S. HRG. 107–1153

ELECTION REFORM

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MARCH 7, 2001

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

88–291 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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ELECTION REFORM

WEDNESDAY, MARCH 7, 2001

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SR–253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good morning, As we begin to unravel the consequences of the closest and most contested election in our Nation's history, we need to keep in mind that our primary goal should be restoring voters' confidence in the electoral process. We can accomplish that goal only if we carefully and thoroughly determine the lessons from this past November, and ensure that every vote cast in this country is counted and recorded as accurately as possible.

On February 15, Senator Hollings and I introduced the American Voting Standards and Technology Act to address the overwhelming number of precincts who reported serious flaws in their local voting system. The shortcomings of our election system are an unfortunate embarrassment to our democracy. Our bill, S. 368, was written to directly confront the root cause of these voting controversies, the actual voting machines, and how they operate.

In the 2000 election, pre-scored punch card ballots were used by one in three voters. These archaic votomatic machines, engineered in the 1960's, continue to be employed throughout the country, yet their ability to accurately record votes is questionable. Even more egregious are the prescored ballot cards that continue to be used even after the National Institutes of Standards and Technology, NIST, recommended their elimination in 1988.

Compounding the problems of prescored punch cards, numerous studies reveal that throughout the country ballots cast by African Americans were nullified at a much higher rate than those of Caucasians. Our witnesses will offer similarly disturbing statistics regarding the disenfranchisement of many segments of our population, particularly Hispanic Americans, elderly Americans, and Americans with disabilities.

How can we encourage young Americans to vote if they believe their vote may not be counted? We must modernize our voting machinery and improve our voting process without barraging states and local governments with excessive rules and regulations.

Senator Hollings and I do not profess to have all of the solutions to solving this issue. We do, however, believe that the states' voices need to be heard, as do the voices of many civil rights groups who represent disenfranchised Americans. Surely the 2000 election was not the first time in our Nation's history when large segments of our population were systematically shut out of the electoral process. We hope to learn more today from the experiences of these interest groups. I look forward to hearing from the witnesses.

Senator Hollings.

STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Senator HOLLINGS. Thank you, Mr. Chairman, for this hearing. I welcome the distinguished witnesses. I will file my full statement and just summarize by saying that back in 1978 the old Bureau of Standards found that the punch card systems, the prescored punch cards like those used in Palm Beach were flawed, faulty. That was almost 25 years ago. The study was updated in 1988, and I think we need another updating. We also need to see what we can do to help, working with the other interested committees.

I take it the Rules Committee will be looking at the times of voting and registration and so forth, but within the technology sector I hope we can develop a standard here that the states can all follow and fall in line and expedite the cleaning up of these elections.

So, I thank the distinguished Chairman and the witnesses. Thank you, sir.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Democracy—which provides that the power of government ultimately rests with the people—unquestionably is the best form of government that we know today. We, as Americans, pride ourselves on being the world's number one adherents of this great principle. Indeed, it was our enormous dedication to the creed of Democracy that led to the fight for this nation's independence; to the establishment of our revered constitution; to the right to vote without regard to property qualification; to the right to vote without regard to race; and to the right to vote without regard to gender. In other words, it is the principle of democracy that has held our nation in tact for over two centuries.

Nevertheless, for democracy to work effectively, not only must citizens have the right to vote, the system must be constructed so that their votes count. Unfortunately, this is not always the case. As this past election revealed, there are regrettably human and mechanical flaws in our voting systems. Last November and December stories of overvotes, undervotes, and hanging chads flooded the media. Many voters complained that confusing butterfly ballots led them to make unintended choices, while others claimed they were denied the opportunity to vote by being left off of the registration rolls or through intimidation.

Although many were stunned by these revelations, unfortunately, these problems are not new. The fact is that we've had difficulties using punch cards and other machine-readable ballots for more than 30 years. As the record shows, federal officials were made aware of these issues as early as 1978, by a National Bureau of Standards study, *Science & Technology: Effective Use of Computing Technology in Vote-Tallying.* That study—and another in 1988—found difficulties in vote-tallying stemming from management failures, technology failures, and human operational failures. The 1978 report noted major difficulties in several key metropolitan areas. One of the vital recommendations was the elimination of the pre-scored punch card, similar to the kind used in Palm Beach County's Votomatic machines.

Even though the 2000 presidential election leveled unprecedented attention on Florida's problems, as I'm sure we will hear today, Florida is not alone with respect to the prevalence of voting system flaws. Today's witnesses will outline many of the

same difficulties evidenced in Florida. However, they will also highlight problems unique to their states or constituents. The final picture that emerges will undoubtedly be complex, requiring a multi-faceted solution.

Senator McCain and I have put forward one part of that solution—the American Voting Standards and Technology Act. This legislation would direct the National Institute of Standards and Technology, "NIST" to: (1) facilitate the development of voluntary standards governing the performance of voting systems; (2) conduct a study of factors impacting voter participation by individuals and groups; and (3) implement a program making grants available to states and local governments to aid in the updating of voting equipment and to conduct voter educational programs.

Other Senators have their own bills which offer reforms such as uniform poll closing times, same day registration, overseas military voting reforms, and reaffirmation of the Voting Rights Act, among others. Undoubtedly, this hearing is the first of many hearings that the Senate will hold on this matter. Election reform is a complex problem. Senator McCain and I realize that our American Voting Standards and Technology Act is only one piece of the pie. In that regard, we look forward to working with other Senators who are examining other aspects of the electoral system.

In conclusion, I feel that I would be remiss if I did not say that though we should move expeditiously on the issue of election reform, we do not need to rush. In the coming weeks, the Senate is poised for a debate on campaign finance reform. The Chairman has his proposal; I have my Constitutional Amendment. We have already held numerous hearings, meetings, and discussions on campaign finance reform. So, let's keep our eyes on the prize and proceed with both efforts: campaign finance reform immediately, and election reform as soon as possible.

As noted, the right to vote is the most fundamental right bestowed upon Americans by the U.S. Constitution. Sadly, there are millions of Americans who lost faith in the guarantee and exercise of this fundamental right due to the circumstances of the last election. Senator McCain and I do not claim to know how to restore the American people's faith in our voting systems. However, we do believe that setting basic performance standards, helping election officials acquire systems which meet those standards, and helping voters use those systems will go a long way in ensuring more consistency and reliability in our voting systems.

As I stated earlier, Democracy is the best form of government we are familiar with today. However, we must work continuously to make it work effectively. Indeed we must always strive to make our democracy better. Unfortunately, I think maybe we have rested on our laurels, and each of us is now hearing from our constituents that they are not happy about it. I look forward to hearing from each of our witnesses on how we can make our system better.

The CHAIRMAN. Thank you, Senator Hollings. Senator Burns, do you have a brief comment?

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. I have a brief comment. Thank you for holding this hearing. I am already on another bill sponsored by the principal cosponsor, by Senator McConnell. I am intent on listening to the witnesses this morning. I guess one thing I would look for in any part of this legislation is that unfunded mandates, because counties pay for elections, and I being an old county commissioner, elections cost a lot of money, and so I am just going to be very, very particular about imposing anything by the federal government on counties that—and especially counties who have had a history of having no problems, so thank you, Mr. Chairman.

The CHAIRMAN. Senator Wyden.

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you, Mr. Chairman. I am in strong support of what you and Senator Hollings want to do. I think it is very constructive, and I support it. I would make only two comments

this morning. The first is that this year more than 30 million Americans are going to file their taxes online, and millions more are monitoring their retirement benefits online.

This Committee put together the electronic signatures bill, and I would just hope that we do not give up on the idea of online voting in this country. I hope that at a minimum we would continue to experiment at the local level with different kinds of approaches to ensure that there is no fraud. We know that there is a digital divide, and that would have to be addressed. However, I would hope that we could continue the experiments on online voting, because with Americans using modern technology in so many other areas, I do not think we ought to give up.

Second, a bit of history with respect to vote by mail, and I want to thank Senator Hollings and Senator McCain for inviting my friend, Bill Bradbury, the Secretary of State for Oregon, to testify here today. I am the Nation's first mail-in United States Senator. I was elected in an all-mail vote, and at the time——

The CHAIRMAN. We do not know how to take that.

[Laughter.]

Senator HOLLINGS. What about the females?

[Laughter.]

Senator WYDEN. I knew that that would generate some debate. What was interesting about that election is that, at the time, almost all the Democrats were against mail-in voting in Oregon, because they thought it would hurt their base. The Republicans supported mail-in voting because they thought it would help their base. I was one who thought it was just a good idea and said so. However, after I won the election there was an about-face, and all the Democrats were for mail-in voting, and Republicans said, oh my goodness, we have got to be worried about fraud.

So what we ought to do is do what you, Mr. Chairman, and you, Senator Hollings, are doing, which is work at this in a bipartisan kind of way. I think we are going to see these innovations make a real difference for this country. We have seen it in Oregon with mail-in voting, and I do hope that in spite of this newspaper headline today about online voting, we will continue to fund those experiments. I thank you and look forward to working with you and Senator Hollings.

The CHAIRMAN. I thank you. Senator Cleland, and by the way, for whatever it is worth, my view is that, as you mentioned, it is now legal to carry out a transaction, or a legal document, over the Internet. It seems to me that over time we should be able to make Internet voting secure.

STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

Senator CLELAND. Mr. Chairman, I have a question, and that is, if someone is recalled after having been elected by mail, do we just mark, return to sender?

[Laughter.]

Senator CLELAND. I might say that the distinguished Senator from Montana is a former county commissioner. I am a former election official for 12 years in Georgia, and every year we had problems with the punch card system. I am an author of legislation to

provide a knock-out punch to the punch card system, not by putting a burden on counties, but by putting some federal funds to a third of the precincts in America that have that system, or are now afflicted with that system. The 18 counties in my own state which use the punch card system show twice the undervote of the national average. Citizens in my state are being disenfranchised because of the punch card system, and I hope we can punch it out.

I would say also, we are honored to have my Secretary of State from Georgia here today, Ms. Cathy Cox. She is on the second panel, and we will have some other words to say about that. I am on the wonderful legislation sponsored by Senator Schumer, and Senator Brownback, and was there the day we kicked it off. We have some wonderful people and some talent here today, Mr. Chairman, we can hear from, and certainly we can take action on this important issue before the next general election.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The prepared statement of Senator Cleland follows:]

PREPARED STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

I want to thank Chairman McCain and Senator Hollings for holding this hearing today on election reform. I appreciate their leadership on this important issue. Mr. Chairman, we can all agree that last year's election was one of the most unusual political events this country has ever seen. As a former Secretary of State and chief elections official in Georgia, I believe it was also a wake up call for reforming our electoral process. I have reviewed the McCain-Hollings' *American Voting Standards Technology Act,* which directs the National Institute on Standards and Technology to develop voluntary standards for the voting process, and provides grants to the states to rehabilitate voting equipment and strengthen voter education. The McCain-Hollings bill targets reform where help is needed and I am pleased to support it.

Today, I will introduce my own bill, the **Make Every Vote Count Act,** to help states and localities modernize voting systems, promote uniformity in voting equipment *within states* and require greater standardization in assuring the voting rights of our military personnel. My legislation creates a one-time, $1 billion federal block grant for replacement of punchcard voting systems (which are used by 34 percent of the Nation's voters), lever machines (19 percent of voters), and paper ballots (2 percent of voters) with a more advanced voting system, such as optical scan or electronic systems. Because many errors are caused by inadequate training of election workers or education of voters in how to properly cast valid votes, and such errors are especially likely when converting to a new system, the bill would allow up to one-third of the grant funds to be used for those purposes. Finally, the bill will assure the voting rights of out of state military personnel by protecting their absentee ballots.

Today I have the pleasure of introducing Georgia's Secretary of State, Cathy Cox, to the Committee. Secretary Cox has truly been one of the national leaders who have risen to the challenge during the debate on election reform. Her study of the Georgia elections, *A Wake Up Call for Reform and Change,* highlights one of the most serious problems experienced last November: the failure of outdated systems on which too many of our citizens are forced to use in casting their ballots. The error rates from November showed considerable variation *between states,* depending on the type or types of voting system used in each state, and *within states,* with voters residing in counties using 1960's "punch card ballot" technology experiencing the highest errors. Cathy Cox has come up with what I believe is an excellent solution for our state's problems and I am very pleased that the Committee has called on her expertise today.

The Make Every Vote Count Act—Summary

The legislation creates a one-time, $1 billion federal block grant for replacement of punchcard voting systems (which are used by 34 percent of the Nation's voters), lever machines (19 percent of voters), and paper ballots (2 percent of voters) with a more advanced voting system, such as optical scan or electronic systems.

Because many errors are caused by inadequate training of election workers or education of voters in how to properly cast valid votes, and such errors are especially likely when converting to a new system, the bill would allow up to one-third of the grant funds to be used for those purposes.

Here's how the block grant would work——

1. Within 30 days of the bill's enactment, the Federal Election Commission would disburse the $1 billion as block grants to states under a pre-set formula which bases a state's allocation on the state's share of the national total of all lever machines, punchcard systems and paper ballots. (Section 2(d)(1) and (2) and Section 2(g)). (For purposes of the formula, in order to make the paper *ballot* totals comparable to the lever and punchcard *machine* totals the number of registered voters in a district using paper ballots is divided by 200, which is a rough estimate of the average number of voters per machine in other systems.) Within that same 30-day time frame, a state could opt-out of the grant program simply by notifying the Commission. (Section 2(e)).
2. In order to provide for accountability without imposing a significant federal administrative burden, and to stretch the resources made available for voting modernization, the bill would require that participating state and local governments together supply 20 percent matching funds for the federal grant. (Section 2(c)).
3. Within 60 days of receiving the federal block grant, a participating state's chief election official would be required to identify a single "advanced voting system" which participating counties and municipalities within that state would procure. This requirement is intended to provide a means to move toward greater uniformity in voting systems *within states*, which is the only way to insure that everyone's vote within a given state is counted in the same way. (The desire to promote uniformity is the primary reason why lever machines and paper ballots—which have lower error rates than punchcard systems but are even more antiquated—are also made eligible for replacement.) (Section 2(b)(3)).
4. Within 90 days of receiving a federal grant, a participating state's chief election official is required to notify all eligible counties and municipalities of the grant's availability and requirements. The state official is subsequently required to "expeditiously disburse" the funds to these local governments under a pre-set formula which bases a local area's allocation on its share of the state's total of all lever machines, punchcard systems and paper ballots. (Section 2(d)(3)). However, a local area is permitted to opt out of the grant program simply by failing to notify the state official of its acceptance within 30 days of the notification of the grant's availability. (Section 2(f)(3)).
5. The grant would be used by eligible local recipients (counties in most cases but municipalities in Maine, Massachusetts, New Hampshire, Vermont and Wisconsin) for replacing lever machines, punchcard systems and paper ballots with an "advanced voting system" designated by the state's chief election official. Furthermore, in order to smooth the transition, and to reduce error rates, the local area could "flex" at least one-third of its grant for training election officials and educating voters about the new system and, once all eligible systems are replaced, the locality could use any remaining funds for these same purposes. (These "flexed" funds could also be used to defray any local costs associated with implementing the military voting provisions of Section 3.) (Section 2(b)(2)).
6. An "advanced voting system" is defined as one which prevents overvotes, significantly reduces undervotes, provides a permanent record of each vote (for possible recounts), significantly reduces recount error in comparison to the system(s) being replaced and ensures accessibility for disabled voters. (Section 2(f)(1)).
7. Any block grant funds not used by localities (either because they opt out of the program or because they do not need the full grant amount) may be used by the state to enhance voter participation (through a variety of approaches including voter registration, training of election officials and upgrading other voting equipment not otherwise provided for by the bill) and to defray any state costs associated with implementing the military voting provisions of Section 3. (Section 2(b)(1)).

Section 3 of the bill is derived, verbatim, from Title VI of Senator Daschle's bill, S. 17. These provisions require that, for purposes of voting, no military member be deemed to have had a change of domicile or residence solely because he or she had to be absent in compliance with military orders. Furthermore, they provide that

states and localities must permit absentee voting by uniformed service members in state and local elections, as is currently required only for federal elections. (Section 3). As mentioned above, compliance costs associated with this Section may be paid for out of the state and local grants under Section 2. (These provisions are intended as preliminary steps to redress problems in military voting, pending completion of a *General Accounting Office* study of such problems requested by Senators Cleland, Warner, Levin and Hutchinson.)

I would like to welcome our colleagues from the House and the Senate. We would like to begin with Senator Dodd because of his advanced age.

[Laughter.]

STATEMENT OF HON. CHRISTOPHER J. DODD, U.S. SENATOR FROM CONNECTICUT

Senator DODD. I thought it was the white-headed caucus here. Thank you very much, Mr. Chairman. I am pleased to be before this Committee once again, and to be joined here at the table by interested Members of the House and the Senate on this subject matter, which I think you properly characterized. This was a troublesome election, and it was not, in my view, just located in one state. I think there are some serious problems that have been festering for sometime Nation-wide that need to be addressed. Some of them are technical, but some go beyond technicalities. It is not just a question, in my view, of crafting a better mouse trap here. We also need to recognize that there are some underlying fundamental problems about promoting elections in this country, educating people properly, and making the process more available to more Americans.

So I am pleased to have a chance to appear before you this morning to just share some thoughts about the integrity of our election system, and offer some ideas of how we might reform the process.

Last month, Mr. Chairman, the Senate Democratic Leader, Tom Daschle, asked me to head up a working group among Democrats to take a look at some ideas in this area. I am joined in that endeavor with my colleague from New York, Senator Schumer, among others. We are looking at a variety of proposals on how we might improve the system.

What we have learned already, Mr. Chairman, is that this is not a Democratic or Republican problem, it is an American problem. And I would submit to you and Members of the Committee that the solutions to these problems must be appropriately nonpartisan if they are going to succeed at all.

The Senate Rules Committee on which I serve as the Ranking Democrat will hold a series of hearings on election reform next week, since the Rules Commitee is the proper jurisdiction. The Rules Committee has jurisdiction over federal elections. There are a number of Members of our Committee and of the Senate who have introduced or cosponsored some very thoughtful pieces of legislation, and we will hear from those members next Thursday.

Now, I am hopeful that we will act to report one or more bills in the Senate rather shortly, or soon thereafter. I am introducing some legislation, along with my good friend and colleague from the House, John Conyers, which we will describe briefly to you here this morning, and John will maybe follow on, since it is a companion bill in the House.

We all know that there is a great deal of work to be done in the 107th Congress. Obviously, the list is long, issues like social security, prescription drugs, education, housing, jobs, and campaign finance reform, which is coming up in a few days, and is a critical one. But Mr. Chairman and Members of the Committee, I would submit to you and Members of the Committee this morning that none of these issues, as important as they are, is more vital than the issue of ensuring that each and every qualified American can freely and effectively exercise his or her right to vote.

Now, why do I say that? Because the right to vote is the cornerstone in our democracy. In the words of Thomas Paine, it is the primary right by which the other rights are protected. The struggle to secure that right for all Americans has been long and painful. Our Nation's history of disenfranchisement is lamentable. Thirty-six years ago, almost to the day, Mr. Chairman, on March 15, 1965, President Lyndon Johnson, speaking before a joint session of the Congress of the United States, called for passage of what ultimately became the Voting Rights Act.

On that evening, Mr. Chairman, he spoke plainly and very forcefully to the American public. "All Americans," he said, "must have the right to vote, and we are going to give them that right. All Americans must have the privileges of citizenship, regardless of race, and they are going to have those privileges of citizenship regardless of race."

It is the sad message of this last election that the privileges of citizenship have yet to be fully guaranteed to all Americans, regardless of race, in my view. In the days immediately following last November 7, I read a news article about a young woman who had left her home early on Election Day to cast her vote for the very first time in her life. She was joined by her mother and father. She remarked at the excitement and pride that she felt on that day that she would join her parents to exercise this most sacred American right.

The woman and her family had planned to vote, and then share a quiet family celebration on this special occasion for her, but they never had that chance, Mr. Chairman. When she arrived at the polling place, this young woman, who happened to be an African American, was told that her name was not listed among the rolls of registered voters, despite the fact that she had gone through the process. She waited patiently for minutes, then for hours, as overworked and undertrained poll workers sought to verify that she was registered, but they never did, Mr. Chairman. Told that she was not going to be able to vote that day, this young woman left the polling place in tears.

Mr. Chairman, I respectfully suggest to you and to my colleagues that the story of that young woman is a story we should all take to heart. She was crying on November 7, not just for herself but, I would suggest, for an election system that failed her, and on some level failed our Nation as well.

If we do nothing else in the 107th Congress, it is my fervent hope that we see to it that neither this young woman nor anyone else like her again is denied that right to vote. There are several things that I think we can be doing.

The next 2 weeks, as I mentioned, the Senate will take up the issue of campaign finance reform and, Mr. Chairman, let me say publicly once again what I have told you privately and said over the years. I commend you and our colleague Russ Feingold for your diligent and sincere efforts to make such reform a reality in this country, but I would suggest that such a measure is not an appropriate vehicle for debating election reform. I know there will be those who may want to bring this up. I care about this issue a lot, but I am concerned that we might achieve neither, in effect, if we end up trying to link these two.

Many of us would like to see strong, fair legislation that limits the unhealthy influence of money in our electoral system. I, for one, am hopeful that such legislation will pass the Senate and House and be sent to the President's desk for signature. But if we learned anything last November, it is that it is not only money that threatens to diminish and deny the voice of the average voter. Other forces are at work as well, such as antiquated voting machines that fail to accurately record voters' choices, ballots that confuse rather than clarify, overcrowded polling places that require voters to have the patience of Job, polling places that are inaccessible to the disabled and to the blind, to language minorities, inaccurate voter registration lists, and so-called ballot security measures which have the effect, if not the intent, of intimidating and discouraging voters.

During the past several years, Mr. Chairman, I have had the privilege of working with the Ranking Member of the House Judiciary Committee, Mr. Conyers, on legislation to address these and similar shortcomings of our electoral system. Our bill is premised on the idea that the problems of the 2000 election in Florida and elsewhere were not only technological in nature.

Technology is wonderful, and there needs to be change here, but this is not just about helping states and localities build or buy better mouse traps, if you will. It is also about addressing, with tough, meaningful standards that apply throughout the country, other issues where our electoral system is falling short, in voter registration, in recruitment and training of poll workers, ensuring access for the disabled and limited English speakers, and removing all barriers to voting, including disincentives to working Americans, who often must choose between their jobs and exercising their right to vote.

So allow me to make one final point, if I could, Mr. Chairman, and that is, we must do all that we can to ensure that we have the reform that is meaningful. We must not elevate form over substance, nor can we rush to enact measures which address only the technological glitches in the last election. It is critically important that we work to enact the strongest set of reforms possible.

These moments in history only come along rarely. It is because of the events of last fall that we are meeting here and we will meet in the Rules Committee. I would suggest without the events of last November and December we probably would not have addressed this issue. Despite the fact that these problems have existed, but because they have occurred, we are meeting. We are meeting here, we will meet in the Rules Committee, and we must go beyond, in my view, just, as I say, coming up with better technology here.

There are some deeper underlying problems to be addressed. Mr. Chairman, for 200 years we have run elections with volunteers. It is a wonderful commentary about our country. On Election Day it is volunteers from Arizona to Connecticut together, in thousands of polling places, who assist people to cast ballots. But as we enter the 21st Century with over 100 million eligible voters in this country, more than 100 million eligible voters, we need to get beyond just volunteerism, and hoping somehow that elections are going to work well across the country without making the kind of investments and setting some national standards that I think will help us improve this process immensely.

So when it comes to ensuring the right to vote, we should not and must not settle for anything that is even close to second best, or else we risk eroding public confidence in a system which threatens to undermine our system of democracy. Mr. Chairman, I thank you for the privilege of attending today's hearing, and I look forward to working with you and other members who are interested in this legislation, or legislation like it. With that, I might want to turn, if it is all right with my colleague from New York, to John Conyers just for some brief comments. It is a similar bill. It is that all right with you, John?

[The prepared statement of Senator Dodd follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER J. DODD,
U.S. SENATOR FROM CONNECTICUT

Mr. Chairman, Senator Hollings, Members of the Committee: I appreciate the opportunity to appear before you today to discuss an issue that is of vital importance to the continued health of this democracy—the integrity of our election system and the need for election reform.

Last month, the Senate Democratic Leader, Tom Daschle, asked me to lead a working group in our caucus on this same issue to both deepen our understanding of and develop solutions to the problems that came to light during the election of 2000.

What we have learned already is that this is not a Democratic or Republican problem. It is an American problem. And I submit to you that the solutions to these problems must be, appropriately, nonpartisan to succeed.

The Senate Rules Committee, on which I serve as ranking member, will begin a series of hearings on election reform next week.

As the committee with jurisdiction over federal elections, there are a number of members of our committee and the Senate who have introduced or cosponsored thoughtful election reform legislation, and we will hear from those members, and others, next Thursday. I am hopeful that we will act to report one or more bills to the Senate for consideration.

We all know that there is a great deal of work to be done in the 107th Congress—on issues like social security, prescription medicines, education, housing, and jobs.

But I submit to you that none of these issues—none of them—is more vital than the issue of ensuring that each and every qualified American can freely and effectively exercise his or her right to vote.

Why do I say that? Because the right to vote is the cornerstone right in a democracy. In the words of Thomas Paine, it is "the primary right by which other rights are protected."

The struggle to secure that right for all Americans has been long and painful. Our nation's history of disenfranchisement is lamentable.

Thirty-six years ago next week, on March 15, 1965, President Lyndon Johnson convened a joint session of Congress to call for passage of what ultimately became the Voting Rights Act.

He spoke plainly and forcefully that evening. "All Americans," he said, "must have the right to vote. And we are going to give them that right. All Americans must have the privileges of citizenship regardless of race. And they are going to have those privileges of citizenship regardless of race."

Yet the sad message of this last election is that the privileges of citizenship have yet to be fully guaranteed to all Americans regardless of race.

In the days immediately following last November the 7th, I read a news article about a young woman. She left her home early on election day morning to cast her vote for the very first time. She was joined by her mother and father.

She remarked at the excitement and pride she felt that she could join her parents to exercise this most sacred right.

The woman and her family had planned to vote and then share a quiet celebration. But they never had the chance. When she arrived at her polling place, this young woman—who happened to be of African-American descent—was told that her name was not listed among the rolls of registered voters.

She waited patiently—first for minutes, then for hours—as overworked and undertrained poll workers sought to verify that she was registered. But they never did. Told she would not be able to vote, the young woman left the polling place in tears.

I respectfully suggest to my colleagues that the story of that young lady is a story we should all take to heart. She was crying on November the 7th not just for herself, but, I would suggest, for an election system that failed her—and on some level failed the country.

If we do nothing else in this 107th Congress, it is my fervent hope that we see to it that neither this young woman nor anyone like her is ever again denied the right to vote.

In the next two weeks, the Senate will take up the issue of campaign finance reform. I commend the chairman for his diligent and sincere efforts to make such reform a reality. But I would suggest that such a measure is not an appropriate vehicle for debating election reform.

Many of us would like to see strong, fair legislation that limits the unhealthy influence of money in our electoral system. I, for one, am hopeful that such legislation will pass the Senate and House and be sent to the President's desk for his signature.

But if we learned anything last November, it is that not only money threatens to diminish and deny the voice of the average voter. Other forces are at work, as well, such as:

- antiquated voting machines that fail to accurately record voters' choices;
- ballots that confuse rather than clarify;
- overcrowded polling places that require voters to have the patience of Job;
- polling places that are inaccessible to the disabled, the blind and to language minorities;
- inaccurate voter registration lists; and
- so-called "ballot security" measures which have the effect, if not the intent, of intimidating and discouraging voters.

During the past several weeks, I have had the privilege of working with the ranking member of the House Judiciary Committee, Mr. Conyers, on legislation to address these and similar shortcomings of our electoral system.

Our bill is premised on the idea that the problems of the 2000 elections in Florida and elsewhere were not only technological in nature. This is not just about helping states and localities build—or buy—better mouse traps, if you will.

It is also about addressing—with tough meaningful standards that apply throughout the country—other issues where our electoral system is falling short:

- in voter registration;
- in the recruitment and training of poll workers;
- in ensuring access for the disabled and limited-English speakers; and
- in removing all barriers to voting, including disincentives to working Americans who often must chose between their job and exercising their right to vote.

Allow me to make one final point: we must do all we can to ensure that we have reform that is meaningful. We must not elevate form over substance. Nor can we rush to enact measures which address only the technology glitches in the last election. It is critically important that we work to enact the strongest set of reforms possible.

When it comes to ensuring the right to vote, we should not, and we must not, settle for second-best measures—or else we risk eroding public confidence in our system of elections which threatens to undermine our system of democracy.

I thank you for the privilege of attending today's hearing. I look forward to working with you to achieve bipartisan election reform.

The CHAIRMAN. We would be pleased to. May I say, Senator Dodd, I agree with your view on not including electoral reform in campaign finance reform, primarily because I think we have just begun to investigate the problems, and just begun to come up with some of the solutions. If there were some very easy, quick fixes that could be included, that would be one thing. But to think that by the end of March we would be able to address the endemic and systemic problems with the electoral system in America, is unrealistic. I think it would not give us a clear understanding of the depth and significance of the problem. I look forward not only to further participation by this Committee, but primarily to the responsibilities of the Rules Committee, in which you will obviously play a major role, and we thank you.

STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, I just want to ask unanimous consent that an opening statement be placed in the record as if read.

The CHAIRMAN. Without objection. Thank you, Senator Kerry.

[The prepared statement of Senator Kerry follows:]

PREPARED STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Mr. Chairman, Senator Hollings, thank you for holding this hearing today. It has been approximately four months since Americans cast their vote for President, and for many, there remains a degree of uneasiness about the whole process. Many Americans who voted or tried to vote feel disenfranchised. They believe their votes didn't count and their voices weren't heard.

We can be thankful that we are past the days of poll taxes, literacy tests, and other discriminatory practices that kept voters away from the polls. But if there is even an inadvertent flaw in the design or administration of our voting systems that prevents Americans from having their votes counted, it is our utmost responsibility to ensure that we remedy the situation.

There is simply no excuse for the most technologically savvy nation in the world to be using voting equipment that is 30 years old. And it is disturbing, to say the least, that much of the oldest and least reliable equipment is found in the poorest counties across the country. Often, people of color make up the majority of the population in those counties. None of us should ever again be in the position of having to explain to urban, minority voters why a portion of their votes didn't get counted, while their white suburban neighbors, using better equipment, could rest assured that there were no voting irregularities in their precincts that would have caused their votes to be discarded.

If we can't promise all of our citizens that their votes will count equally, then all of the past work this nation has done to guarantee the right to vote to women, people of color and the poor will have been squandered.

That is why I am pleased you have gathered these witnesses for this hearing today. Perhaps the silver lining to the problems that came to light during the last election is that we in Congress are taking a serious look at ways to fix the system and ensure that all Americans who register to vote can vote, and that all Americans who do vote can be sure their vote counts.

The first order of business for the federal government is to provide states with at least a portion of the resources they will need to overhaul their voting systems. State officials, from governors to county supervisors, face competing demands for funds every day, as they decide how to pay their teachers, pave their roads, and remove their garbage. When it comes to paying for federal elections, buying the newest, most reliable technology may be far down on their list of priorities. That is why federal government must find a way to provide at least a portion of the re-

sources states will need to make improvements that are necessary to assure the integrity of our elections.

But legislation cannot simply stop with more money. Legislation must ensure that states will have guidelines in place that will ensure that voters who speak languages other than English can vote. It must ensure that people with disabilities can vote. It must ensure that people of color are not denied the right to vote.

We must never again read in the Washington Post statistics like this:

- "As many as one in three ballots in black sections of Jacksonville . . . did not count in the presidential contest. That was four times as many as in white precincts elsewhere in mostly Republican Duval County."
- "In Miami-Dade County precincts where fewer than 30 percent of the voters are black, about 3 percent of the ballots did not register a vote for president. In precincts where more than 70 percent of the voters are African American, it was nearly 10 percent."
- "In many black precincts in Chicago, one of every six ballots in the presidential election was thrown out, while almost every vote was counted in some of the city's outer suburbs."

It is our responsibility to respond to shocking statistics like these. It is our duty to act in a way that each and every one of our citizens is ensured of his or her right to vote. We simply cannot do anything less.

Thank you Mr. Chairman. I look forward to hearing from the witnesses.

The CHAIRMAN. I welcome my friend and colleague from the House. Congressman Conyers, welcome. Thank you.

STATEMENT OF HON. JOHN C. CONYERS, U.S. REPRESENTATIVE FROM MICHIGAN

Mr. CONYERS. Thank you very much, Senator McCain, Chairman, and all my friends here at the table, and on the Committee, I am delighted to just take a couple of minutes, and I know Senator Schumer is due in Rules Committee, and I am due back over in the House, and I do not need to—I will ask that my statement be included in the record.

The CHAIRMAN. Without objection.

Mr. CONYERS. And that leaves me only to say that Senator Dodd has put his finger on what I think is going to lead us to a very important conclusion here. Number 1, this has been an ongoing problem. Voter reform has sadly been neglected by many of us. The Florida spotlight may have brought it to our attention, but this is a Nation-wide problem, and it is in that spirit that I come over here.

The things that I am trying to do, and it is a fight between time—we need to get reform quickly as we can, and we need to get as many essential elements as we can, and what Senator Dodd and I are working on in this concept of an Equal Protection of Voting Rights Act, which will be before you shortly, probably this week, is to (1) allow a voter to check his vote before it is cast.

I know that I overvoted in the November 7 election, but it came back out. You could not confuse that, because that was built into the machine.

(2) To protect against overvoting and undervoting, (3) to produce an auditable record so you can track what happened, and (4) make it accessible to individuals with disabilities, or language problems, so that they can participate, and finally, to make provisional ballots understandable by not only the people that vote but the people that work in the polling processes.

We had areas in the country where there was provisional balloting allowed, but the poll worker did not know anything about it, so they could not do anything.

So that, in short, is what I am thinking is a good beginning. It is a fundamental question. I know in the Congressional Black Caucus there is no issue that is higher than this, and Congresswoman Meek will go into perhaps more detail, but I think that this examination of this question, and that the Senate is taking it up first, I congratulate you, because this is the first official hearing that we have had. The Congressional Black Caucus has had a hearing, but this is, to me, our Nation's first business.

I commend again my colleague from Connecticut and hope that we can move this expeditiously, as you all have started over here today. Thank you very much.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF HON. JOHN C. CONYERS,
U.S. REPRESENTATIVE FROM MICHIGAN

There is one word that describes the 2000 elections: a disaster. Because of the razor thin margin of the Presidential election, flaws in our electoral system—which have existed for a long time—were exposed and our nation waited for weeks to find out the winner of the most important election.

More than anything else, there is one critical thing to remember: election reform is not just about machines. There is no doubt we need to replace the machines. But there are many more flaws in our election system.

Throughout the country, voters who committed no crime were illegally purged from voting rolls as felons, voters faced police roadblocks and other forms of intimidation, and voters with disabilities were faced with voting conditions that denied them the right to vote with privacy and independence that we take for granted. Election reform is the first major civil rights issue of the 21st Century.

In even more routine ways, voters are denied their right to vote. In the 2000 elections, polling places were moved at the last minute with no notice to voters, underpaid and undertrained election personnel were incapable of explaining confusing ballots and registration forms were not processed by state officials in a timely fashion. Voting should not be difficult. Election reform should make it easier.

But, unlike natural disasters, on the fundamental issue of protecting the right to vote, the federal government has done woefully little to help the states.

Because the Supreme Court has indicated that these election irregularities impact the Fourteenth Amendment to the U.S. Constitution, we must have national standards for all federal elections and, in so doing, provide the states with a model of excellence.

Specifically, I believe—at a minimum—we should require that all voting machines in federal elections:

- allow a voter to check his vote before it is cast,
- protect against overvoting and undervoting,
- produce an auditable record,
- be accessible to individuals with disabilities, language minorities, and other individuals with special needs, including the right to vote with privacy and independence.

In every federal election, any voter who believes she is wrongfully being denied her right to vote must be permitted to cast a provisional ballot, the ballot should be promptly investigated and, if appropriate, counted.

In every federal election, a voter must receive a sample ballot, instructions for casting the ballot and notification of their voting rights.

Very shortly, Senator Dodd and I will introduce a bill that will do just that, the "Equal Protection of Voting Rights Act." Representative Carrie Meek, who is with us today, is an original cosponsor.

We have to help the states get there. It will be costly. I believe it will cost billions of dollars to upgrade election machinery and educate voters.

But we shouldn't shrink away from making this investment in our democracy. It is about the legitimacy of our elections. And, while it may cost billions to do it right, this week we are talking about a tax cut that costs at least 200 times more.

We need complete election reform, election reform that addresses voting rights issues. And the clock is ticking. The next federal elections are 20 months away. We must get started.

I applaud this Committee and Chairman McCain for taking this important first step by holding the first bipartisan Congressional hearing on this issue.

The CHAIRMAN. Thank you very much, Congressman Conyers. We appreciate you taking the time from your schedule to come over and be with us today.

Senator Schumer.

STATEMENT OF HON. CHARLES E. SCHUMER, U.S. SENATOR FROM NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman.

The CHAIRMAN. We know that you and Senator Dodd both have to leave us, and if you do not want to listen to Senator Schumer——

[Laughter.]

Senator SCHUMER. I am used to that, Mr. Chairman.

[Laughter.]

Senator SCHUMER. Thank you, Mr. Chairman. I very much appreciate your holding these hearings so quickly, and I want to thank you and Senator Hollings, as well as the whole Committee, for your leadership on this issue, as this Committee leads on so many others, and I want to thank Senator Dodd and Congressman Conyers, my good friends, for their strong involvement in this issue, and for the issues they hold near and dear.

Now, Mr. Chairman, my view is that this issue does demand our close and sustained attention, and that is why having these Committee hearings so early is so important. I now it is an issue you deeply care about, as I do, and many fellow Americans do, and it goes to the very nub of our entire existence as America, which runs through the blood of all of us.

I thought Justice Hugo Black sort of summed it up well when he said that, "no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live." Other rights, even the most basic, are illusory if the right to vote is undermined, and yet our last election demonstrated that this precious fundamental building-block right now rests precariously on a foundation of rusting equipment, avoidable human error, and official neglect.

Last week, Governor Jeb Bush's Task Force on Election Reform in Florida released its final report. The report demonstrated that punch card machines in some county races had error rates so high that nearly 10 percent of the voters failed to have their votes recorded, 10 percent. That is an incredible number in a democracy. Most of our elections, or many, are decided by margins of less than 10 percent.

We are not just talking about elections like in Florida that were that narrow. Now, Florida is not alone. It is not a Florida problem. It is an American problem. In my own State of New York lever machines have a low error rate, but they are so old that they frequently break down, leaving long lines of fuming and frustrated

voters, because we do not have a computer system in New York for punch cards, and because these old, clunky voting machines take so long.

People wait in line for half-an-hour or 45 minutes after coming home from work to get to the desk, they are told their card is at another desk, then they have to go back and wait in line again, and nothing is more frustrating and disheartening to walk inside a polling place on Election Day and see dispirited citizens who waited in line for a long time and then have to go home because the kids are there, because they have to get to their second job, unable to vote.

I voted for the first time in 1969, and I used the same type of old broken-down machine that I voted with this year. There has been no change in my state. Now, just because we are the world's oldest democracy does not mean we have to use the world's oldest voting technology.

The problem, though, does not end with machines, as I mentioned—inadequately maintained registration lists, ballots so poorly designed they would flunk a high school design course, phone lines too jammed to confirm the registration status of voters, and basic human error by poll workers and voters alike. I do not know how many of your states are like this. In mine, poll workers are paid little and trained less. They are difficult to recruit and even harder to retain. We have lots of polling places that are supposed to have four people there from 6 a.m. to 9 p.m., and you only have one, because nobody wants to sit there all day for, I think it is $25. I will get the right number and just insert it in the record.

And many who are our poll workers do not bother to attend the minimal training, and they are allowed to work anyway because the precincts are so desperate to have them, and so is it any wonder that they tell voters they are not registered when they are, or that they cannot change a spoiled ballot when they can?

Voters, of course, themselves are poorly informed. Far too many wake up on Election Day without knowing where to go, what the ballot looks like, how to use the machines, or what to do if they have questions. As one of Governor Bush's task force remarked, Florida is far from alone in this. "The state spends $30 million annually to instruct people on how to buy lottery tickets, but allocates nothing for state-wide voter education programs."

Mr. Chairman, as you presciently recognized, there has to be a better way. Shortly after the election, Senator Brownback and I came together. We were both concerned about it. We talked about it a week after the election and put together a bipartisan election reform bill consisting of a study of the problems and a grant program to help states make needed changes. I am proud to say, Mr. Chairman, that you have graciously cosponsored that bill and Senator Cleland of Georgia and his Secretary of State, who will testify later, have been leaders on this issue and are also working with us on legislation. We were able to all work together, Democrats and Republican alike, because fixing the machinery of our democracy is not a partisan matter. It is a matter of basic civic responsibility far deeper than party or political gain. I think if anyone should try to make this a partisan issue, it is going to kill it. We do not want that. This is too important to allow that to happen, and so we have

now refined the bill and reintroduced it this Congress with broader support from Democrats and Republicans.

Our bill, called FEMA, the Federal Election Modification Act, creates an independent blue-ribbon panel to study the way we vote and make recommendations on better voting machines, expanded mail-in voting, voting on the Internet and other new ideas. The commission will recommend how to make sure the polls are accessible to everyone, including disabled voters and people overseas in our armed forces, and how we can guarantee that the lists at polling sites include all registered voters, and no one is mistakenly turned away.

To make it easier for people to work and care for their families, the commission will explore whether to expand the days or hours when we vote, and whether to have an Election Day holiday, as many other countries do.

It will also consider how best to educate voters in the use of election equipment and other aspects of voting. Indeed, the counties that took the trouble and spent the money to educate voters about the voting experience, about voting, have experienced far lower error rates and far greater voter satisfaction.

Finally, the commission will consider how the federal government on an ongoing basis can best help states and counties administer elections.

The purpose here is simple. We are not telling any state or locality what to do. We believe, our bill believes that the Constitution keeps that right with them, certainly at state and local elections, and probably even at federal elections.

On the other hand, we are not just going to throw money at the problem. Rather, we have this commission outline the best system or systems It can be a few, because voting in rural Idaho is quite different than voting in downtown Chicago, and then provide some matching dollars as an incentive, because the fundamental problem here is not that localities do not want to update voting reform—I think in all but nine states it is the counties and towns and villages, the local area that determines voting—but rather, that they do not have the dollars, and when they sit down, the town commissioners or the county board, and they look at the need to make the schools better and the roads better and so many other responsibilities, voting comes at the bottom of the list.

Well, that is where we can help, because there is a national interest and a national responsibility if not national, certainly not national control, to do this, so every year for 5 years we will offer the states up to $500 million to buy new equipment, train poll workers, educate voters and implement other changes recommended by the commission.

It is a lot of money, but it is not even close to what the experts say is needed to update us, and if you believe that voting is a basic right, that money is well, well spent.

As I said, we recognize the constitutional prerogatives here. The bill does not force anything on the states and counties, but lets them choose what aspect of their systems they want to reform, and make the funds available. It has gotten broad support from Democratic and Republican county and state officials. You will hear from some of them later, including the Secretaries of State of Georgia

and of Kansas, one a Democrat, one a Republican, and it has gotten the support of many different groups, many of them nonpartisan, who care about voting.

In conclusion, Mr. Chairman, I want to echo the words of President Bush in his State of the Union Address when he called for fair and balanced election reform. We believe we have answered the President's call in our bipartisan bill, as you have in yours, Mr. Chairman, and it is important for all of us to redouble our efforts and keep the attention of this body focused on repairing the nuts and bolts at the heart of our self-government.

Election reform with this hearing begins to move along briskly, not conflict with campaign finance reform. If someone offered my own bill on the floor with an amendment to campaign finance reform, I would reluctantly vote against it, because I think that would bollux things up for both issues, but rather, to move it quickly and alongside campaign finance reform so we can get both done.

It is important, in conclusion, Mr. Chairman, for us to redouble our efforts and keep the attention of this body focused on repairing the nuts and bolts at the heart of our self-government. Holding these hearings is exactly the right way to begin, so I thank you again for convening them, and look forward to the important reform that you will begin to build here today.

The CHAIRMAN. Thank you, Senator Schumer.

Congresswoman Meek, welcome.

STATEMENT OF HON. CARRIE P. MEEK,
U.S. REPRESENTATIVE FROM FLORIDA

Ms. MEEK. Thank you, Chairman McCain. We owe you a debt of gratitude for having called this hearing. We have not had a hearing on Capitol Hill, with the exception of the Congressional Black Caucus, and so we want to thank you for that, and I admired you when you ran for President, I admire you even more now.

I want to thank the Members of the Commerce Committee for being here today. I will submit my entire testimony for the record.

The CHAIRMAN. Without objection.

Ms. MEEK. I will talk about a few issues here, but I think because of all the other testimony you have heard I want to try and focus in a little bit more on some of the problems that I experienced in Florida, and show you the emphases that are there for reform in the electoral process.

I agree that there is a strong need for campaign reform. I have always been a supporter of that. I am even a stronger supporter for electoral reform, in that we do need this with all deliberate speed because of the problems the entire country has faced with both of these issues.

I represent Florida's 17th Congressional District, and I have a pin on me today that says, Remember Florida, because Florida did show what has happened in this country. Even though it has happened all over the country, this last election brought forth a vivid example of the needs to reform this system.

I am here to express some of the outrage and exasperation of my constituents in Miami and in the State of Florida over the failure of government to do more about electoral reform. I want to call to your attention that members of my race have died because of this

issue. They died because they deserve the right to vote, and there were many who tried to stop them. That is why it is so important that we focus on this part of it.

Florida has spent a lot of money on gambling and the lottery and other issues, did not spend enough on this particular issue. The issue before us I think is not who won or lost the last presidential election. That issue is settled. The issue before us is that every qualified voter who wanted to vote had an equal opportunity to do so.

Now, some folks do not think that every qualified voter should vote, because they do not feel that every voter is qualified, or that everyone who wants to vote is qualified. That is untrue. Not every voter had the opportunity to vote in this last election. That is the crucial thing that Congress must face.

African American voting rights were diluted in this election. Whether by design, or whatever, they were diluted. the voter confidence of African Americans has been severely impacted by this last election. There were many people who failed to vote in prior elections because first of all they did not feel that they received any benefits from voting.

Now that votes have been cast, and many of their votes were not counted, they feel even worse. We were far more likely to have their votes invalidated, black voters were, and other voters, because a greater percentage of African American voters lived in counties that used outmoded punch cards, and I want to show this chart to you that showed that in the districts, that few African American voters lived in counties with more than precinct optical scanning systems, a technology that prevents voter error by requiring voters to correct mistakes before their ballots can be cast.

This is an important point to show that that is why there was a disparity in black votes not being counted. More Florida voters—the first chart shows that 73 percent of African American voters lived in counties using these unreliable, outmoded, error-prone punch cards. These are facts. This is not based with emotion. I am merely presenting today the facts, which you must face. No matter how many hearings you have, you cannot get away from these facts. They will be there.

Only 59 percent of white voters lived in punch card counties. A lower percentage of blacks live in counties with much more accurate optical scanners at each precinct that give voters a chance to fix errors in their ballots.

The second chart shows that a significantly greater percentage of black voters had their ballots discarded in the November 7 election. The chart will show 16 percent of the ballots cast by black voters were discarded in counties using central optical scanning systems, compared to only 5 percent of ballots cast by white voters.

Eleven percent of ballots cast by black voters, Mr. Chairman, were discounted in counties using punch cards compared to only 4 percent of ballots cast by white voters.

Is this entering the race card in this discussion? Yes, it is, because of the facts, that facts do not lie. the facts show that this was done 3 percent of ballots cast by black voters were discarded in counties using precinct optical scanning systems, the most modern

technology, compared to only 1 percent of ballots cast by white voters.

More black voters than white voters had their ballots discarded regardless of the type of voting machine used, but as indicated, the black discard rate drops dramatically when precinct optical scanning systems are used.

Simply put, the third chart shows punch card ballots cheat voters, and they are much more likely to cheat African American voters. Voters in punch card counties were nearly three times as likely to have their ballots rejected as those in optical scanning counties.

Mr. Chairman, I could go on and on with these data. These data prove the fact that African American voters were not only cheated, but they had their basic voting rights, for which many of them died, overlooked. I believe that we have come to these serious electoral problems because of a systematic failure of government to provide efficient services for the electorate, not only for African American voters but for others as well.

While many of these problems came from inadequate voting machines, many others occurred because government did not do enough, and did not seem to care enough to get it right. Hardly any counties encourage voting. As a matter of fact, they discourage it. In Florida we tried to have early voting, because we knew in the African American community the next day after the vote the first thing the media was going to say that African Americans failed to vote, or they did not come out to vote. You have seen those charts—I know I have seen them—showing a disproportionate number of African Americans who did not go out to vote for one reason or the other.

Government can do better than this. They could have done voter education prior to the election. They could have had easier means of allowing people to vote. Minority communities were particularly burdened with voting machines and equipment. Ballot procedures were unclear and overly complicated. A disproportionately large number of votes in African American neighborhoods were disqualified.

Each of you has heard about Duvall County, where over 20,000 African American votes were not counted. It is not so much as who won or lost, but of those who did not even have their vote counted. In Miami-Dade County where I live, the supervisor of elections was bitterly opposed to a manual recount, so he refused to count. Therefore, many votes were not counted.

Mr. Chairman, while it is important to detail the problems that occurred in last year's election, it is more important that you focus on what each of us has said today in terms of solutions. There are many worthy proposals for federal legislation. I appeal to you, do not slowly go through your hearings so that we do not have some progress for the 2002 election. Not that you can correct it all by 2002, but the least you can do is correct some of it, and I would say perhaps to just throw out and ban the voting machines, the punch card machines.

I am a cosponsor of the legislation that Representative Conyers has offered in the House to create a commission and procedures to study. We have quite a bit of data, Mr. Chairman, already there. We have quite a few studies that have already been done, and I

encourage the Senate to do as many studies as feasible, but do not study the problem to the extent that we do not get solutions soon. I feel we need some legislation very soon to eradicate the punch card machines, and also, in requiring uniform voting standards, and that all voters use the same type of equipment.

It was heartrendering, Mr. Chairman, to see new Americans not having a chance to vote. In my district there are thousands of Haitian American voters who were eager to vote, voting for the first time in this newfound democracy of ours. They were not allowed to vote because many of them did not have the necessary identification. Many of them did not understand the rules and regulations. There was no one there who was trained in Creole to help them. Not only Haitians but Hispanics and people of all walks of life were not able to do this because of the language barrier.

I support the use of precinct-level technology that would require voters to correct their mistakes before their ballot could be tallied. I wish I could take some of you to my district to see some of these old people, over 60 years of age, who have never voted, dragging themselves to the polls, having to stay in the polls 2 hours because they could vote, then when they got up to the poll, someone said, your name is not on this list. Why? We don't know. Can you call the local elections office? We can try. They tried, and could never get through.

Imagine these elderly people being turned around who deserved the right to vote and could not, because of the care that government has for this fundamental right. We almost—we need to do more to ensure that legally qualified voters are not denied the right to vote. It is an outrage, Mr. Chairman, what happened in Florida with the last election. The voting rolls had been purged, and I say purged in quotation marks, because some of the purging that was done was not the correct way to purge. Many people who were legally qualified were not allowed to vote. We must have some system, and I intend to file a bill.

You know how hard it is to get a bill through the Congress. Sometimes it takes 5 years to get a bill through the Congress, and so I am not ecstatic about all of these bills that are coming up around here, but what I am looking for is some action to be sure that we help the counties and we help the municipalities to be able to afford some of the changes that we know should be made. We do it for everything else, so there is no reason why we cannot do it for this basic human right.

I will be offering legislation that will be heard, that before any voter could be purged from the voting rolls they will have an opportunity to be heard, to know why they have been purged from the voting rolls. We need to tell people what is wrong, and what is the offense that is alleged to have disqualified them from voting, and give such prospective voters a chance to show that the records used to disqualify them are erroneous. That is just basic fairness.

We need to do a much better job, Mr. Chairman, educating and training the voters. You would be surprised that—maybe you have never been called, but I have been many times, people asking me, how do we vote. They do not ask me who to vote for, but they ask me, what happens when we get to the polls? It is not as sophisti-

cated as you think it is, and government is doing very little to correct these errors.

We need to ensure that translators are available at the polls to avoid a repeat of such massive disenfranchisement as that which plagued the South Florida community. Precinct election officials must be trained better, and they must have sufficient computer and telephone access to voter lists that they can quickly and accurately determine a person's eligibility to vote.

Suffice it to say, Mr. Chairman, that we need more liberal election laws that will encourage citizens to vote, such election laws as same-day registration. You would be surprised what a hard time—I served 12 years in the Florida Senate—what a hard time we had even getting Florida to use motor voter registration.

People feel that if you allow certain segments of the electorate to be able to vote, that they will skew the election in a certain way. I want to say to you, forget that. Think about the basic tenets of our democracy that everyone should be allowed to vote We should explore whether voting on weekends would improve turnout, and whether this step would make it easier to give all voters the time they need to make an informed choice.

Mr. Chairman, I want to summarize this—I have submitted the rest for the record—to say to you that there has been not an intentional disparate treatment of African American voters, but it has occurred, and we do need to quickly and summarily do something about this problem. I cannot overemphasize this.

In late February, the St. Petersburg Times published a poll of African American voters which reflect the African American community's pervasive mistrust of the electoral process in Florida. The poll showed that 84 percent of black voters in Florida believe a greater portion of African Americas were rejected or not counted than votes by Floridians of other races. This was borne out by the statistics I have discussed today. Forty percent of those voters cited a coordinated effort by state government to make it more difficult for African Americans. We have got to undergird voter confidence.

Yet, despite these deep-seated concerns, it seems to me, and the people throughout Florida that I represent, and my experience in Florida, the high-minded talk we so often hear about the importance of voting rights is just pious platitudes and lip service. We are exasperated because of our desperate pleas about the disenfranchisement of our citizens and the disqualifications of our ballots and the violations of our election laws, and they were dismissed as irregularities. We can no longer see these oversights as irregularities. We must correct them.

I have been here before, Mr. Chairman, and talked about this. We have prayed about this. It has to be corrected, and my generation, like my parents and grandparents' generations, struggled mightily against poll taxes that you had to pay before they would let you vote, and literacy tests that required African American and only African Americans to recite whole sections of state constitutions, or answer very obscure questions to the satisfaction of examiners. We have come a long way since that time, but now is the time that government recognizes its failure, reforms the electoral system so that every legal, qualified person who wants to vote will get the opportunity.

I thank you, Mr. Chairman, for calling this hearing.
[The prepared statement of Ms. Meek follows:]

PREPARED STATEMENT OF HON. CARRIE P. MEEK,
U.S. REPRESENTATIVE FROM FLORIDA

Good morning, Senator McCain, Senator Hollings, Members of the Commerce Committee and fellow Members of Congress. Thank you for convening this very important hearing. I will submit my longer statement for the record and, because of time constraints, will focus my presentation here on just a few issues.

I represent Florida's 17th Congressional District which covers large portions of Miami-Dade County. My Congressional District runs from the county line on the north to the cities of Homestead and Florida City on the south. I'm here today to express the outrage and exasperation of my constituents in Miami, Florida, over the *failure* of our government and our electoral system in the 2000 Presidential election and to share some of my thoughts as to how we can prevent such a catastrophe from ever happening again.

The issue before us is not who won or should have won the 2000 Presidential election. That issue is settled. We have a new President. Something far more crucial is at stake than who won the year 2000 Presidential election—the issue before us is whether every qualified voter who wanted to vote had au equal opportunity to vote and to have his or her vote counted. We know that they did not. Not every voter had the same opportunity to vote. African American voting rights were diluted in this election.

African American voters were far more likely to have their votes invalidated than other voters because a greater percentage of African American voters lived in counties that used defective, outmoded punch card voting machines or central optical scanning systems. Few African American voters lived in counties with modern precinct optical scanning systems, a technology that prevents voter error by requiring voters to correct mistakes before their ballots can be cast.

Consider the following charts.

The first chart shows that **73 percent** of African American voters lived in counties using unreliable, outmoded, error-prone punch cards, while only **59 percent** of white voters lived in punch card counties. A lower percentage of blacks live in counties with much more accurate optical scanners at each precinct that give voters a chance to fix errors in their ballots.

The second chart shows that **a significantly greater percentage of black voters had their ballots discarded** in the November 7th election.

Sixteen percent of ballots cast by black voters were discarded in counties using central optical scanning systems compared to only 5 percent of ballots cast by white voters.

Eleven percent of ballots cast by black voters were discarded in counties using punch cards compared to only 4 percent of ballots cast by white voters.

Three percent of ballots cast by black voters were discarded in counties using precinct optical scanning systems, the most modern technology, compared to only 1 percent of ballots cast by white voters. More black voters than white voters had their ballots discarded regardless of the type of voting machine used, but, as indicated, the black discard rate drops dramatically when precinct optical scanning systems are used.

Simply put, as the third chart demonstrates: **Punch Card Ballots Cheat Voters and They Are Much More Likely to Cheat African American Voters:**

- Voters in punch card counties were **nearly three times** as likely to have their **ballots rejected** as those in "optical scanning" counties.
- **Eighty-eight percent** of the 51 Florida precincts where **more than 20 percent** of the ballots were **rejected** used **punch cards.**
- **Seventy-eight percent** of the 336 Florida precincts where **more than 10 percent** of the ballots were **rejected** used **punch cards.**
- Overall ballot rejection rate for the 43 Florida counties using **optical scanning technology** was 1.4 percent.
- Overall ballot rejection rate for the 24 Florida counties using punch cards was **3.9 percent.**

(Source: December 2, 2000 Miami Herald)

I believe that we came to have these serious electoral problems because of a systematic failure of government to provide efficient services for the electorate. While

many of the problems arose from inadequate voting machines, many others occurred because government did not do enough and did not seem to care enough to get it right. Minority communities were particularly burdened with voting machines and equipment of the oldest vintage and the poorest quality. Ballot procedures were unclear and overly complicated. A disproportionately large number of votes cast in African American neighborhoods were disqualified.

Mr. Chairman, while it's important to detail the problems that occurred in last year's election, it is even more important to focus on solutions. There are many worthy proposals for federal legislation. I will discuss just a few of them.

I am a co-sponsor of the legislation that Representative Conyers is offering in the House to create a Commission on Voting Rights and Procedures to study and make recommendations regarding election technology and voting and election administration. This bill also would establish a grant program for states and localities to improve the administration of elections. I believe that Senator Dodd is the sponsor of this bill in the Senate. It's an excellent bill and I commend it to you.

I believe that we need federal legislation to eliminate punch card voting. The Voting Improvement Act sponsored by Congressman Steny Hoyer and David Price would provide the funding required to eliminate punch cards. Further, legislation should require uniform voting standards, and that all voters use the same quality of equipment. We should fund the nationwide deployment of technology that would prevent over-votes and other types of ballot errors. I support the use of precinct-level technology that would require voters to correct their mistakes before their ballot could be tallied.

We also must do much more to ensure that legally qualified voters are not denied the right to vote. It's an outrage that, last November, legally qualified voters were falsely accused of being felons and denied the right to vote because the State of Florida relied upon inaccurate data from a private contractor.

I will be offering legislation to require that voters receive notice and an opportunity to be heard before any voter could be purged from the voting rolls. We need to tell people what the offense is that is alleged to disqualify them from voting and give such prospective voters a chance to show that the records used to disqualify them are erroneous. That's just basic fairness.

We need to do a much better job of educating and training voters, especially first-time voters. We need to ensure that translators are available at the polls to avoid a repeat of such massive disenfranchisement as that which plagued the South Florida Haitian American community. Precinct election officials must be trained better and they must have sufficient computer and telephone access to voter lists that they can quickly and accurately determine a person's eligibility to vote.

We should explore whether voting on weekends would improve turnout and whether this step would make it easier to give all voters the time they need to make an informed choice once they enter the voting booth. We also should consider making provisional voting uniformly available so that a voter would never be turned away from the polls because a question existed that could not then be resolved concerning that voter's right to vote.

While there are many other legislative proposals worth considering, I submit that there is simple standard to use in evaluating the various electoral reform proposals. We should ask the question:

Will adoption of this proposal make it more likely that each of our voters receives an equal opportunity to vote and to have his or her vote counted? Whenever the answer to this question is yes, the bill being examined deserves the most serious consideration.

Mr. Chairman, I cannot overemphasize the depth of the African American community's concern about the electoral process in Florida. In late February, the St. Petersburg Times published a poll of African American Florida voters which reflects the African American community's pervasive mistrust of the electoral process in Florida.

The poll showed that 84 percent of black voters in Florida believe a greater portion of African Americans were rejected or not counted than votes by Floridians of other races, a fact borne out by the statistics I have discussed. Forty percent of those voters cited a "coordinated effort by state government to make it more difficult for African Americans to vote" as the reason that more African American voters had their votes rejected more often, a greater percentage than those who blamed faulty voting machines or voter error.

Yet despite these deep-seated concerns, it seems to me and the people that I represent that, after our experience in Florida, the high-minded talk we so often hear about the importance of voting rights is just platitudes and lip service.

We are outraged because African American voters in Florida did everything they were supposed to do—we studied the issues, we did our civic duty and went to the

polls, and we voted—and yet massive numbers of our votes were not counted, and in the end, our opinions and decisions *did not count*.

We are exasperated because our serious, desperate pleas about the disenfranchisement of our citizens, and the disqualification of our ballots, and the violations of our election laws were ignored, delayed, denied and dismissed as mere "irregularities" and, in many cases, trivialized or reduced to jokes.

African American voters feel like we have been here before, for this country has a long history of keeping us from voting. In my own case, I am 74 years old. My grandfather was a slave, who had no rights at all. I grew up in a Southern town, Tallahassee, Florida. My father used to take me into the State Capitol Building on Inauguration Day—the one day every four years that African Americans were welcomed in that public building.

Within my lifetime, every conceivable effort was made to keep African Americans from voting, and to keep our votes from counting.

My generation, like my parent's and grandparent's generations, struggled mightily against poll taxes that you had to pay before they would let you vote; and "literacy" tests that required African Americans—and only African Americans—to recite whole sections of state constitutions or answer obscure questions to the satisfaction of examiners who could never be satisfied.

African Americans are alive today who were denied the right to vote in "white only" primaries; and who had to search for polling places that were moved with no notice in the black community, or moved so far that it was hard to get to them. I remember the intimidation of being greeted at the polls by disdainful and unhelpful poll workers, or even police officers at the doors.

African Americans today remember when the district lines for cities and counties and legislative districts were gerrymandered and drawn to exclude our neighborhoods or to dilute our vote. We remember how registration records would "disappear" when we showed up to vote and how the law, administrative procedures and the "official discretion" of public officials were used to postpone and delay our attempts to assert our rights.

The Voting Rights Act was supposed to change all of that, and government was supposed to be protection, helpful and on the side of equality and inclusion. In the case of Florida, government has failed miserably.

It is clear that the phrase "voting rights" is a mere platitude to many of our justices and government officials. One local official was even ignorant enough to opine that it was "not anyone's fault if they couldn't understand the directions on the ballot."

My message today is this:

It is a failure of government and our electoral system when any legally qualified person who wants to vote is denied the opportunity to do so.

It is a failure of government and our electoral system when courts, the laws, and government officials do not do everything possible to insure that every vote is counted and that the final count is correct.

Thank you, Mr. Chairman. I look forward to the Committee's questions.

The CHAIRMAN. Thank you very much, Congresswoman Meek. We appreciate your time and effort and energy on behalf of this very important issue.

Our old friend and very patient friend, Congressman Asa Hutchinson. Thank you for being here.

STATEMENT OF HON. ASA HUTCHINSON, U.S. REPRESENTATIVE FROM ARKANSAS

Mr. HUTCHINSON. Thank you, Mr. Chairman. I am grateful for the opportunity to testify and thankful for this Committee's hearing. I do agree with much of what has been said previously, and I will try not to simply reiterate that, but I do believe I can make some points that will add to the discussion.

This issue, I would agree, is one that crosses party lines, and certainly geography, and it is appropriate that it be addressed in a bipartisan way. I think it is appropriate to recognize also that I think it is within the constitutional framework that this be given consideration at the federal level. Like Senator Cleland, I have served

both as a state and county election commissioner in Arkansas, so I am well acquainted with some of the challenges we face on Election Day across the country.

Arkansas, my state, has made great strides in the past few years. Let me just share a few things. Sixty-five percent of our 75 counties now use optical scan machines. That is compared, of course, to the national average of 27 percent. Furthermore, only 9 percent of Arkansas counties still use punch card systems, compared to a national average of 36 percent.

Unfortunately, as evidenced by the last election, Arkansas' modernization efforts seem to have been the exception rather than the rule. During the Florida recount, I was struck by the comments of a foreign journalist who was asked about his view of the Florida recount. He did not express frustration at the length of the delay in determining the outcome of the election, but he simply expressed amazement that the oldest and strongest democracy in the world had not made the necessary investments in the essential tools of democracy—modern election equipment. And, if we were embarrassed about anything, I think that certainly is a cause to be embarrassed, and I think this journalist hit upon a key point, namely, that to keep our system strong and vibrant, we have to give it a booster shot in the arm.

I do not think it is a time to point fingers or question motives, or simply to ignore the problems we have observed in Florida. I do want to say, I thought the spirit of the testimony today was very appropriate. It was addressing the problem and not engaging in finger-pointing.

As with many other members, I went to Florida and observed the recount there, and as I went there and observed the recount I was struck by one thing, and that is that there were good people there with a very sincere desire to make the system work. But, they were working with a flawed system that made their jobs almost impossible. It is early in the legislative session, but we must remember that 2002 is only 20 months away. In regards to the election, Congress must take immediate steps to provide assistance to the states to help modernize our election equipment.

The federal government approach should be this, in my judgment: we should be a financial partner with the states, not necessarily a senior partner, but a financial partner. We should allow flexibility, and I do not believe that we have to set mandatory rules for all of the states. They studied it. They know their system. They know what they are capable of in the states.

I do think we have to set some minimum standards. For example, I think it is appropriate that, to accept federal grant money to modernize election equipment, that recipients provide access to the disabled. I think it is appropriate that they assure us that they are providing systems in their state that will meet the requirements of the Equal Protection Clause of the United States Constitution. I think that we can provide education for the voters. This education should appeal to the responsibility of the voters as well as trying to teach them how to use the election equipment. So, in furtherance of those goals, I have introduced bipartisan legislation on the House side, the Election Procedures Improvement Act, along with my cosponsor, Alcee Hastings of Florida, which is a very simple ap-

proach that would provide $1.5 billion to the states and localities to help them purchase new voting equipment to modernize their election procedures.

It is not heavy with mandates. It is great with flexibility, but it is a minimum investment that we need to make at the federal level to assist our states. That is not to say that Congress should not engage in a more comprehensive debate, as some of the proposals have suggested. I think there is much more that can be done, much more that can be debated, but I believe the grant program is the minimum amount that should be accomplished.

There are many people that are looking at ways to improve our election machinery, from the National Association of Secretaries of State, to the League of Women Voters, and I congratulate this Committee and its chairman for its interest in election reform. I am hopeful that Congress will take this opportunity to bring the tools of democracy up to the standards of excellence that should be expected of the world's longest surviving and strongest democracy.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hutchinson follows:]

PREPARED STATEMENT OF HON. ASA HUTCHINSON,
U.S. REPRESENTATIVE FROM ARKANSAS

Mr. Chairman, I appreciate the opportunity to appear before this Committee today to discuss the need for election reform. This issue is one which cuts across state and party lines, and it is very appropriate that it be given serious consideration at the federal level.

I have served as both a state and county election commissioner in Arkansas, and so I am well-acquainted with the challenges faced by election officials across the country. Arkansas has made great strides in the past few years, and 65 percent of the state's seventy-five counties now use optical scan machines, compared to the national average of 27 percent. Furthermore, only 9 percent of Arkansas counties still use punch card systems, compared to a national average of 36 percent. Unfortunately, as evidenced by the recent presidential election, Arkansas' modernization efforts seem to have been the exception rather than the rule.

During the Florida recount, a foreign journalist was asked how his country viewed the events occurring in the United States. I found his comments particularly telling. He was not concerned about the underlying health of our democracy; rather, he expressed amazement that the oldest and strongest democracy in the world had not made the necessary investments in the essential tools of democracy—modern election equipment. This particular journalist hit on a key point that I think many have missed because of the rancor that followed the Presidential election—namely, that our underlying system of democracy is, in fact, strong and vibrant. However, it needs a shot in the arm.

Whereas the response of some has been to point fingers, question motives, or ignore the problems displayed in Florida altogether, I am convinced that the most productive response to the 2000 election will be for federal, state and local officials to take a view similar to that of the foreign journalist—namely, that we have a strong system which, at a minimum, needs some fine-tuning. In the short-term, we must refrain from engaging in battles of rhetoric and work together, using existing research and data, to identify the areas of greatest need and take the necessary steps to prevent a repeat of last fall.

It is early in the legislative session. However, the 2002 mid-term elections are only twenty months away. Congress must take immediate steps to provide the shot in the arm our democracy needs, so that our election systems will be ready for the scrutiny they will most certainly face at that time. To that end, I have introduced bipartisan legislation in the House to provide an immediate $1.5 billion in funds to states and localities to help them purchase new voting equipment.

That is not to say that Congress should not also engage in more comprehensive debate about how to address the more contentious issues that surfaced in the 2000 election. The gentlemen from New York has introduced a proposal in the Senate with that very purpose in mind. In fact, scores of bills have been introduced since January that provide for more rigorous study of the issue, and allow Congress to

consider more long-term solutions to the problems that surfaced in Florida and elsewhere.

Groups like the National Association of Secretaries of State, the Election Center, the League of Women Voters, the National Association for the Advancement of Colored People, and those represented here today have already begun to examine these problems and formulate potential solutions. Although I am disappointed that it took a presidential election stalemate to bring this issue to the attention of the American public and to us as policymakers, I am hopeful that Congress will take this opportunity to bring the tools of democracy up to the standards of excellence that should be expected of the world's longest surviving and strongest democracy.

The CHAIRMAN. Thank you very much, Congressman Hutchinson. I would also like to take this opportunity to thank you for your support of campaign finance reform. I would call our remaining panel. I appreciate the time you have spent with us this morning.

I want to now ask our next panel, which is composed of the Hon. Bill Bradbury, Secretary of State of the State of Oregon, the Hon. Cathy Cox, Secretary of State of the State of Georgia, the Hon. Ron Thornburgh, Secretary of State of the State of Kansas, to please come forward.

I would like to thank our witnesses, who are responsible for the very hard work involved in making elections happen, for being here today. We would like to begin with you, Secretary of State Bradbury, and your complete statements will obviously be made a part of the record. Welcome.

STATEMENT OF HON. BILL BRADBURY, SECRETARY OF STATE, STATE OF OREGON

Mr. BRADBURY. Thank you, Mr. Chairman. It is a great honor to appear before the Committee, particularly before a Committee where the two Senators from Oregon both serve, Senator Wyden and Senator Smith.

As both of them know, back home the Division of Tourism slogan is: "Oregon, things look different here," and it seems appropriate to begin my testimony with that phrase, since it applies as much to our election system as it does to our beautiful scenery. Oregon, as Senator Wyden said in his opening remarks, is the only state in the Nation that votes entirely by mail. No federal attempt to solve the very real problems of last fall's election should attempt to impose a one-size-fits-all solution on state and local governments. I would not seek to impose vote-by-mail on another state, and I certainly would fight any federal effort to take it away from Oregonians.

Oregon's 20-year history with vote by mail has proven time and again that the system raises voter participation, it decreases cost, and it increases the overall integrity of the election system. It is also a system that a vast majority of Oregonians love, having been adopted through ballot measure by the voters in 1998 with nearly 70 percent of the voters supporting it.

However, there are still some critical areas where we can make improvements in our efforts to make sure that every vote counts. We have all heard plenty of stories from across the Nation about troubles with punch card voting, and Oregon is no exception. In fact, Oregon's experience is an excellent example of exactly why punch cards must be phased out.

Forty percent of Oregon's voters cast their votes with punch cards, but punch cards are simply not voter-friendly in a vote-by-mail environment. The punch card was designed to be used in a polling place, with a punch card stylus, but Oregon's punch card voters receive their ballots by mail, without an enclosed stylus. For a voter sitting at a kitchen table, holding a ballot book in one hand and a punch card in the other, trying to figure out which hole corresponds to which position, for which candidate or measure, can, in fact, be a very difficult task.

There is strong bipartisan support in our state to eliminate punch card ballots, and several legislators have proposed bills that would do exactly that. The critical issue for us is how to pay for the transition. Frankly, the budget in Oregon is so tight this year that the speed with which we are able to phase out punch cards depends on the amount of federal assistance available. We estimate the cost of replacing punch cards in Oregon to be about $2 million. If it takes $1 million state dollars to replace punch cards, that would mean $1 million cut from higher education, K through 12 funding, or health care, and that would be a very tough sell to make to this legislature.

Now, I want to say that Oregon is prepared to step up to the plate financially, but in order to move quickly enough so that Oregonians will not be voting with punch cards again in the next presidential election, we are going to need significant federal assistance. Simply put, the higher the federal match, the quicker we accomplish our mutual goal.

We also need to address election issues that go beyond the mechanics of how ballots are cast. The 2000 general election raised questions all over the country about election security and the issue of equal access to the voting process. I am certain that creating a centralized voter registration system is just as essential as eliminating punch cards in order to make real improvements to Oregon's elections. In fact, creating a centralized voter registration system is my highest legislative priority, and that has very strong bipartisan support. Oregon's voter rolls are currently housed in 36 separate county data bases, with no real connection. A centralized voter registration system would all but eliminate the possibility of duplicate voting and significantly reduce the possibility of voter fraud. It does, however, carry a $6 million price tag.

So I urge you, and I urge the Members of this Committee to take a broad view in terms of improving the election system, and I hope that the focus of this Committee will not just be on how the votes of individual citizens have been recorded. I hope that federal assistance will be available broadly to improve states' abilities to meet the needs of their voters.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Bradbury follows:]

PREPARED STATEMENT OF HON. BILL BRADBURY, SECRETARY OF STATE, STATE OF OREGON

Back home, the Division of Tourism's slogan is "Oregon: Things look different here." It seems appropriate to begin my testimony with that phrase, since it applies as much to our election system as it does to our scenery.

As the 2000 presidential election clearly highlighted, there are many different ways to record the will of the voters. Ensuring that every state provides its citizens

with an accessible, accurate and secure election process needs to be one of our top priorities as a nation, and I commend the Congress for your efforts to help make every vote of every American count.

As Congress considers electoral reform, it is important for you to remember that state and local officials conduct national elections. We must retain the authority to do so in the manner that most suits our electors.

In Oregon, that process is Vote-by-Mail. No federal attempt to solve the very real problems of last fall's election should attempt to impose a "one size fits all" solution on state and local governments. National standards must recognize and appreciate local differences. I would not seek to impose Vote-by-Mail on another state and will fight any federal effort to take it away from Oregonians.

Oregon's history with Vote-by-Mail has proven time and again that the system raises voter participation, decreases costs and increases the overall integrity of the election process. It is also a system that the vast majority of Oregonians love.

Over the past 19 years, Oregon has conducted hundreds of local and several statewide Vote-by-Mail elections. In 1981, the Oregon legislature approved a test of Vote-by-Mail for local elections. Vote-by-Mail was made permanent in 1987, when a majority of counties used it for local and special elections.

In January 1996, Oregon gained national attention by holding the first statewide election completely by mail to fill a vacancy in a federal office, electing Ron Wyden to the U.S. Senate.

By the May 1998 primary, 41 percent of registered voters in Oregon were permanent absentee voters. Overall, the state posted a record low turnout at 35 percent, with absentee ballots representing nearly two-thirds of all ballots cast. Of those voters who requested absentee ballots, 53 percent returned them. Only 22 percent of the remaining registered voters who did not request absentee ballots actually voted. Oregon thus became the first state to have more ballots cast by mail than at the polls during a polling place election.

Hoping to improve access to the ballot and increase voter turnout, supporters of expanding Vote-by-Mail to all elections submitted signatures to qualify the issue for the 1998 General Election ballot. In November of that year, Oregon voters approved the measure by a vote of 757,204 to 334,201—nearly 70 percent in favor. Of all ballots cast at the election, 58 percent were cast as absentee, leaving only 42 percent of the ballots cast at the polls.

In May 2000, I oversaw the first all Vote-by-Mail primary in Oregon's history. A total of 900,000 Oregonians cast ballots in the 2000 primary, which was a 16 percent increase over the highest number of votes *ever cast* in a polling place Primary Election. That high 2000 primary turnout reversed a steady twenty-year decline in the number of Oregonians casting Primary Election ballots.

And on November 7, 2000, Oregon had yet another "first" in Vote-by-Mail—we became the first state in the nation to conduct a presidential election entirely by mail. Building on the success of the May primary, I issued a challenge to all Oregonians to have the highest voter turnout in the nation last fall—and we came close.

Eighty percent of registered voters cast ballots and we ranked ninth in the nation in voter turnout. Of the eight states with higher turnout, only two were larger in population than Oregon and both of those states had same-day registration.

Our Vote-by-Mail system also provides excellent access for disabled voters. Any voter who would have difficulty voting for any reason can call a county election official to request assistance. The county elections office sends a bipartisan team to the voter's home to provide assistance at no expense to the voter. Marion County provides a tactile ballot and all 36 counties provide both the ballot and the Voters' Pamphlet on tape.

Oregon's Vote-by-Mail system is a positive model for other states with high percentages of permanent absentee voters. For example in Washington State, over half of the votes cast in the General Election were cast by absentee ballot. Washington election officials essentially have to run two separate election systems: one mail system for the half of the population that votes absentee and a separate polling place system for the other half. This means that Washington is paying for both polling place employees *and* postage, which leads to expensive elections.

The same was true in Oregon until we made the transition to all Vote-by-Mail elections. The real triumph of our current election system is that it answered the need so clearly voiced when voters overwhelmingly approved the Vote-by-Mail measure in 1998. The result is a process that is more accessible, produces higher voter turn out and provides lower costs for its citizens.

I presume that this Committee will have an appreciation for Oregon's Vote-by-Mail system, given that both Senators Wyden and Smith serve on the Committee, but we need to make sure that Congress as a whole is aware of the successes and differences of Oregon's voting system as it considers future across-the-board reforms.

Let's be clear; although I am proud of the very positive steps we have been able to take with elections in our state, there are still critical areas where we can make improvements in our efforts to make sure that every vote counts.

We've all heard plenty of stories from across the nation about troubles with punch card voting, and Oregon is no exception. In fact, Oregon's experience is an excellent example of exactly why punch cards must be phased out.

Seven of Oregon's 36 counties still use punch cards. Three of Oregon's four largest counties are included in the group, resulting in over 40 percent of Oregon's voters casting their votes with punch cards.

But punch cards are simply not voter friendly in a Vote-by-Mail environment.

The punch card was designed to be used in a polling place with a punch card stylus, but Oregon's punch card voters receive their ballots by mail. For a voter sitting on the living room couch, holding a ballot booklet in one hand and a punch card in the other, figuring out *which* hole corresponds to *which* position for *which* candidate or measure can be a very difficult task.

For example, a voter looks up Measure 86 in their ballot booklet. They read that they have to find and punch number 87 on their ballot if they want to vote "no" on Measure 86, or number 88 if they want to vote "yes." It can be very time-consuming to vote and even more so to double-check for mistakes. If a voter *does* discover that they've punched the wrong chad, they have to write to their election official or travel to their county elections office to request a whole new punch card ballot.

If our goal is to provide voters with an accessible, voter-friendly election process, as it clearly is, punch cards just don't make sense in Oregon.

We are one hundred percent committed to improving Oregon's election system so that every voter in our state can be absolutely confident that their vote will count the way they intended it to be counted. There is strong bipartisan support in our state to eliminate punch card ballots, and several legislators have proposed bills that would do exactly that.

The issue in Oregon is not getting legislative support for phasing out punch cards; we already have that. The critical issue is *how to pay* for the transition. Although we appreciate Senator McCain's efforts to provide federal matching funds for states to improve their voting machinery, frankly the budget in Oregon is so tight this year that a fifty-fifty match just won't get us there very quickly.

We estimate the cost of replacing punch cards in Oregon to be about $2 million. The fiscal reality in Oregon this biennium is that spending even $1 million on voting machinery to match a $1 million federal grant would mean cutting $1 million from higher education, K–12 funding or health care. That would be very tough to sell.

Oregon is prepared to step up to the plate financially, but the speed with which we are able to eliminate punch cards is dependent upon the size of the federal match.

In order to move quickly enough so that Oregonians won't be voting with punch cards again in the next presidential election, we will need more federal assistance than is currently proposed by this bill. After the chaos we saw in Florida, I hope you would all agree that the integrity of our election system is a cost well worth paying for.

We also need to address election issues that go beyond the mechanics of how ballots are cast. The 2000 General Election raised questions all over the country about election security and the issue of equal access to the voting process.

A few Oregonians raised concerns after the General Election that people had voted more than once in several counties. Although not one case has been brought forward to support these allegations, it raises the issue of voting security and voter confidence in the election system.

Much of the focus of election reform has been on getting rid of punch card ballots; I am certain that creating a centralized voter registration system is just as essential in order to make real improvements to Oregon's elections. In fact, creating a centralized voter registration system is my highest legislative priority, with strong bipartisan support.

Oregon's voter rolls are currently housed in 36 separate county databases, with no real connection between them. We currently have no easy or efficient way to check for overlap between these databases.

Connecting the county voter databases into a statewide voter registration file would dramatically improve our ability to check for duplicate registrations and to update registrations. When a voter registers at a new address in a new county, a county election official would be able to do a real-time search of the entire state's voter registration system to find out quickly and easily if the voter was already registered somewhere else.

A centralized voter registration system would thus give Oregon among the cleanest voting rolls in the country. It would create the possibility to all but eliminate duplicate voting. It would significantly reduce the possibility of voter fraud. And the end result would be a real increase in voters' confidence in their election process. It does, however, carry a $6 million price tag.

I appreciate the allocation of block grants for voter education in Senator McCain's bill. We currently do not have funds available for public service announcements or public education campaigns to reach voters with information about when they have to be registered or when their ballots have to be in the mail. Being able to provide these services would help us make sure that every eligible voter has the opportunity to cast their vote.

I sincerely hope that the Congress and state legislatures alike will be able to use this period of heightened public attention to the election process as an opportunity to make some significant and much-needed changes to the election system.

I urge you to take a broad view in terms of improving the election system, and I hope that the focus of this Committee will not just be on how the votes of individual citizens have been recorded. I hope that federal assistance will be available broadly to improve states' abilities to meet the needs of their voters. I believe that it is essential that money be available not just for vote-casting equipment but for improvements to the whole range of processes and procedures that affect the integrity of our elections.

As Oregon's Chief Elections Officer, I believe that I have to do all I can to ensure that every step of the electoral process, beginning with registration and ending with the counting of ballots, is fair and friendly to every voter.

The CHAIRMAN. Thank you very much. Secretary Cox, welcome.

STATEMENT OF HON. CATHY COX,
SECRETARY OF STATE, STATE OF GEORGIA

Ms. COX. Thank you, Mr. Chairman, Members of the Committee. Thank you for giving me the opportunity to discuss election reform with you, and allow me to say thanks to my good friend from Georgia, Senator Max Cleland, who served our state with great distinction as a former Secretary of State. I know that Senator Cleland, Mr. Chairman, and many of you are working to find innovative solutions to the problems of outdated and inaccurate election systems. I believe you have my full written testimony and, rest assured, I will be much briefer this morning and, of course, I am happy to respond to your questions.

In the 2000 general election in Georgia, we had many of the same problems that received so much attention in Florida. Perhaps most importantly, our undervote rate, the difference between the ballots cast and the votes recorded in the presidential race, was 3.5 percent. That number was well above Florida's undervote percentage, and the rate for the Nation as a whole.

The CHAIRMAN. What does that translate to in terms of numbers of votes?

Ms. COX. About 94,000 votes in Georgia. Since November we have spent a great deal of time analyzing Georgia's undervote, especially the variations that occurred from county to county and from precinct to precinct. Much of the report I attached to my written testimony focuses on this area. That report offers interesting insight into a whole range of issues, but let me focus on just one of those this morning, and that is the undervote performance of opti-scan systems as compared to the infamous punch card.

Although opti-scan systems offer satisfactory performance in some counties, in many other locations optical scan undervote rates are extremely high, well above the averages of more antiquated systems.

The CHAIRMAN. Could I ask you to pause for a minute? Can you put that over on the other side? There is a camera that is blocking the view.

Thank you. Please proceed.

Ms. COX. In fact, in 21 opti-scan counties in Georgia there were undervote rates of 5 percent or higher, and one county in Georgia even had an undervote rate of 15 percent using the opti-scan system.

In addition to our overall analysis of all Georgia counties, we were interested in the differences in undervoting that exist by race, so we studied presidential undervote percentages in 92 predominantly black precincts, and compared those to predominantly white precincts in the same county. We found that across the board undervotes are higher in predominantly black precincts than in white precincts in the same county, and we call this difference the undervote gap.

The bigger surprise, however, is that the undervote gap was higher—that is right, higher in counties that used opti-scan systems than in counties that used the punch card. I have attached for your reference a copy of our analysis that provides specific county-by-county detail on these findings.

In punch card counties in Georgia, this undervote gap was 3.7 percent between black and white precincts. In counties that employed opti-scan, the undervote gap was 5.4 percent, and you see on this chart the red letter W represents the white precincts using opti-scan, the blue letter B's represent the black precincts using opti-scan, and you see we have got a number of black precincts that exceed 8 percent in error rates, many of those well above 10 percent in error rates.

So the undervote gap between blacks and whites is nearly 2 percentage points higher in opti-scan counties. The reasonable question one would ask when presented with these findings is why? Why are voters in predominantly African American precincts more likely to cast an undervoted ballot, and why is this variation even greater in opti-scan precincts than in punch card precincts, and simply, we do not know the answer to that today.

Anecdotally, we know the types of errors voters can make on opti-scan systems. We have seen many times when voters place a check mark or an X rather than blackening in a circle, and the optical reader will not read that vote.

Sometimes, voters trying extra hard to make sure their vote is counted will both blacken a circle and write in the same candidate's name on the write-in line, thus creating to the counting machine what appears to be a duplicate vote or an overvote which is not counted at all.

But whatever the cause of the disparity, we believe the data makes a compelling argument that further deployment of opti-scan systems in Georgia would be bad public policy, and could even be considered a decision that disenfranchises minority voters. Clearly, our findings cry out for more analysis of this racial disparity in the use of voting equipment, and so I applaud the emphasis in your legislation, Mr. Chairman, mandating a formal study of these types of issues.

So much of the focus coming out of Florida was on the shortcomings of the punch card system, and those shortcomings are undeniable, but in Georgia we now believe that replacing punch cards with opti-scan would be the electoral equivalent of jumping from the frying pan into the fire.

The data shows that some populations are far too likely to cast an incomplete or a voided ballot when using opti-scan systems. We believe that electronic equipment systems that are flexible, accurate, that prevent overvoting and other mistakes, and that feature a separate audit trail, offer the best option for improving the reliability of our election systems. I am hopeful that the Congress will help provide the resources to assist us in achieving our goal.

Thank you, Mr. Chairman, for the opportunity to share my perspective on this very important issue.

[The prepared statement of Ms. Cox follows:]

PREPARED STATEMENT OF HON. CATHY COX, SECRETARY OF STATE, STATE OF GEORGIA

Mr. Chairman and Members of the Committee, thank you for the opportunity to present testimony for your consideration as you address the critically important issue of election reform. I am grateful to be asked to offer some insight into our experience in Georgia as we search for new solutions to make elections more accurate and more convenient for all of our citizens.

Let me also say Mr. Chairman that I applaud your efforts, and that of the ranking member Senator Hollings, in introducing S.368, which would provide us with valuable national consensus standards in voting equipment, authorize a study of voter participation and emerging technology, and, perhaps most importantly, create grants to states to improve voting methods.

It's a good bill. As you know, there are a number of other legislative proposals before the Congress that address these issues, both in the House and the Senate. But I believe your focus on standards, and your call to study the impact of income, minority status and other demographic variables on effective participation in the election process, are particularly desirable features. I hope they will be included in the final product that is enacted at the conclusion of this process.

I should also commend my good friend from Georgia and a Member of this Committee, who by the way also served with great distinction before me as our Secretary of State, Senator Max Cleland, for his aggressive work to find innovative solutions to the problems of outdated and inaccurate election systems. I know that he and Senator Brownback are also preparing important legislation that addresses this issue.

As Georgia's chief elections officer, it's been interesting to watch the reaction of other election officials, from both the state and local level, to the unprecedented and very dramatic events in Florida in the days following the November 2000 election. It seems to me that the response of most of my colleagues in the elections field falls into one of two groups.

The first group, and I am happy to say it seems to be the much smaller one, can be characterized with one word—and that word is denial.

From them you may hear the following:

> "What happened in Florida couldn't happen here."
> "The media has blown this out of proportion."
> "Some voters just make mistakes. There's nothing you can do about it."
> "If people just followed directions, none of these problems would occur."
> "Very few elections are that close anyway. So a few errors here and there don't really matter."
> "New technology can get you into trouble. It's better to stick with what we already have."

Or Finally:

> "We've always known no election is perfect. Get over it. All of this controversy will die down in a few months."

Now, the other group of election officials, and I certainly put myself among their number, had a very different reaction when we looked at what happened in Florida.

Describing that group, it reminds me of the ambitious understudy anxiously awaiting her big chance on the Broadway stage. One day she gets the call that she'll have to step into the leading role. Yes, she's a little bit sorry that the star got sick, but she is also really, really glad to finally stand in the spotlight and get the full attention of the crowd.

As an election official who has been concerned for many years about the problem of antiquated and inaccurate voting and vote counting systems, I sympathize with Secretary of State Harris and the good people of Florida. I'm sorry for their misfortune. But I am also thrilled that national attention is now focused on this serious problem. And I want to make sure we make the most of our big chance.

Mr. Chairman, comparing ourselves to Florida and the problems that occurred there in the design of ballots and the counting and recounting of votes, I can only come to one conclusion.

There, but for the grace of God, go I.

Because the truth is, if the presidential margin had been razor thin in Georgia, and if our election systems had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. And perhaps we would have fared even worse.

Like Florida, we have several different voting systems. Some are merely outdated. Some are true antiques tracing their origins to Thomas Edison and the 19th Century.

Like Florida, we had thousands and thousands of ballots that registered no vote in the presidential race, what we call undervotes. Nearly 94,000 voters that went to the polls in November either did not vote for president, made a mistake that voided their ballot, or did not have their vote counted by a machine.

That is an undervote percentage of 3.5 percent—a number that compares unfavorably with Florida, which had an undervote rate of 2.9 percent—and the overall national rate that has been reported at 1.9 percent.

Like Florida, we had wide variations in undervote rates from county to county. Some counties showed very low undervote totals—one half of one percent or below. Others showed high—very disturbingly high—undervote rates of 15 percent. When more than one in ten ballots register no choice in the most important race, it doesn't take an election expert to know that something is seriously wrong with the system.

Like Florida, we had hanging chads, dimpled chads, pregnant chads and other unpleasant features of the punch card system. In fact nearly 1.2 million voters in seventeen Georgia counties, including several of our largest metropolitan counties, use the punch card.

Have we known that chads present a problem? Well, consider this. In Fulton County, our largest county that still uses the punch card system, county employees long ago gave the counting equipment a nickname. They call it the "confetti machine." And that's because when ballots are fed into it, hundreds of chads fly into the air as the counting goes on.

Like Florida, we had recounts. And although our Georgia statute calls for machine recounts only, unless a court orders a hand recount, it was evident from the examination of ballots that many voters made inadvertent errors as they made their electoral choice.

Like Florida, we had voters turned away from the polls who had been properly registered. And we had far too many poll workers who were uninformed or poorly trained.

Like Florida, we had problems with the ballot itself. In one opti-scan county, the wrong markers were issued and officials had to scramble to recreate all the ballots that night when none of them could be counted in the machine. In another, the opti-scan ballots got damp, because it was a rainy day, and couldn't be read by their counting machine. And when the county called us, we gave them the advice we always give. Go get some hair dryers and blow dry the ballots. If the consequences were not so great, it would be funny.

And so we know very well that, yes, it could happen in Georgia. And the odds are that sometime, perhaps sometime very soon, it WILL happen in my home state unless steps are taken now to upgrade our equipment and procedures.

In the weeks following the November election, our office prepared a report for the Governor and Members of the General Assembly entitled **The 2000 Election: A Wake-Up Call for Reform and Change.** Based on new data analysis and the views, suggestions and complaints of hundreds of Georgians, from average citizens to party leaders to local elected officials, we took a "warts and all" look at the weaknesses in the current system and proposed a number of improvements to address these concerns. Our legislation, which would implement most of the reforms we believe are needed, is currently working its way through the Georgia General Assembly.

We have proposed a number of mostly administrative changes to shorten the ballot, speed up the counting of absentees, modify our Primary Election date to boost turnout, and other relatively minor changes.

We also have proposed, as we have in the past, a system of early voting to help reduce the confusion and long lines we experience at the precincts in high turnout elections.

But most importantly, we have recommended that Georgia begin now down the path towards a uniform electronic statewide voting system, with the goal of full implementation by November 2004.

We have secured funding in our current midyear budget to move forward with a pilot program, to be deployed in municipal elections this year, to field test different electronic voting systems. We believe this is particularly important since today, not one Georgia county or city uses electronic voting equipment. And we have called for a bipartisan commission to help us evaluate the successes and shortcomings of various equipment types, and identify the precise equipment we believe will be best for Georgia.

Our legislation also requires, for the very first time in the history of our state, that my office, rather than county governments, provide the necessary funding to acquire new uniform electronic equipment. As you know, Mr. Chairman, the acquisition and maintenance of election equipment has, throughout the nation, traditionally been the responsibility of local government. We want uniformity—we think it is critical both for policy and legal reasons. And yet it is simply not feasible or advisable for the state to mandate the purchase of equipment but play no role in its acquisition. Many counties in Georgia have not invested in election equipment in 40 years or more. They lack the budgetary wherewithal to make major new technology investments.

If we want to modernize elections and election equipment, the state and federal government are going to have to provide the resources. And yes, we believe funding and support from the federal government is critical. I can tell you from my conversations with state leaders and their review of the great demands already placed on our state budget, we will not reach our goal of modernized election systems by 2004 without significant federal grant support.

I would suggest to you that this is not simply a case where counties and states are asking you for federal money to solve a local problem. No, I believe there is a compelling national interest in assuring that every county and state in the nation has the capacity to insure fair and accurate outcomes in every race on the ballot—including the race for President. If we take nothing else from Florida's experience, it should be the recognition that these local decisions on equipment and procedures can have a dramatic impact on national affairs.

New public opinion data seems to bear this out. According to a recent *CBS News* poll, 65 percent of respondents said elections require "fundamental changes" or should be "completely rebuilt." A Gallup poll found that 67 percent favored "a complete overhaul" or "major reforms." And just last week, the *Miami Herald* reported their new poll of Floridians that showed 69 percent of Democrats and 62 percent of Republicans support Secretary of State Katherine Harris' proposal to shift to a new uniform method of touch screen voting, even though it has an eye-popping price tag of 200 million dollars.

In my discussions with Georgia citizens—young and old, male and female, black and white and brown—in every corner of the state, I hear the same views. People think this is a problem we should fix. And they think we should fix it now.

I am reminded of Prime Minister Margaret Thatcher's favorite quote, which comes from the 19th Century French politician Alexandre Auguste Ledru-Rollin, "There go my people. I must find out where they are going so that I can lead them."

The rationale for investing in new, more accurate voting technology is not simply its popularity or even that it is good public policy. There is a compelling legal argument as well. Stanford Law School Dean Kathleen Sullivan's analysis is right on target:

> *"The Supreme Court has just handed an invitation to lawyers across the country to bring an avalanche of lawsuits claiming that existing systems that count people's vote differently and with different rates of error in different counties violates the equal protection clause of the U. S. Constitution. If the 107th Congress does not make it a top priority to fix this, and fix it quickly, we are going to see 'litigation city' in 2002 and 2004. This is something that really ought not be postponed and studied to death, it ought to be acted upon and acted upon quickly."*

Mr. Chairman, I can report to you that "litigation city" to use Dean Sullivan's words, is already rising up in Georgia. This January, the Governor, the State Election Board and I were sued by the ACLU, representing African-American plaintiffs,

claiming that Georgia's election systems are fatally flawed, that voting equipment of all types has high error rates, and that minority citizens are disproportionately affected by these shortcomings. The suit seeks to enjoin the State of Georgia from conducting any further elections using our current voting technology.

The Attorney General's office on behalf of the state has answered that suit, which is now in federal district court. While I cannot predict, nor can anyone, the outcome of this case, it goes without saying that if the court finds that the plaintiff's claims have merit, the state faces the prospect of expensive, and perhaps immediate, court-imposed modifications to our election systems. And so I believe this litigation lends increased urgency to our efforts to upgrade systems in a carefully planned but expeditious manner.

Since November we have spent a great deal of time analyzing Georgia's undervote, especially the variations that occur from county to county and from precinct to precinct. Much of the report I referenced earlier focuses on this area. Four voting systems are currently employed in Georgia: punch card, lever machine, opti-scan and paper ballot. Allow me to share with you some of our most important findings:

- There are exceedingly large variations in undervote rates between counties, and even among counties that employ the same voting technology. Punch card counties in general have the highest undervote rates, followed by lever machines and then optical scan systems.
- Although optical scan systems, the "newest" technology used in Georgia, offer satisfactory performance in some counties, in many other locations optical scan undervote rates are extremely high—well above the averages for more antiquated systems. In fact, 21 counties that use optical scan technology had undervote rates of five percent or higher, including three counties that recorded rates of 9, 10 and 15 percent respectively. And the mean average (the average of all the county percentages) of optical scan county undervotes is nearly identical to the now disparaged punch card systems.
- While complete data is not available, the numbers we have suggest that overvotes, or duplicate votes (where the voter accidentally makes more than one choice in a single contest, or perhaps where the machine improperly reads a duplicate vote that was not in fact made) represent a very substantial majority of the variance between ballots cast and votes recorded. Some observers suggest that undervotes in the presidential race simply reflect the conscious decision of voters to skip that race and make other choices later down the ballot. Our data strongly suggests otherwise. In the 13 Georgia counties that compute duplicate votes (or overvotes) as a separate category, these inadvertent duplicate selections constituted 61.5 percent of the total undervote. Therefore, the first priority of any new technology we consider should be a feature that simply does not permit the elector to overvote.

After completion of our report to the Governor and the General Assembly, we were asked by the leader of Georgia's Black Caucus to analyze more specifically the undervote variations that exist by race. And so we began to study undervote (in the presidential race) percentages in precincts that had black registration percentages of 80 percent or more, and compared those to predominately white precincts in the same county.

We found that, across the board, undervotes are higher in predominately black precincts than in predominately white precincts in the same county. For purposes of our analysis, we have called this the "undervote gap." But what is of greatest interest, and we think most significant as we consider equipment options, is that this undervote gap was higher, that's right, higher, in counties that utilized opti-scan systems than in counties that use the punch card. I have attached, for your reference, a copy of our analysis that provides specific, county-by-county detail on these findings.

In this study we looked at 92 precincts with voter registration that is 80 percent or more African-American. And we compared those predominately black precincts to an equal number of predominately white precincts in the same counties.

In punch card counties, the undervote in white precincts averaged 4.4 percent, while the undervote in black precincts averaged 8.1 percent, for a difference of 3.7 percent—what we are calling the "undervote gap."

In counties that employ opti-scan, the undervote in predominately white precincts averaged 2.2 percent, while the undervote in predominately black precincts averaged 7.6 percent, for an undervote gap of 5.4 percent.

I should point out that this higher undervote gap for opti-scan exists whether we look at counties individually or in aggregate. However we slice the numbers, in opti-

scan counties, there is a greater gap in undervoting by blacks as compared to whites than there is in counties that use the punch card.

The reasonable question one would ask when presented with these findings is "Why?" Why are voters in predominately African-American precincts more likely to cast an undervoted ballot, and why is this even more likely to occur in opti-scan precincts than in punch card precincts?

We simply do not know the answer. Anecdotally, we have observed the kinds of errors voters make on opti-scan ballots in precincts of all demographic profiles. Sometimes voters place a check mark or an "X" rather than blackening the circle. Sometimes voters circle the name of the candidate rather than blackening the circle or completing an arrow. (Some systems require a blackened circle, others require voters to draw a line which completes an arrow adjacent to the candidate's name.) Sometimes voters, trying hard to make sure their vote is counted, both blacken a circle by their candidate's name AND write-in their candidate's name, thus creating what appears to the counting machine to be a duplicate vote, or overvote.

Let me acknowledge that this is data from one state only, and that we have not yet been able to complete an exhaustive analysis of undervote performance in each of the nearly 2,800 precincts in Georgia. But we believe the data we have makes a compelling argument that further deployment of opti-scan systems would be bad policy, and could perhaps even be considered a decision that disenfranchises minority voters.

Clearly, our findings cry out for more study of this racial disparity in the use of voting equipment—and for that reason especially, I applaud the emphasis in S.368 on a formal study of these types of issues.

Mr. Chairman, as you are aware, so much of the focus coming out of Florida was on the shortcomings of the punch card system. And those shortcomings are undeniable. In fact, a top priority of our statewide electronic voting initiative is to replace punch card systems first. But for Georgia, at least, we believe the data shows that replacing punch card with opti-scan would be the electoral equivalent of jumping from the frying pan into the fire. In addition to the operational shortcomings of opti-scan we already know about—high costs of ballot printing, potential errors from using the wrong marker, potential problems with moisture and other environmental conditions, the ease of making innocent mistakes that ultimately void a vote—it seems clear that some populations are far too likely to cast an incomplete or voided ballot when using the opti-scan system.

For us, this analysis reconfirms our belief that old systems—whether punch card, lever machine or opti-scan—should be replaced with current generation electronic equipment that minimizes the opportunity for the voter to make a mistake—and that has other clear advantages as well.

I believe this is a critical priority as we look to modernize our election systems. One of the most disturbing comments I have heard is the claim that every undervote is the choice or the fault of a poorly informed voter. Rather than blaming the citizens who pay our salaries and whose tax dollars buy the equipment we select, I believe every election official at every level of government should place maximum emphasis on identifying and acquiring equipment that is convenient, intuitive, easy to use and that reduces to an absolute minimum the opportunity for voter error.

Let's not forget that voting is not an act we perform every day or every week. The most conscientious of us may only vote once every year or two. And so the equipment we provide to voters should not require a detailed instruction manual in order to be utilized properly. And it should easily accommodate the needs of those with limited English proficiency, those who are visually-impaired and disabled, and other special needs populations.

Mr. Chairman, that's why I am particularly supportive of the provisions of your bill that would authorize the National Institute of Standards and Technology to study these very issues. To my knowledge, very little if any extensive analysis has been performed on the voter-ballot interface, including an evaluation of how equipment is used by different populations.

In Georgia, we believe that electronic equipment—systems that are flexible, accurate, that prevent overvoting and that feature a paper audit trail to provide an additional level of accuracy in case of a recount—offer by far the best options for improving the reliability of our election systems. We are hopeful that the Congress will help provide the resources to assist us in achieving our goal.

Mr. Chairman, our election systems are broken. The American people expect us to step up and fix them—and fix them fast. Nothing is more important to the health of our democratic institutions than assuring that elections are fair to all and accurate in their outcomes. I am absolutely convinced that, applying our best thinking

and adequate resources to the problem, we can fulfill this critical responsibility to the people we serve.

Thank you for the opportunity to share my perspective on this important issue.

STUDY OF GEORGIA PRESIDENTIAL RACE UNDERVOTE, PERFORMANCE BY EQUIPMENT TYPE AND RACE FOR THE NOVEMBER 7TH 2000 GENERAL ELECTION (MARCH 2001)

Summary of Findings

In this study we analyzed 92 precincts in 11 Georgia counties distributed throughout the state with voter registration that is 80 percent or more African-American. We compared those predominately black precincts to an equal number of predominately white precincts in the same counties.

This analysis involved computing the difference between the number of ballots cast and the number of votes recorded in the presidential race—what is known as the "undervote."

We found that, across the board, undervotes are higher in predominately black precincts than in predominately white precincts in the same county. For purposes of our analysis, we have called this the "undervote gap."

In punch card counties, the undervote in white precincts averaged 4.4 percent, while the undervote in black precincts averaged 8.1 percent, for a difference, or undervote gap, of 3.7 percent.

In counties that employ opti-scan, the undervote in predominately white precincts averaged 2.2 percent, while the undervote in predominately black precincts averaged 7.6 percent, for an undervote gap of 5.4 percent.

Thus, the undervote gap between whites and blacks is significantly higher in optiscan counties than in punch card counties.

This higher undervote gap for opti-scan exists whether we look at counties individually or in aggregate. However we slice the numbers, in opti-scan counties, there is a greater differential in undervoting by blacks as compared to whites than there is in counties that use the punch card.

These findings suggest that further deployment of optical scan systems could serve to increase the gap between white and black undervoting.

Scope of Study

Undervote Analysis of African-American Precincts in Georgia

1) For the November Election, 25% of Georgia's registered voters were African-American.

2) Of the 159 counties in Georgia, 72 had a percentage of African-American registered voters higher than the statewide average.

3) Of these 72 Georgia counties, 23 had at least one precinct in which African-American voters comprised more than 80% of the registerd voters in that precinct.

4) These 23 counties were then trimmed to 11. These remaining counties were selected due to the availability of complete and reliable voter statistics from November 7th. Below is a list of the 11 counties and the number of precincts examined in each.

5) We have compiled this information in an effort to determine what the total undervote in these majority African-American precincts. Our analysis also looked at undervote rates between precincts that use different types of voting equipment.

County Examined	Number of Precincts over 80% African-American	Voting Equipment
Bibb	11	Opti-Scan (CC)
Chatham	21	Opti-Scan (PC)
Dekalb	6	Punch Card
Dougherty	12	Opti-Scan (PC)
Fulton	5	Punch Card
Hancock	4	Lever
Lowndes	4	Opti-Scan (PC)
Muscogee	10	Opti-Scan (PC)
Peach	1	Lever
Richmond	17	Punch Card
Thomas	1	Opti-Scan (PC)

Number of Precincts Examined	92
Number of Precincts using Opti-Scan Systems Examined	59
Number of Precincts using Punch Card Systmes Examined	23
Number of Precincts using Lever Machines Examined	5

Undervote Analysis of White Precincts in Georgia

1) For purpose of comparison, we selected an equal number of 80% or greater majority white precincts from the same list of counties. One exception that was made in this analysis was to replace Hancock County with Crisp County. Hancock County only had majority African-American precincts, therefore we selected a similar county (Crisp County) by way of size, geographic location and socioeconomic standing.

2) We ran the same analysis on these precincts as we did on the African-American precincts.

3) This information was compared against the results from the selected African-American precincts, to determine if % undervote rates were different among different racial groups within the same county using the same equipment.

County Examined	Number of Precincts over 80% White	Voting Equipment
Bibb	11	Opti-Scan (CC)
Chatham	21	Opti-Scan (PC)
Dekalb	6	Punch Card
Dougherty	12	Opti-Scan (PC)
Fulton	5	Punch Card
Crisp	4	Lever
Lowndes	4	Opti-Scan (PC)
Muscogee	10	Opti-Scan (PC)
Peach	1	Lever
Richmond	17	Punch Card
Thomas	1	Opti-Scan (PC)

Number of Precincts Examined	92
Number of Precincts using Opti-Scan Systems Examined	59
Number of Precincts using Punch Card Systems Examined	28
Number of Precincts using Lever Machines Examined	5

Punch Card Black Precincts

Analysis of Undervote in African-American Precincts

Total Undervote % for all of Dekalb County 7.0%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Dekalb	Bob Mathis	1,694	1,546	148	8.7%
Dekalb	Boulevard	1,572	1,425	147	9.4%
Dekalb	Brown's Mill	1,403	1,299	104	7.4%
Dekalb	Columbia Drive	1,139	1,062	77	6.8%
Dekalb	Canby	2,063	1,960	103	5.0%
Dekalb	McWilliams	1,978	1,814	164	8.3%
Dekalb	Miller Grove	1,449	1,333	116	8.0%
[redacted]					
Totals	[redacted]	**11,298**	**10,439**	**859**	**7.6%**

Undervote % in selected African-American Precincts

Total Undervote % for all of Richmond County 5.5%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Richmond	7-1B	43	37	6	14.0%
Richmond	1-12	789	750	39	4.9%
Richmond	1-13	1,198	1,120	78	6.5%
Richmond	2-18A	134	125	9	6.7%
Richmond	5-18B	39	39	-	0.0%
Richmond	5-19	222	207	15	6.8%
Richmond	4-20	1,091	1,012	79	7.2%
Richmond	5-24A	441	413	28	6.3%
Richmond	2-24B	113	109	4	3.5%
Richmond	1-27A	361	345	16	4.4%
Richmond	5-3	628	551	77	12.3%
Richmond	4-32A	987	917	70	7.1%
Richmond	Apr-33	1,246	1,175	71	5.7%
Richmond	2-36	267	258	9	3.4%
Richmond	2-37	831	776	55	6.6%
Richmond	2-45	236	205	31	13.1%
Richmond	2-7	476	458	18	3.8%
[redacted]					
Totals	[redacted]	**9,102**	**8,497**	**605**	**6.6%**

Undervote % in selected African-American Precincts

Total Undervote % for all of Fulton County 6.3%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Fulton	09C	1,645	1,460	185	11.2%
Fulton	10A	1,732	1,512	220	12.7%
Fulton	10D	828	783	45	5.4%
Fulton	10H	1,226	1,099	127	10.4%
Fulton	11N	1,408	1,248	160	11.4%
[redacted]					
Totals	[redacted]	**6,839**	**6,102**	**737**	**10.8%**

Undervote % in selected African-American Precincts

Statewide Undervote % for Punch Card Counties 4.6%

African-American Precincts using Punch Card	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	27,239	25,038	2,201	8.1%

Undervote % in selected African-American Precincts

Punch Card White Precincts

Analysis of Undervote in White Precincts

Total Undervote % for all of Dekalb County 7.0%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Dekalb	Chamblee South	402	381	21	5.2%
Dekalb	Chesnut	1,553	1,475	78	5.0%
Dekalb	Cross Keys	1,032	941	91	8.8%
Dekalb	Hawthorne	1,328	1,217	111	8.4%
Dekalb	Huntley Hills	1,435	1,308	127	8.9%
Dekalb	Hugh Howell	1,189	1,091	98	8.2%
Dekalb	Peachtree	898	852	46	5.1%
[redacted]					
Totals		7,837	7,265	572	7.3%

Undervote % for selected White Precincts

Total Undervote % for all of Richmond County 5.5%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Richmond	7-1A	1,671	1,622	49	2.9%
Richmond	3-11A	1,223	1,183	40	3.3%
Richmond	3-11B	45	39	6	13.3%
Richmond	3-14A	744	721	23	3.1%
Richmond	3-21A	279	279	-	0.0%
Richmond	7-25A	206	203	3	1.5%
Richmond	7-38	1,215	1,184	31	2.6%
Richmond	3-39	332	327	5	1.5%
Richmond	6-46	563	519	44	7.8%
Richmond	7-49	1,249	1,192	57	4.6%
Richmond	7-52	1,768	1,714	54	3.1%
Richmond	7-53	2,071	2,028	43	2.1%
Richmond	3-56	996	987	9	0.9%
Richmond	6-8	384	369	15	3.9%
Richmond	5-9A	459	449	10	2.2%
Richmond	3-9B	700	665	35	5.0%
[redacted]					
Totals		13,905	13,481	424	3.0%

Undervote % for selected White Precincts

Total Undervote % for all of Fulton County 6.3%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Fulton	AP08	1,736	1,655	81	4.7%
Fulton	NC08	2,761	2,678	83	3.0%
Fulton	RW12	2,027	1,941	86	4.2%
Fulton	SS16	1,396	1,352	44	3.2%
Fulton	08H	1,359	1,272	87	6.4%
[redacted]					
Totals		9,279	8,898	381	4.1%

Undervote % for selected White Precincts

Statewide Undervote % for Punch Card Counties 4.6%

White Precincts using Punch Card	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	31,021	29,644	1,377	4.4%

Undervote % for selected White Precincts

Analysis of Undervote in African-American Precincts

Total Undervote % for all of Bibb County 4.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Bibb	East Macon 1	471	418	53	11.3%
Bibb	East Macon 3	675	619	56	8.3%
Bibb	East Macon 6	749	704	45	6.0%
Bibb	Godfrey 1	632	576	56	8.9%
Bibb	Godfrey 2	583	527	56	9.6%
Bibb	Godfrey 3	655	572	83	12.7%
Bibb	Godfrey 7	749	706	43	5.7%
Bibb	Macon 2	632	563	69	10.9%
Bibb	Macon 3	602	569	33	5.5%
Bibb	Vineville 2	434	403	31	7.1%
Bibb	Vineville 3	672	644	28	4.2%
Totals		**6,854**	**6,301**	**553**	**8.1%**

Undervote % for selected African-American Precincts

Total Undervote % for all of Chatham County 2.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Chatham	Eli Whitney Sch	182	177	5	2.7%
Chatham	New Genration	829	813	16	1.9%
Chatham	Spencer Elem	122	122	-	0.0%
Chatham	W. W. Law Cente	310	283	27	8.7%
Chatham	Christ Memorial	524	508	16	3.1%
Chatham	Holy Spirit Lut	842	813	29	3.4%
Chatham	Shuman Middle S	356	335	21	5.9%
Chatham	Stubbs Towers	770	749	21	2.7%
Chatham	First African B	597	555	42	7.0%
Chatham	Senior citizens	305	287	18	5.9%
Chatham	Butler Presbyte	509	491	18	3.5%
Chatham	Derenne Middle	345	329	16	4.6%
Chatham	Liberty City Ch	728	689	39	5.4%
Chatham	Haven Elementar	569	548	21	3.7%
Chatham	Oglethorpe Acad	955	866	89	9.3%
Chatham	Butler Elementa	948	918	30	3.2%
Chatham	Beach High Scho	218	212	6	2.8%
Chatham	West Broad Stre	373	371	2	0.5%
Chatham	Tompkins Rec Ce	477	467	10	2.1%
Chatham	Tompkins Middle	257	242	15	5.8%
Chatham	St. Anthonys Pa	826	757	69	8.4%
Chatham	Moses Jackson	534	483	51	9.6%
Totals	-	**11,576**	**11,015**	**561**	**4.8%**

Undervote % for selected African-American Precincts

Opti-Scan Black Precincts

Total Undervote % for all of Dougherty County 5.5%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Dougherty	Westtown School	1,613	1,500	113	7.0%
Dougherty	Mt Zion Center	1,248	1,096	152	12.2%
Dougherty	Monroe High	461	435	26	5.6%
Dougherty	River Road Chur	366	331	35	9.6%
Dougherty	Carver Teen Cen	776	699	77	9.9%
Dougherty	Carver Gym	252	224	28	11.1%
Dougherty	Highland Magnet	325	291	34	10.5%
Dougherty	Saints Christ C	599	517	82	13.7%
Dougherty	Turner Elem Sch	298	271	27	9.1%
Dougherty	Jackson Heights	1,117	977	140	12.5%
Dougherty	Sylvandale Elem	710	661	49	6.9%
Dougherty	Eureka Church	623	558	65	10.4%
[redacted]					
Totals		**8,388**	**7,560**	**828**	**9.9%**

Undervote % for selected African-American Precincts

Total Undervote % for all of Lowndes County 1.8%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Lowndes	Garden Center	573	530	43	7.5%
Lowndes	Pinevale-Lomax	498	496	2	0.4%
Lowndes	Southside Rec.	289	268	21	7.3%
Lowndes	Mt. Pisgah Baptist	550	526	24	4.4%
[redacted]					
Totals		**1,910**	**1,820**	**90**	**4.7%**

Undervote % for selected African-American Precincts

Total Undervote % for all of Muscogee County 4.2%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Muscogee	Britt	1,136	991	145	12.8%
Muscogee	Carver	899	841	58	6.5%
Muscogee	Rigdon	1,094	984	110	10.1%
Muscogee	Muscogee	832	748	84	10.1%
Muscogee	St Mary's	961	918	43	4.5%
Muscogee	Dawson	1,410	1,332	78	5.5%
Muscogee	Forrest Rd	1,141	1,071	70	6.1%
Muscogee	Fort	1,295	1,224	71	5.5%
Muscogee	North Lumpkin	1,055	825	230	21.8%
Muscogee	Liberty	723	696	27	3.7%
[redacted]					
Totals		**10,546**	**9,630**	**916**	**8.7%**

Undervote % for selected African-American Precincts

Opti-Scan Black Precincts

Total Undervote % for all of Thomas County 5.6%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Thomas	Harper	1,291	1,159	132	10.2%

Undervote % for selected African-American Precinct

Statewide Undervote % for Opti-Scan Counties 4.3%

African-Americans Precincts Using Opti-Scan	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	40,565	37,485	3,080	7.6%

Undervote % for selected African-American Precincts

Analysis of Undervote in White Precincts

Total Undervote % for all of Bibb County 4.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Bibb	Hazzard 4	809	774	35	4.3%
Bibb	Hazzard 7	876	835	41	4.7%
Bibb	Howard 1	927	904	23	2.5%
Bibb	Howard 2	1,835	1,777	58	3.2%
Bibb	Howard 5	918	886	32	3.5%
Bibb	Howard 6	832	830	2	0.2%
Bibb	Howard 7	1,391	1,382	9	0.6%
Bibb	Howard 8	1,599	1,566	33	2.1%
Bibb	Howard 9	1,387	1,366	21	1.5%
Bibb	Rutland 1	2,096	1,988	108	5.2%
Bibb	Rutland 2	1,370	1,322	48	3.5%
[redacted]					
Totals		**14,040**	**13,630**	**410**	**2.9%**

Undervote% for selected White Precincts

Total Undervote % for all Chatham County 2.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Chatham	First Prsbyter	623	621	2	0.3%
Chatham	Chatham County	448	447	1	0.2%
Chatham	Cresthill Bapti	781	768	13	1.7%
Chatham	Bethesda Museum	973	954	19	2.0%
Chatham	Southside Fire	805	785	20	2.5%
Chatham	Ferguson Avenue	633	625	8	1.3%
Chatham	Charles Ellis S	501	490	11	2.2%
Chatham	Whitefield Meth	727	701	26	3.6%
Chatham	Jacob G. Smith	692	678	14	2.0%
Chatham	JEA Building	403	390	13	3.2%
Chatham	Faith Lutheran	522	506	16	3.1%
Chatham	Virginia Heard	659	659	-	0.0%
Chatham	Natioal Gurard	464	441	23	5.0%
Chatham	Tybee Island Co	801	786	15	1.9%
Chatham	Tybee Island To	1,035	998	37	3.6%
Chatham	St Peters Episc	1,181	1,164	17	1.4%
Chatham	Skidaway IS Com	1,175	1,164	11	0.9%
Chatham	Landings Associa	1,135	1,133	2	0.2%
Chatham	Skidaway Island	911	883	28	3.1%
Chatham	Isle of Hope EL	691	691	-	0.0%
Chatham	Isle of Hope BA	1,127	1,123	4	0.4%
[redacted]					
Totals		**16,287**	**16,007**	**280**	**1.7%**

Undervote % for selected White Precincts

Opti-Scan White Precincts

Total Undervote % for all of Dougherty County 5.5%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Dougherty	National Guard	1,037	1,004	33	3.2%
Dougherty	Sherwood Elem	1,242	1,242	-	0.0%
Dougherty	Porterfield Chu	1,369	1,333	36	2.6%
Dougherty	Beattie Chrch C	2,230	2,184	46	2.1%
Dougherty	Westover High	2,740	2,670	70	2.6%
Dougherty	Merry Acres Mid	1,498	1,484	14	0.9%
Dougherty	Sherwood Christ	752	726	26	3.5%
Dougherty	Radium Middle S	426	417	9	2.1%
Dougherty	Putney Youth Ce	1,409	1,365	44	3.1%
Dougherty	Branch Road Bui	1,032	982	50	4.8%
Dougherty	Christ Church	810	785	25	3.1%
[redacted]					
Totals	[redacted]	**14,545**	**14,192**	**353**	**2.4%**

Undervote % for selected White Precincts

Total Undervote % for all of Lowndes County 1.8%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Lowndes	Bethany Baptist	1,346	1,296	50	3.7%
Lowndes	Valwood School	1,468	1,459	9	0.6%
Lowndes	Lake Park United	1,366	1,340	26	1.9%
Lowndes	Mt. Pleasant	409	409	0	0.0%
[redacted]					
Totals	[redacted]	**4,589**	**4,504**	**85**	**1.9%**

Undervote % for selected White Precincts

Total Undervote % for all Muscogee County 4.2%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Muscogee	Britt David	1,431	1,400	31	2.2%
Muscogee	Blanchard	1,646	1,631	15	0.9%
Muscogee	Nankipooh	1,580	1,559	21	1.3%
Muscogee	Beallwood	1,116	1,060	56	5.0%
Muscogee	Double Churches	1,598	1,576	22	1.4%
Muscogee	Brookstone	1,740	1,732	8	0.5%
Muscogee	Clubview	1,495	1,463	32	2.1%
Muscogee	Moon	1,088	1,071	17	1.6%
Muscogee	Shaw	2,223	2,184	39	1.8%
Muscogee	Morningside	1,250	1,225	25	2.0%
[redacted]					
Totals	[redacted]	**15,167**	**14,901**	**266**	**1.8%**

Undervote % of selected White Precincts

Opti-Scan White Precincts

Total Undervote % for all of Thomas County 5.6%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Thomas	Scott	1,773	1,710	63	3.6%

Undervote % for selected White Precinct

Statewide Undervote % for Opti-Scan Counties 4.3%

White Precincts Using Opti-Scan	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	66,401	64,944	1,457	2.2%

Undervote for selected White Precincts

Lever Black Precincts

Analysis of Undervote in African-American Precincts

Total Undervote % for all of Hancock County 5.2%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Hancock	Sparta	680	603	77	11.3%
Hancock	Deverux 1A	297	283	14	4.7%
Hancock	Mayfield A	227	213	14	6.2%
Hancock	Mayfield B	347	322	25	7.2%
Totals		**1,551**	**1,421**	**130**	**8.4%**

Undervote % for selected African-American Precincts

Total Undervote % for all of Peach County 3.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Peach	Fort Valley 3	1,236	1,233	3	0.2%

Undervote % for selected African-American Precinct

Statewide Undervote % for Counties using Lever Machines 4.2%

African-American Precincts Using Lever Machines	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	2,787	2,654	133	4.8%

Undervote % for selected African-American Precincts

Lever White Precincts

Analysis of Undervote in WhitePrecincts

Total Undervote % for all of Peach County 3.4%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Peach	Bryon 2	1361	1349	12	0.9%

Undervote % for selected White Precinct

Total Undervote % for all of Crisp County 6.1%

County	Precinct	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
Crisp	Coney	465	442	23	4.9%
Crisp	Hatley	108	101	7	6.5%
Crisp	Jamestown	519	500	19	3.7%
Crisp	Listonia	375	353	22	5.9%
[redacted]					
Totals	[redacted]	**1467**	**1396**	**71**	**4.8%**

Undervote % for selected White Precincts

Statewide Undervote % for Counties using Lever Machines 4.2%

White Precincts Using Lever Machines	Total Ballots Cast	Total Votes Counted	Undervote	Undervote %
	2828	**2745**	**83**	**2.9%**

Undervote % for selected White Precincts

THE 2000 ELECTION: A WAKE-UP CALL FOR REFORM AND CHANGE, REPORT TO THE GOVERNOR AND MEMBERS OF THE GENERAL ASSEMBLY (JANUARY, 2001)

Executive Summary

For weeks following the November 7th, 2000 election, our nation was gripped by the unfolding drama of the Florida recount. Those extraordinary events and intense media and public scrutiny of the process caused millions of Americans to wonder: Are elections in my state any more accurate? Can I be sure my vote was counted? Why is election equipment so antiquated? Would a close race in my community throw the process into chaos? Isn't there a better way to cast and count votes? What do we need to do to increase the accuracy and integrity of elections?

The Florida experience should serve as a wake-up call for election officials throughout the nation—including Georgia. Could Florida's problems just as easily have been Georgia's problems? The answer is unquestionably yes. Like Florida, we have several different voting technologies. Like Florida, counties in Georgia have different methods of counting votes, with differing levels of accuracy. Like Florida, tens of thousands of voters cast ballots that did not register a choice in the presidential race. In fact, the percentage of ballots in Georgia that showed no presidential choice (what we call "undervotes") was actually *higher* here than in Florida. And in some counties, more than *one in ten ballots* registered undervotes.

Election officials have known for years that much of our equipment is antiquated, that sufficient investment in new technology has not been secured, and that different systems can lead to differing levels of accuracy. But, few others outside the world of elections management focused on the problem. And little, if any, political consensus existed to adopt—and pay for—the reforms needed to make our election systems more modern, more user-friendly and more accurate.

The Florida experience can be a catalyst for reform and change. And so we believe the time has come for a thorough accounting of Georgia's registration and election systems—their strengths and weaknesses. That is the rationale behind this report.

To compile the report, we studied data from the November election and analyzed current statutes and procedures. Even more importantly, we sought out and reviewed the criticisms and suggestions of hundreds of interested Georgia citizens, election officials, civic groups and participants in the political process. Concerns about the accuracy of voting equipment and the integrity of election outcomes are by no means the only issues they raised. Many were frustrated by long lines at the polls, confusing procedures, broken equipment, problems with registration and host of other issues we have compiled in this report.

We recognize there is not an easy prescription for every problem. Elections are complex events with a host of players and interests. But, we believe there are reasonable, practical and affordable solutions that can dramatically improve the performance of Georgia election systems, provide our citizens with more convenience and offer Georgians more assurance that their votes will be accurately counted.

Among our recommendations:

- **Adopt Statewide Uniform Electronic Voting Initiative:** Authorize, fund and deploy by 2004 a Statewide Uniform Electronic Voting Initiative (SUEVI) to create a single method of voting consistent in every county in the state. We believe new electronic systems offer the best option for error-free, user-friendly voting equipment.
- **Implement Early Voting:** To enhance convenience and reduce election day gridlock, implement Early Voting, joining 26 other states that already have some form of early or open absentee voting.
- **Move General Primary Date:** To address declining Primary turnout, move the General Primary from July to the third Tuesday in August, a date more convenient for Georgia families.
- **Overhaul Voter Registration System:** Upgrade the state's voter registration database from the slow, unreliable, inflexible, and expensive mainframe system to a flexible state-of-the-art server-based system.
- **Pursue Poll Worker & Poll Location Alternatives:** Seek new alternatives to assist counties in securing new poll locations and recruiting and training poll workers, both of which now are in short supply.
- **Streamline Polling Place Procedures:** Consider new procedures to streamline paperwork procedures at the polls and move voters more quickly through the voting process.

- **Consolidate Authority to Remove Deceased Voters from Rolls:** Provide the Secretary of State new authority to remove deceased voters from the rolls and assure a more accurate voter roll, responsibilities that currently lie solely with the counties.
- **Modernize Voter Information Resources:** Utilize new centralized technology solutions to offer citizens quicker, easier means to locate their precinct and verify their voter registration.
- **Reengineer "Motor Voter":** Consider options to reengineer the voter registration process at DPS driver's license facilities to minimize errors and reduce confusion.

We hope you find the following report useful as we look for new solutions to make Georgia registration and election processes the finest in the nation.

Nothing is more important to the health of our democratic institutions than assuring that elections are fair to all and accurate in their outcomes. There is work to be done to fully achieve those goals. We welcome your comments and suggestions as we undertake that effort together.

The CHAIRMAN. Thank you very much.

Secretary Thornburgh, welcome.

STATEMENT OF HON. RON THORNBURGH, SECRETARY OF STATE, STATE OF KANSAS

Mr. THORNBURGH. Thank you, Mr. Chairman, Members of the Committee. It is an honor to appear here today to discuss with you the need for election reform in America.

Following last November's election, the Nation was quick to appoint dozens of blue ribbon panels, task forces, and select commissions to find ways to change the American system of elections. In Kansas, we invited our election reform commissioners to meet at the Capitol on the day of the Electoral College meeting on December 18, and our basic conclusion was that in the State of Kansas our system works. There was a peaceful transition of power from administrations, the constitution was preserved.

Although the process was flawed and there were errors and problems, the basic system worked, so today before this body I urge caution. The November election may not have been pretty, the results may not have come quickly, but quick fixes and convenience are not the measure of democracy. America's confidence in our system has been badly shaken. More speeches, commissions, and blue ribbon panels will not restore confidence. Simply plugging in a few new machines around the country will not restore confidence.

We have to take this opportunity to fundamentally improve our electoral system. We must ensure that every American has absolute and unobstructed access to the voting process. The Supreme Court has told us to adopt adequate state-wide standards for determining a legal vote and procedures to implement them, and there must be opportunity for judicial review of these issues as well. America needs uniform, voluntary national standards for our voting equipment, voting technology, and processes. America does not need the same ballot or the same voting machine in every precinct in the country.

State and local governments must continue to be in charge of our election process. Just as our Electoral College system reflects that individual states as sovereign bodies are important, so should any reform we adopt respect the individual conduct of elections within their borders. New technology is needed in many areas in the coun-

try, but please understand, what works for Los Angeles, California is not going to work for Leoti, Kansas.

This is not a plea to place new technology in every precinct in America. As former Senator Nancy Kassebaum Baker told me recently, Ron, the pencil on a string works very well in Burdick, Kansas. Don't you change it. I tend to listen when Senator Kassebaum Baker talks to me.

Funding for issues other than new technology is critical. However, the hard reality is, state and local governments need help funding the best systems to ensure safe, secure, and accurate elections.

All too often, county governments have had to face a difficult choice of replacing crumbling roads and bridges, or trying to squeeze another election out of an antiquated system. Also, with the recent Supreme Court decision regarding equal protection, we know we must provide better and more training for our voters, poll workers, and canvassers.

There are a number of instances given in the previous panel of voters being denied the right to vote. I propose to you that the law is already in place, for those voters should have been given a provisional ballot and been allowed to vote, and then the decision made later in the process as to whether or not that vote should have been counted. The laws are in place currently to handle that. We just need better education of our polling place workers.

As with all issues in which technology plays an important role, people still play a more important role, and that is why, with all the talk about voting equipment and imperfect ballot forms and hanging chads, the American public in general was more outraged by the effects of exit polling and the news media's premature prediction of winners, activities clearly controlled by human judgment.

Therefore, we must focus the objective of our reform. Let us recognize there is no access to the voting process if a citizen encounters confusing voting procedures, if the citizen is handed a poorly worded or formatted ballot, if they must use unproven equipment or technology, or because of any barrier, physical or otherwise, cannot negotiate the process, and finally, they cast a vote the intention of which must be divined by speculation or supposition.

The American voter will only be assured of the ability of our system and the value of our democracy when they know their vote cast at the polling place is accurately tabulated, or accurately reflected in the final tabulation. We must do everything we can to assure that our voter registration records are up to date, complete, and accurate.

With some counties in our country currently recording greater than 100 percent of their voting age population as registered voters, how can we have confidence in our records as they stand now? State and local governments need the ability to keep our voting lists clean. Congress must fully fund section 8(h) of the National Voter Registration Act of 1993, allowing first-class handling of official election mail at the third-class rate. This simple act will allow us to clean up badly outdated voter registration records.

As the incoming president of the National Association of Secretaries of state, let me be very clear. We know what problems exist

We know the issues, and we want to work with you to be a part of the solution.

I find it amazing that today, 36 years after the passage of the Voting Rights Act, we are still debating how to provide every American equal access to our most precious right. this time, it is up to you and me to get it right. We have the chance to provide equal protection for all voters. We have the chance to create uniform, voluntary standards for voting. We have the chance to improve the reliability of our voter registration records. But most importantly, we have the duty to restore America's confidence.

Thank you, Mr. Chairman and Members of the Committee.

[The prepared statement of Mr. Thornburgh follows:]

PREPARED STATEMENT OF HON. RON THORNBURGH, SECRETARY OF STATE, STATE OF KANSAS

Thank you Mr. Chairman and Members of the Committee for the opportunity to appear today. My name is Ron Thornburgh; I am the Kansas Secretary of State and President-elect of the National Association of Secretaries of State. It is an honor to appear before you and discuss the need for election reform in America.

Following last November's election the nation was quick to appoint dozens of select commissions, blue ribbon panels and task forces to change our American system of elections. In Kansas we invited our election reform commissioners to a meeting at the capitol. We had the benefit of congressmen and women, journalists, law school deans and professors—and the United States Supreme Court decision. And our conclusion was that the system works.

So today, before this body, I urge caution. Our system did provide for the orderly transfer of power contemplated by our Constitution. The November election may not have been pretty, and the results may not have come quickly, but quick fixes and convenience are not the measure of democracy.

Even though the system worked, America's confidence in our system has been shaken. More speeches, commissions, and blue ribbon panels will not restore confidence. Simply plugging in a few new machines around the country will not restore confidence.

We have to take this opportunity to fundamentally improve our electoral system. From the courthouse to the White House, now is the time to act. The three most critical areas in need of reform are equal protection, uniform voluntary standards, and voter registration.

Equal Protection

We must ensure that every American has absolute and unobstructed access to the voting process. From the time of registration through the final recount and contest of an election, we must provide equal treatment for all.

The Supreme Court has said we must adopt adequate statewide standards for determining what is a legal vote, and practicable procedures to implement them. The court also mandates an opportunity for orderly judicial review of any disputed matters that might arise during the process. You and I alone, no matter how laudable our motives, cannot sit in our offices and draft standards. There must be discussion, debate, and court review.

Uniform Voluntary Standards

America needs uniform voluntary national standards for our voting equipment, technologies, and processes. America does not need the same ballot or voting machine in every precinct.

State and local governments must continue to be in charge of the election process. Just as our Electoral College system reflects that individual states—as corporate bodies—are important, so should any reform we adopt respect the individual conduct of elections within their borders. In our federal system, states count.

New technology is necessary in many areas of the country, but understand:

- What works for Los Angeles, California certainly won't work for Leoti, Kansas. This is not a plea to place new technology in every polling place in America. As Senator Nancy Kassebaum Baker told me recently, "The pencil on a string works very well in Burdick, Kansas, Ron. Don't change it."

- Most technology in use today is exceedingly accurate and secure . . . as long as the voters follow the rules. When every voter clearly marks the box, completely darkens the oval, or even completely dislodges the chad, the vote counting systems in use today work very well. Our job, as election administrators, is to insist upon the development and use of vote-counting systems to determine true voter intent.
- Funding for issues other than new technology is critical. However, the hard reality is state and local governments need help funding the best systems to ensure safe, secure and accurate elections. All too often county government has had to face the difficult choice of replacing crumbling roads and bridges, or trying to squeeze another election out of an antiquated system. Also, with the recent Supreme Court decision regarding equal protection, we know we must provide better and more training for voters, poll workers, and canvassing boards to ensure logical, uniform and equal enforcement of election law.

As with all issues in which technology plays an important role, people still play a more important role.

Perhaps that is why, with all the talk about voting equipment, imperfect ballot forms and hanging chads, the American public in general was more outraged by the effects of exit polling and of news media's prematurely predicting winners—activities clearly controlled, by human judgment.

We must focus on the objective of our reform efforts. I say our objective must be to ensure that every American has absolute and unobstructed access to the voting process.

I suggest that the Supreme Court agrees with those who share this view. Let us recognize that there is no access to the voting process if a citizen:

- encounters confusing voting procedures;
- is handed a poorly worded or formatted ballot;
- must use unproven equipment or technology;
- is given bad predictions or apparent results before the election is over any place in our country;
- because of any barrier, physical or otherwise, cannot negotiate the procedure; and finally
- casts a vote, the intention of which must be divined by speculation or supposition.

While creating standards, I urge everyone involved to dismantle any barrier to the voting process, not just the ultimate barrier when the voter's intention is wrongly determined.

These issues can only be addressed with a long-term commitment to resolving our problems and rebuilding the public confidence in our system. Confidence cannot be won with a few studies and position papers. The American voter will only be assured of the ability of our system and the value of our democracy when they know their vote cast at the polling place is accurately reflected in the final tabulation.

Voter Registration

We must do everything we can to ensure our voter registration records are accurate, complete, and up-to-date. With some counties recording greater than 100 percent of their voting population as registered voters, how can we have confidence in our records? When an election official knows a potential voter does not live where our records show, yet we cannot adjust the records, how can we have confidence in our records?

Better maintenance of our voting records will do much to protect the integrity of our electoral process. Until we can guarantee every name on the list is accurate, we have work to do. State and local governments need the ability to keep our voting lists clean. Current law, in many cases, prevents such basic measures of protection.

Congress must fully fund section 8 (h) of the National Voter Registration Act of 1993 allowing first class handling of official election mail at the third class rate. This simple act, saving millions of dollars nationwide, will also provide the opportunity to cleanup badly outdated voter registration records.

In our next election, America must be assured we have done everything possible to address the problems of our last election cycle. Federal, state and local governments want to provide the best voting systems in the world.

As President-elect of the National Association of Secretaries of State, let me state, we know what problems exists, we know the issues, and we want to work with you to be a part of the solution.

I find it amazing today, thirty-six years after the passage of the Voting Rights Act, we are still debating how to provide every American equal access to our most precious right. This time it is up to you and me to get it right.

We have the chance to provide equal protection for all voters.

We have the chance to create uniform voluntary standards for voting.

We have the chance to improve the reliability of voter registration records.

We have the duty to restore America's confidence.

The CHAIRMAN. Thank you, Secretary Thornburgh.

Secretary Bradbury, is there anything that sets your vote-by-mail system apart from the absentee balloting systems used by other states?

Mr. BRADBURY. There is a dramatic difference. If you compare Oregon's vote-by-mail system with what we saw in the State of Washington last fall, you get a clear picture of the difference. There is an increasing use of absentee ballots, which are basically vote-by-mail, in the State of Washington and a number of other states, but they have a very different system for counting them than we use for vote-by-mail. You get a much quicker count of the votes in a vote-by-mail state than you get in a state that has half their votes coming at the polling place and half their votes being cast by absentee.

The CHAIRMAN. Secretary Cox, Secretary Thornburgh mentioned the need to improve voter registration records. What role does voter registration play in your plans to modernize the system?

Ms. COX. Well, fortunately, in Georgia I think we are ahead of the game. When Senator Cleland served as our Secretary of State and Georgia adopted the standards for the Federal Motor Voter Act, we were one of the first states to centralize our voter registration system and put together a state-wide computer system so that the Secretary of State's office now maintains all of our voter registration lists.

That has allowed us to weed out duplicates, to send information to the counties monthly to eliminate the names of deceased people and convicted felons, to prevent duplicate registrations when someone moves an address, so it is the heart of the election system, and I think it is imperative that all states have a good system so that they can prevent duplications, but fortunately for Georgia, we are there.

The CHAIRMAN. You mentioned in your opening statement that there was a greater undervote gap in counties that have employed opti-scan machines rather than punch cards. That sort of flies in the face of conventional wisdom. Do you have any explanations for your findings?

Ms. COX. It was a surprise to us, Mr. Chairman, when we began to look at these numbers. I think part of the problem has to do with the ease for a voter to make a mistake on an opti-scan system. A person with a Ph.D can pull their own pen out of their pocket and mark the ballot, and the opti-scan reader may not detect that type of ink or lead, and the vote does not get cast.

We saw and heard from a lot of counties where voters put a check mark or an X on that circle, so that if you looked at that ballot you could certainly tell the intent of the voter, but we do not have a manual count law, so if the machine does not read it, it is just out.

I suppose because punch cards have been used for a longer period of time in Georgia than opti-scans, that we do have voters who are more familiar with the punch card systems, and it does have its efficiencies, buy we obviously are seeing major problems with voter mistakes on the optical scan.

The CHAIRMAN. I think your statement emphasizes the complexities and the difficulties in addressing the problems of the undervotes. I think it is necessary that through working with the Secretaries of State, we conduct a very in-depth study of this problem, so that the fixes we implement are effective, and we do not act too rashly.

Did you calculate the undervote gap in counties using lever machines or paper ballots?

Ms. COX. We only have two counties that use paper ballots, so we really did not analyze those. We looked at it somewhat in lever machines, but we had data we were not sure was 100 percent reliable so we did not fully calculate that. We saw some lever machine counties that had an undervote rate of over 10 percent, some that were almost close to zero, and all I can speculate is that we had some faulty lever machines out there where wheels were simply not turning, and you have no audit trail to go back and be able to recount or reevaluate those ballots, so we did not see on the whole scale a wide variance between lever machines as well.

The CHAIRMAN. Secretary Thornburgh, what is the State of Kansas doing to address the voter registration problems you mentioned, such as those counties whose voter registration is greater than 100 percent of the population?

Mr. THORNBURGH. Well, let me clarify, Mr. Chairman. I am proud to say no counties in Kansas have a greater voter registration than 100 percent. There are, however, some in the Nation that are doing so.

We are trying to comply with the National Motor Voter Act of 1993 as best we can. One of the greatest difficulties that we have is counties being able to fund the mailing, the verification mailing that proves that a voter lives where they say they live, and many counties are cutting that as a means of cutting cost within county government, so if we were to provide federal funding, I think we would try to do very basically what Georgia has done and centralize the voter registration process, or the voter registration maintenance process so that we could do a lot of the cleanup through the national change of address program as well as others.

The CHAIRMAN. In your testimony, you stated that the American election system worked this past November. Do you stand by that statement?

Mr. THORNBURGH. Yes, sir. If I may fully explain——

The CHAIRMAN. Even in light of the disturbing studies that have surfaced detailing the disenfranchisement of millions of Americans, you still believe that to be true?

Mr. THORNBURGH. I would submit the process was flawed and that there were errors made both in judgment and in the way the technical process worked, and there were Americans disenfranchised. However, I would also submit that our Constitution was preserved, that the Electoral College system as designed by our founders did work, that the basic process that allowed for

the peaceful transition from one administration to the next was allowed to happen. That is what I mean by the basic system worked. However, the process has been flawed, and those are the issues we need to address.

The CHAIRMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman, and we are very pleased that Bill Bradbury is here, and I will have some questions for him about vote by mail in a moment.

It was reported over the weekend that perhaps 40 million Americans are going to file their tax returns online this year, and I, for one, am not ready to throw in the towel on this question of online voting. I would be interested in hearing from all of you, as Secretaries of State, what kind of experiments you would like us to try out so as to keep moving this ball down the field, recognizing that clearly it is going to take some more work to get there? Do any of you have some ideas on the kind of experiments you would like to see done in this area?

Mr. BRADBURY. Mr. Chair, Senator Wyden, it is good to see you. I share your enthusiasm for including in our election system online voting. I think it is important that we not move to solely online voting, because that would be very discriminatory to a lot of people who are not computer savvy. I think that there are issues that really are going to need to be dealt with first at a national level, or even an international level, in terms of hackers' access to election systems. If there is a way to create a system that cannot be severely hacked, I think we are moving in the right direction.

There are obviously things that we need to do before we have online voting, such as a centralized voter registration system. But there is a much larger question of how we track ballots, how we ensure that hackers cannot disrupt the election system in implementing online voting, so I would like to see some testing in that area.

Mr. THORNBURGH. If I may, Senator, I would like to add, one of the areas that we need to address very quickly in our country is the issue of military voting. One of the greatest trends that was most disturbing in the last election was the threat of denying our military men and women the opportunity to have their votes cast and counted, and so as we look for opportunities to provide online voting, I certainly think our military men and women serving overseas may be a great opportunity to do so.

However, I understand one of the greatest issues we have to address with online voting is that it is vastly different from a commercial transaction, and that a commercial transaction we are allowed to know both ends of the transaction, where with a vote, I have to know that it is you sitting at that PC casting a vote, and I have to know how you voted so I can tabulate that vote, but I cannot know how you voted, to protect the integrity and the privacy of your vote, and until we can resolve that catch 22, I think we have to move very cautiously in online voting.

Senator WYDEN. Let us do this. Unless Ms. Cox wants to add something, I would like the Secretaries of State to get this Committee your ideas for some experiments, some additional experiments on online voting. I just do not want to see us give up at this point. A country that has shown again and again we can lead ought

to be able, with this level of technological expertise, to develop secure online voting. Today, right now, there are millions of citizens who monitor their retirement benefits online. Let us not just give up. We need the expertise at the state level.

I have a question for you, Mr. Bradbury. I think Oregonians like you strongly support a vote by mail, but there are concerns, and you addressed several of them. Senator Smith and I were concerned about what happened in his home county, Umatilla, this year, where thousands of voters had difficulty deciphering the ballots. You made some very good suggestions about what to do about that, but we also know that this year Oregon was one of the last states to verify its ballot count. I had a lot of folks asking me why that was, and I think it would be helpful for the record for you to state why.

Mr. BRADBURY. I think the first thing you have to understand about the presidential election in Oregon is that it was exceptionally close. There was a margin of 6,000 votes between Al Gore and George Bush. Additionally, there are no exit polls in Oregon because people are not exiting from any place but the mail box, so there are no exit polls the networks could use. The fact is we had more votes counted in Oregon by Friday after the election than we had seen at that time in previous polling place elections. It was just so close that we did not know who had won, until we got certified results.

Senator WYDEN. Ms. Cox, I believe you and the Secretaries of State are now in support of a uniform poll closing statute.

Ms. COX. I do not know that we have actually—our resolution did not actually adopt an endorsement for that, but everyone is very interested in it, and thinks it is an idea definitely worth considering.

Senator WYDEN. I am in support of this and have a lot of history with this issue. Several times in the eighties and nineties, I was able to get the major presidential candidates, their campaigns, to not make any statement until after the polls closed; Nonetheless, what we found again and again is that exit polls undermine the value of these projects, and it seems to me with the explosion of new media, that even with a uniform poll closing law you are going to continue, particularly in the West, to have a lot of Americans know a great deal about the results of the election before the polls close. What would you do about that?

Ms. COX. Well, I think that is one of those issues that is going to have to be dealt with primarily by the media themselves. I can tell you from personal experience in discussing the idea of a uniform closing time with different groups in Georgia, I see across-the-board support for it, even if it meant closing at 9 p.m. in Georgia so that you would close a little earlier on the West Coast. I think that Georgians, the Georgians I have discussed it with, think that is a very worthwhile idea.

Senator WYDEN. Do either of you want to add to that?

Mr. THORNBURGH. I may add very briefly there has been discussion with the National Association of Secretaries of State, and we are greatly concerned about the decline in voter turn-out in the West because of early projections, and I think we have moved in the area of media projections from actually reporting results on the

East Coast to reporting projections and exit polling, and I think there is a vast difference between those, and if nothing else, we can negotiate with the media to at least talk about real results rather than projections.

There is a 20 to 25-year history of the National Association of Secretaries of State negotiating with the national broadcasting entities and it has been met with less success than we had hoped for.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Burns.

Senator BURNS. I just have one question. In Montana we have six counties that use punch, none that use a lever any more, 12 who use paper, and Mr. Thornburgh, don't laugh at Leoti, because I shift a lot of cattle to Tribune, and I am pretty familiar with that country out there—I think you are too. The Smiths out there are good friends—and the rest all use opti-scan, which is about 80 percent of the voting people in Montana use that, and we have little or no complaints.

I have one question. Given the experience in Florida, when a manual count was reordered and we observed on television these folks on hanging chads and ones that were pregnant and ones that were not pregnant, and all the different terms that they used, you said that your problem with the opti-scan, sometimes they were checked, Ms. Cox, and sometimes they put an X. Should a visual or manual recount be ordered? How would those X's and checks be counted?

Ms. COX. Well, I think that is the central problem raised by the United States Supreme Court's opinion, that Florida had no standard for what counted and what did not count. Georgia does not either, other than in Georgia you can only get a manual count by court order. You have got to prove there was some flaw, or some problem that should call for a manual count.

But truthfully it sets up a scenario where you do have votes that are voided, when clearly anyone looking at it could easily determine the voter's intent, and we have a matter of court law that says you are supposed to determine a voter's intent, but yet we cannot manually count them.

Senator BURNS. Should a court order be issued? Now, you are the Secretary of State. How would you count that ballot that had a check or an X?

Ms. COX. Well, I certainly think the human intellect is generally superior to the machine intellect, and if a person can easily look at that ballot and determine without any question how the voter intended to vote, then I believe that vote should count, but we have set up a mechanism, because of growing populations, that we have depended on machinery that we now understand has great deficiencies.

Senator BURNS. The reason I ask that question, I think that was the crux of the stories out of Florida. It was not given, whether anybody was denied access to the polling places or the procedure in which they used—even the ballot that they said confused people, the butterfly ballot, second-graders got through it all right, so I would imagine everybody else could.

I still think we still have some responsibility to the voter to be informed on how the ballot operates and what they want to do, but

I was interested in your testimony that in the optics, and they did not fill in the circle, they used that, how would you count them if a court order, they had to be manually counted? I think that is the crux of this hearing, and the crux of the problems we have in our voting system.

I thank you for that, and I appreciate it, and thank you, Mr. Chairman. That is the only question I have.

The CHAIRMAN. Thank you.

Senator Cleland.

Senator CLELAND. Thank you very much, Mr. Chairman. May I just say before I get started that I would like to enter into the record the statement of Senator Jean Carnahan, who had another committee meeting, with no objection.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Carnahan follows:]

PREPARED STATEMENT OF HON. JEAN CARNAHAN, U.S. SENATOR FROM MISSOURI

Thank you Senator McCain and Senator Hollings for convening these hearing on this most important subject.

Voting is a fundamental right of Americans, and one of the cornerstones of our nation's democracy.

In the 1964 decision *Reynolds v. Sims,* Chief Justice Earl Warren wrote, "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government."

It is as true today as it was then. Yet, as we learned in November, our democracy remains a work in progress.

We are all familiar with what happened in Florida:

- Outdated voting machines and confusing ballots;
- Too few poll workers with too little training.
- Voters who ruined their ballots and were denied replacements.
- Reports of voter intimidation and police checkpoints set up near voting precincts.

We saw what could go wrong in Florida. But the truth is, it could have happened anywhere.

So we should take this rare opportunity, when the public is focused on election issues, to strengthen our democracy. Our voting procedures and equipment need to be brought into the 21st century.

Our Secretary of State, Matt Blunt, has created a special commission to lead Missouri's election reform effort. But we need national leadership as well.

The Constitution calls for a decentralized system that puts states in charge of elections. But the federal government can do more to encourage and empower states to improve the voting process.

As we move forward, I ask that we look closely at critical issues, including:

- Implementing uniform statewide standards;
- Upgrading current election systems and technology;
- Increasing voter education;
- Improving voter access and procedures for disabled voters; and
- Protecting the voting rights of our nation's military personnel.

This is not a partisan issue. Many of the proposals from Republicans and Democrats are very similar. We can agree on the need for experts to study the problems and recommend solutions. We can agree on increased funding for state and local governments to modernize voting equipment. And I am optimistic that we can find even more common ground.

We need to approach this issue thoughtfully but expeditiously. A study should inform our actions, not delay our actions.

Our goal is not just to fix voting machines, but to restore faith in our democratic system. Because ultimately, our democracy depends on public confidence in our elections. If we want a healthy democracy—an example for all the world—we must act *together* in the spirit of bipartisanship to ensure that the mistakes of the past are not repeated.

I thank my colleagues, and I have a number of questions for the Secretaries of State who are here today.

Senator CLELAND. Mr. Chairman, I might say that a lot of my preconceived notions about technology solving our problems have just been exploded today. It crashed and burned. Not only is Thomas Edison's basic lever system of voting, invented in 1900, looking better and better, but the paper ballot is looking better and better. It may be that we are tackling the ultimate question here, is technology and the implementation of technology doing us a favor, or are we being rendered a disservice?

Additionally, if you look at that map which my staff has assembled, we have the most incredible crazy quilt pattern of voting technology, or the lack thereof, throughout America.

May I say that I have reviewed the McCain-Hollings American Voting Standards Technology Act, which directs the National Institute on Standards and Technology to develop voluntary standards for the voting process and provides grants for the states to rehabilitate voting equipment and strengthen voter education. There is no question about the need for this, and I am proud to be a cosponsor of this legislation, Mr. Chairman.

Today, I would like to introduce my own bill, the Make Every Vote Count Act, to help states and localities modernize voting systems, promote uniformity in voting systems within states, and require greater standardization in voting rights for our military personnel. I am on the Armed Services Committee, and certainly we ought to make sure that those who fight to defend the ballot ought to have total access to it.

My legislation creates a federal block grant for replacement of the punch card voting system. If you look at the map, some 34 percent of all the precincts in America use the punch card system. About 19 percent of precincts use the lever system, again, invented by Thomas Edison in 1900, and about 2 percent use the paper ballots. The real question is, how are we able to use technology today to help our voting system?

I was actually shocked by my dear friend Cathy Cox, who is the distinguished Secretary of State in Georgia, who stated that under certain circumstances with minority populations in Georgia, the opti-scan equipment is not a plus, but a minus. My understanding is, if you do not have a majority of minority citizens using that equipment, it actually tends to be a plus. There are certain counties like Wynett and Cobb that have a low undercount rate vis-a-vis larger counties like Fulton and Kalb that have the punch card system which has a higher undercount rate.

So, I am sensing that there is no real silver bullet here which is one reason I am introducing this legislation. We want to allow, as Mr. Hutchinson said from the House, flexibility at the state level, but states, I think our panelists have agreed, need some federal funds to get on with the business of squaring away our voting equipment.

I just want to say again that Ms. Cathy Cox has done a benchmark piece of work here not only for Georgia but for our Nation. Her study of the Georgia elections, a wake-up call for reform and change, highlights the most serious problems experienced last November. We have got to move on from a failed system where certain citizens, up to 10 to 15 percent in my own state, based on the voting equipment they were using, were actually being denied the right to have their vote count.

And, of course, I do believe personally it is time to provide a knock-out punch to the punch card system. I will say that Senator Schumer probably hit it on the head that the oldest democracy in the world does not need to constantly depend on the oldest voting equipment in the world to exercise that democratic right.

Ms. Cox, tell me now, where are we? I thought that the punch card ballot system, which was introduced in the sixties in my own home county—Mr. Bradbury, I have gone through that awful trauma of trying to vote absentee with a punch card which was backed up by some little piece of styrofoam, and included in the mail with some stylus. I just want you to know, I punched the dickens out of those holes to try to make sure my vote counted. And then, when I put it in the mail, I still was not sure. That is my home county, the second biggest county in Georgia where that system has been in place since the mid-sixties. When it was first introduced, it created havoc in a congressional election. There were 1,200 overvotes, and the congressional winner was thrown out of office and the other person won. You could clearly determine the intent of the voter, but as you ran the punch card through, it was easy to see that you could vote twice. You could, in effect, defeat the system, and that is what worries me about the punch card system.

And now, Ms. Cox, about the optical scan system that you can defeat. At least with the Thomas Edison voting equipment it was programmed correctly. You could only vote once for a candidate in a particular election. Yet, with the optical scan equipment and the punch card system, you can vote once, you can vote twice, you can vote wrong, or you can vote and have it not counted. So Ms. Cox, we are in a thicket here. Lead us out of it. Give us your recommendations.

Ms. COX. Well, we are somewhat in a thicket, but there is so much better equipment available today, various variations of electronic equipment that are almost electronic lever machines, will prevent you from ever overvoting, just like the lever machine, if properly set up, would not allow you to overvote.

Lots of the electronic equipment on the market today is almost as foolproof as you could probably make a voting machine. It minimizes, I think to the great extent possible, the opportunity for a voter to make an innocent mistake. It will not allow you to overvote, and it gives you some of the feedback that you have never been able to get from voting equipment before. After you vote the whole ballot, most of these systems will pull up a screen that says, these are all of your choices, are these correct, in case you made a mistake.

You have a chance, in the privacy of that voting booth, to correct those mistakes, rather than opti-scan, which at best you go put it into a counting machine and it kicks it back. Someone may have

to violate the privacy of your ballot to tell you that you made a mistake, and then you have got to go back and delay the process by going back to the voting booth.

That is why I like the electronic equipment, and our election reform bill in Georgia is actually going to be voted on by the Georgia Senate today, so I am hopeful things are going well back in Atlanta, but we are hoping to experiment with some of the electronic equipment in some city elections this November and the legislature has funded that pilot project for us already, and we are hoping to put together a bipartisan commission that will view all of the different types of equipment out there, hopefully with bills like yours and Senator McCain's and other pending bills that may give us some evaluation of all of this equipment on a national level.

This time next year, we hope to implement one of these types of electronic systems state-wide in Georgia over a 2 to 3-year period, so we have it in place in every county by the next presidential election.

Senator CLELAND. Thank you very much for your service. Thank you for your study and your insight. We will depend upon wonderful people like you and our panelists to lead us forward.

Speaking of the Georgia Senate in closing, I had the pleasure of serving there at one time. Jimmy Carter said that when he went to the State Senate in 1962 the first bill that he saw debated on the Senate floor was that you could not vote in Georgia if you had been dead longer than 3 years, so we have come a long way.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Smith.

STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. Thank you, Mr. Chairman, ladies and gentlemen. Thank you, Bill. It is particularly good to have you here. I apologize, I was called to another committee and a commitment I could not avoid, but I have read your testimony, and I appreciate that you would come here to provide it.

Senator Wyden, I think, asked my first question, which is really a concern. I voted last night in a local election in Oregon at home. We have these punch-out ballots, and I must tell you, when I saw Florida's difficulties I almost envied the simplicity of their butterfly ballots, which were roundly criticized but those are much easier than what we have in Umatilla County. I wonder if you have identified an approach for vote-by-mail that is more user-friendly?

Mr. BRADBURY. It is clear to me that the optical scan system is more user-friendly for vote-by-mail than the punch card, because the punch card, as you said, is really quite a challenge for Oregon voters. By voting at home rather than in a voting booth, the voter is trying to find hole number 61 to vote no on measure 62. It is very difficult, and I think it leads to voter confusion. We have statistics, actually, that run a little bit counter to Secretary of State Cox's, in that our statistics would show that 1 percent of the optical scan ballots are undercounts for President, and 2 percent of the punch card ballots are undercount for President. It just seems to go a little different way state by state.

Senator SMITH. As I look at this map, there are just a few states, or a few counties in Oregon that have punch-outs, and I guess what I am wondering is, was there any increase in the number of votes thrown out this time, and were they identified in particular counties? Do you have the ability to tell us that?

Mr. BRADBURY. I can tell you that the undervote for President was 1 percent in optical scan counties, and in the seven counties that use punch cards it was 2 percent, so it was twice as high.

Senator SMITH. That is probably just a function of the machine. I mean, every chad I punched last night I had to tear off afterwards, every one of them, and I can only imagine that a lot of the undervotes came from my county.

How many people total voted in the election?

Mr. BRADBURY. 1.6 million ballots.

Senator SMITH. And how many ballots were thrown out?

Mr. BRADBURY. I do not think I have that statistic. Not very many ballots are thrown out in Oregon, because every ballot is prescreened by a bipartisan election board that is, in fact, bipartisan. Our election boards have four members, two from each major party, not three members, like Florida. We have chad patrols in punch card counties that clear off the hanging chad before the ballots are put into the machine. I do not have the number you asked for, but I do not think it is very high.

Senator SMITH. Maybe you can provide it to me, but I believe I have heard a number of 29,000 ballots in the whole State of Oregon, and I would hate to think, in an election as close as that was, that I was one of those 29,000. I am wondering if you can give me an update on the central data system that you are seeking? Is the legislature going to be forthcoming with the money?

Mr. BRADBURY. I think that is the issue. It will cost $6 million for Oregon to have a centralized voter registration system. What that system would do is network the 36 county systems into a virtual state-wide file. Getting $6 million to do that is going to be a very tough thing to get out of a legislature where clearly that money is going to come from K through 12, or higher education, or health care.

Senator SMITH. If you need any help lobbying them, let me know, because I will be your ally on that, because I cannot think of anything more important to our state government than having confidence in the integrity of our electoral system. I think there are a lot of people who really want to feel more comfort than they currently do.

If you were to predict where we will go with vote by mail, will it be to opti-scan? If one of these bills passes, is that where we will go as a state?

Mr. BRADBURY. Well, I think it is going to be really important that the legislation not mandate where we go, and I think that technology needs to have an opportunity to improve. It is clear to me that there is bipartisan support in Oregon as well as there is apparently bipartisan support here in Congress to do away with punch cards. When that happens, I think we are very likely to move to an optical scan system as it is really the only other system that is currently available in commercial quantity.

Senator SMITH. It seems clear to me the bills that are before you would not pay for the data bank that Oregon desperately needs, but I think the state just needs to do that on its own, but on the other hand, converting to this other system, at what percentage, what share do you think would be fair between a federal and a state match? Is it 50–50, 75–25?

Mr. BRADBURY. As I said in my testimony, we can move faster with a higher federal match, more in the range of 75–25. We could clearly get things done more quickly so that the reform is completed before the next presidential election.

Senator SMITH. I am on a bill that is 75–25. I am delighted to hear that.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Boxer.

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Senator BOXER. Thank you very much, Mr. Chairman, and my colleagues. Mr. Chairman, I really do want to thank you and add my voice. You have started to look at this, and it is not a pretty picture. There is no clear answer. That is why it is a little painstaking, but I think we really need to look at this.

I have a few comments. First, I would ask unanimous consent that my statement be placed in the record.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, thank you for holding this hearing today to explore ways that we, as elected officials in Congress, can help make sure that every person's vote counts in this country. Last year's election opened all of our eyes to the fact that our election system, while designed to give each person the ability to cast a vote, often fails in part because of antiquated voting equipment and confusing ballots.

While no system will ever be perfect, we should make it a top priority that no voter be disenfranchised, as they were in Florida this past November. Looking at how new technologies can help in this effort is a great start. We certainly need to know how the different voting systems impact voter turnout and election results.

In fact, last November after the election, I asked GAO to study how various voting and balloting systems compare in terms of fraud, error rates and other voting irregularities. I also asked them to discuss the feasibility of voting on the Internet, and whether such a system would be more or less susceptible to these problems. GAO plans to complete this report by the summer.

Since we are talking today about the range of voting technologies currently available, I am pleased to report that in the 2000 election, Riverside County in my home state of California acted as a test bed for a new high-tech computerized touch-screen voting system. This system proved to be very user friendly and was able to tally its votes in record time, with a high degree of accuracy. I actually heard stories from some of my elderly constituents, that while they were nervous before using these new computer voting systems, they left the polls raving about how easy these new machines were to use.

Again, I am very pleased that we are looking at how new technology can help our election system, but we should also keep in mind that old voting machines and "butterfly" ballots are only part of the problem. We must also look closely at other factors that affect our election process such as how states educate people manning the polls and whether voters understand the registration process. Recruiting qualified poll workers, and making sure they are trained, is difficult for local authorities to do and yet a crucial component of whether any system works. Simplifying the registration process, as we did with the Motor- Voter Act in 1993, is also essential if we truly want our consitituents to exercise their right to vote.

Mr. Chairman, we are now truly living in the information age, and I hope that we do whatever we can to encourage the innovation and use of technology that

makes it easier to vote, reduces fraud, ensures the privacy of voters and, most of all, guarantees that all votes count.

Senator BOXER. On November 15, I wrote a letter to David Walker, Comptroller General of the U.S., and asked the GAO to do a report and an analysis of what happened Nation-wide. I have asked them to look at the various voting and balloting systems. We have a preliminary analysis of that here today, but not from the GAO. I think the private sector did this comparison of the results of those systems. Today, we are hearing, Mr. Chairman, contrasting views. Ms. Cox is saying the opti-scan is worse than the punch cards, Mr. Bradbury is saying punch cards are worse, and Mr. Thornburgh is saying, don't worry, be happy, essentially.

So, I want to see what really happened, an analysis of which system appears to operate more efficiently, and the feasibility of voting on the Internet, in which my friend Ron Wyden and I really agree upon. We should not just say no. We have got to look at Internet voting.

Mr. Chairman, you may not be aware of this, and frankly I was not until after the election, that in my home state, Riverside acted as a test bed for a new high tech, computerized touch-screen voting system in the last election.

The system, just the first analysis of it, proved to be very user-friendly and was able to tally its votes in record time with a high degree of accuracy. I actually heard stories from elderly constituents who were really very nervous about it who later raved about it. They were ready to surf the net when they walked out of the polling place. However, I worry about, being from California, power outages and things like that compromising the system, but these are problems we may be able to meet quickly.

Of course, the Chairman is very familiar with California, and I'm glad that he will be there on Monday to promote campaign finance reform.

Let me go through a few more points. I wish Senator Burns was here, because I think he really minimized the problems in Florida. I think if you listen to Jeb Bush and Carrie Meeks, you hear that these are serious problems that had to do with ballot design and people being stopped and not being able to vote; people being purged. As Ms. Cox points out, there was no standard for recount. I think Senator Burns made the point that these recounts do not work, and Ms. Cox debated him.

I think we should take a look at Washington State. There was a major recount in our Senate race there and nobody complained about it. I would say this, let us take the case of a presidential election and use our chairman as an example. Using an opti-scan system, a very enthusiastic McCain voter walks in and uses the pencil and fills in the dot next to John McCain. Then, not being terribly sophisticated, perhaps not educated they see write-in, and get really excited and write in John McCain. So they voted essentially twice for John McCain, the same person. This happened in the election to John McCain; it happened to George Bush; it happened to Al Gore. Those ballots get thrown out.

Now, it does not take a master's degree in poli-sci to know that that person wanted to vote, in this case, for John McCain. It is not as complicated as figuring out a chad. You could pretty well say

that is a vote for John McCain. I think to just say that manual recounts do not work is not the case. It seemed to work well in Washington.

I do believe in the wisdom of people. The makers of the machines, Mr. Chairman, said themselves that the machines certainly are not perfect, and that people are an important check. That was testimony in one of the court hearings.

So, I guess what I want to say is, to Ms. Cox perhaps, or any of the panelists here, what if we did not have write-in on that same piece of paper? I think it is confusing. What if we just said, this is the opti-scan ballot, and on the way out people are asked, would you like to vote for someone else who was not on the ballot? Then, you stopped and did that. It is a thought, but it seems to me thousands of ballots were thrown out as being overcast. Can you envision any type of fail-safe system where you could remove that, because it is very few people that do write in, and perhaps they could have another way to do that.

Ms. Cox, could you comment on that idea?

Ms. COX. Senator Boxer, I believe there is some kind of opti-scan system where the write-in line is not under each race. It is perhaps at the end of the entire ballot, a section to write in. It is a little more difficult for the voter to connect that back up with a Senate race, or a state legislative race, but it does probably minimize the chance for that gung-ho voter to write in the same name, and we had numerous votes where we heard about that were exactly what you described happened.

Senator BOXER. So, you think it would be an immediate improvement just have it boxed off and print do not write in here unless you did not vote for one? I am concerned. Any other comments?

Mr. BRADBURY. Well, Senator Boxer, in Oregon, the provision we have is that a bipartisan election board with four members, two Democrats and two Republicans, look at the ballot to determine voter intent before it is counted. If it is rejected by the machine that ballot is looked at again, and it is usually very easy to determine the voter's intent. Like the case you just outlined, where they punched John McCain and wrote in John McCain, that that person wanted to vote for John McCain.

Senator BOXER. In Ms. Cox's case, she has to get a court order, as I understand it, to deal with that. I see my time is up. Can I conclude with this: I just wanted to say—I did not mean to cut you off, Mr. Thornburgh, on that question, but my time is up.

I just wanted to comment on your statement, and I wrote it down, that there was a peaceful transition of power and nothing is really that broken. You said it was a successful election. I would just like to say, the fact that there was a peaceful transition of power is a credit to our people, and our people are amazing. However, I would have to report to you that there was deep discontent among many people after that election, much more aimed at the system in terms of the outdated modes than the early projections, which people were annoyed about. In the end, what counts is who voted, and the fact that all of those millions of votes were not counted. I do not mean to in any way misinterpret your comments, because you did say we have work to do. However, I just want to leave you just with this Senator saying that I am not as compla-

cent about the way this thing ended, and I think that we must act. It is going to be hard, but with the leadership of our Chairman and others, I think we will be able to do something.

Thank you very much.

The CHAIRMAN. Thank you very much. Senator Allen.

STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA

Senator ALLEN. Thank you, Mr. Chairman, first and foremost for holding this very timely and appropriate hearing, and there are few issues, as far as our democratic republic, as important—nothing is more important than the right of citizens, legally qualified citizens in our republic to vote under an electoral system that is as fair and as accurate as possible.

Any system, we want to make it as fair and accurate as possible and, as I was listening to all the different ways that people were fiddling around with whether it is punch card ballots or the lever action ballots or paper ballots, any system is only as verifiable and credible as the people who are administering it, and it is important to have people from both sides, from all parties involved in the matter.

My first election where I won, I won by 25 votes and was subject to a recount and had all sorts of these different types of machines and ways being utilized, from paper ballots, where the great worry was with paper ballots they would just throw out the ones that are hand-counted, and they have always more ballots than there are voters, and then they just could stick those in. No one cheated, nothing was wrong with it, but that had happened. On voting machines with the levers, there are places in Virginia where people went to jail where there were more people voting on machines than there were registered voters. That is how they caught them. They just got over-zealous in it.

Now, for any citizen to believe, or wonder, as Senator Smith was wondering, whether his or her vote would not be counted, I think the sanctity of the ballot box and the system would work. If there is any question on that, I think it undermines the foundation upon which our government rests and stands, and I think any such ineptitude that we have seen and worry about, any ineptitude in properly administrating free elections I think can undermine the respect for and the legitimacy of the government of the people.

Now, I would like to use this time to raise the issue of uncounted military ballots. The absentee ballots from those who are serving, and the recent controversy in Florida, has brought to light a problem that has apparently existed for a long time.

This is not something new that arose in this election, and it is little wonder that retired General Norman Schwartzkopf spoke out. He called it, quote, a very sad day for our country when servicemen and women find that, quote because of some technicality out of their control, they are denied the right to vote for the President of the United States, who will be their commander-in-chief.

Now, in my view it is not only sad, it is outrageous, and I think it is wrong, and I would hope, Mr. Chairman, that this Committee could hold a hearing that will look into combining some modern communications technology such as the Internet and the military's

encryption system to provide for electronic voting systems for military personnel, and I think that has been stated by both——

Senator WYDEN. Would the Senator yield without losing time? I just want to commend you for an idea that I want to work with you on.

Senator ALLEN. Senator Allard from Colorado has a measure, and I think Senator Hutchison has signed on to it as well, and I would like to turn to our Secretaries of State on this issue of absentee military ballots.

You observed, as I am sure we all did, the issues in Florida as far as ballots being counted or not counted for technical reasons, because of—such as a lack of a postmark. How would the absentee military ballots have been treated differently in your state, and we could start with Ms. Cox from Georgia.

Ms. COX. Thank you, Senator Allen. My understanding of the history, and I would stand to be corrected, is that back in the early 1990's the federal government made an effort to make sure that everyone in the military had about a 40-day window, 40 to 50-day window to obtain absentee ballots.

The states were given an option as to whether that 40 to 45 days was fully in advance of Election Day, or whether some states like Florida would extend the time for receipt of those ballots 10 days beyond the Election Day, which is why the postmark became a critical issue in Florida. It is not a critical issue in Georgia, because our absentee ballots are available 45 days in advance, and they must be received by Election Day, so the post mark is really not an issue here.

But for those states that opted—because Florida has a September primary, they would not have time to get absentee ballots ready early enough, they opted to use the 10-day-or-so window after the Election Day, so those ballots could still come in and be counted. Were the margin not so close, it really would never have come to light in Florida, but that military issue may be another issue that would be more appropriately addressed on the federal level than by individual states doing everything we can to maximize the opportunity of our military personnel to vote.

Senator ALLEN. So in your situation in Georgia, in the event that somebody mails it off 3 weeks before the election, if it does not arrive by 7 o'clock, I assume, on Tuesday, election night, it is not counted?

Ms. COX. That is right.

Senator ALLEN. Secretary Thornburgh.

Mr. THORNBURGH. Thank you, Senator Allen. I would suggest there are a couple of things we could look at. Kansas and Georgia, in that we require by law that all federal service ballots for military personnel and for American citizens living overseas must be sent 45 days prior to the election, all ballots have to be received by the close of polls on Election Day, and so the issue of the postmark does not come into play in the State of Kansas, either.

However, there are still cases where I believe we need to make improvements, and that is, there are segments within the military community—for instance, submariners often take tours of more than 45 days. At that time, they simply do not have the capability of receiving the ballot. Special forces, access to a fax machine is

rather limited in many instances in that case. I think we do have to develop the technology to allow electronic voting at a minimum within those segments of our military community, and within the entire military with overseas voting.

Senator ALLEN. Mr. Bradbury.

Mr. BRADBURY. Oregon is very similar to the other states, in that we mail ballots to military personnel at least 45 days ahead of time, and they have to be in our hands by 8 p.m. Tuesday evening on Election Day.

The other thing we do is, we put our entire voters' pamphlet online. Our voters really need a voters' pamphlet to understand some of the ballot measures. The online voters' pamphlet is available to overseas' personnel as well, and it is available when they get their ballot.

Senator ALLEN. Thank you all, and thank you, Mr. Thornburgh, for your support of using new technologies. Thank you all.

The CHAIRMAN. Senator Allen, I think we should vigorously pursue this proposal. I noticed a NSF report out today, which states that it is not secure to vote over the Internet. I am of the view that technology should solve most of the objections raised in this report.

Senator Ensign.

STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Senator ENSIGN. Thank you, Mr. Chairman. I want to get your comments. I have been in a few close races in the last few years, including 1998, where my Senate race that I lost narrowly was a little over 400 votes, and if Nevada would have been the subject of scrutiny by the rest of the country, we would have been the embarrassment instead of Florida this year.

We had literally all of the different types of voting machines. We had the optical scan units where we had the problem in Washoe County. I thought it was very interesting, here we have a map that has been prepared, and the map is not even accurate, because Clark County, where Las Vegas is, has the electronic ballots, and it is on this map, I think, as data votes, so the things that we talked about, or that we found out, and the lessons we learned I think can go a long way towards solving the problems in the rest of the country as well.

One of the reasons that you hear about races like Senator Boxer talked about in Washington State, where there was a recount in the Senate race. Well, you did not really hear anything about that, there were not problems, sometimes that is not because there are not problems. Sometimes that is because the politics of it, you cannot say there are problems. That was certainly the case in my senate race. You just have to say, well, there were problems, but we have to go on and live another day, otherwise you would kill yourself politically.

Well, in Washoe County what happened was that we had such severe problems there we ended up going through manual recounts, and the ballots were printed improperly, were slightly off, and so some would not go through the machines. Clark County, which is where Las Vegas is, has the Sequoia Pacific machines. Now, the problem with these Sequoia Pacific machines, they work beau-

tifully, except when you go to do a recount, because you have no idea whether the machines malfunctioned, because there is no paper trail.

It seems to me whatever we do, Mr. Chairman, as far as recommendations, that if you go to electronic machines, which I think really are the answer, it is the technology that you have to have some kind of a paper backup, not that the voter gets, because I know there are problems. You do not want people taking how they voted outside and then have somebody intimidate them, how did you vote, and then, prove it to me, but where it prints out in front of the voter and then it drops down into a box.

And then if you are in a close race, you recount 1 percent, and if it looks like the machines have—randomly you do 1 percent, and if the machines worked well, then you know they worked, and then you just let the machines recount, instead of doing a hand recount.

That was, I think, the great lesson we learned, although we have not changed to this paper backup, and I hope we do that in our state. I know it is very expensive, especially for a lot of small counties, but I would like your comments on if you think that is the direction we need to go.

Ms. COX. Senator Ensign, in Clark County you have an undervote rate of 0.6 percent, 6/10ths of 1 percent, and you compare that to some counties in Georgia that had 15 percent undervote, that is why I really like this electronic technology. Some of the earlier versions did not have that independent audit trail. Most of the newer versions do, and in fact the legislation we are introducing in Georgia would require that any of the electronic systems have that independent verification system.

Senator ENSIGN. Good.

Mr. THORNBURGH. Senator, I would agree there are certainly cases in this country where technology is the answer to the problems that lay before us. I would also recommend again that we do not forget about some of those issues as basic poll worker training and basic canvassing board training, creating uniform standards for recounts, creating uniform standards for canvassing. Those types of elements are going to be just as important as the technology is going to be as well.

Mr. BRADBURY. Senator, just to remind you, we do not use polling places any more in Oregon. We vote by mail, so if you set up an electronic system in a polling place, that does not address the issue for us.

Senator ENSIGN. I realize Oregon is a completely different animal in a lot of ways, but certainly in the voting.

Mr. Chairman, I would also like to express—one of the other things we have found in Nevada that works very successfully, although I think they do it too early, is we have something called early voting. Early voting was started three election cycles ago, and they do it 2 weeks ahead of time, and they set it up in the shopping malls, at DMV, at various places around the state, and the citizens love it. They love it so much, almost half of the vote now is done early, and that is so convenient. I voted early this year. 2 weeks is maybe too early because a lot of things can happen in those last 2 weeks in an election. It is probably too early, but a week in advance is probably a pretty good idea.

As far as the absentee ballots between electronic balloting and everything, our polls close at 7 o'clock. By 7:30 we know almost every race in our state, and even the presidential race, which was only a 2-percentage point difference in Nevada this year, we knew that by 8:30, so there are some things that are working out there. Our system is certainly not perfect by any stretch of the imagination in Nevada, but we learned some lessons in 1998 that I think have helped us, but I think every state has a long way to go in reforming the election process.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Ensign.

Before dismissing the panel, I want to thank you for your efforts to identify the problems with the low voter turnout amongst young Americans. I hope you will continue your efforts to identify ways in which we can motivate them to be involved in the political process. Even though there was fairly good turnout this time, there was still very low voter turnout among younger Americans. We look forward to working with you in the future. I thank the panel.

Our next panel will consist of Mr. John Bollinger, deputy executive director, Paralyzed Veterans of America, Mr. Wade Henderson, executive director, Leadership Conference on Civil Rights, Ms. Mary Jane O'Gara, board member of the AARP, and Mr. Raul Yzaguirre, president, National Council of La Raza. Please come up to the table.

Mr. Bollinger, will you please begin?

STATEMENT OF JOHN C. BOLLINGER, DEPUTY EXECUTIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. BOLLINGER. Thank you, Mr. Chairman. Good morning. Thank you very much for asking the Paralyzed Veterans of America to testify at what we believe to be an extremely important hearing.

Virtually all of our members use wheelchairs, so over the years we have become acutely and sometimes painfully aware of some of the accessibility issues involved in voting, and I will focus my comments this morning on accessibility for people with disabilities as it pertains to voting.

The community of people with disabilities is both large in number and broad in scope. In terms of the various kinds of disabilities, obviously, beyond mobility impairments there are cognitive impairments, speech, hearing, dexterity, vision, and there are subcategories of all those, so whatever election reform is considered, first and foremost it has got to be inclusive, I believe, of all of those disabilities.

PVA has worked very closely with your staff in regards to S. 511 in the 106th Congress. While the introduction of that bill led to efforts to voluntarily improve access to voting for people with disabilities, we believe it is time for even stronger efforts. Being able to vote, it has been said a number of times this morning, is one of the most basic and important rights we have as citizens, and to think that anyone would be unable to vote simply because the voting booth or the place of polling is not accessible is something that I believe should have zero tolerance.

In trying to exercise the right to vote, people with disabilities face structural, technological, and attitudinal barriers. The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires polling places and registration facilities to be physically accessible to all people with disabilities. Between 1986 and 1992, the Federal Election Commission collected data on accessibility through self-reporting by local jurisdictions. Physical barriers include lack of accessible parking, unramped stairs, raised thresholds, and lack of directional signage.

At an oversight hearing in 1994, the FEC reported that for the 1992 general election 14 percent, or close to 20,000 polling places, were physically inaccessible to people with disabilities. Physical accessibility continued to be a problem in the 1998 elections. In a project involving close to 400 people in 40 states who offered firsthand accounts of their experiences, we discovered that 11 percent reported locations with no accessible path of travel, 42 percent reported no accessible voting booths, and inability to use standard booths.

This report also indicated a tremendous problem for voters who are blind or visually impaired. 81 percent had to rely on others to mark the ballot for them.

Just last year, in February of 2000, the federal court in New York found that two counties every polling place except one was physically inaccessible. In March of 2000, the Philadelphia City Paper reported that over 1,200 of their 1,681 polling places in Philadelphia were physically inaccessible to voters with disabilities.

Voters who are blind or visually impaired may gain access to the facility only to be denied the ability to vote privately and independently, and I can speak personally in my case. I can have access to our voting facility, but I do not have independence. I do not have privacy when I cast my vote.

We believe that comprehensive voting system standards that include accessibility of design for people with disabilities are definitely needed. So many years after the Voting Rights Act, the Voting Accessibility Act, and the ADA, the purchase and use of new equipment that is not accessible to all is simply unacceptable.

Many proposals to reform the electoral process are currently before this Congress, and we hope that reform will certainly be enacted, and we hope it will be done in time for the 2002 elections, and whether this reform is comprised of grants to purchase new voting technology, or the development of voting systems, it must address full access to voters with disabilities.

We request that any reform legislation include development of accessibility guidelines. S. 511 proposed that the access board develop minimum guidelines, and we strongly encourage that this Committee include such a provision.

In closing, I ask that as you consider all of this, Congress take into account all people with disabilities who have the right to vote. Do not allow this opportunity to pass without addressing the needs of so many American citizens who deserve to be heard, and I would offer not only in the case of PVA, but I know many disability organizations across the country will be more than happy to assist in a number of ways as we go down this road, so thank you for your efforts. We look forward to working with you.

[The prepared statement of Mr. Bollinger follows:]

PREPARED STATEMENT OF JOHN C. BOLLINGER, DEPUTY EXECUTIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Chairman, Senator Hollings, Members of the Committee on Commerce, Science and Transportation, it is an honor and privilege for me to appear here today on behalf of the Paralyzed Veterans of America (PVA). I am John C. Bollinger, Deputy Executive Director of PVA. PVA is a Congressionally chartered Veterans Service Organization with over 20,000 members. Our members are honorably discharged veterans of the United States Armed Services who have incurred spinal cord injury or disease resulting in paralysis. Virtually all of our members use wheelchairs for mobility and all are individuals with disabilities as defined by the Americans with Disabilities Act (ADA).

Today's hearing is timely, as complications in the 2000 elections led to this Congressional call for election reform. Many citizens, including voters with disabilities, felt that because of outdated voting machines and ballot confusion, their votes were not counted. This Committee must ensure that all voters, including those with disabilities, have access to an effective voting process.

PVA has a long history of advocating for the right to vote. Our members know first hand, as do all veterans who served our country, the sacrifices that must be made to safe guard our democracy. We ask now that members of this Committee ensure that PVA members and others with disabilities are able to vote with the same privacy, dignity and independence as all other Americans.

PVA last testified in 1994 before the then House Subcommittee on Elections on the final oversight hearing of the Voting Accessibility Act of 1984 (VAA). This Act's intent was to improve access to voting for people with physical disabilities by removing architectural barriers at polling places and voter registration facilities. But ten years later, the Federal Election Commission (FEC) testified at that hearing, "14 percent of the precincts, close to 20,000 polling places, were physically inaccessible to voters with disabilities." This statistic represents serious disenfranchisement of thousands of voters with physical disabilities. The primary barriers noted were lack of accessible parking, inadequate directional signage, unramped stairs, and high thresholds—all barriers that are not difficult or expensive to remove. In PVA's testimony, we recommended that the FEC continue to monitor the progress of compliance with VAA and, with technical assistance from the Access Board, develop standards for access.

Mr. Chairman, during the 106th Congress, you introduced legislation to eliminate barriers that people with disabilities face in the electoral process. The bill, S. 511, would have expanded the coverage of the Elderly and Handicapped Voting Accessibility Act of 1984 so that all people with disabilities were protected from discrimination. It states that all polling places are to be physically accessible, and that all polling methods permit individuals who are blind or visually impaired to vote independently. S. 511 directed the Access Board to develop minimum guidelines for states to determine accessible standards in polling places and methods. Enforcement provisions of the Act designated State Chief Election Officers as the party responsible for ensuring compliance with the Act. PVA worked closely with your staff to sculpt this legislation and we stand ready to work with you on introduction of similar legislation in the 107th Congress.

The introduction of S. 511 seemed to be a "wake up call" to the election community about their responsibilities to provide access to voters with disabilities. As a result the "National Task Force on Elections Accessibility" was formed. Lee Page, Associate Advocacy Director for PVA, and Gary Bartlett, Chief Election Officer for the State Board of Elections of North Carolina, co-chaired the task force for the last two years. The task force, through collaboration of election officials and disability advocates, produced tools to better educate election officials on the requirements of the Voting Accessibility Act and the Americans with Disabilities Act (ADA.)

The Task Force published the guidebook "Voting: A Constitutional Right for All Citizens" to assist election officials to achieve equal access for all citizens. This report is based on a document originally published in 1986 by the National Organization on Disability. The guidebook lists the goals and principles of the National Task Force, which were jointly agreed upon by election officials and disability advocates. The primary principle states that voters with and without disabilities are equally entitled to the right to full participation in elections and to the privilege of casting their votes privately and independently. Further, no polling place in the United States should be physically inaccessible to voters with disabilities. The task force also produced a "best practices" checklist to identify barriers at the polling place and

an instructional video CD-Rom that identifies attitudinal barriers that discourage people with disabilities from voting.

Despite these voluntary efforts, barriers continue to prevent qualified people with disabilities from voting. In the 1996 election, 11.6 million Americans with disabilities (of 35 million registered) did vote. In that election, 50 percent of the general population voted, while only 30 percent of registered voters with disabilities actually voted. While some reasons for the low turnout are beyond the control of voting officials, e.g., a dependence on public transportation and voter apathy, structural, technological and attitudinal barriers likely contribute to the 20 percent deficiency in voting by people with disabilities.

In 1999, PVA helped coordinate the Report of the National Voter Independence Project as a member of the Coalition for Accessible Political Elections. This report provides anecdotal reports from 377 voters with disabilities in 40 states of barriers they encountered in the November 1998 elections. The survey focused primarily on aspects of accessibility, the overall experience in voting, and whether respondents had any difficulty in registering to vote. Eleven percent reported locations with no accessible path to the facility. Forty-two percent reported no accessible voting booths and inability to use standard booths. This report also indicates a tremendous problem for voters who are blind or visually impaired—81 percent had to rely on others to mark their ballot for them. The report concludes that, to achieve equal access, all polling places need to be physically accessible to *all* people with disabilities, and voters who are blind or visually impaired must be able to vote independently and confidentially. Mr. Chairman, I request that this report and other related documents be included in the record.

Only a year ago, in February 2000, a federal court in New York State found that in two counties every polling place except one was physically inaccessible. In March 2000, the Philadelphia City Paper reported that 1231 (73 percent) of the 1681 polling places in Philadelphia were physically inaccessible to voters with disabilities.

Information from the 2000 Presidential election relating to access is only anecdotal at this point. But just a few examples demonstrate barriers that existed only a few months ago. A citizen in Mansfield, Ohio reports, "There is no accessible path at my polling place. . . . I have had to vote outside because I am a paraplegic and could not get in the door. But this was only after 'making a fuss' to the point where law enforcement was called because poll workers would not bring a ballot out to me in the snow (just outside the door) so I could vote . . . Voting in Ohio has been a horrible experience for me ever since I moved here." From Oakland, California, "The polling place is up a driveway with uneven pavement and grass and bumps. The actual place is in a garage, and there were no booths at the right height for a person in a wheelchair or scooter. So I had to ask my personal care attendant to go into the inaccessible booth for me, and I had to tell her my choices from outside the booth. I was not happy about it because it did not give me my privacy or independence." In Allentown, Pennsylvania, "It is degrading and humiliating to have one of the officials go in the booth with you and then speak real loud so everyone in the room and waiting line can hear her announce each candidate. Even though I whisper my answers I feel very 'exposed.' I have asked for consideration in this to no avail. The official in charge . . . now remembers my name, and says real loud, 'You are legally blind, right?' There is no attempt at privacy or dignity at all . . . Yet, I refuse to be bullied into accepting an absentee ballot and not be able to vote with the mainstream." In Orange Park, Florida, "The last time I went to my polling place, I had to go to a store room to fill out my ballot. I have a sight impairment and my care giver had to read the ballot to me. . . . I requested a ballot for vision impaired and was told there weren't any. . . . I tried to speak to the poll manager, but he was too busy to speak with me. I spoke with the Supervisor of Elections and was told that larger type ballots had never been asked for, so they don't provide them . . . I now use an absentee ballot, which is still not in print large enough for me to read without aid." Report of the National Voter Independence Project (2000 Draft). If the general public had to tolerate this type of treatment, no doubt the turnout would be as low, if not lower, than the 30 percent of voters with disabilities who go to the polls.

A 1998 NOD/Lou Harris survey of Americans with disabilities reports that 75 percent of people with disabilities have never been asked to register to vote by a service provider as required by the NVRA (Motor Voter Law). All too often people with disabilities are told that they should vote by absentee ballot or at the curb. Absentee ballots are not an adequate substitute for actually going to the polls, particularly when the voter is in the jurisdiction on election day. Further, this most recent election brought to light deficiencies in counting absentee ballots, again raising the possibility that the votes of people with disabilities who are encouraged to use this method do not count.

The structural and technological barriers discussed above are hardly insurmountable. Ramps, accessible booths (with privacy screens), easily maneuverable controls, and appropriate signage enable many voters with mobility impairments to vote independently. For people with vision impairments, easy solutions as simple as large print ballots and magnifying lenses will solve many problems. More advanced technology, even touch screen equipment, is now accessible to people with vision impairments. Legislation cannot overcome the attitudinal barriers, but many disability organizations would willingly train polling place staff and volunteers to avoid this type of treatment.

Information on improving access is readily available. In 1996, PVA and Paradigm Design Group produced the report, "Ensuring the Accessibility of the Election Process". This report, distributed by the FEC, provided information and guidance to election officials on access to the election process for people with disabilities. The publication explains relevant federal laws and provides applicable architectural guidelines. It demonstrates how to ensure polling place access, from accessible parking along an accessible path of travel to an accessible voting booth. National organizations that are able to provide assistance are identified.

PVA believes that comprehensive voting systems standards that include accessibility design guidelines for people with disabilities, are needed. So many years after the Voting Rights Act, the Voting Accessibility Act, and the ADA, the purchase and use of new equipment that is not accessible to all is unacceptable.

In 1999, then Governor George W. Bush signed such a bill into law in Texas. The Texas Election Code requires all voting systems purchased after September 1,1999, to comply with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and to "provide a practical and effective means for voters with physical disabilities to cast a secret ballot." Requirements for accessibility and authorized methods for a secret vote are specified.

Many proposals to reform the electoral process are currently before this Congress. Reform will most certainly be enacted, and in sufficient time to affect the 2002 elections. Whether this reform is comprised of grants to purchase new voting technology, or the development of voting system standards, it must address full access for voters with disabilities. We request that any reform legislation include the development of accessibility guidelines. S. 511 proposed that the Access Board develop minimum guidelines; PVA encourages this Committee to include such a provision. These guidelines must provide for private and independent voting by voters with disabilities. We also urge that a single state election official be designated for compliance with the legislation.

We ask that in your considerations, this Congress take into account not only paralyzed veterans, but all people with disabilities who have the right to vote. Do not allow this opportunity to pass without addressing the needs of so many American citizens who deserve to be heard.

The CHAIRMAN. Mr. Henderson, thank you.

STATEMENT OF WADE HENDERSON, EXECUTIVE DIRECTOR, LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. HENDERSON. Thank you, Mr. Chairman. I am Wade Henderson, the executive director of the Leadership Conference on Civil rights. The Leadership Conference on Civil Rights is the Nation's oldest and most diverse coalition of civil and human rights organizations. I am pleased to appear before you today on behalf of the conference to discuss the need to ensure that all Americans have equal access to the right to cast their ballots and to have their votes, once cast, accurately counted, and I would like to request, Mr. Chairman, that my entire statement be made a part of the record.

The CHAIRMAN. Without objection.

Mr. HENDERSON. Thank you. More than 35 years have passed since the enactment of the Voting Rights Act of 1965. In that time, our Nation has made significant progress in making the act's promise of one person, one vote a reality for all Americans. The serious and extensive irregularities reported in November, however, make

clear that we still have a long way to go as a Nation, and while yesterday's poll taxes and literacy tests are long gone, they have been replaced by punch card machines and inaccurate voting list purges as barriers to minority enfranchisement.

The need for today's discussion should be apparent to all. The right to vote is among the most fundamental of all freedoms guaranteed the American people. Without it, we are not a republic, not a democracy. For this reason, reports of voting irregularities in Florida have captured widespread attention. Barriers to minority voting participation, however, are by no means limited to Florida. Because of the need to ensure the integrity of our democratic processes is national in scope, federal attention and action are both appropriate and necessary.

Now, in my testimony today, I will first review briefly some of the problems that make clear the pressing need for action. I will then identify some fundamental principles that must be included in any effective reform proposal. Now, across America, voters, especially minority voters, were effectively denied the franchise in a variety of ways. Minority voters often faced a significantly greater risk that their votes would not be counted accurately.

In Cook County, Illinois, for example, an analysis by the Washington Post concluded that only 4.9 percent of ballots were invalidated in precincts with minority populations of less than 30 percent, while the invalidation rate nearly doubled to more than 9 percent in precincts with a minority population of 90 percent or more.

In Florida, as we heard today, punch card balloting systems used in counties with substantial African American populations, such as Miami-Dade and 24 other counties, are alleged to have a substantially higher error rate than other systems. Nearly 4 percent of ballots in Florida counties using punch card systems were recorded as having no vote, while the no-vote rate under the optical scan systems used elsewhere in Florida was only 1.43 percent.

Second, Asian American, Haitian American, Latino American, and other language-minority voters were denied language assistance to which they are entitled. In many jurisdictions covered by the Voting Rights Act, language minorities are entitled, upon request, to bilingual materials and other assistance of bilingual poll workers.

In New York City, however, Chinese-speaking voters reported that ballots at several polling sites inaccurately translated candidates' party identifications, and others reported that absentee ballots contained mistakes in the Chinese language instructions. Those problems were replicated in many parts of the country.

Eligible voters were wrongly purged from the polls. For example, Florida ordered the purging of ex-felons and other ineligible voters from official lists of eligible voters prior to the November election. During this process, however, many qualified voters were wrongly identified as ineligible to vote and, for example, a number of African American and Latino voters reported that they were told by poll workers that they had been dropped from the polls because they were ex-felons, even though they had never been arrested, much less convicted of any crime.

Fourth, eligible voters were wrongly denied the opportunity to vote because voter registrations and change of address information

were not processed in a timely and accurate manner. That has been discussed extensively. Eligible voters, moreover, were barred from voting because complete and accurate lists of eligible voters were not available at each polling place. The Kansas City Star reported that in St. Louis, for example, voters whose registration was not on record at their polling places had to travel to the election board's downtown office, where several hundred people waited up to 3 hours just to confirm their registration.

Voters who realized that they had inaccurately marked their ballots before casting them were wrongly denied the opportunity to correct them. That has been substantially documented in a number of jurisdictions. Many voting systems are inaccessible to persons with disabilities, as my friend John Bollinger has said, and do not allow many voters with disabilities to cast a secret ballot.

Now, according to the Federal Election Commission, there are at least 20,000 polling places across the country that are physically inaccessible to voters with disabilities and, moreover, the punch card machines, as has again been noted, are particularly difficult for persons with vision impairment or arm or hand mobility impairments.

Now, unfortunately, time permits only a partial listing of these reported irregularities, but even this incomplete discussion demonstrates the extent and severity of the problem, and the need for reform. Such barriers to voting inflict double pain. First, they effectively disenfranchise a significant number of eligible voters and, second, they fuel the perception that minority voters, and that persons with disabilities, are not really welcome to participate fully in our Nation's democratic institutions. A system riddled with such irregularities fosters cynicism about our Nation's commitment to its professed ideal that every vote counts.

Now, in terms of meaningful reform, we think it is important that a number of steps be taken and, because the need to ensure the integrity of our democratic process is of national significance, these reports make clear of the need for congressional action.

Now, we are very mindful of concerns about overreaching in terms of the ability of the federal government to dictate to the states appropriate steps in state elections, but it is important that the federal government strike a balance of responsibility between what it must supervise with regard to federal elections and the responsibility of the states.

Second, we are aware that several proposals, legislative proposals to remedy the problems of Election 2000 are already under discussion, and we welcome the opportunity, Mr. Chairman, to work with you and other Members of the Committee in trying to fashion specific details.

Now, I should note at the outset, however, that the issue of election reform we think is too important to be considered with other initiatives. Some have suggested, for example, that Congress should consider election reform in combination with the issue of campaign finance reform, which will come to the Senate floor in the next few weeks. The leadership conference member organizations have differing views on the question of campaign finance reform. However, we are strongly of the belief that this issue should not be considered at the same time that campaign finance reform

comes to the floor. We think it has to be evaluated on its own merits.

Second, as these important discussions move forward, let me just identify some of what we think are the fundamental principles that any reform legislation should consider. First, any comprehensive election reform proposal must be in place in time for the 2002 election. We have to ensure that we learn from and act upon rather than repeat the painful mistakes of last November.

Second, any reform proposal must adhere to the principle of one person, one vote, because we know that that obviously is a fundamental democratic principle. What this means is that the right to cast one's vote as well as the right to have it counted has to be preserved, and that means, of course, that we have to do away with systems like the punch card machines, which we know have a disproportionate and unacceptably high error rate.

Third, any reform proposal must address procedural, as well as technological obstacles to voting. Now, minority voters faced at least three barriers in the last November election, first, the use of outdated voting equipment with significant failure rates, second, inadequate and often discriminatory voter registration and purging practices, and third, human factors that led to ill-prepared and overburdened poll workers that inappropriately turned away voters. All three of these things have to be addressed.

Fourth, any reform proposal must not limit or conflict with existing civil rights laws, like the voting Rights Act, the National Voter Registration Act, or the Americans With Disabilities Act, and Voting Accessibility for the Elderly and Handicapped Act.

And then last, assuming all of these things are considered, my testimony goes into several specific recommendations for facilitating the ease with which our citizens are enabled to vote and to participate, such as extending the time of voter registration, providing same-day registration where appropriate, addressing other mechanisms that have proven to be barriers to full civic and voter participation.

Last, the practice of ex-felon disenfranchisement should be eliminated. Not only is disenfranchisement one of those issues that really affects persons who have completed their sentences, it is inconsistent with basic democratic principles, and we believe it has a disproportionate impact on persons who are, indeed, trying to recoup their lives and to participate fully in civic life in this country.

The leadership conference welcomes, as I said, Mr. Chairman, the opportunity to work with you. It is impossible to overstate the importance of what you are doing today with this hearing, since, in order to have continued confidence in the integrity of our democratic process, we have to ensure that the elections that we all cherish and recognize are at the heart of what we do as a Nation be preserved, and that their integrity be enhanced.

Mr. Chairman, thank you for the opportunity.

[The prepared statement of Henderson follows:]

PREPARED STATEMENT OF WADE HENDERSON, EXECUTIVE DIRECTOR, LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. Chairman and Members of the Committee: I am Wade Henderson, Executive Director of the Leadership Conference on Civil Rights. I am pleased to appear before

you today on behalf of the Leadership Conference to discuss the need to ensure that all Americans have equal access to the right to cast their ballots—and to have their votes, once cast, accurately counted.

The Leadership Conference on Civil Rights (LCCR) is the nation's oldest and most diverse coalition of civil rights organizations. Founded in 1950 by Arnold Aronson, A. Phillip Randolph, and Roy Wilkins, LCCR works in support of policies that further the goal of equality under law. To that end, we promote the enactment, and monitor the enforcement, of our nation's landmark civil rights laws. Today the LCCR consists of over 180 organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups. It is a privilege to represent the civil and human rights community in addressing the Committee today.

More than 35 years have passed since the enactment of the Voting Rights Act in 1965. In that time, we have made significant progress in making that Act's promise of "one person, one vote" a reality for all Americans. The serious and extensive irregularities reported last November, however, make clear that we still have a long way to go. While yesterday's poll taxes and literacy tests are long gone, they have been replaced by punch-card machines and inaccurate voting list purges as barriers to minority enfranchisement.

The need for today's discussion should be apparent to all. The right to vote is among the most fundamental of freedoms guaranteed the American people. Without it, we are not a republic, not a democracy. For this reason, reports of voting irregularities in Florida have captured widespread attention. Barriers to minority voting participation, however, are by no means limited to Florida. Because the need to ensure the integrity of our democratic processes is national in scope, federal attention and action are both appropriate and necessary.

In my testimony today, I will first review some of the problems that make clear the pressing need for action. I will then identify some fundamental principles that must be included in any effective reform proposal.

Overview of Voting Irregularities in the 2000 Election

Across America, voters—especially minority voters—were effectively denied the franchise in a variety of ways:

Minority voters often faced a significantly greater risk that their votes would not be counted accurately. In Cook County, Illinois, for example, an analysis *by The Washington Post* concluded that only 4.9 percent of ballots were invalidated in precincts with a minority population of less than 30 percent, while the invalidation rate nearly doubled—to more than 9 percent—in precincts with a minority population of 90 percent or more.

Similarly, a lawsuit recently filed in Georgia on behalf of African American voters in DeKalb, Fulton, and Cobb counties alleged that the punch-card machines used in predominantly African American counties had an error rate more than double that of optical scanning machines used elsewhere in Georgia.

In Florida, too, punch-card balloting systems used in counties with substantial African American populations (such as Miami-Dade and 24 other counties) are alleged to have a substantially higher error rate than other systems. Nearly four percent of ballots in Florida counties using punch-card systems were recorded as having no vote, while the no-vote rate under the optical-scan systems used elsewhere in Florida was only 1.43 percent.

Asian American, Haitian American, Latino, and other language minority voters were denied language assistance to which they were entitled. In many jurisdictions covered by Section 203 of the Voting Rights Act, language minority voters are entitled, upon request, to bilingual materials and/or the assistance of a bilingual poll worker. In New York City, however, Chinese-speaking voters reported that ballots at several polling sites inaccurately translated candidates' party identifications; others reported that absentee ballots contained mistakes in the Chinese-language instructions.

Asian American Legal Defense and Education Fund monitors observed that some New York polling sites had no interpreters at all, prompting some voters to leave without casting a ballot due to the absence of language assistance; interpreters at other sites were observed to provide inaccurate or improper directions.

And in some Florida counties, Haitian American and Latino voters reported that their requests for language assistance were denied.

Eligible voters were wrongly "purged" from the rolls. Florida, for example, ordered the "purging" of ex-felons and other ineligible voters from official lists of eligible voters prior to the November election. During this process, however, many qualified voters were wrongly identified as ineligible to vote. For example, a number of African American voters reported that they were told by poll workers that they had

been dropped from the rolls because they were ex-felons—even though they had never been arrested, much less convicted, of any crime.

Other eligible minority voters reported that they were provided no reason for their purging; they were simply turned away on the grounds that their names did not appear on the list of registered voters. Moreover, many of these purges occurred very late in the process—i.e., after the individuals purged had already voted in the September primary—thus offering little, if any, corrective opportunity.

Eligible voters were wrongfully denied the opportunity to vote because voter registrations and change-of-address information were not processed in a timely and accurate manner. Asian American voters in New York reported that they completed their registration forms, but were never provided confirmation of their registration, nor information about the location of their polling places.

Similarly, in Ohio, African American voters reported that they were not notified that their polling places had been changed; when they tried to vote at their old polling places, they were turned away and denied even the opportunity to cast provisional ballots.

Minority voters in Florida and elsewhere have reported that they submitted timely and complete voter registration packages (or notices of change in address), only to be turned away at the polls because there was no record of their registration or move. As Fumiko Robinson testified before the NAACP in explaining her feelings while driving Florida voters to the polls on election day, only to have them turned away: "[I]t was almost as if I brought people to the poll to be embarrassed."

Eligible voters were barred from voting because complete and accurate lists of eligible voters were not available at each polling place. The Kansas City Star reported that, in St. Louis, "voters whose registration was not on record at their polling places had to travel to the election board's downtown office, where several hundred people waited up to three hours just to confirm their registration."

In some Florida counties, certain registered voters were placed on an "inactive" list and were not included on their respective precincts' lists of voters. These unlisted voters were able to vote only if their precinct polling official contacted the central county office to confirm eligibility. Many of the telephone lines were busy for extended periods of time, however, thus thwarting eligibility verification. And while some precincts were apparently provided with laptop computers to enable pollworkers to access directly the list of inactive-yet-eligible voters, observers reported that few, if any, laptops were assigned to majority black precincts.

Voters who realized that they had inaccurately marked their ballots before casting them were wrongfully denied the opportunity to correct them. When voters realize that they have inaccurately marked their ballots before submitting them, the law entitles them to a second—and even a third—ballot to correct any such errors. However, numerous Florida voters have reported that their requests for new ballots were denied.

Many voting systems are inaccessible for persons with disabilities and do not allow many voters with disabilities to cast a secret ballot. According to the Federal Election Commission, there are at least 20,000 polling places across the country that are physically inaccessible to voters with disabilities. Moreover, punch-card machines are particularly difficult for persons with vision impairments or arm or hand mobility impairments.

The list goes on and on. Voters who did not have identification or who did not appear on eligible lists were improperly denied the opportunity to vote by affirmation or affidavit. Voters already in line when polling places closed were denied the opportunity to cast their ballots. Unfortunately, time permits only a partial listing of the reported irregularities. But even this incomplete discussion demonstrates the extent and severity of the problem—and the need for reform.

Such barriers to voting inflict double pain. First, they effectively disenfranchise a significant number of eligible voters. Second, they fuel the perception that minority voters and voters with disabilities are not really welcome to participate fully in our nation's democratic institutions. A system riddled with such irregularities fosters cynicism about our nation's commitment to its professed ideal that every vote counts. As a result, many minority voters concluded that some votes matter more—or less—than others; that every vote does NOT count; that the system does NOT work. As Donnise DeSouza, who was denied access to the polls on Election Day, described her feelings in testimony before the NAACP: "I felt very outraged. I felt I had been stripped of something important and personal to me and I felt violated. . . ."

Principles for Meaningful Reform

Because the need to ensure the integrity of our democratic processes is of national significance, these reports make clear the need for Congressional action. While we

are mindful of concerns regarding federalism and the appropriate balance of responsibility between the federal government and the states, we strongly believe that Congress has the authority—and the responsibility—to maintain the integrity of federal elections and ensure that states and localities have the resources to improve election technology and administration procedures. To this end, we urge the enactment of legislation that would encourage the adoption of upgraded, accurate equipment and uniform, nondiscriminatory standards for election administration in all federal elections.

We are aware that several legislative proposals to remedy the problems of Election 2000 are already under discussion, with more on the horizon. We welcome the opportunity to work together with this Committee and others in Congress on the specific details of these efforts.

We note at the outset, however, that the issue of election reform must be considered separately from any other legislative issue. Some have suggested that Congress should consider election reform in combination with the issue of campaign finance reform, which will come to the Senate floor in the next few weeks. While the Leadership Conference has taken no position on campaign finance legislation, we strongly believe that the issue of election reform is of such critical importance that it requires full and fair evaluation on its own merits, apart from any other proposal.

As these important discussions move forward, let me identify some fundamental principles that must be included in any meaningful reform proposal:

First, *any comprehensive election reform proposal must be in place in time for the 2002 elections.* We must ensure that we learn from and act upon—rather than repeat—the painful lessons learned in 2000. To this end, the federal government must supply adequate resources on the front end to permit states and localities to make the upgrades and changes necessary to ensure that all Americans have equal and meaningful access to the right to vote in the 2002 elections.

Second, *any reform proposal must adhere to the principle of "one person, one vote."* The right to vote is a right guaranteed to all Americans, regardless of their race, their neighborhood, their income, or their level of education. This applies both to the right to cast one's ballot and the right to have that vote, once cast, counted accurately. We must acknowledge and address widespread evidence that punch-card machines and certain other voting systems carry disproportionately—and unacceptably—high error rates. Federal funding should be made available to encourage state and local jurisdictions to upgrade election equipment to ensure that all votes are counted accurately and equally. For example, federal efforts should encourage states and localities to adopt election technology that produces no more than a 1 percent error rate.

Third, *any reform proposal must address procedural as well as technological obstacles to voting.* Minority voters faced at least three types of barriers to full and equal voting participation this past November: (1) the use of outdated voting equipment with significant failure rates; (2) inadequate (and often discriminatory) voter registration and purging practices; and (3) human factors that led ill-prepared and overburdened poll workers to inappropriately turn away qualified voters. We must both modernize the machinery of voting *and* improve procedures for the administration of elections. Both of these issues deserve significant attention and funding at the federal level.

Fourth, *any reform proposal must not limit or conflict with the Voting Rights Act and the National Voter Registration Act, nor any other existing civil and voting rights statute, such as the Americans with Disabilities Act and the Voting Accessibility for the Elderly and the Handicapped Act.* Indeed, any effective reform proposal must include a commitment to and investment in full and vigorous enforcement of these laws—for example, ensuring that minority language voters and voters with disabilities receive the assistance to which they are entitled. In addition, funds distributed by the federal government for election reform must be considered federal financial assistance for the purposes of applying the prohibition against discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964.

With these baseline principles in mind, a number of more specific measures deserve careful consideration as we explore ways to encourage the development of uniform, nondiscriminatory procedures for election administration:

- Registering to vote should be simple and easy. Current registration procedures too often discourage, rather than encourage, voting. For example, under current practice, voter registration often closes 30 days before the election. Providing for same-day registration or otherwise shortening registration deadlines (i.e., keeping registration open until shortly before Election Day) would encourage voter registration. Procedures better facilitating change-in-address notification (e.g.,

by allowing voters who change addresses within the same state to file a change-of-address and vote on Election Day without re-registering) would further ease registration difficulties.

- Voting itself should be as simple and easy as possible. Voters should be made aware of their rights to request assistance, to correct their ballots if they believe they have made an error, and to alternative identification procedures if they do not have a photo identification.
- To encourage full civic participation, we should support changes designed to ease long lines and other time pressures on voters (e.g., making Election Day a federal holiday, ensuring that anyone in line at closing time is allowed to vote, extending voting hours, holding multi-day and/or weekend elections).
- In light of last fall's extensive reports of inaccurate and/or incomplete voter lists, federal legislation should encourage the development of uniform mechanisms to ensure that persons whose names do not appear on the list of registered voters at the polling place may still cast a provisional ballot without undue delay—subject to challenge if they are shown to be ineligible to vote.
- Federal legislation should encourage development of standards to ensure that decisions to purge certain voters from the rolls are carefully verified. For example, the National Voter Registration Act prohibits certain types of purges—i.e., those needed to verify addresses—within 90 days of an election. The same 90-day rule could be applied to all types of purges, including those for ex-felons. Moreover, state or local governments are better equipped to carry the burden of verifying that registered voters are actually not entitled to vote before purging—rather than placing the burden on the voter to establish his or her eligibility.
- The practice of ex-felon disenfranchisement should be eliminated. Not only is the disenfranchisement of those who have completed their sentences inconsistent with basic democratic principles, it disproportionately harms minorities and thus dilutes the gains of the Voting Rights Act. Moreover, the Florida experience helps demonstrate that restoring the franchise to ex-felons who have served their time will also eliminate the significant number of "false positives" that wrongly denied the vote to individuals who were not ex-felons, as well as save millions of dollars in administrative costs.

Finally, we recognize that we have not addressed issues related to voting over the Internet, even as states and localities are increasingly likely to turn to high-tech solutions to election challenges. We note that while such technology offers significant opportunities to eliminate certain voting irregularities, we must also be mindful of possible racial, ethnic or income disparities in voter access commonly characterized as aspects of the digital divide. We are also concerned with the security and integrity of election systems with Internet voting, a concern highlighted in a recently released study commissioned by the National Science Foundation.[1] The Leadership Conference is currently studying this issue, and plans to share our observations and recommendations in the near future.

Conclusion

The Leadership Conference on Civil Rights welcomes the opportunity to work with this Committee and others in Congress on election reform consistent with the principles we have outlined. It is impossible to overstate the importance of this endeavor, since continued confidence in the integrity of our democratic processes will hinge on our success or failure. Together, we must ensure that the painful lessons learned in 2000 are not forgotten, and that the ideals of 1965 are not abandoned.

The CHAIRMAN. Thank you very much.

Ms. O'Gara.

STATEMENT OF MARY JANE O'GARA, BOARD MEMBER, AARP

Ms. O'GARA. Mr. Chairman, my name is Mary Jane O'Gara. I am a member of the board of directors of AARP. On behalf of the association, I thank you for inviting AARP to offer its views regarding

[1] "Report of the National Workshop on Internet Voting: Issues and Research Agenda". A report commissioned by the National Science Foundation on a workshop October 11–12, 2000 by the Internet Policy Institute.

the use of technology to address some of the major issues related to voting and election reform legislation.

The right to vote is the most basic of all political rights. The recent presidential election illustrated the many inconsistencies that threaten the integrity of the election process at all levels of government. While all of the problems revealed cannot be addressed in today's hearing, many can be ameliorated. It is important, however, that fair, bipartisan policy solutions in related areas be devised to accompany any technological innovations.

Examples of related areas are discrimination in the registration and voting process, inconsistent interpretation and application of regulations, varying hours of operation and access, variances in notification about voting status and local polling sites, accessibility and user friendliness of registration and polling sites and equipment.

The effectiveness of each of the federal statutes governing voting in this country can be improved through technological innovations. Technology can enhance the fairness of statutory implementation and enforcement. Still, issues like access and the climate of both registration and polling sites are precursory concerns. Voting and registration procedures should be as user-friendly as possible for all Americans. In that regard, Congress must ensure that such procedures are fair, acceptably uniform, accessible, and protected against fraud and preventable mistakes.

Under the NVRA, states must allow individuals to register to vote at a variety of state agency locations such as the Department of Motor Vehicles, and through the mail. Based on available data, lower increases in registration rates can be attributed to less aggressive implementation of the law for various reasons.

Technology could improve processing, verifying and sharing of registration information among various agencies. These benefits, however, would be nullified if the atmosphere discourages or frustrates applicants. Misinformation, lack of information, and/or confusing and inconsistent information foster a discouraging atmosphere.

That said, AARP believes that technology can make the most significant and immediate contribution to voting and election reform in the area of balloting and verification of voter registration. With respect to balloting, technical innovations could make ballots and voting systems more accessible, and their use more easily understood by voters. Specific assistive devices, telecommunication devices for the deaf and large type instructions could be integrated to assist people with disabilities, and compensate for barriers to participation. Equipment design could help with dexterity problems, so common among older persons.

Ballots and voting systems should minimize human and mechanical errors and allow for effective monitoring. While systems improved by technology, such as Internet voting, optical scanners, and touch-screen technology, are less vulnerable to manual fraud, they must be protected from internal and external tampering. Objective monitoring to detect tampering is essential.

Voters can and should be more thoroughly informed about the mechanics of voting. Internet and on-site training tools are existing technologies that can be used to this end. Investment in public edu-

cation could also decrease the likelihood of voter error, especially if voters are given the opportunity for a "dry run" before actually casting a ballot. Voter turnout might even increase as a result.

Finally, in the area of voter registration, strong protections against fraud and bias can be established through technology that permits instant voter verification of registration status. Systems that permit voters to verify registration, polling and registration sites, and hours of operation could virtually eliminate most human discrimination factors that impede some voters.

Because technological innovations can be costly, the federal government can play a role in financing needed innovations. Any federal funding for voting and election reforms should be conditioned upon satisfying specific procedural standards, best practices in election administration, and the elimination of practices that suppress voter participation. Further, it is important that technological and administrative initiatives to reform registration and voting processes be equitable in their impact on all classes of potential voters.

AARP understands that technology is not the only solution to the problem of voting and election reform, but it could make a significant difference.

We appreciate this opportunity to offer our views on this potential improvement, Mr. Chairman. This concludes my remarks, and I would be happy to respond to questions if you have any.

[The prepared statement of Ms. O'Gara follows:]

PREPARED STATEMENT OF MARY JANE O'GARA, BOARD MEMBER, AARP

Mr. Chairman and Members of the Committee:

My name is Mary Jane O'Gara and I am a member of the Board of Directors of AARP. On behalf of the Association, I thank you for inviting AARP to offer its views regarding the use of technology to address some of the major issues related to voting and elections reform legislation.

The right to vote is the most basic of all political rights. The recent Presidential election of 2000 has brought to the forefront of the public's attention the many inconsistencies that presently exist in the voting systems throughout the nation at all levels of government. These inconsistencies threaten the integrity of the election process. While all of the problems and inconsistencies revealed in the recent elections cannot be addressed within the scope of today's hearing on technology solutions, many can be ameliorated. However, it is important that fair, bipartisan policy solutions in related areas be devised to accompany any technological innovations. Examples of related areas are:

- discrimination in the registration and voting process,
- inconsistent interpretation and application of regulations;
- varying hours of operation and access;
- variances in notification about voting status and local polling sites;
- accessibility and user-friendliness of registration and polling sites and equipment;
- varying guidelines and criteria for mail-in and in-person registration and voting; and,
- differing circumstances about when verification is essential to register or vote.

Technological innovations are likely to be costly for most jurisdictions. AARP believes the federal government has a role to play in financing needed innovations. Any federal funding for voting and election reform should be conditioned upon satisfying specific procedural standards ("best practices") in election administration and the elimination of practices that suppress voter participation, including but not limited to areas mentioned above.

AARP would like to lay out the principal policy areas that we see as needing reform, and proceed to address how technology might address some of those. The

major federal statutes governing voting in this country such as the Voting Rights Act (VRA), the Voting Accessibility for the Elderly and Handicapped Act of 1984, the Americans with Disabilities Act (ADA) and the National Voter Registration Act (NVRA) establish voting rights and registration policy. While these statutes do not address questions of technology, technological innovations could have a tremendous impact on the fairness of how those statutory policies are implemented or enforced. Critical issues such as access to and the climate of both registration and polling sites are precursory concerns that are directly related to the utility of any voting technology innovation. In that regard, we believe Congress must take steps to ensure that voting and registration processes are:

- Fair (non-discriminatory and equitably interpreted, applied and enforced);
- Acceptably uniform (based on reasonably consistent, mandatory guidelines within constitutional limits);
- Accessible (such that persons with physical or other limitations are not discouraged from participating); and
- Protected against fraud (deliberate manipulation) and preventable mistakes (e.g. design flaws).

The recent election brought to light the fact that voting mechanisms lack uniform standards and in many locations have failed to keep pace with new technologies. Further, registration difficulties, physical barriers and other problems often disproportionately prevent minorities, the frail elderly and persons with disabilities from voting or from having that vote counted. Voting and registration procedures should be as user-friendly as possible, especially to accommodate the large number of Americans that move or temporarily relocate each year.

Since the NVRA became effective in 1995, states have been required to allow individuals to register to vote when they apply for a driver's license or other type of permit and to make registration forms available at a variety of state offices as well as through the mail. Preliminary studies on the law's impact suggest that registration rates have risen 3 to 13 times higher than in previous years. In states where the rise is relatively low, much of the variance can be attributed to some states having been less aggressive in implementing the law. While technology could improve the systems by which information about registration applicants could be shared among various agencies, processed and verified, those benefits are likely to be nullified if the atmosphere discourages or frustrates applicants. Such an atmosphere may be fostered through misinformation, lack of information or confusing and inconsistent information. One common example of practices that discourage voter participation is varying the hours and location of registration and polling sites without sufficient public notice.

Another area of law that could benefit from improved technology would be the Voting Accessibility for the Elderly and Handicapped Act. The statute's voluntary state reporting guidelines remain although mandated reporting sunset in 1995. Thus, the Federal Election Commission (FEC) can no longer require reporting. Technology could make such reporting requirements simple and easy to share within and across jurisdictions, enabling voters to be directed to alternative accessible sites. Unfortunately, lack of a mandate or resources to encourage states present a barrier. In the 1992 general elections, the last elections for which the law required an FEC report to Congress, 42 of 52 states and other electoral jurisdictions evaluated the accessibility of polling places using FEC criteria or criteria sufficiently similar to permit cross-state comparisons. Of the polling places evaluated, 14 percent were reported inaccessible, compared with 16 percent in 1990, 21 percent in 1988 and 27 percent in 1986. Stairs without ramps remain the greatest physical obstacle. And while we expect the percentage of inaccessible sites to continue to drop as a result of the ADA, technology could play an invaluable role in facilitating the collection and sharing of this information, leading to increased voting participation among the millions of older and disabled persons who face these barriers.

Having said that, AARP believes that the most significant and immediate contribution that technology can make to reform of the voting and election process is in the area of balloting and verification of voter registration. With respect to balloting, technology can afford all Americans the ability to express their electoral preference through the following types of improvements:

- Ballots and voting systems can be made more accessible to and easily understood by the voters. Extra efforts, such as equipping polling places and balloting devices with large-type instructions and telecommunications devices for the deaf, may be necessary to assist people with disabilities. Similarly, technological innovations should be designed to compensate for barriers to access by persons

with visual and other disabilities, such as the problems of dexterity that are so common among older people.

- Voting systems can and should be instituted that minimize human and mechanical errors while allowing for effective monitoring. The current manual systems afford many opportunities for intentional and unintentional human interventions that can result in unlawful or invalidated ballots. Systems improved by technology (such as internet voting, optical scanners, and touch screen technology) are less vulnerable to manual fraud. They must, however, be protected from internal tampering (programmer manipulation) and external tampering (hackers). This makes it essential that such innovations be built with the capacity for *objective monitoring* to ensure that any tampering will be detected. Such monitoring results must be officially witnessed, certified and made publicly available. Similarly, technology such as optical scanners already exists to minimize human error in expressing one's voting preference. AARP does not endorse any specific technology for eliminating human error; there are a variety of applications that permit the development of systems that are sensitive to physical and other human limitations.
- Voters can and should be more thoroughly informed about the mechanics of voting. The capacity already exists for technology to provide advance information via the Internet or even on-site training through special modules. Access to such training could be provided through a wide variety of public and community based agencies. Indeed, education and training innovations could effectively address other sensitive voting rights issues, such as language barriers. Investment in such public education would not only provide direct education to the voter, it would also decrease the likelihood of voter error—especially if voters were given the opportunity to do a "dry run" before actually casting a ballot. Indeed, such voter education might increase voter turnout.

Finally, in the area of voter registration, strong protections against fraud and bias can be established through technology that permits instant verification of registration status. For example, dispensing protected codes on stickers for all new registrants that can be verified could reduce the number of eligible voters being refused the right to vote. Systems that permit voters to verify their registration status along with the location and hours of both central registration sites and assigned polling sites could virtually eliminate most human discrimination factors that impede some voters from exercising their franchise rights.

While AARP understands that technology is not the only solution to the major problems of voting and election reform in this country, it clearly could make a significant difference. However, federal funding will be essential in making it possible to implement any technological or other reforms that may become law. AARP believes that those areas with *the most significant demonstrated problems* receive priority for any funds available for making system and guideline changes. Finally, initiatives to reform registration or voting processes must be equitable in their impact on all classes of citizens who are either voters or potential voters.

This concludes my remarks. AARP stands ready to work with Congress, the Administration and state governments to reform our voting and elections systems so that all Americans can have confidence that they can participate in the vote and have their preferences in elections accurately counted. I would be happy to respond to any questions that you may have.

The CHAIRMAN. Thank you very much, Ms. O'Gara. Thank you for being here.

Last, and certainly not least, my old friend Raul Yzaguirre. Welcome.

STATEMENT OF RAUL YZAGUIRRE, PRESIDENT, NATIONAL COUNCIL OF LA RAZA

Mr. YZAGUIRRE. Thank you, Mr. Chairman, for the opportunity to present our comments. I ask that the full text of my testimony be entered into the record.

The CHAIRMAN. Without objection.

Mr. YZAGUIRRE. I appreciate the opportunity to appear before you today to support a thorough revision of the voting process. The right to vote is fundamental civil right for all Americans. The Na-

tional Council of La Raza supports efforts to remove barriers that inhibit Americans, especially the more vulnerable in our society, from exercising the right to vote. We believe that the discrepancies observed in Florida were not limited to that state.

Many other states with close elections, New Mexico, for example, have some jurisdictions that use voting machines and procedures similar to those found in Florida. Furthermore, we have received evidence of irregularities found in other states like New York, which disproportionately affected language minority voters. We suspect that these irregularities represent the proverbial tip of the iceberg waiting to be uncovered in subsequent close elections, unless they are addressed now.

The right to vote is guaranteed to all United States citizens by the Fifteenth Amendment to the United States Constitution. This right is extended to all people, including those for whom English is not their mother tongue. Despite these provisions of current law, there is evidence that some jurisdictions do not comply with federal language assistance provisions.

For example, in testimony before the United States Commission on Civil Rights, the Puerto Rico Legal Defense and Education Fund reported that many registered Latino voters who had voted in immediate past elections went to the polls and were told their names could not be found on the rolls. Many voters not found on the rolls were not able to cast their votes. In violation of both federal and Florida laws, election poll workers often did not offer the use of alternative method of voting, i.e., the paper affirmation ballot.

Some registered Latino voters went to their usual voting poll sites, only to be told that their names were not found. They were sent to other polling sites miles away, where again their names did not appear on the rolls. Many new Latino voters who had registered in a timely manner were not processed by government agencies. Because they did not receive their voter identity cards, they were not given an assignment of a poll site. They could not vote.

Spanish-speaking Latino voters received no bilingual assistance at most polling sites. In most precincts, the entire election staff spoke English only and could not assist language-minority voters. In certain precincts, election staff told Latino voters to present more pieces of photo identification than non-Hispanics, even though no such legal requirement exists under Florida or federal law.

Mr. Chairman, these kinds of problems were not just limited to Latinos in that state. Other language minorities, including Haitian Americans for whom language assistance is authorized in several jurisdictions under state law face serious barriers to voting. Testimony by Marleine Bastien before the NAACP describes lack of language assistance, other irregularities. Overall, Ms. Bastien described an atmosphere of intimidation which generally discouraged Haitian Americans from casting their vote.

Nor were such irregularities limited to the State of Florida. A report presented on December 22 of the year 2000 to the New York Board of Elections by the Asian American Legal Defense and Education Fund observed inaccurate translations, lack of Chinese interpreters, Chinese characters on the ballot too small to read, prob-

lems processing voter registration forms, and lack of bilingual materials.

The National Council of La Raza supports prudent, bipartisan election reform legislation that will: (1) create a substantial multiyear federal grants program to upgrade election technologies, (2) protect the voting Rights Act and National Voter Registration Act while ensuring that any activities under the new legislation are consistent with these existing laws, (3) set federally approved best practices for grant-eligible technologies, which includes standards to ensure accessibility, accuracy, and nondiscrimination, (4) structure priorities setting criteria to assure that jurisdictions with the most significant problems receive needed funding.

NCLR is eager to see election reform that secures the right of all Americans to vote. Election reform should be guided by current law, ensuring access to the language-minority voters. It should not become a vehicle for adding barriers to any part of the voting process, whether it is voter education, registration, or casting a vote. We urge you to ensure additional unnecessary measures to, quote, confirm, or, quote, verify the eligibility of voters which have a clear disparate impact on Latinos or language minorities not be imposed.

Mr. Chairman, I thank you for your leadership on this issue, and for your valiant work in electoral reform.

[The prepared statement of Mr. Yzaguirre follows:]

PREPARED STATEMENT OF RAUL YZAGUIRRE, PRESIDENT, NATIONAL COUNCIL OF LA RAZA

I. Introduction

Chairman McCain, Ranking Minority Member Hollings, and the Committee, on behalf of the National Council of La Raza (NCLR), thank you for holding this hearing on an issue that is very important to the Latino community. NCLR is the nation's largest national Latino civil rights organization, which is an "umbrella organization" for more than 250 local affiliated community-based organizations (CBOs) and about 30,000 individual associate members. In addition to providing capacity-building assistance to our affiliates and essential information to our individual associates, NCLR serves as a voice for all Hispanic subgroups in all regions of the country.

I appreciate the opportunity to appear before you today to support a thorough revision of the voting process. The right to vote is a fundamental civil right for all Americans, and NCLR supports efforts to remove barriers that inhibit Americans, especially the most vulnerable in our society, from exercising their right to vote.

All Americans are concerned about the election irregularities observed during the 2000 presidential election. Hispanic Americans share these concerns. Although they have not been as widely-publicized as the experiences of some communities, we believe that too many Latinos were unfairly denied the opportunity to vote, or had their votes discarded, through no fault of their own. Since the media spotlight was cast on Florida's electoral process, we have learned about outdated voting machines, understaffed polling places, inexperienced poll workers, and confusion that left some registered voters' names off the books. We learned about polling places that moved without adequate notice—literally in the middle of the night—leaving hundreds of voters without knowledge of where to go to cast their vote. Some duly registered voters whose names were improperly purged from the rolls were denied an affidavit, or they were not offered one, and thus were unfairly excluded from the process.

Language minority voters who requested the assistance of a bilingual volunteer or materials at the polls, as is their right in many jurisdictions, were denied such assistance. Reports indicate that in some counties, minority voters were asked for photo identification while White voters were not required to show any form of ID. Many polls in disproportionately minority precincts were closed even though voters were still in line; other polls had lines so long that some voters left the polling places without casting their vote.

Moreover, we believe that the discrepancies observed in Florida were not limited to that state. Many other states with close elections, New Mexico for example, have

some jurisdictions that use voting machines and procedures similar to those found wanting in Florida. Furthermore, we have reviewed evidence of irregularities found in other states, like New York, which disproportionately affected language minority voters. We suspect that these irregularities represent the proverbial "tip of the iceberg," waiting to be uncovered in subsequent close elections unless they are addressed now.[1]

II. Hispanic and Language Minority Concerns with the 2000 Election

The right to vote is guaranteed to all U.S. citizens by the Fifteenth Amendment to the U.S. Constitution. Every voter has the right to cast an informed and effective vote. This right is extended to all people including those for whom English is not their mother tongue. Language minorities are ensured protection and full participation in the electoral process by two separate provisions of the Voting Rights Act of 1965—Section 203 and Section 4(f)(4).[2] Despite these provisions of current law, there is evidence that some jurisdictions do not comply with federal language assistance provisions. The following selected examples illustrate the pervasiveness of the lack of compliance with the language assistance provisions of the Voting Rights Act.

In testimony before the U.S. Commission on Civil Rights in January 2001, the Puerto Rican Legal Defense and Education Fund reported the results of its investigation in Florida; specifically, it found that:

- Many registered Latino voters who had voted in immediate past elections went to the polls and were told their names could not be found on the rolls. Consequently, they were not allowed to vote, were sent home, or were required to wait many hours while election poll workers sought unsuccessfully to contact supervisors for approval to allow these voters to cast their votes. In other cases, their grievances were ignored.
- Many voters not found on the rolls were not able to cast their vote. In violation of both federal and Florida laws, election poll workers often did not offer the use of the alternative method of voting the paper affirmation ballot.
- Some registered Latino voters went to their usual voting poll sites only to be told that their names were not found. They were sent to other polling sites miles away, where again, their names did not appear on the rolls. Voters became frustrated, confused, and gave up—leaving without voting.
- Many new Latino voters who had registered in a timely manner were not processed by government agencies. Because they did not receive their voter registration identity cards and were not given an assignment of a voting poll site, they could not vote.
- Latino voters who went to the polls after work and arrived between 15 and 25 minutes before the official closing hour were told they could not vote and were turned away.
- Spanish-speaking Latino voters received no bilingual assistance at most polling sites. In most precincts, the entire election staff spoke English only, and could not assist language minority voters.
- At certain precincts, election staff told Latino voters to present more pieces of photo identification than non-Hispanics, even though no such legal requirement exists under Florida or federal law.[3]

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[1] NCLR is grateful for the assistance of the Asian American Legal Defense Education Fund (AALDEF), the Puerto Rican Legal Defense and Education Fund (PRLDEF), and the U.S. Commission on Civil Rights in preparing this testimony. NCLR is working in coalition with AALDEF, PRLDEF, the Mexican American Legal Defense and Educational Fund (MALDEF), the National Asian Pacific American Legal Consortium (NAPALC), the National Association of Latino Elected and Appointed Officials, the Asian Law Caucus, the League of United Latin American Citizens, the National Puerto Rican Coalition, the Asian Pacific American Legal Center of Southern California, and other organizations to monitor developments on election reform. The views cited herein are those only of NCLR, and may not represent the opinions of other organizations.

[2] In 1975 Congress added minority language provisions to the Voting Rights Act, and recognized that large numbers of American citizens who primarily spoke language other than English had been effectively excluded from participation in the electoral process. The denial of the right to vote among language minority citizens was "directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation." 42 U.S.C. Sec. 1973aa–1(a).

[3] Testimony of Mr. Jackson Chin, Puerto Rican Legal Defense and Education Fund, before the U.S. Commission on Civil Rights, January 11, 2001.

Mr. Chairman, these kinds of problems were not just limited to Latinos in that state. Other language minorities, including Haitian Americans for whom language assistance is authorized in several jurisdictions under state law, faced serious barriers to voting. Testimony by Marleine Bastien before the NAACP on November 11, 2000, in Florida, describes in great detail the hardship experienced on Election Day by the Haitian American community. Ms. Bastien, a Haitian American community leader in South Florida, spent part of her day on Election Day at a Creole radio station receiving calls from Haitian American voters who called complaining about the treatment they encountered at polling places. Later, Ms. Bastien went to one of the polling places voters complained most about and witnessed the experiences of Haitian American voters; she testified that:

- *Lack of language assistance:* There were forty-seven precincts located in areas where the majority of the population is Haitian or of Haitian descent, for whom Creole is their native language. State law mandated that ballots be printed in Creole to serve the Haitian American community living in those forty-seven precincts. At the precinct she visited, Ms. Bastien indicated that many Haitian American voters left without voting because the ballots confused them and there was no one to assist them. Even though there was a Creole-speaking volunteer willing to assist Haitian American voters, the polling place supervisor denied assistance to the voters, claiming that none were entitled to special treatment. Ms. Bastien showed the polling place supervisor a pamphlet printed by the Florida Department of Elections, which authorized a procedure to secure volunteer language assistance to people who needed it, but even then, Haitian American voters were denied assistance.
- *Other irregularities:* Many Haitian Americans voted, or tried to vote, for the first time last year. Many were turned away from polling places because they did not have their voting card. They were asked to show identification documents even though they were registered to vote. Other Haitian American voters were unable to vote because they stepped out of line and they were told they had lost their chance to vote. Many voters were denied their right to vote because their polling place closed earlier than 7:00 p.m., the official closing time. Some Haitian American voters who were able to vote reported that poll workers collected their voting cards instead of instructing them to put the voting cards in the box. People were left to wonder whether their voting cards were discarded. Overall, Ms. Bastien described an atmosphere of intimidation, which greatly discouraged Haitian Americans from casting their vote.[4]

Nor were such irregularities limited to the State of Florida. A report presented on December 22, 2000 to the New York Board of Elections by the Asian American Legal Defense and Education Fund (AALDEF), found that the failure of the Board of Elections to prepare adequately for heavy turnout city-wide created severe problems for Asian-language voters. On November 7, 2000, AALDEF attorneys and volunteers monitored 20 polling sites in New York City; they observed:

- *Inaccurate translations.* The Chinese translation for "Democrat" and "Republican" were reversed. Paper ballot requested by absentee voters also contained mistakes in the Chinese-language instructions.
- *Lack of Chinese interpreters.* At polling sites across the city, particularly those places with dense Asian populations, there were insufficient numbers of interpreters to serve Chinese-speaking voters.
- *Chinese characters on the ballot too small to read.* Obviously, the fundamental purpose of language translations is undermined when the characters are unreadable on the machine ballot.
- *Problems processing voter registration forms.* Asian Americans experienced many problems in registering to vote. Many newly-naturalized citizens never received a voter confirmation postcard from the Board of Elections. Thus, they did not know the location of their polling sites. In registering to vote, a number of Asian American voters complained that they were asked to show proof of U.S. citizenship before their voter registration forms would be processed, even though White registrants were not asked for such proof.

[4] Testimony of Ms. Marleine Bastien, before the NAACP, November 11, 2000.

- *Lack of bilingual materials.* A number of polling sites and election districts did not have Chinese language materials or did not use them effectively, as mandated by Section 203 of the Voting Rights Act.[5]

These are clear examples of the lack of compliance of some jurisdictions with the language assistance provisions and other protections of the Voting Rights Act or state law. We believe they are no less important than the irregularities experienced by other Americans in the 2000 election, and we expect that any election reform legislation considered by the Congress should address them.

III. Election Reform

The National Council of La Raza supports prudent, bipartisan election reform legislation. NCLR has been working in concert with the League of Women Voters and a broad coalition of civil rights organizations interested in improving the electoral process. We believe that several key elements must be included in an election reform bill, which would guarantee that the voting process is accessible to all eligible citizens. These key elements are as follows:

1. Create a substantial, multiyear federal grants program to upgrade election technologies, including:
   - Improved voting equipment and associated counting mechanism
   - State-wide technologies on a uniform basis, such as computerized voter registration lists
2. Protect the Voting Rights Act and the National Voter Registration Act, while ensuring that any activities under the new legislation are consistent with these existing laws.
3. Set federally-approved "best practices" for grant-eligible technologies which include standards to ensure:
   - Accessibility and convenience for the voter, including voters with disabilities
   - Accuracy, including safeguards for maintaining voter rolls
   - Nondiscrimination, including full participation of language minorities, racial and ethnic minorities, and people with disabilities
4. Structure priority-setting criteria to ensure that jurisdictions with the most significant problems receive needed funding.

IV. Recommendations

Consistent with these principles, and speaking from the perspective of the Latino and language minority community, NCLR urges the enactment of legislation that:

1. Fully protects and compliance with existing civil rights laws, including the Voting Rights Act and the National Voter Registration Act.
2. Encourages the compliance and implementation of language minority assistance provisions of the Voting Rights Act.
3. Provides statewide multiyear federal funding for program to upgrade election technologies, including improvement of voting equipment and associated counting mechanism, and technologies on a uniform basis, such as computerized voter registration lists.
4. Does not impose additional, unnecessary barriers to voting.

NCLR is eager to see election reform that secures the right of all Americans to vote. Election reform should be guided by current law ensuring access to language minority voters. It should not become a vehicle for adding barriers to any part of the voting process, whether it is voter education, registration, or casting a vote. We urge you to ensure that additional, unnecessary measures to "confirm" or "verify" the eligibility of voters—which have a clear, disparate impact on Latinos or language minorities—are not imposed.

In the past we have seen legislation that attempts to cross-reference the citizenship of registered voters and voter registration applicants against Social Security Administration and Immigration and Naturalization Services databases. Because of the well-documented inaccuracies with such databases, reliance on these systems for verification of citizenship will result in massive numbers of "false negatives," i.e., legitimate U.S. citizens whose status may not be verifiable through computer

[5] Letter from AALDEF to Mr. Daniel DeFrancesco, New York Board of Elections, December 22, 2000.

matches. These systems lack the capacity to confirm the status of significant categories of both native-born and naturalized U.S. citizens. Other proposals would authorize registrars or poll workers to challenge the identity or citizenship status of persons seeking to register or vote, based on the mere suspicion that such persons may be ineligible. Mr. Chairman and Members of the Committee, such proposals would inevitably thwart the fundamental purpose of the election reform effort, which should be focused on expanding—and not further limiting—the ability of all Americans to participate fairly and equally in the electoral process.

I thank the Chairman, the Ranking Member, and the Committee once again for providing NCLR an opportunity to share its views on election reform.

The CHAIRMAN. I thank you, and the witnesses. I want to apologize for the lateness of your appearance, because you represent those who are in most danger of losing the ability to exercise our most precious right. Your testimony is important.

As you know, this is the first in a series of hearings to be held by the Commerce Committee. The Rules Committee will also hold hearings. I want to comment to you that I believe that the concerns expressed by this panel should be given the highest priority as we consider the much-needed electoral reform. Mr. Henderson, I do take your recommendation and that of other members and witnesses very seriously. We need to implement these reforms by the 2002 election.

At the same time, I believe that the testimony presented this morning concerning optical scanning has indicated to us that perhaps the readily apparent solutions are not, indeed, readily apparent. Reforming this process will require a full and in-depth study of the problems and the results of the last election.

I think that all members of this panel can play a vital role in helping to shape legislation that will be necessary to cure the obvious ills of this system. The bad news is, those ills have been there for a long time. It is unfortunate that it took this kind of publicity to goad the Congress and the American people in to action. The good news is, I believe we will act. But I do not believe we can act to ensure fairness to all unless you are intimately involved in the process as we shape legislation.

Finally, could I just mention the military ballot. As Mr. Henderson and Mr. Yzaguirre certainly understand, a very large percentage of our military happen to be Hispanic and African American. We want to make sure that they are adequately informed, and that the procedures enabling them to vote are streamlined in whatever way possible.

The fact that an American happens to be in Saudi Arabia, or on an aircraft carrier in the middle of the Pacific Ocean, should not be a reason why they should not vote, rather a reason for us to take extra steps to ensure that they are able to vote. These Americans are out there defending the rest of us.

If there are any final comments, we would like to start with you, Mr. Bollinger.

Mr. BOLLINGER. Thank you, Mr. Chairman. Again, thanks for having this hearing, and thanks for having us testify today. I guess my only parting comment would be, with at least four laws on the books now addressing to some degree voting rights for people with disabilities, and a lot of good intentions, we still have a long way to go, and we look forward to playing a role with you as you create

legislation, and wish you well, and hope that we can accomplish quite a bit between now and the next election.

The CHAIRMAN. Thank you. Mr. Henderson.

Mr. HENDERSON. Yes, Mr. Chairman. First of all, thank you again for the hearing, and thank you for your comments about your commitment to proceed expeditiously to try to address these problems.

Third, I think your point about the military is absolutely on target and, indeed, including a streamlining of the military vote procedure is an important part of protecting the civil rights of all Americans.

Then last, my written testimony addresses this issue, but I did not mention it in my oral summary, and that is the issue of Internet voting. I heard this morning with other panels, Members of the Committee, of course, encouraging review of Internet voting and the possible development of Internet voting, and certainly while the use of technology to improve our lives and to improve the process of voting is important, I have to take note of the National Science Foundation study which was noted yesterday, which suggests proceeding down this area with some caution.

And while the National Science Foundation did not mention this, certainly we are aware of existing disparities in the use of Internet and other computer-based technology in ways that trouble us, that pursuing Internet voting as an exclusive alternative to some of the problems that we have identified may, in fact, exacerbate those disparities among people of racial and linguistic minorities, and also of persons because of their income or class who have not had as much full participation in the use of Internet technology, so we are concerned about the issues of the digital divide and how they could have impact in this area.

The CHAIRMAN. Thank you.

Ms. O'Gara.

Ms. O'GARA. I think the question of fairness is critical as we go ahead in looking at technological change. I was very disturbed this morning to hear that the disenfranchisement that occurred using technological innovations in Georgia, especially as they relate to minority voters. Was there not a chance provided to educate and inform them prior to the election? It would seem to me that possibly many of those people did not know how to use the machines. I do not know; that is just my feeling. But I was worried about that.

The CHAIRMAN. Thank you, and we learned a lot from that panel.

Mr. Yzaguirre.

Mr. YZAGUIRRE. Thank you, Senator. Two points.

I want to stress how important an issue this is for our community. We are the least-represented, politically speaking, community in this country, and so if we are going to become part of this society as now perhaps the largest minority in this nation, we need access to the voting process, and your presence here emboldens me to say something that I probably should not be saying, but I want to make a comment.

Speaking as somebody who served in the Armed Forces for 4 years, in the Air Force, and proud of my record, and proud of my involvement, I thoroughly agree with you that we need to protect

the voting rights of our military, but there seems to be a subtext that somehow those votes are more important than other votes, and I just want to make sure that, you know, whether you are in the Armed Forces or in a ghetto or working the fields, your vote is equally important, so I want to make sure that we consider all populations as equally important in the voting process.

The CHAIRMAN. I am glad you made that point. As we encourage their participation, we also need to take the same measures to prevent the abuse of any voting procedures. Because an abused vote or a vote fraud, no matter where it occurs, is unacceptable.

I appreciate your making that point, and in our zeal to make sure that members of the Armed Forces are given every opportunity to vote, we must also guard against any fraudulent practice, and I thank you for making that point.

I thank the panel. Thank you for your patience and thank you for your participation. I believe that this will be the first of many instances of your involvement in this very important issue. I thank you. This hearing is adjourned.

[Whereupon, at 12:25 p.m., the Committee adjourned.]

APPENDIX

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO BILL BRADBURY

Question 1. Oregon's Vote-by-Mail approach is very impressive, particularly in its ability to increase voter turnout and to improve accessibility for Americans with disabilities. However, problems still persist with the use of punch-card machines. What machines would you encourage the state to buy if money was not a concern?

Answer. We are strongly supporting legislation now moving through our Legislature that would require counties to replace punch-card systems prior to the 2004 election cycle. That legislation does not mandate the use of any specific technology. However, the other 29 counties in Oregon currently use optical scan technology and we believe that the clerks in punch card counties would opt for that technology as well.

Question 2. How will Oregon approach election modernization should federal funds not be made available before the 2002 and 2004 elections?

Answer. Given the fiscal realities currently being faced by the Oregon Legislature, I do not anticipate that they will appropriate sufficient funding to replace punch cards during the current Legislature. However, at least one of the punch-card counties in Oregon had planned to replace their equipment prior to 2004 even before national attention was focused on its shortcomings. Absent significant federal dollars becoming available, I would anticipate that most of the seven punch-card counties in 2000 would still be using the technology in 2004.

Question 3. Beyond simply providing funding, what role do you believe the federal government should play in this modernization process? What do you think would be most helpful to states?

Answer. Clearly federal funding is critical to our ability to replace punch cards. I want to ensure that the federal government continues to recognize the important differences among the states, such as vote-by-mail, and ensure that any federal solution does not trample on innovation in the states.

Question 4. You mentioned that when a voter makes a mistake using a punch card, under Oregon's Vote-By-Mail system, that he or she must write the county's elections office or travel to that office to request a new ballot. How are requests handled if they are received after election day?

Answer. By law, all ballots must be received by an elections official prior to 8:00 p.m. on election day to be counted. Therefore, any request for a new ballot coming after the deadline would be denied.

Question 5. While a centralized voter registration system would clearly be beneficial to your state, what measures are currently in place to reduce the likelihood that voters will vote multiple times in several counties?

Answer. We provide a strong legal deterrent, in that voting more than once is a class C felony punishable by up to five years in prison and a $10,000 fine. Enforcement is made more difficult by the lack of a centralized system. That is why the adoption of a centralized voter registration system is my highest legislative priority.

Question 6. Have you made any overtures to advise states interested in adopting a system similar to Oregon's Vote-by-Mail system? Have any expressed interest?

Answer. We have received inquiries from all over the country about our vote-by-mail system. We are quick to point out to those who are interested in such a system, that we had twenty years of experience with vote-by-mail in local elections prior to its adoption in 1998 for all elections. We strongly recommend against a complete change from polling places to vote-by-mail without a transition period of several election cycles.

Question 7. Several witnesses from our second panel testified that millions of Americans were disenfranchised for reasons based upon the color of their skin or their physical disabilities. Does your state have systems in place to assess the needs

of minority voters, bilingual voters, or voters with disabilities? Do you have adequate numbers of trained poll workers to address the varied needs of these voters?

Answer. There is no prohibition of any voter receiving assistance in completing their ballot by anyone. Additionally, there is a provision in law (Oregon Revised Statutes 254.445) that requires a county clerk to provide to any voter unable to complete the ballot the assistance of two people (one form each of the major political parties) to assist in completing the ballot. For those individuals who are unable to leave home, that assistance is provided at their home. The counties have not experienced widespread difficulties in finding and training people to assist voters.

Question 8. A bipartisan task force in Florida has recommended both a uniform statewide system and spending $20 million to lease equipment in time for the 2002 election. Would you please comment on the task force's recommendation and how similar actions would impact your respective states?

Answer. While I believe that there would be benefit to having a uniform statewide voting system, I do not believe that the costs outweigh the benefits. I commissioned, jointly with the Oregon Association of County Clerks, a task force to study the 2000 General Election and make recommendations. A copy of the *Oregon Elections Task Force Report* can be found on the Oregon Secretary of State Elections Division web page at *http://www.sos.state.or.us.* The task force concluded that further study of a uniform vote tally system was needed. I would rank moving to a uniform system well below the need for a centralized voter registration system and the need to replace punch cards.

Question 9. Have you studied the impact of using optical-scanning equipment on site, accessible to your voters, to allow them to correct mistakenly filled-out ballots? Does this provide an effective alternative to simple punch-card systems, at a lower cost than other equipment?

Answer. Since we vote-by-mail, there is not a "site" for the vast majority of voters. Although we do provide drop sites for ballots, many of those are unstaffed receptacles similar to a blue street-corner mailbox. There is an additional logistical problem in moving away from centralized counting. The law requires the clerks to verify each signature on the ballot envelope prior to opening and counting the ballot. Decentralizing the counting of ballots would significantly complicate the verification of signatures and ensuring that the voter casts only one ballot.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO RON THORNBURGH

Question 1. How do you intend to develop the type of vote counting system mentioned in your testimony, at the state level? Would you like to see vote counting added to a list of voluntary national standards, established at the national level?

Answer.

a. I have introduced legislation in the Kansas Legislature to improve the vote counting process, particularly in promoting uniformity in procedures among the counties.
b. I have developed a plan and am seeking state funding to improve training of county election officers and county boards of canvassers to promote uniformity in ballot distribution and tabulation and to reduce errors in these processes.
c. I am developing printed guides to enhance uniform compliance with existing state laws on vote tabulation, recounts and election contests.

Some general guidelines at the national level for vote counting could be useful, but specific rules must be made by states, taking into account the voting systems used and existing state laws governing the electoral process.

Question 2. How has Kansas addressed the need for increased funding for poll worker and voter education, as part of its effort to improve the election process?

Answer. I have developed a "Six-Point Plan for Election Improvement" in Kansas. I am seeking a modest legislative appropriation to cover the costs. The Plan includes development of guides for vote tabulation, training sessions for county election officers, a four-state Midwest Election Officials Conference (with Missouri, Iowa and Nebraska), and a technology exposition to familiarize county election officers with the latest technology available.

Question 3. In your testimony you mentioned the importance of ensuring "equal protection." What specific measures have you taken in Kansas to achieve this goal? And how do you propose other states work to provide all of their citizens with "absolute and unobstructed access to the voting process?"

Answer. When we receive reports that someone has been illegally denied access to the ballot, my office works with local officials to investigate those matters and to provide information to local prosecutors.

When considering new voting equipment for certification, one consideration is its accessibility. In my experience nearly all the voting equipment brought to me for certification in Kansas in recent years has been designed to enhance accessibility for disabled persons. There has been much improvement in this area in recent years. When counties consider adopting and purchasing new equipment, my office emphasizes to them the importance of accessibility in making their decisions.

I think all states should cooperate with the Federal Election Commission in the updating of the voting equipment standards. States must work with various private associations that promote access for disabled persons to constantly improve access and meet the needs of disabled persons within the limits of local budgetary concerns.

States must work with their respective local election officers to continually review their polling sites for accessibility.

Question 4. Would you address the need for a uniform statewide voting technology, similar to that proposed by Secretaries Cox and Harris, to ensure equal protection under the Constitution?

Answer. As I stated in my testimony before your Committee, I do not favor a uniform, one-size-fits-all voting system for the entire nation or even for the entire state of Kansas. I support the development of voluntary national standards. Many different voting systems can exist within a given set of standards, each system complying with those standards and also meeting the requirements of the respective state laws.

I support the right of a given locality to choose the system that's right for that locality from a list of available, certified voting systems. Each locality is the best judge of its own demographic and budgetary realities that dictate their decisions.

Question 5. Several witnesses from our second panel testified that millions of Americans were disenfranchised for reasons such as the color of their skin or their physical disabilities. Does your state have systems in place to assess the needs of minority voters, bilingual voters, or voters with disabilities? Do you have adequate numbers of trained poll workers to address the varied needs of voters?

Answer. Kansas has specific laws requiring the accommodation of disabled voters. We do not have specific laws regarding minority voters or bilingual voters.

Voters do not register their racial or ethnic characteristics or their disabilities during the voter registration process. Special needs are assessed at the point where the ballot is requested, either at the polling place or during the absentee/early voting process. Voters needing assistance may request it from a poll worker or another person of the voter's choice.

Kansas has no special rules governing bilingual ballots. We are subject to federal regulations on this, and to my knowledge no jurisdictions in Kansas have met the qualifications to require bilingual ballots.

Our local election offices have adequate numbers of poll workers to address the varied needs of voters.

Question 6. Have you studied the impact of using optical-scanning equipment, on site, to allow voters to correct mistakenly filled out ballots? Does this provide an effective alternative to simple punch-card systems, at a lower cost than other equipment?

Answer. In Kansas, 81 of 105 counties use optical scanning ballot systems. Some of them use a central-count system and some use a precinct-count system. I have thought for years that optical scan systems are an effective alternative to punch cards. As stated earlier, we have had no punch card systems in use in Kansas for many years.

Precinct scanning systems do have an advantage of identifying a mismarked ballot and enabling the voter to correct it. However, a disadvantage is that such systems require more scanning hardware and thus have a much higher implementation cost.

The cost of systems is relative to the number of units required, the number of precincts, and the number of voters per precinct. I am not aware that optical scan systems are more expensive than punch card systems.

Question 7. A bipartisan task force in Florida has recommended both a uniform statewide system and spending $20 million to lease equipment in time for the 2002 election. Would you please comment on the task force's recommendation and on how similar actions would impact your state?

Answer. State laws would have to be changed in Kansas to provide for a uniform state voting system because current law authorizes the county to make this decision for itself.

Further, as stated in my testimony I do not support imposing the same voting system on each state or even on each county and locality within a state.

A uniform system might be right for Florida; it appears from the 2000 election experience that Florida had less uniformity in voting and tabulating procedures than did some states.

Question 8. You expressed the need for improved voting equipment and technology. Is it likely that states will be able to install new equipment and technology in time for the 2002 or 2004 elections, even if federal matching funds are made available?

Answer. It is possible to purchase and install new equipment in a given locality in time for the 2002 election, but we must act now. As a practical matter, it might make more sense to wait until 2004, especially in areas which have not experienced serious problems recently.

Question 9. Beyond simply providing funding, what role do you believe the federal government should play in this modernization process? What do you think would be most helpful to states?

Answer. Beyond providing funding, the federal government can commission ad hoc studies to identify the problems and propose solutions and can authorize permanent agencies, such as the Federal Election Commission and the Federal Voting Assistance Program, to oversee disbursement of funds.

Further, these permanent agencies can update standards for voting equipment and procedures.

The most helpful type of federal involvement would be to: (1) provide funds on an ongoing basis with few strings attached, and (2) consult with state and local election officials to identify needs and solutions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO CATHY COX

Question 1. Many states, including Florida would like to shift to a uniform electronic voting system.

(a) What evaluation process are you using to determine which technology is most suitable for your state?

Answer. There are a number of ways we have begun to evaluate the performance of various election systems, both those currently in use in Georgia and systems we may wish to deploy in the future. As mentioned in my testimony, we have spent a good deal of time evaluating the performance of the four systems currently in use in Georgia—punch card, opti-scan, lever machine and paper ballot—and have looked closely at the question of how likely voters are to cast an accurate ballot when using the various equipment types. We also have scrutinized precinct level data to see if we can find patterns in undervoting by race or geographic region.

Our analysis has also included extensive discussion with county election officials and others involved in the elections process and information sharing with other states and counties about their experience with equipment types. Our conclusion is that Georgia should adopt a uniform electronic voting system because we believe it offers the best opportunity to minimize voter confusion and errors in the computation of votes.

Our election reform legislation, SB 213, which passed the General Assembly last week, establishes a mandate for uniform voting equipment by 2004, authorizes a pilot project to field test different types of equipment in municipal elections this fall and establishes a 21st Century Voting Commission, a bipartisan group to assist our office in evaluating the strengths and weaknesses of machinery from several different suppliers.

(b) Will you establish minimum performance standards for voting machines before you purchase them?

Answer. Clearly, any equipment we consider for lease or purchase must meet certification standards at both the state and federal level. We also believe, and have written into our new reform bill, that any new electronic systems we deploy must have an independent audit trail—a manual printout of voter choices

which will provide a back-up in case of equipment failure, election contest or recount, etc.

(c) How will you prioritize the order in which precincts receive new or refurbished machines?

Answer. The order and speed of equipment replacement will be extremely dependent on the status of state and federal funding. While we will ask the new Voting Commission to examine this question, we anticipate that top priority will be given to counties that currently use punch card ballots.

(d) What is the projected total cost to the State of Georgia?

Answer. Cost estimates for the purchase of equipment statewide have ranged from $20 to $200 million. In a leasing arrangement the cost structure would vary considerably. Our new reform package provides that the state will acquire equipment, but counties and municipalities will be responsible for certain infrastructure expenditures (electricity, phone lines, etc.) to effectively deploy the equipment we acquire.

Question 2. Have you studied the benefits of using optical-scanning equipment on site, to allow voters to correct mistakenly filled-out ballots? Does this provide an effective alternative to simple punch-card systems, at a lower cost than other equipment? How does having opti-scan machines on-site affect the undervotes percentage rates?

Answer. While many of the counties that operate precinct-based optical scan equipment have the capability to program their machines to reject overvoted ballots, in practice few, if any, counties actually do so. County election officials have indicated they believe such a practice would create delay and confusion, with electors being put back into lines for ballots in an already crowded precinct. Such ballot "kick out" capabilities, even if utilized, do not allow an elector to correct an accidentally undervoted ballot.

In Georgia, we have found that the alleged benefits of the ballot rejection feature of precinct scanners are not typically realized in the real world of elections. This practice also presents significant problems for the secrecy of the ballot selection, since a poll worker will nearly always need to examine the ballot to be able to describe to the voter what caused the ballot to be kicked out. It is simply not a practical solution to tell an elector—"Your ballot was rejected, I cannot tell you why, you need to start over with your voting."

All optiscan equipment, however it may be configured, lacks two capabilities of the electronic equipment we prefer. It does not prohibit overvoting at the time the choices are being made, and it does not provide feedback to the voter, with confirmation screens to verify choices, during the voting process. No opti-scan equipment in use in Georgia will indicate to the voter that they cast an accidental undervote.

The presidential undervote percentages for the two types of optiscan systems in Georgia are as follows:

Central Count Optiscan—46 counties
Absolute average: 3.5 percent
Mean average: 4.2 percent
Precinct Count Optiscan—21 counties
Absolute average: 2.1 percent
Mean average: 5.2 percent

While the absolute percentage of undervote is lower in precinct count locations, there is wide variation in performance from county to county. In fact, 9 of the 21 precinct count optiscan counties had undervote rates of 5 percent or higher, including rates of 6.2 percent, 6.4 percent, 7.7 percent, 9.1 percent and 15 percent in five respective counties.

Question 3. You expressed the need for improved voting equipment and technology. Is it likely that states will be able to install new equipment and technology in time for the 2002 or 2004 elections, even if federal matching funds are made available?

Answer. With federal matching funds in hand, we believe it is feasible to *begin* deployment of new equipment in some counties by 2002, but we certainly do not expect the process to be completed that soon. The legislation recently enacted sets as our goal full deployment, in all 159 counties, by July of 2004. That is an ambitious goal, but one we believe can be achieved if budget dollars are made available.

Question 4. Beyond simply providing funding, what role do you believe the federal government should play in this modernization process? What do you think would be most helpful to states?

Answer. The federal government can play a valuable role in assisting states in the testing and evaluation of equipment—that which is currently available on the market and that which will be entering the marketplace in the future. Our admittedly limited analysis of the racial disparities in undervoting, (although we believe more comprehensive than that performed by any other state election official) and the influence that voting equipment has on those variations, points to the need for a much more comprehensive national evaluation of the impact of equipment on successful voter participation. This component of Senator McCain's bill would be especially helpful going forward. We need to apply the Nation's best, most sophisticated analytical resources to study not only issues of speed, accuracy and ballot security, but also how the voter interface impacts different populations of voters.

Question 5. While you spoke at length about the need for improved technology, you did not mention the need for improved voter and poll worker education. Is this a concern in Georgia? What steps are you taking to address this need?

Answer. Although my testimony did not touch on this issue, please note that our January 2001 report, *The 2000 Election: A Wake-Up Call For Reform and Change,* which was submitted to the Committee, discusses these issues at considerable length. Technology alone will not produce the more fair and more accurate elections we desire. In Georgia, as in most states, serious problems exist with the recruitment, training and retention of poll workers. Our report, while offering no "magic bullet," offers several suggestions to strengthen the "people side" of elections—from recruiting teachers and high school students to work at the polls, to mandating training for poll workers and producing standardized training materials to better prepare them for the demands of election day, to expanding outreach efforts and encouraging more participation by statewide associations, civic clubs and youth groups. Additionally, the Georgia General Assembly just passed legislation that we sponsored to increase the training requirement for election officials from 12 hours biennially to 12 hours annually. Increased training is also set forthestablished for poll workers and deputy registrars.

Much more also must be done to educate electors on how to vote a valid and accurate ballot. Today, such efforts are nearly impossible because of the crazy quilt of differing voting systems deployed in Georgia's 159 counties. One of the greatest virtues of a new uniform system will be our ability to broadly and clearly communicate to voters, well before election day, exactly how the equipment works, what they will be asked to do when they arrive at the polling place and how they can be sure their electoral choice is accurately tabulated.

Question 6. You mentioned that it doesn't take an election expert to know that when you have more than 1 in 10 ballots register no choice, something is seriously wrong with the system. Did Georgia have similar high numbers of undervotes in previous elections? What was done to address the problem?

Answer. We arrive at our presidential undervote numbers by subtracting the total number of votes cast in that race in a county or precinct from the total number of ballots issued in that county or precinct. The "apples to apples" comparison to assess whether undervote rates were higher, lower or the same in previous elections would be 1996. Unfortunately, the statewide "ballots issued" data was not compiled until 1998, so we simply cannot say how the 2000 election experience compares with previous presidential years. It is certainly our belief that the problem of unacceptably high undervoting is not new, but we do not have the data to confirm that belief.

Question 7. Several witnesses from our second panel testified that millions of Americans were disenfranchised for reasons based on the color of their skin or their physical disabilities. Does your state have systems in place to assess the needs of voters from minority, bilingual, or disabled communities? Do you have adequate numbers of trained poll workers to address the varied needs of voters?

Answer. As I noted in my testimony, our data indicates that undervoting is more common in predominantly African-American precincts. However, the data does not bear out the claim made by some that *only* areas of high minority population have severe problems with casting accurate ballots. In Georgia we saw very high undervoting rates in areas with very small minority populations as well as counties with more diverse populations.

One of the mandates for the new 21st Century Voting Commission will be to assess the impact of elections systems on all of the communities referenced in your question. We do not have enough trained poll workers today to address the varied needs of voters. We also do not have systems that can be easily configured to accom-

modate the needs of the disabled and those who do not read English well. We believe the electronic equipment, or DRE's, we plan to deploy provide much more attractive options to accommodate the needs of the disabled and language minorities.

Question 8. A bipartisan task force in Florida has recommended both a uniform statewide system and spending $20 million to lease equipment in time for the 2002 election. Would you please comment on the task force's recommendation and how similar actions would impact your state?

Answer. As a fundamental principle I think the people of Florida should craft solutions that best meet the needs of their state, and Georgia should do the same. For our state, I believe an interim measure that would adopt optiscan as a temporary uniform solution would be unwise, because of the high error rates experienced in many current optiscan counties and the higher undervote gap between black and white voters in these areas. A uniform statewide system is not just desirable, it is mandatory, and with the passage of our reform package Georgia may be the first state in the nation to enact legislation that mandates a uniform system by 2004. We also hope to move toward a new system of voting equipment only once—i.e., we do not wish to educate Georgia's four million voters about one type of equipment in one election, and then do so again two years later for another type of equipment.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO JOHN BOLLINGER

Question 1. Last summer Senator Harkin and I requested that GAO conduct a study to determine the number of disabled Americans who were disenfranchised during the November 2000 election. Although the results from that study will not be released until this spring, I am interested to learn if PVA or the National Organization on Disability conducted their own review?

Answer. PVA did not do an independent study of its members after the election. The National Organization on Disability did sponsor a poll conducted by Lou Harris after the election. That poll found that during the 2000 election, only 14 million of the 35 million people with disabilities of voting age voted. Only 62 percent of eligible people with disabilities are registered to vote, as opposed to 78 percent of the general population.

Question 2. Would you describe the typical voting experience of Americans with physical disabilities? How is the process different for visually impaired voters? Do all disabled voters receive the same protection under the law?

Answer. The voting experience for Americans with physical disabilities can be quite challenging. If there are no physical barriers to entry such as lack of accessible parking, accessible signage, unramped stairs, or raised thresholds, the person could enter the polling place. The ability to cast a ballot independently often depends on the person's disability and/or the voting mechanism. People with severe upper body or extremity limitations may have difficulty reaching and operating a ballot machine. Flat surfaces for writing or filling out forms may be too high for voters using wheelchairs. Blind and visually impaired voters rarely have audio descriptions of the ballot and/or machine. Without this guidance, the voter must rely on the assistance of others, a companion, poll worker or stranger. There is no guarantee that the vote has been cast as per the voter's instruction.

Furthermore poll workers sometimes draw attention to the voter with a disability by trying to provide special assistance. Escorting voters with *any* disability to the front of the line or to the voting booth is not uncommon. Loud or unnecessary explanations may be well intentioned, but bring unwanted focus to the voter. And oral repetition of the directions of a voter who needs assistance eliminates any possibility of privacy.

Under current law, only those with physical disabilities have a limited course of action under the Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA). Section 504 of the Rehabilitation Act would apply in any election operated with the assistance of federal funds, and Title II of the ADA applies to state and local elections. These latter two laws have "program access" as a standard. This has been open to interpretation and could still allow such practices as curbside voting and poll worker assistance.

Question 3. Would you explain the advantages of Oregon's vote-by-mail system for citizens with physical disabilities? What other states serve as good role models? What types of voting technologies are most effective for your constituents?

Answer. The primary advantage of a vote by mail system is that all voters are using the same method of casting their ballots. Everyone has the time to make their

decisions and all ballots are cast in the location of the voter's choice. The downside of this system is that print or punch card ballots limit the ability of a voter with limited use of hands or a voter with a vision impairment to vote independently.

In September, 1999, the Texas Election Code was amended by adding Section 81 .55—Adoption of Accessible Voting Systems. This section requires voting systems to comply with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act. Other states recognize that they still have physical barriers at the polls. North Carolina, for instance, recognizes the importance of accessible polling places and has done much to educate their jurisdictions and poll workers.

PVA does not endorse one voting system or another. We have not taken a survey of our members to determine which voting machine best suits our members. We do note that the ADA Accessibility Guidelines (28 CFR Part 36, Appendix A) provides guidelines for accessibility, including reach ranges, operating mechanisms, clear floor space, etc.

Question 4. You mentioned that many barriers for Americans with physical disabilities are not insurmountable. Do you have any specific thoughts or comments regarding how to lower the costs of ensuring that voting locations are compliant with ADA?

Answer. Under the VAEHA, (sec. 3. (a)) . . . "Each political subdivision responsible for conducting federal elections shall assure that all polling places are accessible to the elderly and handicapped." If the polling place has significant physical barriers, the polling place should be moved to an accessible facility. Relocating polls happens all the time for other reasons and can be done at no cost.

However, if no accessible polling place is available, then the poll should remove barriers. According to the final FEC oversight report (9/13/94), many of the barriers at the polls were unramped stairs and thresholds, lack of accessible parking and directional signage to the accessible entrance. Restriping parking lots, installing ramps and improving signage are simple, inexpensive solutions that the ADA requires of most places of public accommodation. The Department of Justice provides technical assistance; this is available on their website at *http://www.usdoj.gov/crt/ada/publicat.htm.* Publications specifically on barrier removal, parking spaces, small businesses and small towns, and tax incentives, provide information on compliance with the ADA. The Job Accommodation Network (800–526–7234) also provides advice on simple solutions for barrier removal. Though the Job Accommodation Network is geared towards employment of people with disabilities, it has a wealth of information on general and specific accommodations. Information can be found at *http://janweb.icdi.wvu.edu/*.

Question 5. You mentioned in your statement that legislation could not overcome "attitudinal problems." How much of the overall voting challenges for physically disabled Americans can you attribute to attitudinal problems?

Answer. Again, PVA has not formally studied the problems our members encounter in voting. Attitudinal problems affect people with disabilities in many situations. Most people with disabilities can relate stories of being spoken to loudly and slowly. Well-meaning people often talk to the companion of the individual with a disability, or will physically take hold of an individual. In voting, such actions isolate and draw attention to the voter who is trying to carry out an extremely private process.

Failure to remove architectural barriers may be caused by attitudes and assumptions by election officers with decision-making authority. For instance, voters with disabilities are often encouraged to vote by absentee ballot or at curbside. A few steps may not be perceived to be a barrier if assistance is available to carry a voter up into the polling place. And if personal assistance is available to those unable to complete the voting process independently, efforts are not likely to be undertaken to find a solution that allows independent voting.

These problems can most often be resolved by training that focuses on respect for the individual and his/her privacy in the voting process. Publications on disability etiquette are available at *http://www.jan.wvu.edu/media/etipresent.html* and http://www.epva.org/Videos_Publications/publication_tab.htm. Many local disability related organizations would be willing to assist in this training free of charge.

RESPONSES TO WRITTEN SUBMITTED BY HON. JOHN MCCAIN TO MARY JANE O'GARA

Question 1. In your prepared testimony, you refer to emerging technologies which can protect against fraud and bias by instantly verifying voter registration status. Is this technology currently available? If so, are any states employing it?

Answer. The technology to verify voter registration currently exists and is used by several states, including Georgia, as was mentioned in the statement of the Georgia Secretary of State. AARP has not undertaken a formal study of how many states employ such technology. The same technology is commonly used by such enterprises as car washes where customers pay in advance and are given a printed code that is entered into a code box as verification of payment prior to moving their vehicles into the wash facility. Similarly, officially registered individuals could be assigned such codes to authenticate their registration, especially when recent registrants have not received registration cards through the mail.

Question 2. Are you concerned that states may gradually adopt new voting machines with state-of-the-art technology which are not be user-friendly to the elderly? What types of new technology would disadvantage your members?

Answer. AARP is not overly concerned that state-of-the-art technology will be unfriendly for older voters, but we believe it important to remind innovators of the special requirements of older and disabled voters as they design new systems. Innovations should address problems related to print size, print contrast, and keyboard comfort, and polling stations should be adjustable for voters with vision, hearing and ambulatory impairments—or special stations to address these needs should be available.

Question 3. What is your opinion of Oregon's Vote-by-Mail system? Were the ballots designed sufficiently for people with visual and other disabilities?

Answer. AARP has not reviewed the Oregon Vote-by-Mail system. With regard to the ballot design, we have heard some complaints about the Oregon ballot posing difficulty for persons with both visual and physical impairments, but lacking a careful review, AARP does not have any recommendations or position at this time.

Question 4. You expressed in your written testimony that the "most significant demonstrated problems" should receive priority for any available federal funds. How would you define the "most significant demonstrated problems?"

Answer. AARP has not specifically defined *the most* significant voting problems. Ideally, an objective, national body would be commissioned to study the problems we outlined on the first page of the AARP statement. That body should propose methods and procedures for measuring and weighting various impediments in the voting process. The commissioned body would be positioned to identify and suggest problems to be addressed with the federal funds available to states for state-selected priorities.

Question 5. You mentioned the need for "objective monitoring" of new voting technologies. Will this type of monitoring prevent programmer manipulation and hacking? Will it require extensive training of those responsible for monitoring the voting system? Will smaller and poorer voting areas be more vulnerable due to a lack of skilled personnel in those areas?

Answer. Objective monitoring is critical to being able to ascertain whether any manipulation has occurred and address accusations of partisan or other special interest manipulation. Unfortunately, it is virtually impossible to design a system that cannot be manipulated or "hacked." Still, that should not be a deterrent to innovation. Although training would be required for a core cadre of professionals responsible for monitoring and evaluating the technology itself, those persons would not necessarily be the same as those responsible for monitoring and overseeing elections administration. Indeed, when the individuals responsible for maintaining and protecting the integrity of the technology are relatively objective technocrats, their services can be made available to any area or community regardless of the location or the voters' ethnicity, race, religion, language or education level. The need for technical expertise ought not be burdened with a residency requirement.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO RAUL YZAGUIRRE

Question 1. What new technologies do you think offer the best approach for addressing the specific needs of bilingual and multi-lingual communities?

Answer. We do not claim expertise on this subject.

Question 2. What role do you think improved voter and poll worker education plays in improving the access of minority communities to the election process?

Answer. We believe education for both voters and poll workers is a key component to improve accessibility of minority voters to the election process. Education would benefit voters by reducing the likelihood of intimidation and encouraging participation. It also equips poll workers with voting rights knowledge that would facilitate

their job on Election Day and prevent them from inadvertently engaging in unlawful discrimination. However, we also believe that vigorous enforcement is needed to punish violations of the Voting Rights Act.

Question 3. In your testimony, you mentioned complications which may arise from cross referencing registered voters and voter registration applicants against Social Security and INS data bases. Would you suggest an alternative method, or methods, which you believe would be more effective?

Answer. We are not persuaded that major new procedures are, in fact, needed to verify citizenship status. Current law authorizes any number of officials to challenge the eligibility of any voter, provided that the voter is allowed to use a provisional ballot and the question is resolved after-the-fact. This permits time, for example, for newly-naturalized citizens to present their certificate of naturalization, or for native-born citizens to find and present their birth certificate. In addition, larger investigations are entirely appropriate where there is probable cause that widespread fraud may be taking place. The problem with attempts to authorize pre-voting verification systems is that well-documented errors and inconsistencies in these databases will inevitably bar eligible persons from voting. For example, an initial computer match of the INS database with Orange County's voter registration lists purportedly revealed "tens of thousands" of questionable voters, according to a widely-cited House Administration Committee press release. After the records were checked manually, it turned out that at worst a dozen or so citizens mistakenly registered to vote after they had completed the naturalization process but before they were sworn in. In the absence of a single study, or a single civil or criminal court proceeding, which has produced documented evidence of a major problem, and given the massive potential disenfranchisement inherent in pre-voting computer match schemes, we do not believe there is any rational basis for enacting any new "ballot integrity" proposal.

Question 4. Are there any existing lawsuits filed by La Raza or other Latino organizations which challenge as individual state's compliance with the Fifteenth Amendment?

Answer. We have not filed any lawsuits. We understand that the Puerto Rican Legal Defense and Education Fund (PRLDEF) is in the process of developing litigation in a number of counties in Florida which violated the Voting Rights Act, the National Voter Registration Act, and/or Florida state law. They are currently assisting individual voters with evaluating where to file complaints under the law.

Question 5. Do you believe that Latino voters who were turned away at the polls this past November, when they arrived between 15 and 25 minutes before official closing time, were singled out because of the color of their skin? Were Caucasians allowed to vote if they arrived at the same time? What evidence do you have to affirm this statement?

Answer. We understand that PRLDEF is still compiling evidence in preparation for potential litigation. Based on the research and statements cited in our testimony, in at least some cases Latino and Asian voters were singled out for discrimination—not solely on skin color but also based on surnames and speech accents.

Question 6. What do you believe is the largest impediment, for the Latino community, in the voting process?

Answer. For those who already have obtained citizenship, the barriers experienced by Latinos are similar to other groups—poverty, education attainment, etc. For a significant number of Hispanic citizens whose first language is not English, lack of language-accessible voter education, registration, and ballots deter many from casting their vote.

Question 7. Beyond the specific examples cited from New York and Florida, in what other states have you received complaints from minority communities? Do New York and Florida appear to be the worst cases?

Answer. We believe New York and Florida may be the worst cases based on the evidence we received, although as we noted in out statement, we suspect similarities in other states.

Question 8. Are there currently any voting systems, across the country, which you would cite as model programs for the way in which they address the needs of the minority and minority language communities? If so, how do you think we can best implement those lessons elsewhere?

Answer. We do not claim expertise on this subject.

Question 9. During your testimony, you mentioned problems with language translation. Given the current discussion on establishing statewide uniform voting systems, how important is it the new systems are multi-lingual?

Answer. Multilingual technology is essential in guaranteeing accessibility and participation of all language minority voters. We believe that any new technology should take into account the needs of limited-English-proficient citizens.

In addition, it may be appropriate to discuss here the continuing need for language assistance in the electoral process. Some well-intentioned but uninformed persons have questioned the need for such assistance, asserting that since the naturalization process requires foreign-born persons to demonstrate some level of proficiency in English, language assistance is unnecessary. They further assert that jurisdictions are incapable of providing appropriate assistance given the nation's increasing diversity. There are several problems with this line of argument. First, several categories of persons—including those persons over a certain age who have lived in the U.S. for a lengthy period—are exempt from the English language requirement. Second, current law specifically notes that naturalization applicants are expected to have a "basic" understanding of English and civics. Given the growing complexity of the language of ballot propositions in most jurisdictions, we believe it makes sense to have oral assistance and/or bilingual ballots to help assure that naturalized citizens fully understand the issues they are being asked to address. Similarly, many naturalized citizens have low levels of education and literacy, even in their native language; in these cases, the availability of oral assistance is essential. Finally, the Voting Rights Act and state-local laws authorizing language assistance do not create an individual voter entitlement to such assistance. Most such laws require language assistance only in jurisdictions with significant concentrations of language minorities, usually based on Census data. In other words, the law requires language assistance only where it is cost-effective. In this context, we believe it is vitally important the electoral reform supports, and does not undermine, the ability of citizens whose native language may not be English to participate in the voting process.

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