley (CA), Burlington (VT) and Ferndale (MI).

San Francisco held the first of what will be annual IRV elections for major city office. In an exit poll commissioned by the City, only 13% of voters said they wanted to return to traditional runoffs, and voter understanding of the new system across racial and ethnic lines was high. The benefits for San Francisco of using IRV are clear. Citywide runoffs cost the City more than \$3 million, and voter turnout often plummeted by as much as 50 percent in the runoff round. Candidates also had to raise more money for the runoff, and independent expenditures tended to soar. IRV will save the city millions, elect winners when turnout is highest and reduce the costs of campaigns. Other cities or states electing leaders in multiple elections (including a primary-general election cycle) would see similar gains by adopting IRV.

IRV's success in San Francisco has national implications, as evidenced by recent presidential elections. If in 2000 the nearly hundred thousand Ralph Nader voters in Florida could have ranked a second candidate as their runoff choice, many would have ranked Al Gore and potentially boosted him to the presidency. Similarly, Republicans could have responded to Ross Perot's candidacies in 1992 by trying to get as many first and second choices as they could,

enhancing their chances against Bill Clinton. In partisan elections IRV accommodates independent and third party candidates who choose to run despite the “spoiler” impact.

IRV also offers something for those tired of polarized politics and mudslinging campaigns. Whether at local or national levels, IRV encourages coalition-building. Because winners may need to attract the second or third rankings from the supporters of other candidates, we saw more positive, issue-based campaigning in most of San Francisco's races. One newspaper profile was headlined "New Runoff System in San Francisco has the Rival Candidates Cooperating."

Legislative Proposals: There are many sensible legislative possibilities for proposing IRV. Here are several, from incremental to major changes:

1. Commissioning a complete study of IRV, as done in 2004 in Maine and as passed by one house in New Hampshire in 2003.
 2. A nonbinding resolution in the legislature expressing the sense that majority elections are needed, and/or that runoffs are expensive.
 3. Mandating that all new voting equipment purchased by a state have IRV software installed.
 4. Using IRV for party primaries to ensure winners have consensus support and/or to eliminate runoff elections (which are used in many southern states).
 5. Establishing IRV in case of a vacancy, as nearly approved by the Minnesota state legislature for a city vacancy in 2003.
 6. Enabling /enacting IRV for individual cities and town offices, as in San Francisco
 7. Enacting IRV for all state offices, as under serious consideration in Vermont.
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7. Using IRV in Special Elections to Fill Vacancies

Problem: Some states and cities fill vacancies by special election, some by appointment. Filling them by election can be popular with voters, but it can have downsides. First, it can be costly to a jurisdiction if required to run two elections off its usual election calendar. Second, voter turnout can suffer, leading to abnormal results. Third, a number of candidates can opportunistically seek the office – particularly if doing so does not cost them a chance to keep their current office – and plurality rules in the primary and/or general election can result in unrepresentative winners.

Solution: By generating a majority winner in a single round of voting, IRV can help address each of these problems. California's speaker of the house in 2001 sponsored legislation to enable IRV to be used in vacancies.

Legislative Proposal: Legislation mandating the use of instant runoff voting to fill vacant seats in special elections.

8. Adopting IRV for Overseas Voters in City and State Runoffs

Problem: Congress enacted the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) in 1986 to ensure that military personnel stationed overseas had the opportunity to vote in every election. The law empowers the Justice Department to file suit against jurisdictions with absentee voting procedures that are not in compliance with the law.

FairVote and leaders in efforts to protect the rights of military voters believe that the effect of UOCAVA on the administration of runoff elections creates a need for instant runoff voting (IRV). The window of time between an election and the subsequent runoff is often too short to allow overseas voters to receive and return a second ballot. In New York City's primaries for citywide offices, the runoff is just two weeks after the first round; in some cities the runoff is only a week after the first round. Allowing these voters – and potentially all absentee voters -- to rank candidates on a single absentee IRV ballot would guarantee their opportunity to participate in the runoff.

Solution: Indeed, the practice of IRV for overseas ballots is not new. Louisiana has been successfully using the system for overseas voters since the early 1990s for federal and state offices. A similar bill introduced for the first time in Arkansas in 2003 passed one house and received a floor vote in the other house; its sponsor is optimistic for 2005.

Legislative Proposal: Legislation mandating the use of instant runoff voting for overseas voters for city and state runoff elections.

9. Advancing the right to vote through proposals such as: moving toward universal voter registration; pre-election and post-election accountability for election administration; exploring publicly-owned voting equipment

Overview: Contrary to popular belief, there is no affirmative right to vote in the U.S. Constitution. Although that absence often surprises citizens, it helps explain why the federal government has such little history of regulating and funding the administration of elections -- and why localities can have such vastly different methods of registering voters and counting votes. The U.S. Constitution explicitly includes protections for the freedom of speech and religion, but only protects against overt racial, gender and age discrimination when exercising the right to vote. Instead, each state individually sets and regulates state voting policies and has the exclusive authority to independently assign presidential electors. Lack of uniform standards and adequate funding has been at the root of many voting irregularities and discrepancies. A 2001 study by Caltech and MIT found that between four and six million votes were never cast or counted in the 2000 presidential election due to poor ballot design, registration difficulties and voter discrimination.

FairVote supports establishing a right to vote in the Constitution, and it works closely with its board member Congressman Jesse Jackson (D-IL) in seeking support for H.J. Res. 28, an amendment to the Constitution ensuring the right to vote. That proposal currently has the support of the entire returning Members of the Congressional Black Caucus, along with several other leaders in the U.S. House.

States can show support for this amendment in a resolution, but they also can pass laws in its spirit: ones designed to uphold protection of the right to vote to high and equal standards. Following is a brief description of several proposals that serve as the foundation for the Right to Vote Initiative and the root for our actions in 2005-2006.

Uniform Standards and Pre-Election and Post-Election Accountability:

- **Problem:** In most areas of election administration states are not bound by national standards, but instead free to set policies and procedures on matters such as ballot design, poll worker training and absentee ballot, along with what equipment to use. States traditionally have allowed counties to make these decisions, without clear processes of pre-election and post-election accountability. As a result, voters often are not treated equally across a state, and votes are lost.
- **Solution:** Ideally voters from a voting precinct in one part of the state would have the same voting experience as voters in any other part of the state. Election administration plans also should be required to be submitted for public review well before elections, with public comments recorded and considered. After elections data would be collected about specific measures of election administration performance such as voter error and average lengths of lines at different times of day to help identify “best practices” and practices that should be changed.
- **Legislative Proposal:** A bill to require that all voting districts (county, municipality, township) meet specific standards of performance set by a state election commission. These standards would be enforced through pre-election and post-election processes that increase accountability and ability to improve processes in the next election.

Universal Voter Registration

- **Problem:** We generally lack both clean and complete voter rolls; in both areas most American states are far outside the norm of modern democracies. Nearly a third of eligible voters are not registered to vote. Voter registration drives are often near the times of election, resulting in a surge of registrations to process and unanticipated demands on certain polling places. In contrast, the international norm is automatic registration of every citizen reaching voting age and every person becoming a citizen.
- **Solution:** We support legislation establishing that voter registration is a mutual responsibility of citizens and the government. The government should not only facilitate registration; it actively should engage in registering adults that are eligible to vote as part of its responsibility to have clean and complete rolls.
- **Legislative Proposal:** Specific suggestions include:
 - i. A bill to expand motor-voter so that when a resident applies for or renews a driver’s license he/she must register to vote to obtain his/her license (measures would be taken to ensure that only eligible voters fill out this form)

- ii. A bill that requires that all high school sophomores fill out an advance voter registration form and turn it in to receive their grades/advance to the next grade/along with emergency contact (measures would be taken to ensure that only future eligible voters would fill out this form). A person turning 18 then would receive a postcard in the mail explaining: they were registered to vote, when the next election was, what their polling place is and what they should do if they change addresses.
- iii. A bill to require vote registration form to be included with all post office address change forms and state tax forms
- iv. A bill to encourage colleges and other entities to develop procedures to register eligible voters.

Election Day as a Holiday

- **Problem:** The traditional 9-5 workday has always made it hard for some working parents to vote, particularly in blue-collar jobs. New work schedules where people might have long commutes create new difficulties. Expanding the number of days that people can vote through early voting is one approach, but that still does not deal with another problem of our current Election Days: a shortage of pollworkers.
- **Solution:** Making Election Day a holiday would increase the pool of poll workers and increase voter convenience. More pollworkers and potentially more polling places should help significantly reduce the absurdly long lines seen in across the country during the 2004 election. Designating election day as a holiday -- something that the U.S. territory Puerto Rico already does, helping to generate among the highest turnout in the United States -- also sends a clear message to the people of the United States that voting is important and that our government wants every citizen to have a clear opportunity to vote.
- **Legislative Proposal:** A bill to make election day a holiday

Fair Provisional Ballot and Voter ID Laws

- **Problem:** As evidenced by the election of 2004, we lack fair and consistent federal requirements regarding provisional ballots and voter ID laws. The fight over whether or not provisional ballots would be accepted and counted if cast outside of the voter's correct precinct was bitter and subject to many lawsuits. Additionally, questions over voter ID requirements faced a similar battle. If Congress does not set clear standards and requirements for provisional ballots, it is very likely the counting of these ballots will be a major issue in future elections.
- **Solution:** States should work to establish consistent, fair norms for provisional ballots and voter identification.

- **Legislative Proposals:**
 - v. A bill asking for a commission to be created to examine provisional ballots policies and ID requirements to determine what standards must be met to ensure that every eligible voter can vote. An important focus of this commission should be the discussion of student voting and other minority and low-income communities that may not have driver's licenses with a current and correct address or any identification at all.
 - vi. A bill to require that all counties/voting precincts follow the same policies when determining what ID's will be accepted and what requirements must be met to receive a provisional ballot and how those ballots should be counted.

Public Interest Voting Machines

- **Problem:** Since the 2000 elections voting machine technology has received the most attention and criticism of any part of the voting process. But counties and states are limited in their options to private, for-profit companies that have not developed the best, most secure machines that could be developed with sufficient resources. Their lack of open-source software leads to great suspicion, particularly when combined with machines that lack a voter-verified audit trail. Many jurisdictions are investing in equipment that does not fully meet the needs of the disabled and language minorities, does not address many people's concerns about security, do not accommodate potential electoral reforms and do not have.
- **Solution:** We should use our nation's great technical expertise and resources to create voting equipment that supports the needs of people with disabilities and language minorities, that has open-source software and a voter-verified paper ballot, and that can be adapted for all localities' election methods.
- **Legislative Proposals:**
 - vii. A bill requiring or at least studying the implications of a state developing its own, publicly-owned voting equipment.
 - viii. A bill that requires all new electoral equipment to meet a series of public interest standards that challenge the conventional expectations of what private vendors allege they can provide.

Non-partisan election administration

- **Problem:** In many states the key people overseeing election administration are elected in partisan elections. Some have future electoral ambitions to higher office and at the least have a transparent interest in which party wins elections, yet can make decisions with little oversight and accountability. Drawing particular controversy, in 2000 Katherine Harris, Florida's Secretary of State came under fire for being both a governmental official and the Chair of the Bush/Cheney campaign in Florida. Similarly, in 2004, Kenneth Blackwell, the Secretary of State of Ohio was accused of partisanship because like Katherine Harris he positioned himself in the dual role of Bush/Cheney Ohio co-chair

and as chief elections commissioner of the state. The fact that Ohio and Florida have been the subject of intense scrutiny and allegations of impropriety should be of no surprise.

- **Solution:** Election administrators should ideally be nonpartisan and should be held publicly accountable for their decisions.
- **Legislative Proposals**
 - ix. A bill to prevent a secretary of state or other election administrator from publicly endorsing a candidate for office
 - x. A bill to institute a fully empowered non-partisan election commission to oversee state and federal elections. This commission would be responsible for ballot design, polling hours, pollworker education and machine certification.

A Constitutional Right to Vote:

- **Problem:** The U.S. Constitution protects against discrimination based on race, sex and age, but it does not provide citizens with an affirmative right to vote. Instead, each state sets voting policies and procedures such as ballot design, registration requirements. As evidenced from above, too often these state-based policies lead to improper disenfranchisement, lost votes and a broken democracy. Statutory reforms are critical if we are to develop an electoral system that guarantees each citizen the ability to vote and have that vote accurately counted. However, at the heart of many of the electoral issues previously discussed is the fact that there is no right to vote in the U.S. Constitution. One particular concern is that state legislators have the power to select electors to the Electoral College regardless of the popular vote.
- **Solutions:** An amendment to the U.S. Constitution guaranteeing the right to vote. State statute requiring that the state legislature respect the vote of the people in allocating electoral votes.
- **Legislative Proposals:**
 - xi. A statute requiring that the state legislature never override the vote of the people in allocating electoral votes.
 - xii. A resolution to support the addition of a right to vote to the U.S. Constitution

10. Passing a Resolution to Support Direct Election of the President

In an era of nationally competitive presidential elections, the Electoral College increasingly runs the risk of fraud, disenfranchised voters and electoral deadlock. Over time, we have seen the number of “battleground” states become an ever more exclusive club. Fewer states were truly in play in 2004 than in 2000, and fewer states were in play in 2000 than 1996.

FairVote believes that state legislatures should study how their state could help re-open the debate about a one-person, one-vote election for president in which every citizen's vote has the same value no matter where it is cast. In that spirit, we believe that legislatures should consider a resolution along these lines:

Whereas the Electoral College gives disproportionate voting power to voters in some states over others,

Whereas the Electoral College is not guaranteed to reinforce popular will,

Whereas electors are uncontrollable as free agents which creates the potential for backroom deals,

Whereas the Electoral College reduces national elections to the outcomes of only a few state contests,

Whereas a small shift of votes in a single state can decide the Presidency in the event of close elections,

Whereas the original reasons for its inception have been alleviated by other means, and

Whereas direct election of our political leaders is well-tested and encourages candidate to seek votes from all citizens,

The people of the state of ___, represented in senate and assembly, do propose as follows:

That the legislature of the state of ___ urges the Congress of the United States of America to pass a Constitutional amendment to abolish the Electoral College and replace it with the direct election of the President of the United States of America. In such a case that the Congress passes such an amendment, this state resolves to conduct floor votes within two years of Congressional passage.