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Center for Governmental Studies

Northern Illinois University

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The mission of the Center for Governmental Studies includes education of the public on important public policy issues. This article is one in a series of policy briefs designed to provide an objective view of an issue.

Issue: *The Election Debacle in Florida: Lessons for Illinois*

As the dust settles from the contentious, controversial and lengthy 2000 presidential election, the following questions loom large in Illinois:

- **Is something dramatically wrong with Illinois' election process?**
- **If so, what needs to be changed?**
- **Could the chaos in Florida be replicated in Illinois in a future presidential election?**

If one believes the self-appointed experts in the media, the various public interest groups, and even the casual observer, the nation's electoral system is in shambles and decisive changes are needed *now*. Some favor a nationalization of the process, whether it involves standardized voting systems, uniform poll closing hours, common recount procedures, or uniform voter registration laws. Others contend that states themselves need to take aggressive actions, particularly those, like Illinois, which rely primarily upon those dreaded punch card voting devices. They hope that the dreaded word "chad" never appears again in election vocabulary.

What do we know for sure?

First, we know this was the closest presidential election in our lifetime, but not in the life of the nation. As one statistician put it, the difference between the votes for the presidential candidates was smaller than the margin of error in the voting system. Similar situations occurred in 1824, 1876, and 1888. In each case, a candidate who lost the popular vote won the electoral college vote and was elected president. Each of those elections was marked with controversy and bitterness, but constitutional and statutory provisions were such that the nation not only survived, but it also prospered. We should expect nothing less now.

Second, elections are not now, nor will they ever be, anything close to a perfect process. They are complicated mechanisms with hundreds of thousands of fallible humans working on election day and night in over 3,000 counties and 200,000 polling sites. Some are full time and well-trained professionals, but most (such as election judges in the polling place) are part time with varying degrees of commitment, education, and training. Further complicating the task are over 100 million voters, some who vote prior to election day, and others who do not follow instructions in the polling place.

While the number of problems and mistakes can be minimized in such a situation, they can never be completely eliminated.

Could Illinois suffer an election debacle like Florida?

What happened in Florida could have occurred in Illinois, but for several reasons Illinois probably would have weathered the storm much better. Illinois' laws and constitutional provisions are not identical to those of Florida. Illinois has an independent State Board of Elections that provides direction, coordination, and uniformity to the electoral process throughout the state; Florida has a small and relatively ineffective elections office. In Illinois, loose chad is required to be cleaned off punch cards before they are put through the card counter; Florida has no such requirement.

How are votes cast and counted in Illinois?

In even numbered years, when national and state government officers are being elected, only two types of voting systems are used in Illinois: punch cards and optical scan. In odd numbered years, when only local officials are elected, some smaller counties use paper ballots since they are more economical and voter turnout is much smaller.

Ninety seven of Illinois' election jurisdictions used punch cards in the 2000 presidential election, with the remaining 13 deploying optical scan systems. (See Table 1 for an identification of the optical scan jurisdictions.) Beginning with the 2001 local elections,

DuPage and Lake counties will begin use of the optical scan in lieu of punch cards. Illinois thus is experiencing a slow but discernable shift away from the old technology to the slightly more advanced scan systems.

Optical scan systems vary in how the votes are counted. In some, ballots are scanned and votes counted in the precinct; in others, the scanning and counting is done at a central location after the polls are closed. This distinction is important: when ballots are scanned in

the precinct, each ballot is scanned as it is cast and any ballot which contains overvotes for any office is returned to the voter for possible correction (this error notification feature does *not* apply to undervotes since so many of these are due to voter intention to abstain from voting for certain offices). Use of this error notification feature reduces the number of ballots not counted due to voter error.

As Table 1 reports, ten of Illinois' 13 jurisdictions using an optical scan

table one Illinois Election Jurisdictions Using Optical Scan Voting Systems

Jurisdiction	When Began	In-Precinct Tabulation	Program Vendor*
DeKalb County	1999	Yes	GBS
Douglas County	1999	Yes	GBS
Franklin County	1999	Yes	GBS
Hamilton County	1993	No	ES&S
Jasper County	1998	Yes	GBS
Madison County	2000	Yes	ES&S
McDonough County	1999	Yes	GBS
McHenry County	2000	Yes	GBS
Schuyler County	2000	Yes	GBS
City of E St. Louis	1997	No	ES&S
City of Galesburg	1997	Yes	ES&S
City of Peoria	1993	No	ES&S
City of Rockford	2000	Yes	ES&S

* Key (machine vendor): GBS - Governmental Business Systems
ES&S - Election Systems & Software

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system also employed in-precinct tabulation of votes cast.

Legislation is currently pending in the Illinois General Assembly, that would allow this same error notification procedure to be used in the advanced punch card systems recently purchased by the City of Chicago and Cook County. However, none of the other 95 jurisdictions which used punch cards in the 2000 general election now have this upgraded hardware and software. Without further expenditure to upgrade their present systems, these 95 counties could not use this advanced feature even if its use is approved by the legislature.

So could Illinois still experience an election breakdown like the 2000 Florida election?

Even with improved voting technology, Illinois (and other states as well) share enough common problems with Florida that a razor thin statewide election outcome could result in the same quagmire of endless litigation without any clear means of reaching a just and timely final conclusion.

As we know, no voting system will ever be perfect, but it is equally true that every voting system can be improved. Thus, with public interest currently focused on election shortcomings, now is the time for a critical analysis of Illinois' election process. Some changes are necessary, but radical surgery is far from needed. As someone once said, "You don't want to use a sledgehammer to kill a fly."

What kinds of election law changes are needed in Illinois?

Six kinds of election law changes would go far toward improving Illinois' election system and minimizing the risk that Illinois would have to endure an election debacle such as that which afflicted Florida's presidential election in 2000.

1. Upgrade Illinois' voting systems

What should be done with the punch card system?

Much has been written about Florida's chad problems, and the conclusion of some is to outlaw the punch card system nationwide. That would be a mistake. Although punch cards are not cutting edge technology, they do have a reputation for accuracy. If vote recorders are properly maintained and if any chad is removed from the cards before counting, punch card systems will produce an accurate vote every single time.

Furthermore, punch cards are relatively inexpensive, they are easy to store and transport, they can handle the large number of candidates that regularly appear on Illinois ballots, and they are quite familiar to most Illinois voters. Also, they leave a paper trail that allows for a recount by machine or by hand.

But obviously punch card systems are not without their problems. Recent reports indicate that Cook County and Chicago voters failed to cast a valid vote for president in record numbers during the 2000 presidential election. These undervotes, which accounted for 6.2

percent of all ballots cast, were on punch cards and were particularly acute in African American and Hispanic neighborhoods. Was the punch card system too confusing for the many first time voters in these areas? Did voters not understand how the system worked? At present no one knows for certain what happened.

As mentioned earlier, legislation now pending in the Illinois General Assembly will allow new technology to be added to punch cards that will permit instant tabulation in the precinct and reject ballots that contain overvotes or are otherwise incapable of being recorded. The voter can then make any necessary corrections. Thus, rather than eliminating a system that has stood the test of time well, the General Assembly needs to authorize (read accept) this new punch card technology.

What about other voting system technologies?

Illinois voters now vote on only two different types of systems: the punch card (about 90%) and optical scan (about 10%). With the old lever voting machines and paper ballots now relics of the past, the General Assembly needs to authorize a new type of voting system - commonly known as "touch screen" voting. A recent survey by the Gartner Group concluded that Americans are generally willing to try new technologies for voting, and that the "touch screen," which is as familiar to them as their local automatic teller machine (ATM), is the type with which they would be most comfortable. It makes little sense for other states to use touch screen systems while their use is prohibited in Illinois. Local election jurisdictions in Illinois should at least have the opportunity to decide whether "touch

screen” voting makes economic, administrative, and practical sense.

2. Direct more attention to judges of election

The 55,000 election judges who work a 15-18 hour day and barely make minimum wage are the backbone of any Illinois election. Better-trained and better-paid election judges are essential. Having quality personnel in each polling place is the first and best line of defense against the kinds of errors that lead to election disputes. The following deserve serious consideration:

- Double the amount paid to election judges, with the state picking up the major portion of the increase. The current statewide average of \$100 per judge per election is far too low.
- Give more attention to training programs. Although the State Board of Elections conducted 221 training schools in 1999 and 2000 (a record number), not all judges statewide could be included. Election suppliers and election authorities need to upgrade and expand their own programs.
- The Illinois General Assembly should consider adopting the “administrative judge” concept for Illinois elections. An administrative judge, who would be required to have extra training and receive additional pay, should be appointed to manage each polling place.

3. Establish state-wide criteria defining what constitutes a vote

In Florida, the law requires a court to determine the intent of the voter, but that requirement evidently is not accompanied by any instructions or criteria defining how to do it. Practices apparently not only varied from county to county, but also within counties as well. This obviously led to mass confusion and ultimately to the U.S. Supreme Court ruling that these varying standards violated the constitution’s equal protection clause.

Illinois law allows a manual recount by court order to determine what is a valid vote, and the intent of the voter is paramount. But although a substantial amount of case law has evolved concerning the interpretation of marks on paper ballots, the same kind of rigor has never been applied to questions that might arise in recounts of votes cast with punch card or optical scan systems. An objective set of standards for determining voter intent that is applicable to all types of voting systems could be accomplished by statute or even by rules promulgated by the State Board of Elections.

4. Provide more effective programs of voter education

It is indeed disturbing to hear claims that voters were “confused” by certain ballot layout schemes or were “befuddled” by the type of voting system used in a polling place. The success of an election depends, not just on educating voters on candidates and issues, but also on:

- how to register to vote,
- where to vote,
- how to vote absentee,
- how to read instructions in the polling place, and
- how to ask for help.

When voters can’t, won’t, or don’t follow instructions — and thus vote in such a manner that their intent cannot be decisively determined — there is no option but not to count their ballots. To minimize the likelihood of such an outcome, the following measures could be employed:

- Send a voter’s guide to all registered voters prior to an election. Such a guide could list the candidates and issues on the ballot, give the location of polling places, and provide instructions covering the topics listed in the above paragraph.
- Consider the use of more radio and television announcements telling voters how to vote.
- Require election judges to ask each voter if she or he needs help understanding how the voting process works. Make certain that sample ballots are freely available for inspection in the polling place, and that the judges are pro-active in their desire to aid any and every voter in a strictly non-partisan environment.

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5. Encourage Congress to adopt certain electoral reforms and to resist efforts to nationalize the voting process

The 2000 election has already led to calls for the federal government to mandate stricter national standards controlling such election procedures as ballots, voting systems, polling hours, and recount procedures. Such an approach is a recipe for disaster.

Elections have always been ad-ministered at the state level and for good reason. A decentralized system allows for much needed flexibility and innovation; it minimizes Congress' role in the process by which the members of Congress are chosen; and it recognizes that different political cultures in each state are best served by locally designed election systems. Further, after over 200 years of a state-based electoral process, a standardized national system would be politically unpalatable and may be difficult to implement.

But this doesn't mean that Congress shouldn't play an important role in the reform process. For example, it could do the following:

- Give the Federal Election Commission the legal authority and necessary funding to update the current voluntary standards for voting systems. These standards have been in effect for ten years and have been adopted by some states. They have been extraordinarily helpful in some instances, but the work of the FEC needs to be upgraded and even accelerated.

- The FEC could also be mandated to analyze the frequency and cause of undervotes and overvotes in each type of voting system used across the country. Such an analysis could include whether these voting anomalies occurred more frequently with certain types of voting systems and also in certain areas. Recommendations could then be made as to how such systems might be improved or even whether they should continue to be used.
- Congress should authorize the use of social security numbers in the election process. The use of these numbers is critical for the maintenance of clean voter registration rolls; it would thus minimize the potential for fraud. It makes no sense that election officials are prohibited from using complete social security numbers while Congress has permitted their use by state motor vehicle departments and the courts with no adverse results.
- Finally, Congress needs to provide funding to improve the election system. Most election funding now comes from county governments. As might be expected, those counties with the most limited resources usually decide to spend their monies on improving roads and meeting various social service needs rather than on new voting systems. Federal block grants to states for the purchase of new voting equipment, for training election judges, and for voter education would be a relatively small investment that could bring big returns in voter confidence in the electoral system.

6. Consider the development of a statewide voter registration file

Many states have already embarked on, or even finished, a program which links county voter registration rolls to a computerized statewide voter database. This enables the state to compare information across counties, and also with death records, in order to cleanse voter registration rolls. Illinois could save substantial monies in printing and postage and could also reduce the potential for vote fraud by adopting such a file.

The concept of a statewide file often evokes concerns from county clerks and other election authorities who think that "big brother" in Springfield would gradually erode all of their election and registration duties. Nothing could be further from the truth. County clerks would still accept and process voter registration applications and would retain responsibility for daily maintenance of their records. But the existence of a statewide file would guarantee that voter registration rolls would be much cleaner, more accurate, and thus less subject to vote fraud.

What would all this accomplish?

The problems with the 2000 election do not mean that the electoral system is broken or needs a major overhaul, but they do suggest that it needs attention. Since the system has worked for so many years with surprisingly few problems, any changes in it should be evolutionary and not revolutionary. Further, care must be taken to assure that any changes made will not produce

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unintended consequences that will, in any way, threaten the integrity of the process.

Still, the public's concerns with the trustworthiness of the system must be addressed in a reasoned and thoughtful way. Careful consideration of the above suggestions for change would further strengthen the electoral process in Illinois and make it less likely, though not impossible, that Illinois would ever experience the chaos that occurred in Florida in the memorable 2000 presidential election.

Ronald D. Michaelson, a recipient of a doctoral degree in government from Southern Illinois University - Carbondale, has been the Executive Director of the Illinois State Board of Elections since 1976. He was invited to submit this *Policy Profiles* as part of the Center for Governmental Studies' continuing commitment to foster enlightened dialogue on significant policy issues confronting the nation and the State of Illinois.

The views expressed in this edition of *Policy Profiles* are those of Dr. Michaelson and do not necessarily represent the views of the Illinois State Board of Elections, the Center for Governmental Studies or of Northern Illinois University.

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