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DEAN HELLER
Secretary of State

RENEE L. PARKER
Chief Deputy Secretary
of State

PAMELA A. ASHWORTH
Deputy Secretary for
Southern Nevada

STATE OF NEVADA



OFFICE OF THE
SECRETARY OF STATE

February 3, 2003

CHARLES E. MOORE
Securities Administrator

SCOTT W. ANDERSON
Deputy Secretary
for Commercial Recordings

SUSAN BILYEU
Deputy Secretary
for Elections

Honorable William J. Raggio
Senate Majority Leader
401 S. Carson St
Carson City NV 89701-4747

Dear Senator Raggio:

As a follow-up to our meeting on January 24, 2003, to discuss the significant financial ramifications and obligations thrust upon the State of Nevada by the passage of the *Help America Vote Act of 2002* (HAVA), I'd like to bring you up to speed on recent developments. I'd also like to extend my appreciation to you for taking time from your busy schedule to meet with me and my staff in regards to this important subject.

Conversations my staff and I have had with congressional staffers indicate Congress may appropriate the first phase of federal funding as early as February 5, 2003. The federal Omnibus Appropriations Bill, which has gone to conference, currently contains funding for HAVA. Congressional staffers indicate that a floor vote on the bill may occur as early as this Wednesday. Therefore, we are facing a critical deadline to create a special account designated to receive federal funding as required by the Act, and to designate matching state funds that are required in Title II.

The mandates incorporated into HAVA require several actions, without which Nevada will be ineligible to receive any federal monies appropriated by Congress as part of the Act. On the immediate horizon, a Bill Draft Request must be submitted to the Legislature to create a specific fund for the deposit of the initial \$5 million dollars in federal funding, and an additional estimated \$20 million dollars as part of Title II of the Act. Pursuant to the Act, Nevada cannot receive federal funds unless this specific "election fund" is in place. We also need the Legislature to support for fiscal year 2003 a 5% matching general fund allocation to be set aside by the State as part of Title II of the Act. My staff has been in communication with and requested the State Budget office to submit a BDR on our behalf to establish this specific fund as part of implementing our budget.

It is imperative the members of the Legislature understand the ramifications of the State failing to comply with HAVA's mandates, even if the federal funding is not available. The State risks losing the financial support Congress has at least in principle agreed upon, but even more importantly, risks losing federal transportation dollars for failure to comply with the mandates.

LAS VEGAS OFFICES
555 E. Washington Avenue
SECURITIES: SUITE 5200
Telephone (702) 486-2440
Fax (702) 486-2452
CORPORATIONS: SUITE 4000
Telephone (702) 486-2880
Fax (702) 486-2888

MAIN OFFICE
101 N. Carson Street, Suite 3
Carson City, Nevada 89701
Telephone (775) 684-5708
Fax (775) 684-5725

CORPORATE
SATELLITE OFFICE
202 N. Carson Street
Carson City, Nevada 89701
Telephone (775) 684-5700

EXHIBIT D Senate Committee on Finance

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Although some governors and state legislators have reportedly said they will not comply with the provisions of HAVA without full federal funding, at multiple seminars and conferences my staff has attended, it has been made quite clear by the Department of Justice (DOJ) and members of various congressional staffs that failure to comply in a timely manner will result in a significant loss of federal transportation dollars.

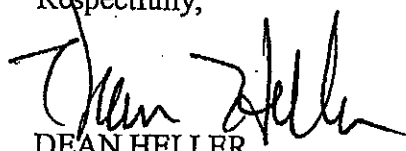
Furthermore, DOJ officials have clearly stated that it will vigorously prosecute any state that does not comply with the law. Please do not make the mistake of believing that the federal government will allow states to side step the mandates of HAVA, as many did when the National Voters' Rights Act of 1992 (NVRA) was enacted, which was an unfunded congressional mandate. Whereas DOJ did not follow through if a state failed to comply with NVRA, they have repeatedly made it quite clear that will NOT be the case in prosecuting states that fail to adhere to the provisions of HAVA.

I recently sent a letter to Nevada's congressional delegation asking them to support full funding of the *Help America Vote Act*. I have attached a copy of that letter for your information. In the letter, I emphasized how critical the federal funding element of HAVA is to the State of Nevada, especially in light of the state's looming budget crisis.

HAVA will effect virtually every element of the voting process, including requiring a statewide voter registration system, replacing punch card/lever voting machines, improving voter education and poll worker training, requiring provisional ballots, and requiring at least one voting machine available per polling place for voters with disabilities. HAVA will dramatically change the way future elections throughout the nation are conducted.

Again, thank you for agreeing to meet and discuss the important issues facing Nevada in regards to HAVA. If you should need any further clarification, please let me know.

Respectfully,


DEAN HELLER
Secretary of State

MAIN OFFICE: 101 N. Carson Street Suite 3 Carson City, Nevada 89701-4786 Telephone (775) 684-5708 Fax (775) 684-5725	SECURITIES DIVISION: 555 E. Washington Avenue Suite 5200 Las Vegas, Nevada 89101 Telephone (702) 486-2440 Fax (702) 486-2452	SECURITIES SATELLITE OFFICE: 1755 E. Plumb Lane Suite 231 Reno, Nevada 89502 Telephone (775) 688-1855 Fax (775) 688-1858	CORPORATE SATELLITE OFFICE: 555 E. Washington Avenue Suite 2900 Las Vegas, Nevada 89101 Telephone (702) 486-2880 Fax (702) 486-2888
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Attachment to letter
dated 2-3-03

Senator Raggio

January 9, 2003

The Honorable Harry Reid
United States Senator
528 Hart Senate Office Building
Washington, DC 20510

Dear Senator Reid:

I am writing to urge your support for full funding of the Help America Vote Act (P.L. 107-252) when Congress considers appropriations this month. I understand the funding for this extremely important bill may be included in an Omnibus bill or considered separately. Whichever the case, I cannot emphasize enough how critical the federal funding element is to the state of Nevada, especially in light of the projected \$800 million budget crisis our state is faced with at the present time.

As you know, P.L. 107-252 authorized a total of \$3.86 billion in federal funding to assist states with implementing necessary election reforms. The largest share, \$2.16 billion, was specifically designated for use by the states in Fiscal Year 2003. Under Title I of the Act, Nevada would be allocated the \$5 million minimum, while under Title II Nevada would receive an estimated \$20,444,442. In addition, my staff is in the process of developing a strategic plan to apply for various grant monies available as part of Title II that would be used for increasing polling place access for disabled voters, research and development aimed at improving voting technology, pilot programs to test new voting systems and equipment, and for state protection and advocacy systems.

The changes called for with the passage of the Help America Vote Act are ambitious, progressive and will go a long way in securing the confidence of American citizens in the voting process. Many of the requirements of the Help America Vote Act, specifically the statewide voter registration program, are reforms I have sought unsuccessfully during my years as Nevada's Secretary of State. The costs associated with these reforms have no doubt contributed to the state Legislature's hesitancy to approve these needed changes.

The new mandates of P.L. 107-252 require substantial changes to state law, along with funding decisions at the local, county and state level. The fact that Nevada's state Legislature only meets once every two years makes the federal funding authorization even more critical for our state. *I feel strongly that due to the looming fiscal crisis in Nevada, the 2003 Legislature will have a difficult time implementing the necessary changes required by the Help America Vote Act in a timely fashion unless federal funding is guaranteed and available immediately.* For example, the Act requires the statewide voter registration system to be implemented by January 1, 2004. Unless funds are immediately available for this task, given the current state of Nevada's budget crisis, it will be economically difficult for the state to complete the bid process by January 2004, let alone have the system implemented and functioning. Although the Act does include a hardship provision waiver granting implementation until 2006, it is our understanding that applying for the waiver may jeopardize the state's ability to receive federal funds.

Please feel free to call me at (775) 684-5709 with any questions you may have concerning this matter.

Respectfully,

DEAN HELLER
Secretary of State