

1 BEFORE THE NEW YORK STATE BOARD OF ELECTIONS
2 "HELP AMERICA VOTE ACT" TASK FORCE

2 -----

3 PUBLIC HEARING
4 In the Matter of
5 HAVA STATE IMPLEMENTATION PLAN DRAFT

5 -----

6 Hearing Room B
7 Legislative Office Bldg.
8 Albany, New York

9 July 8, 2003
10 10:15 a.m.

11 PRESIDING:

12 HAVA Task Force Chair Peter S. Kosinski
13 Deputy Executive Director
14 NYS Board of Elections

15 PRESENT:

16 Senator Thomas P. Morahan
17 Task Force Member and
18 Chair, Senate Elections Committee

19 John Haggerty
20 Task Force Member

21 Jackie Williams
22 Representing Task Force Member and
23 NYS Assemblyman Keith L.T. Wright

24 Todd D. Valentine
Special Counsel
NYS Board of Elections

Anna E. Svizzero
Director, Elections Operations
NYS Board of Elections

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1 CHAIRMAN KOSINSKI: Good morning. If
2 we could get seated, we'll get started this
3 morning.

4 I'd like to welcome everybody here
5 today. My name is Peter Kosinski.

6 And this is a hearing, if you don't
7 already know, on the HAVA, the Help America
8 Vote Act legislation that was passed by
9 Congress last year. And this is a hearing
10 to review the state plan, New York State
11 plan that's been put together to implement
12 HAVA in New York State.

13 I'll just make a couple of opening
14 comments. HAVA was passed back in October
15 of 2002, and it was to enhance the election
16 process in this country following the 2000
17 election. Each state is required by the law
18 to put together a state plan to implement
19 HAVA. New York State has done that and put
20 it up for public comment.

21 Today's hearing is an opportunity for
22 the public, the people that are here, to
23 make comments on that plan that was put out
24 in July, on July 20th -- or, I'm sorry,

1 June 20th. Comments are due by July 23rd.

2 Today we will just be taking those
3 comments. After we take those comments, we
4 will then be reviewing them and
5 incorporating those, as appropriate, for the
6 final plan that's put together to be sent to
7 Washington.

8 The purpose of the plan is really
9 twofold. One is to give an outline of what
10 New York State intends to do to implement
11 HAVA. Another very important aspect of this
12 plan is to ensure that New York State gets
13 its fair share of federal dollars which have
14 been put out to the states and to make sure
15 that New York has that money.

16 Just for your information, New York has
17 already received approximately \$66 million
18 from the federal government to implement
19 HAVA. Upon the submission of our plan to
20 Washington, we anticipate receiving an
21 additional sum of money for this year. And
22 that plan has to be submitted to Washington
23 during the federal fiscal year in order to
24 ensure that New York gets its money for the

1 federal fiscal year, which ends in
2 September.

3 This plan is a product of a task force
4 that was put together back in February of
5 this year. That task force met through
6 February and March and discussed all of the
7 different aspects of HAVA. Following those
8 meetings, the State Board of Elections put
9 together -- the staff of the state board
10 really put together this plan.

11 And I'll just -- you know, for those of
12 you who have a copy of the plan -- if you
13 don't have a copy, there are copies in the
14 back. The list of people that were involved
15 in the process is included at the back of
16 the HAVA plan itself, the task force
17 composition. In addition, during those task
18 force meetings, there were public comments
19 that were made by members of the public who
20 attended those meetings. And then on the
21 very last page of the plan, it lists the
22 people that were involved in the actual
23 drafting of this particular plan.

24 So at any rate, those are my opening

1 comments.

2 There are a few members of the task
3 force that are here today. Some of them are
4 sitting up here with me; some of them are
5 sitting in the audience and intend to give
6 comments today, which of course they're
7 welcome to do.

8 If any of the task force members have
9 any comments, I'd welcome them to make them
10 now.

11 First of all, on my left is Senator
12 Morahan, who served as a task force
13 member -- welcome, Senator -- and also was
14 instrumental in setting up the room today, I
15 might add. I'd like to thank him for that.

16 John Haggerty is down on my left,
17 beyond the senator. He also served on the
18 task force.

19 There are two State Board of Elections
20 staff members here, Todd Valentine and Anna
21 Svizzero, who were involved in actually
22 writing the plan.

23 And on my right is Jackie Williams, who
24 represents Keith Wright, who is a member of

1 the Assembly who sat on the task force as
2 well.

3 And I would just open it up, if there's
4 any member of the task force who would like
5 to make any comments now before we get
6 started.

7 Senator, do you have any comments?

8 SENATOR MORAHAN: Well, I just want
9 to say I'd glad we're having the hearings.
10 We're going to have another one Thursday in
11 New York City.

12 This is a very important initiative. I
13 serve as the chairperson of the Senate
14 Elections Committee, and that's the tie-in
15 to the HAVA.

16 But this is an opportunity for New York
17 to take advantage, if you will, of the new
18 machines that are available, make some other
19 innovative changes, maybe moving things to
20 the county level as opposed to town levels,
21 outside of New York City.

22 And the Legislature stands ready to
23 serve with the Board of Elections in
24 enacting any legislation necessary to put us

1 in conformity with the federal plan of HAVA,
2 the Help America Vote Act. Because it's
3 still not determined whether there will be
4 some legislation flowing out to give greater
5 guidance.

6 Thank you.

7 And I want to congratulate the
8 chairperson of the task force for pulling
9 together a difficult assignment where many
10 people wanted to be on the committee.

11 However, it becomes difficult to take care
12 of everybody's concerns. But I think the
13 makeup of the committee was broad enough to
14 include disabilities, minorities, and the
15 different parts of the state -- counties,
16 cities -- and everyone else who has
17 something of import to give to us in the
18 task force.

19 And I think the task force was done in
20 a timely manner, and the report seems to
21 cover all the points. And now I think we
22 can move forward to preparing for the final
23 submission.

24 Thank you.

1 CHAIRMAN KOSINSKI: Thank you,
2 Senator.

3 John, do you have any comments?

4 MR. HAGGERTY: Yes, I think it's
5 important to point out that the HAVA task
6 force is to address issues that have been
7 created by HAVA and to implement those
8 issues in New York State.

9 On a parallel track, at the same time,
10 many issues have come up about election
11 reform in New York State and changing things
12 under state law to improve the elections
13 process. Many of those recommendations came
14 out of the state task force which completed
15 its work last year.

16 And I think it's important not to mix
17 those issues -- but, at the same time, they
18 are parallel issues -- and to remember that
19 this task force has a specific mission in
20 relation to HAVA but, at the same time, for
21 all of you from those different groups that
22 were involved in the task force to advocate
23 separately at the same time to the
24 Legislature to make some of those changes in

1 state law which will enhance the
2 implementation of HAVA, but at the same time
3 they're not really the responsibility of
4 HAVA.

5 CHAIRMAN KOSINSKI: Thank you, John.
6 Jackie, do you have any comment?

7 MS. WILLIAMS: On behalf of
8 Assemblyman Wright, I thank you all for
9 being here. And many of the comments that
10 were made, I'm sure he would echo them.

11 Just one thing that I do believe Keith
12 would stress is that this hearing is for
13 you, for your comments and suggestions. He
14 hopes that whatever is said here today would
15 only enhance the final implementation of
16 HAVA.

17 And he just thanks you for being here.

18 CHAIRMAN KOSINSKI: Thank you,
19 Jackie.

20 To start off, we do have a couple of
21 task force members who would like to give
22 testimony today, and I would like to call on
23 them first.

24 Dick Warrender, who is the advocate for

1 people with disabilities in the state.

2 Dick, if you'd like to start off.

3 I'd just ask people, by the way, that
4 as you come down you can make your comments
5 here at this table. There are microphones
6 here. And, you know, if you'd just come
7 down and sit at the table, that would be
8 probably easiest for everybody.

9 MR. WARRENDER: Thank you, Peter.

10 Good morning. My name is Richard
11 Warrender. I'm the New York State Advocate
12 for Persons with Disabilities. The
13 Advocate's Office is established in the
14 statute as a systems advocacy agency within
15 the Executive branch of New York State
16 government.

17 Thank you for allowing me this
18 opportunity to share my thoughts on the
19 New York State draft plan to implement the
20 Help America Vote Act of 2002.

21 I'd like to preface my comments with a
22 note of appreciation for State Board of
23 Elections Deputy Director Peter Kosinski and
24 his hard work. He has done a masterful job

1 in an unenviable position. Whether
2 balancing the competing needs of downstate
3 and upstate interests, disability advocates,
4 local elections and government officials, or
5 other of the myriad interest groups wanting
6 a say in this unprecedented process, Peter
7 has listened and managed to negotiate
8 equitable, nonpartisan solutions under often
9 exceedingly difficult circumstances.

10 Peter, you can count on the Advocate's
11 Office for support and cooperation. Our
12 resources remain at your disposal.

13 As a task force member, I can attest to
14 the diligence and enthusiasm with which
15 New York State has gone about putting
16 together a HAVA task force representative of
17 diverse stakeholders, identifying areas in
18 need of reform and innovation, and drafting
19 a fiscally and programmatically accountable
20 plan to implement HAVA requirements over the
21 course of the next three years.

22 With regard to accessibility and the
23 participation of citizens with disabilities
24 in the electoral process, once implemented,

1 New York State's plan will increase
2 significantly the number of individuals with
3 a full range of disabilities who will, for
4 the first time, do what a vast majority of
5 voters do routinely: enter the polling
6 place and independently, with privacy,
7 complete the act of voting.

8 Enhanced attention to establishing a
9 uniform standard of polling place
10 accessibility throughout the state's 62
11 counties, the purchase of accessible voting
12 machines, an accessible toll-free telephone
13 number to report problems, voter education,
14 outreach initiatives that include disability
15 awareness components, and other measures
16 that will, indeed, help Americans with
17 disabilities to vote.

18 New York's proposed HAVA implementation
19 plan and budget of \$235.6 million for
20 Title III requirements represent significant
21 resources and opportunities to protect the
22 "one person, one vote" principle that forms
23 the foundation of our democratic elections
24 process. Moreover, the \$140 million

1 proposed for purchasing voting machines
2 accessible to individuals with disabilities,
3 \$10 million for polling place accessibility,
4 and \$20 million targeted for voter education
5 training that is inclusive of individuals
6 with disabilities, along with the nearly
7 \$800,000 allocated under HAVA to New York
8 State to assure access for individuals with
9 disabilities, will lead to greater
10 participation by the state's citizens with
11 disabilities.

12 Again, thank you, Peter, for all you
13 have done and continue to do to implement
14 HAVA 2002.

15 CHAIRMAN KOSINSKI: Thank you, Dick.
16 I appreciate your kind words.

17 If there's any questions, by the way,
18 that any task force members have, they're
19 certainly welcome to ask. And other than
20 that, we will just take testimony today.

21 And of course those that brought
22 written testimony, I would ask that you, if
23 you could, bring it down. That helps us to
24 follow along with your testimony and, you

1 know, we appreciate that.

2 Next I have Rachel Leon from Common
3 Cause, and I believe Rachel --

4 MS. LEON: I'm bringing some friends
5 with me.

6 CHAIRMAN KOSINSKI: Okay, fine.

7 MR. CREELAN: Good morning,
8 Mr. Chairman.

9 My name is Jeremy Creelan. I'm with
10 The Brennan Center for Justice.

11 Good morning, Senator Morahan. Thank
12 you for facilitating these hearings and
13 giving us a chance to give you our comments
14 on the draft plan.

15 Mr. Haggerty, thank you for your
16 attendance.

17 We submitted a joint written testimony,
18 which I gave ten copies of to the staff at
19 the top of the room. But if you don't have
20 copies, I have additional ones here.

21 CHAIRMAN KOSINSKI: I'm sure I do. I
22 just need to find them.

23 MS. LEON: Here.

24 CHAIRMAN KOSINSKI: Thanks, Rachel.

1 MR. CREELAN: We are testifying as a
2 panel this morning because we represent the
3 views of what we've called the New York
4 State Citizens' Coalition on HAVA
5 Implementation, which is a diverse, ad hoc
6 coalition of good-government, voting rights,
7 racial justice, disability rights, and
8 language rights organizations who are
9 concerned about the way in which New York
10 implements the Help America Vote Act.

11 And we have submitted joint testimony.
12 Each of us will address a specific area
13 within that testimony briefly, and we refer
14 you to the written testimony for the fuller
15 exposition.

16 Before commenting on the substance of
17 the draft plan, the coalition must first
18 note what we believe to be the primary
19 reason for the plan's substantive
20 deficiencies, which, with all due respect,
21 is, we believe, a flawed planning process.

22 As we have noted on earlier occasions,
23 the composition of the task force fails to
24 represent adequately the diverse citizens of

1 New York State, especially those racial,
2 ethnic, and language minority communities
3 protected under the Voting Rights Act who
4 are entitled to representation as
5 stakeholders under HAVA. Nor is the task
6 force sufficiently diverse in terms of
7 gender or geography.

8 We recently did a fifty-state survey of
9 state planning committees, and New York is
10 virtually unique in its lack of
11 representativeness of the groups that would
12 under any definition be considered
13 stakeholders.

14 Task force meetings were also flawed.
15 With few exceptions, there were not briefing
16 papers on relevant topics distributed to
17 members, there were not subcommittees,
18 working groups -- which you see across the
19 country in states that have taken a
20 different approach, where subcommittees meet
21 independently, develop proposals,
22 recommendations, have their own hearings and
23 bring in their own experts and then
24 recommend to the full planning committee

1 substantive developments to be included,
2 incorporated into the state plans.

3 None of that was present in New York's
4 process. In fact, there was a vocal dispute
5 as to whether the task force members
6 themselves would even be able to review and
7 revise the draft plan prior to its public
8 release. Thankfully, that was resolved in
9 favor of the members actually getting a
10 chance to read the report. But it's a
11 symptom of what we believe to be a flawed
12 process.

13 With respect to the plan itself,
14 overall, its principal problem is the lack
15 of specificity that pervades the document.
16 While the plan reiterates HAVA's
17 requirements and frequently speaks laudably
18 of New York State's commitment to comply
19 with the same, the plan includes few details
20 about how New York State and local officials
21 will, in fact, implement these requirements
22 and improve our election process.

23 I will focus my comments just on voting
24 system standards briefly.

1 HAVA requires, as you know, that all
2 voting systems meet certain requirements by
3 the first election after January 1, 2006,
4 including that all lever machines are
5 replaced by that time if the state chooses
6 to receive the federal funds under the
7 relevant provision.

8 The draft plan, however, fails to
9 provide sufficient details to indicate that
10 New York State will take full advantage of
11 this opportunity.

12 Among other issues that we believe the
13 draft plan does not address is the
14 certification process. As can be found in
15 the Assembly's proposed and passed
16 legislation, Assembly 8847, that legislation
17 proposes an independent advisory panel to
18 review and recommend appropriate voting
19 machine specifications for New York State.

20 And that legislation also proposes that
21 the state board would select a single voting
22 machine, to produce uniformity, through a
23 competitive bidding process that includes
24 meaningful opportunities for public comment.

1 We would urge the task force to adopt
2 the framework of the legislation in the
3 Assembly. That legislation suggests
4 uniformity in voting is critical. And we
5 believe that the state board actually agrees
6 with us on that; they've indicated as much.
7 And we believe that the state implementation
8 plan should reflect that.

9 Even if it's in the realm of
10 recommendations, the task force is
11 guaranteed to be the source of inspiration
12 for legislators to determine what makes
13 sense. You, as the task force, have been
14 the ones who have looked at these issues
15 and, as with the earlier Task Force on State
16 Election Modernization, have gathered the
17 relevant expertise. And the recommendations
18 included in the final plan could have a
19 tremendous impact. So we urge you to adopt
20 those provisions.

21 In addition, there's an elephant in the
22 room, which is the full-face ballot
23 requirement. And although we recognize that
24 the state implementation plan cannot change

1 that requirement, we urge the task force to
2 include a recommendation to the Legislature
3 that that requirement be repealed.

4 With respect to the voting machine
5 selection process, New York cannot have a
6 robust selection process that guarantees
7 New Yorkers the best machines without first
8 eliminating that full-face ballot
9 requirement.

10 And that brings me to accessibility for
11 voters with disabilities. The full-face
12 ballot requirement, as you know, even with
13 the new machines still imposes tremendous
14 limitations on voters with disabilities,
15 particularly cognitive disabilities, to
16 vote.

17 And without repeal of the full-face
18 ballot, New York cannot take advantage of
19 the new DRE machines that scroll
20 consecutively through different offices and
21 allow those voters to vote without the
22 limitations and the confusion that results
23 on the old machines and on the new full-face
24 ballot machines.

1 Second, the final state implementation
2 plan should state in much greater detail the
3 types of accessible devices and other
4 alterations to existing voting systems that
5 the state board will require to improve
6 accessibility. They're referred to in the
7 plan, but they're not indicated.

8 The legislation passed by the Assembly
9 specifically requires that at least one
10 voting machine every polling place include
11 human voice audio voting, a hand-held voting
12 device, and sip and puff voting technology.
13 That's again 8847.

14 The state implementation plan should
15 identify these and other specific adaptive
16 technologies and interfaces that the state
17 board will mandate for New York State's
18 machines.

19 Third, the draft plan is entirely
20 silent concerning the role, if any, that
21 representatives of the disability community
22 and voters with disabilities will play in
23 selecting, reviewing, testing, and
24 commenting on the voting machine

1 technologies available in New York State
2 prior to their final implementation.

3 The draft plan makes vague references
4 to federal and state laws and regulations
5 regarding disability access, and it
6 articulates no role for advocates or voters
7 with disabilities in the process.

8 As the Assembly legislation does, the
9 final implementation plan should provide for
10 specific procedures to obtain ongoing
11 feedback from disability advocates and
12 voters with disabilities. New machine
13 rollout should also include extensive
14 consumer user surveys executed throughout
15 the rollout process so that New York can
16 adjust the voting system elements as
17 conditions in the field and the needs of
18 voters develop.

19 Moving to accessibility for voters with
20 limited English language proficiency, the
21 state implementation plan, the draft, makes
22 reference to compliance with the Voting
23 Rights Act, but the coalition believes that
24 the plan should articulate a more detailed

1 plan by which the state board will address
2 the numerous existing deficiencies in the
3 state's current provision of language
4 assistance under Section 203 of the Voting
5 Rights Act.

6 In addition, the final implementation
7 plan should identify ways to expand language
8 assistance beyond the minimal requirements
9 of the Voting Rights Act and develop a
10 specific methodology to determine which
11 languages and counties to include.

12 At a minimum, voter registration forms,
13 instructions on how to vote and operate the
14 voting machines, nonpartisan election guides
15 and ballots should be translated into
16 Bengali, Urdu, Russian, and Haitian/Creole
17 in New York City. And there are counties in
18 upstate New York that have extensive
19 Spanish-speaking populations that do not
20 qualify for Voting Rights Act assistance but
21 should receive it.

22 Finally, the machines that are
23 chosen -- and this should be made explicit
24 in the state implementation plan -- should

1 be capable of producing a voter-verifiable
2 paper audit trail. And it should be
3 explicit in the plan that that is a
4 requirement.

5 I was also going to address the
6 administrative complaint review procedure
7 and judicial review, but I've run out of
8 time. So I refer you to the written
9 comments on that. That is a critical piece
10 which the draft state plan does not address
11 in any great detail.

12 So I turn to my colleagues now for
13 their comments.

14 MR. BLAIN: I'm Ludovic Blain,
15 associate director of the Democracy Program
16 at Demos, the national public policy think
17 and act tank based in New York.

18 I'm very glad that these hearings
19 actually happened. Certainly for a period
20 of time we were concerned that they
21 wouldn't.

22 SENATOR MORAHAN: Would you just
23 suffer an interruption.

24 Is this -- is your testimony all in

1 this one package?

2 MR. BLAIN: Yes.

3 SENATOR MORAHAN: Thank you.

4 MR. BLAIN: I'm going to be touching
5 on the computerized statewide voter list.

6 I only have a couple of minutes, but
7 obviously at the core of the democracy is
8 the voter list. And unfortunately, this
9 draft plan is distressingly vague as to how
10 the state board will meet the substantial
11 new requirements under HAVA regarding
12 computerized statewide voter lists.

13 The plan merely reports that the state
14 board will implement a statewide voter
15 registration list, define certain
16 requirements, roles, and responsibilities,
17 and determine some technical and functional
18 requirements.

19 We have particular concerns about that,
20 and we think that the state plan can do a
21 lot better by New Yorkers who are both
22 registered, those who will be the
23 registering, and others who want to be
24 registering and haven't been able to under

1 the current system even though they are
2 eligible citizens.

3 First, it should be clear in the state
4 plan that the responsibility for accepting,
5 verifying, updating and purging voter
6 registration rolls lies with the state and
7 the state alone. The state board should
8 issue sufficiently clear statewide guidance
9 for county election officials to follow as
10 they interact with the statewide list.

11 Those of you who are affiliated with
12 the State Board of Elections know that in
13 the next couple of days there will be a
14 meeting that you'll be having with a variety
15 of groups, including the Brennan Center,
16 regarding a current issue where the state
17 board has put the local boards in a bind,
18 giving them essentially old and inaccurate
19 felon lists, which then moves the local
20 boards to ask ex-offenders who assert that
21 they're eligible to provide additional
22 documentation to show that they're eligible.

23 And that's solely due to problems with the
24 statewide list, with the voter list and the

1 felon list.

2 And so that's an example where the lack
3 of a statewide requirement is impacting
4 eligible U.S. citizens from being able to
5 register and being able to vote. And I hope
6 that we're all against that, and we're
7 hoping that we can move to change that.

8 So having the state board set statewide
9 requirements that local boards can follow in
10 having a functional, accurate, and
11 trustworthy voter list is something that,
12 one, is not happening now, and, two, can
13 really happen and should happen and needs to
14 happen through this HAVA process.

15 Second, the final state implementation
16 plan should designate a broad and specific
17 network of databases, state databases that
18 the voter registering system should interact
19 with. The current plan has a vague
20 reference to other statewide databases, and
21 the plan needs to do better than that.

22 The document should call specifically
23 on the state board to design a computerized
24 statewide registration system that accesses

1 data from DMV and other agencies covered
2 under the National Voter Registration Act --
3 the "motor-voter" -- including
4 Medicaid/Medicare offices, other social
5 service agencies, and including judicial and
6 correctional agencies, public education,
7 financial aid, and other agencies.

8 And what we want to do here is to make
9 sure that the statewide voter list is
10 informed by as many other statewide lists
11 that are accurate as possible. And this is
12 the way that this state and the State Board
13 of Elections can accomplish HAVA's goal of
14 producing clean and accurate voter lists
15 without creating new and unjustifiable
16 barriers for eligible voters.

17 Second, on the driver's license and
18 Social Security numbers on the voter
19 registration form, the draft plan notes that
20 this is necessary. Unfortunately, the plan
21 offers no guidance to county boards of
22 elections or notice to the public as to
23 treatment of voter registration forms with
24 either erroneous or missing driver's license

1 or Social Security numbers.

2 This guidance and notice is essential,
3 given the fact that such data are vulnerable
4 to errors, either in transmission or through
5 a failure to integrate these data
6 sufficiently with relevant registered voter
7 databases.

8 As an initial matter, this final state
9 implementation plan must make clear that a
10 registrant's failure to provide a driver's
11 license or partial Social Security number
12 will not cause a rejection of the
13 registration application. Instead, it
14 should be made clear that the state will be
15 required to assign the registrant a unique
16 identifying number that will be used in the
17 statewide voter registration database.

18 The plan should also provide guidance
19 as to how county boards of elections are to
20 use the broad network of databases. Under
21 most circumstances, rejecting a registration
22 without a valid driver's license or a
23 partial Social Security number would be a
24 violation of HAVA.

1 Lastly, the final plan must clearly
2 state the responsibility over the design and
3 implementation of the new computerized
4 statewide voter registration system and that
5 it rests with the state and the state board
6 alone. And the state must ensure that the
7 county and local election officers do not
8 misinterpret the law's requirements and that
9 they have sufficient access to the pool of
10 state databases such that voter information
11 can be properly matched and voters
12 registered.

13 And again, pointing towards the issue
14 that is happening now -- that we found out
15 through the Brennan Center survey -- around
16 eligible U.S. citizens with felony
17 convictions who are eligible to register to
18 vote being asked by dozens of counties for a
19 variety of different materials in order to
20 prove their eligibility, which is a problem
21 that is impacting eligible U.S. citizens.

22 And that's an example of something that
23 needs to be fixed by a function of the state
24 board giving local boards, one, an accurate

1 list and, two, requirements to follow
2 vis-a-vis adding people to the list and
3 moving people off the list.

4 So I'd like to pass it to my next
5 colleague.

6 MS. LEON: Good morning. I'm Rachel
7 Leon. I'm the executive director of Common
8 Cause/New York. I'm a member of this
9 coalition that's been sort of monitoring and
10 participating in the process of implementing
11 HAVA in this state.

12 I'm also cochair of a voter
13 participation coalition in New York City
14 that involves over fifty groups who have
15 been working for years to improve elections
16 in New York City. So we're not new to this;
17 we've been doing it for years. But we do
18 have some particular concerns about the new
19 Help America Vote Act.

20 We appreciate the opportunity to
21 testify today, and we appreciate your
22 flexibility in getting us on early.
23 Generally we're at the end of the day. So
24 we do appreciate the early billing.

1 That said, we do have concerns. One
2 thing I always hear from our members -- and
3 we did provide this to you in writing --
4 when you do public hearings, to really get
5 the full public involved, you need to have a
6 variety of hearings all across the state and
7 at different times. My members always yell
8 at us organizationally when we do forums
9 during the day because most of them are
10 working during the day.

11 So I would ask you, you know, for the
12 record, to hold more hearings and to hold
13 them in the evening so that it's easier for,
14 you know, real members of the public to come
15 out. We can do it during the day, but it's
16 not so easy for regular citizens.

17 I'm here today to talk to you about the
18 voter information requirements. I know you
19 didn't create them. They were probably one
20 of the most contentious parts of the Help
21 America Vote Act. We're definitely
22 concerned about it. It led Senator Schumer
23 and Senator Clinton to not -- to oppose this
24 bill.

1 So this voter ID has a disproportionate
2 impact on people living in New York City.
3 And we know that by looking at who holds
4 driver's licenses in this state. And if you
5 look in New York City, only about half of
6 those over 18 possess a license, while
7 outside of the city that number jumps to
8 93 percent.

9 So we're already looking at a new
10 system where if you generally accept that
11 the driver's license is the main ID, that
12 you're going to have people in New York City
13 being held to a much harder standard when
14 they go to vote than people outside of the
15 city.

16 So we have a lot of concerns about
17 who's going to be impacted by this. And, as
18 in everything, the devil is in the details.
19 So our concerns about your draft plan are
20 that while you state a commitment to
21 diminish the number of people who are going
22 to have to provide ID, you don't say how
23 you're going to accomplish that goal.

24 And while we've been very vocal critics

1 of this process throughout, we've also tried
2 to be really helpful in providing you
3 specific and detailed language on how to go
4 about this the right way.

5 So on page 11 we do that again today.
6 It's in the Assembly bill. And we would ask
7 that, you know, the way to best deal with
8 this new voter ID requirement is to have a
9 detailed, concrete plan, to have an
10 expansive list of what kind of ID is
11 acceptable, and to minimize, to the extent
12 that you can, how many people have to show
13 ID.

14 But the way to do that is not to say
15 that we don't want a lot of people to have
16 to do it. It's to have a detailed,
17 specific, concrete plan in your plan and to
18 not allow it to be, you know, implemented at
19 the county level under county control.

20 We're very concerned that if you leave
21 it to the counties, it's a recipe for
22 disaster. We've already seen an incredibly
23 patchwork system across New York State,
24 depending on what polling site you go in,

1 depending on what county you're in,
2 depending on what borough you're in in the
3 city.

4 And if you leave voter ID vague and up
5 to the counties, you know, we're headed for
6 trouble and we're headed for a system that,
7 rather than encouraging new voters to vote,
8 is going to disenfranchise voters. And the
9 voters that we're talking about tend to be
10 young voters, urban voters. You know, just
11 the kind of people that we want to get into
12 the democracy process, not to disenfranchise
13 them.

14 So just a couple of specifics. Number
15 one, we've laid out what a valid photo ID
16 should include. And we believe it should go
17 further than your draft plan has gone. So
18 we again ask you to look at this. It
19 shouldn't just be a driver's license or, you
20 know, a non-driver identification. It
21 should also include student ID cards. It
22 should include automated teller cards. It
23 should include, you know, electronic benefit
24 cards.

1 There's a number of government
2 documents that we feel were left out of the
3 plan that you could do a lot better with and
4 that you should be able to incorporate. If
5 this is truly a draft, you should be able to
6 take this input and make it better.

7 Second, the important part of this is
8 going to be education. And we've already
9 seen boards of elections illegally ID'ing
10 people before this law has even gone into
11 effect. We have one of them sitting at this
12 table.

13 So we know that we need really good
14 public training and really good public
15 education or we've going to have a number of
16 problems with this. And so we believe that
17 county boards of elections should be
18 required to send each affected first-time
19 voter a postage-paid mailer in which they
20 can send identification prior to Election
21 Day. And we believe that the plan should
22 detail and outline this.

23 We also have a problem -- again, the
24 devil is in the details. And so the voter

1 ID requirements only apply to first-time
2 voters who register by mail. So
3 accordingly, the task force should establish
4 that only those voters who actually mail in
5 their registration have to show a photo ID.

6 And so that means that voter
7 registration drives that collect
8 registration applications from new voters in
9 person should not be subject to those
10 requirements.

11 Now, we've had this talk repeatedly
12 over the last several months, but we still
13 don't see it in the draft plan. We should
14 be encouraging organizations like the League
15 of Women Voters, like NYPIRG, all these
16 organizations that work so hard to register
17 new voters, those voters who registered in
18 person should not then have to show photo ID
19 and be discouraged afterwards. So we ask
20 that you put that in.

21 And the last thing is that we think
22 that the plan should very clearly state that
23 it should eliminate the requirement for ID
24 checks for voters who move between counties

1 in the state. Voters who move within the
2 same jurisdiction are exempt from the ID
3 mandate. So with the new single statewide
4 database of registered voters, we believe
5 jurisdiction should clearly be defined to
6 mean the entire New York State.

7 Again, what we want to avoid is a
8 patchwork system which does lead to lawsuits
9 where people in one borough or people in one
10 county are having an entirely different
11 experience at the polls than others. That
12 is not fair. That is not what a single new
13 voting system should be like. And so we ask
14 for your assistance in this.

15 MS. MATUNDAN: I'm Jillian Matundan,
16 from the Citizens Union Foundation of the
17 City of New York, and I'm the election
18 reform associate there.

19 I will be speaking about a few things,
20 so I will attempt to be brief.

21 First, provisional voting. New York is
22 fortunate to already have in place a system
23 known as affidavit balloting. But HAVA also
24 offers an opportunity to improve our system.

1 The state plan should establish a
2 statewide policy to be put in place by the
3 state board that all affidavit ballots cast
4 by voters who are not currently registered
5 should be processed as voter registration
6 applications. You'll find more details in
7 our testimony.

8 Also, the draft plan includes
9 significant discussion of the need for
10 improved voter education and election worker
11 training. And we strongly support a uniform
12 statewide comprehensive training program for
13 poll workers and election officials. But
14 the final state plan, however, should
15 include additional details of the steps that
16 the board will take to educate the voters
17 and train election workers more fully.

18 With respect to new voting machines,
19 practice on the actual machines will help
20 voters a great deal. The state board should
21 sponsor demonstrations throughout the state,
22 and each county should be required to hold
23 demonstrations that ensure that voters will
24 be familiar with the new machines. We've

1 been voting on lever machines for 40 years.
2 Actually putting it in front of them and
3 showing them out how to use it should help.

4 The final state plan should outline a
5 detailed plan for this area of voter
6 education as well as new requirements
7 stipulated by HAVA, ID checks being one of
8 them.

9 With regards to election worker
10 training, the proper measure of success
11 should not be how many poll workers and
12 inspectors are trained but, instead, how
13 many are qualified to work on Election Day.

14 The final state plan should include not only
15 a detailed statewide training program but
16 also a uniform testing requirement for all
17 election workers.

18 Assembly Bill 8833 provides a valuable
19 model from which to borrow provisions for
20 inclusion into the plan.

21 The draft plan also does not include
22 any discussion about the recruitment,
23 training, or quality control for language
24 interpreters. As we know, this is an

1 important facet of what happens in New York
2 City alone. The final state plan should
3 include provisions to ensure that all
4 interpreters are trained and that quality
5 control measures are in place in every
6 county and local jurisdiction.

7 Also, on the Voter Bill of Rights,
8 there is no definitive outline or draft of a
9 Voter's Bill of Rights in the draft plan, as
10 is required by HAVA. It requires that all
11 polling places post various information on
12 Election Day. And you can find a draft bill
13 in our testimony package.

14 A draft of the proposed Voter's Bill of
15 Rights should be provided immediately on the
16 state board's website, to allow for notice
17 and meaningful input during the public
18 comment period. The state should also use
19 all means necessary to ensure availability
20 to the public by web and media outlets.

21 In addition, the state should also post
22 translated versions in languages covered by
23 the Voting Rights Act as well as other
24 languages spoken by a large number of

1 New York citizens. I think Jeremy touched
2 on some of those earlier.

3 The final state plan should not only
4 provide a draft Voter Bill of Rights in its
5 pages but also outline the details of such
6 plans to disseminate the document to voters.

7 Again, we'd like to thank you for
8 having this hearing, and we thank you for,
9 again, the lineup switch. And we hope to
10 continue this process.

11 CHAIRMAN KOSINSKI: Thank you for
12 coming.

13 I'd just like to, if I could, before
14 you leave, just make a couple of comments
15 myself.

16 First of all, these hearings are not
17 the only opportunity people have to have
18 input into this process. During this 30-day
19 period people have an opportunity, if they'd
20 like, to send comments to us. These public
21 hearings are just one of the forums that
22 we're using for people to bring public
23 comments to us.

24 But certainly if people want to send us

1 public comments, they're welcome to do that,
2 either through our website, through e-mail,
3 or directly through the mail. And we've
4 made that available to people as well.

5 In addition, if people want to have a
6 meeting or anything of that nature, we'll
7 try to do that within that 30-day period in
8 order to solicit further comments.

9 So I don't want people to think that
10 these hearings, of which we do have three
11 scheduled, are the only forum that people
12 have to make comments. It certainly isn't
13 that.

14 Secondly, on the issue of
15 specificity -- and I know that some people
16 have been somewhat unhappy, I'll say, that
17 there isn't more specificity in this plan
18 about the subjects that HAVA covers. I just
19 want people to understand that this is --
20 under HAVA, it's a three-year program. The
21 way it was enacted by Congress states we're
22 to be in compliance with HAVA by 2006.

23 And I think there's an anticipation
24 that this is sort of a living document, that

1 this document we've drafted for now is
2 something that we've put together for this
3 year that we have to get to Washington
4 during this fiscal year.

5 But certainly we anticipate, as this
6 program moves along, that there will be
7 decisions that will have to be made in a
8 very specific way that New York will have to
9 deal with as far as implementing this
10 particular program.

11 And we anticipate that as the process
12 evolves, those issues of course have to be
13 dealt with. And this plan will be updated
14 as the program goes on, that there is an
15 opportunity -- in fact, there's an
16 obligation under HAVA that each state update
17 its plan each year to provide for any
18 changes or any new information or any new
19 legislation or anything else that's changed
20 in their state that would impact on HAVA.

21 So we anticipate that while this plan
22 has to be gotten to Washington in order for
23 us to access this federal money, that this
24 will not be a final plan in the sense that

1 this is the end of the process. In fact,
2 it's sort of the beginning of a process.
3 Once we get the plan down to Washington,
4 access to money, that New York will then
5 continue to discuss and make decisions about
6 the implementation of HAVA in this state.

7 So again, I want people to understand
8 how we view the plan and how it will be
9 working for the next couple of years.

10 Thank you again for coming.

11 Next we have another task force member
12 here, Aimee Allaud from the League of Women
13 Voters.

14 MS. ALLAUD: Good morning,
15 Mr. Kosinski and staff of the State Board of
16 Elections, Senator Morahan.

17 I am Aimee Allaud, and I am here today
18 in two capacities: One, as the League of
19 Women Voters of New York State
20 elections/government specialist, and, two,
21 as a HAVA task force member.

22 The Help America Vote Act of 2002 --
23 HAVA -- impacts every part of the voting
24 process, from voting machines to provisional

1 ballots, from voter registration to poll
2 worker training. Election officials,
3 legislators, and advocates in each state are
4 responsible for making HAVA work properly to
5 ensure the most inclusive, timely
6 implementation possible.

7 Under HAVA, states must meet new
8 federal requirements, including provisional
9 ballots, statewide computerized voter lists,
10 "second chance" voting, and disability
11 access. States will receive federal funds
12 for these purposes and to improve the
13 administration of elections. To be eligible
14 for grants, each state must design a plan,
15 pass enabling legislation this year, and
16 appropriate state funds. Each state must
17 develop its implementation plan through a
18 process that includes citizen participation
19 and a public review.

20 Before commenting on the draft plan, I
21 will offer some comments on the New York
22 State task force process.

23 The task force process has been flawed
24 from its inception. The composition of the

1 task force has not been representative of
2 the diverse population of New York State,
3 although the federal statute specifies that
4 stakeholders and other citizens should be
5 included. Only two members of 19 persons
6 serving on the task force qualify as
7 stakeholders or other citizens. Other
8 members of the task force represent the
9 major political parties, heads of state
10 agencies, election officials, and
11 legislators.

12 Five brief meetings were held without
13 any background information provided other
14 than the federal statute. No substantive
15 decisions were made by members of the task
16 force on the major issues of implementation
17 in New York. Public comment was limited to
18 one half-hour at the beginning and end of
19 the meetings.

20 Until the current round of hearings on
21 the proposed plan, the public has not had
22 any opportunities to participate in the
23 process through hearings. Therefore,
24 members of the task force, the State Board

1 of Elections, and the Legislature have not
2 had the opportunity to hear the comments and
3 concerns of citizens, election officials and
4 advocates, legislators, et cetera, on the
5 important changes which will occur as a
6 result of HAVA.

7 I would like to briefly contrast the
8 New York State process with that of
9 California, which is now at a similar stage
10 in their process.

11 The California plan was developed by an
12 advisory committee of 24 citizens. In
13 addition to required representatives from
14 the three largest election districts in
15 California, there are advocates for persons
16 with disabilities, in the number of three;
17 six people representing minority
18 populations; five persons representing
19 unions; six persons representing the area of
20 public policy advocates; and one political
21 scientist associated with the Cal Tech/MIT
22 voting technology project.

23 Public hearings were held in five
24 locations in the state at the beginning of

1 the process or early in the process and were
2 widely publicized by notice in six
3 newspapers and an advance notice to nearly
4 4,000 interested persons and organizations.
5 The hearings yielded more than 250 oral and
6 written comments which were provided to the
7 California planning committee.

8 The California committee process
9 provided multiple opportunities for public
10 participation early in the process, before a
11 draft plan was written -- unlike the New
12 York process, in which there have not been
13 any public hearings prior to the three
14 scheduled hearings this month on the draft
15 plan.

16 Unfortunately, the draft plan we are
17 commenting on today reflects the limitations
18 and deficiencies of the process. Therefore,
19 I recommend that the task force be
20 reconvened after the hearings are concluded
21 to review and discuss the testimony and
22 recommend revisions before the plan is
23 submitted to the Federal Election Assistance
24 Commission.

1 Section 256 of the HAVA statute
2 requires that "the State took the public
3 comments made regarding the preliminary
4 version of the plan into account in
5 preparing the plan which was filed with the
6 Commission." And the task force, I believe,
7 should be asked to consider those and
8 recommend revisions.

9 Now, to the plan itself. While the
10 draft plan indicates that New York State
11 will meet the requirements of compliance
12 with HAVA, it does not provide an adequate
13 level of detail in several key issues. It
14 does not, for example, recommend the
15 statutory changes that must occur before
16 implementation can be undertaken. Even as a
17 framework, the plan should give direction to
18 the Legislature and election officials so
19 that appropriate and timely actions can be
20 taken.

21 There must be coordinated efforts by
22 the State Board of Elections and the
23 Legislature in order to implement HAVA
24 successfully. Although this plan will be

1 submitted to the Federal Elections
2 Assistance Commission to fulfill HAVA
3 requirements, it should also stand as a
4 reference document to define state goals in
5 election reform. As such, it represents an
6 opportunity to explain how New York will
7 improve its election administration and
8 procedures.

9 Further comments on the plan.
10 Regarding Section 1, "How the State will Use
11 the Requirements Payment," Voting System
12 Standards. The plan merely states that
13 New York "will undertake a statewide effort
14 to facilitate replacement of voting systems
15 in counties where lever machines are used."

16 It states that these machines will meet
17 the accessibility standards for persons with
18 disabilities, and that the procurement will
19 comply with state rules and laws, but there
20 is no further analysis of the machine
21 selection process, how the machines will be
22 phased in between now and January 1, 2006,
23 or even whether or not the machines should
24 be uniform throughout the state. Nor is

1 there a further description of "how
2 statewide efforts to ensure accessibility"
3 will be conducted.

4 Replacing the large number of machines
5 in use in New York and educating election
6 officials and voters on using new machines
7 for the first time in a major presidential
8 year has potential for a difficult
9 transition. At the very least, the plan
10 should describe and draw on the experiences
11 of other states that have replaced their
12 machines.

13 The fact that legislative changes may
14 be necessary to achieve the best result in
15 the selection and introduction of new voting
16 machines should not stop the plan for
17 recommending a strategy for achieving that
18 end. Instead, the plan should be viewed as
19 a means of bringing public attention to the
20 need to pass the necessary legislation.

21 Most importantly, there is no
22 acknowledgment of the fact that New York's
23 antiquated full-face ballot requirement bars
24 access to the full choice of new voting

1 technologies, including machines that offer
2 greater flexibility in meeting multiple
3 language requirements and access for
4 disabled voters.

5 The plan is the means by which the
6 public is supposed to have its voice heard
7 on these important decisions on how
8 New Yorkers will vote for many years to
9 come. This lack of information about the
10 decision on how federal funds will be spent
11 to replace the lever machines denies the
12 public the opportunity to have meaningful
13 input.

14 Section B, "Provisional Voting and
15 Information Requirements." This section of
16 the plan states that the State Board of
17 Elections shall develop the Voter's Bill of
18 Rights to be posted in each polling place
19 and provided to each voter upon request.

20 The plan proposes a minimum Voter's Bill of
21 Rights, limited to the requirements
22 specified under HAVA.

23 The New York State Citizens' Coalition
24 on HAVA Implementation has proposed a broad

1 and inclusive list of provisions which
2 should be part of a Bill of Rights.
3 Information contained in this Bill of Rights
4 can help to educate voters prior to
5 elections and produce more efficient and
6 cost-effective elections in which voters are
7 assured that their vote has been counted.

8 A Voter's Bill of Rights should also be
9 included in the voter's handbook which is
10 described in Section 3, "Voter Education,"
11 on page 19 of the plan. And it should be
12 disseminated as part of the voter outreach
13 and education campaign, via media and direct
14 mail, to every registered voter. In
15 addition to English, the Bill of Rights
16 should be translated into Spanish, Chinese,
17 and Korean.

18 Part C, "Computerized Statewide List,
19 Voters Who Register by Mail and Voter
20 Identification," the New York Voter
21 Registration List. This section fails to
22 give an adequate explanation of how the
23 centralized list will be made available to
24 county election officials. For example, is

1 there a plan to make the entire list
2 available to county election officials on
3 Election Day, and at every polling place?

4 The plan should also describe the
5 statewide databases, other than motor
6 vehicles, to which the state board will seek
7 access for purposes of verification of voter
8 registration identification.

9 The inclusion of more databases in this
10 list will lessen the need for identification
11 of voters at the polls. The public cannot
12 judge whether the plan is achieving all that
13 is possible in this area without more
14 specific information or at least a
15 description of how these other databases
16 will be selected and how agreements for
17 access will be reached.

18 The process for creating the
19 centralized list described on page 14 of the
20 plan should give deadlines for each stage
21 and a more detailed description of the
22 parties responsible for implementing each
23 stage.

24 Voters Who Register by Mail and Voter

1 Identification. Again, the successful
2 linkage of as many databases as possible to
3 the centralized list is essential to
4 accomplish the goal of verifying voter data
5 and thereby minimizing voter IDs at the
6 polling place. The plan to explore the use
7 of other databases should be spelled out in
8 more detail.

9 Section 3, dealing with "Voter
10 Education, Election Official and Poll Worker
11 Training," Voter Education. In addition to
12 having a professional training organization,
13 the Board of Elections should consult with
14 and include literacy and graphic design
15 experts, members of the election
16 commissioners association, and
17 representatives from county boards of
18 elections in the development of a statewide
19 training program.

20 We appreciate the commitment to an
21 expanded and comprehensive voter outreach
22 and education campaign. However, more
23 details on how such a program will be
24 developed, what the costs are anticipated to

1 be, and whether it will be an annual mailing
2 or only during the year the new machines are
3 introduced, should be provided. The voter
4 education campaign should be developed in
5 consultation with established community and
6 civic organizations, state associations,
7 election officials, adult education and
8 literacy experts.

9 The paragraph on the poll worker
10 recruitment program offers no specific plan
11 other than a reference to the Help America
12 Vote College Plan, which may or may not be
13 funded. New York State needs to have a
14 multipronged approach to this critical area.
15 There is no reference to the many
16 recommendations that have been submitted by
17 advocacy groups, the Century Foundation
18 report, and the Governor's Task Force on
19 Election Modernization.

20 Recruiting a diverse and large number
21 of poll workers is a significant issue in
22 election administration. The state board
23 should consider (1) using government workers
24 as poll workers through assignment by their

1 employers, voluntary paid service or unpaid
2 voluntary leave; (2) encouraging private
3 employers to assist by providing poll worker
4 lever; and (3) seeking students and other
5 youth poll workers through schools,
6 colleges, and outreach programs.

7 Election Official and Poll Worker
8 Training. This section contains few details
9 about how poll worker training will be
10 upgraded. Will there be increased mandated
11 training requirements? Who willing be
12 qualified to conduct training programs?
13 Will the State Board of Elections set
14 uniform standards for evaluating and testing
15 of election officials?

16 The plan should go beyond stating that
17 the State Board of Elections is responsible
18 for establishing the guidelines, reporting
19 requirements, and ultimately the success of
20 this performance measure.

21 It should affirmatively state that the
22 board recommends the adoption of new
23 statewide uniform mandatory standards,
24 procedures, and training materials, so that

1 voters will receiver the same treatment
2 statewide and that some basic requirements
3 should be set in statute. The standards
4 should include increased training for all
5 inspectors.

6 "Section 4: Voting System Guidelines
7 and Processes." On page 23, the plan states
8 that the state board will develop strategies
9 for the purchase and implementation of the
10 new machines in consultation with county
11 election officials. At the very least, the
12 plan should describe various alternative
13 ways in which both procurement and the
14 introduction of the new machines to the
15 voting public could be achieved and the
16 relative merits of each alternative.

17 The procurement, timing, and method of
18 introducing the new machines should be
19 recognized as important decisions, and some
20 indication should be given as to how these
21 decisions will be made.

22 "Section 6: Budget for Title III
23 Requirements." Voter education -- these are
24 questions that I am posing.

1 Does the \$20 million allocated for this
2 program area include monies for a statewide
3 mailing to every registered voter on the use
4 of the new machines and Election Day
5 processes? This is a very large allocation
6 and needs more details about how this amount
7 will be used.

8 The Election Administration Grant
9 Program, projected at \$40 million, is
10 similarly lacking in detail, except for a
11 statement that it is to be utilized by
12 counties for the improvement of election
13 processes.

14 In conclusion, as I have said earlier
15 in my opening remarks, a meeting of the task
16 force should be convened after the hearings
17 are concluded to review this testimony that
18 you will be receiving during these three
19 hearings and recommend revisions to the
20 plan. It is imperative that the full task
21 force first approves the final plan sent to
22 the Federal Election Commission.

23 Task force members must be given an
24 opportunity to review the final document and

1 sign off on its contents. Although I
2 recognize that HAVA does not make that kind
3 of a requirement, I think that it would be
4 appropriate for this to occur in any case.

5 Additionally, there is no indication in
6 the plan that the state board intends to
7 utilize the expertise of citizen groups and
8 technical advisors during the next stages of
9 implementation. Subcommittees should be
10 convened on the various HAVA topics -- for
11 example, machine choice, statewide voter
12 registration database, voter education, poll
13 worker training, et cetera -- to advise the
14 board as it pursues solutions to the complex
15 implementation issues.

16 I recognize that Peter has indicated
17 this is the first stage in an ongoing
18 process. And I think that there should be
19 some commitments stated in the plan to
20 indicate that the task force might have a
21 role in that. It's pretty ambiguous as to
22 the role of the task force at this juncture,
23 whether the duties are now completed or
24 whether you would consider those ongoing

1 during this next two years.

2 Thank you.

3 CHAIRMAN KOSINSKI: Thank you, Aimee.

4 Any questions?

5 Next we have Matt Barkley, from ARISE.

6 Is Matt here?

7 MR. BARKLEY: Yeah, I'm right here.

8 CHAIRMAN KOSINSKI: I'm sorry.

9 MR. BARKLEY: Okay, I'm sorry for the

10 delay. On the listing I had I was a little

11 further down, so I was a little caught off

12 guard. But ready to go anyway.

13 My name is Matt Barkley. I'm a

14 statewide systems advocate for ARISE, the

15 Independent Living Center that serves

16 Oswego, Onondaga, and Madison Counties.

17 I've been pretty involved with

18 implementation of the Help America Vote Act,

19 trying to keep up-to-date on what's going on

20 statewide. And I'm very excited about

21 implementation, because I think that this is

22 really the opportunity -- I see it as a

23 great opportunity for people with

24 disabilities in New York State as well as

1 across the country to finally end the
2 discrimination that they've faced at polling
3 places.

4 Discrimination at the voting booths
5 ended 38 years ago for African-Americans and
6 84 years ago for women, but it's something
7 that people with disabilities still face.

8 And for someone with a disability, to have a
9 step at a polling place is no less
10 discriminatory than the grandfather clause.

11 And to have a voting machine that a person
12 with a disability cannot use physically is
13 no less discriminatory than white primaries
14 or Jim Crow laws. To me, I see it as the
15 same thing, that it's excluding people with
16 disabilities from voting.

17 And as I said, I see HAVA
18 implementation as an opportunity, but I'm a
19 little concerned about how New York State
20 has gone about implementing HAVA. And it
21 seems to me that things are kind of going
22 along the same lines. And these are some
23 recommendations that I have.

24 The first right guaranteed to

1 registered New York voters under the NYS
2 Voter's Bill of Rights is to "vote in
3 privacy at a polling place, regardless of
4 physical disability." And this isn't being
5 followed. People who use wheelchairs,
6 people who are quadriplegic, spastic
7 quadriplegics, people who have learning
8 disabilities, mental retardation, visual
9 impairments -- all these people whose votes
10 count are not able to use the full-face
11 ballot machines. And they're going to need
12 some sort of assistance to use these
13 machines.

14 And that's especially true with the
15 machines now, but I don't see that much
16 difference with the full-face ballot
17 machines that are being looked at now. I
18 think they're an improvement, but I don't
19 see that much of a difference.

20 New York is one of only two states to
21 still have a full-face ballot law. I've
22 been talking with many elected officials and
23 representatives from election committees who
24 have given me arguments in favor of the

1 full-face ballot law and really tried to
2 explain to me why New York State has this
3 law, but I have not heard a satisfactory
4 answer as to why we have to keep this law.

5 Any argument that I've heard just really
6 doesn't make any sense to me.

7 And that really became most evident to
8 me when I looked at the voting machines
9 myself and saw that in looking at the
10 full-face ballot machines, comparing those
11 with the non-full-face ballot machines that
12 are available on the market, that the
13 arguments that people have against removing
14 the full-face ballot machines don't really
15 hold water.

16 And just seeing how the machines work,
17 the non-full-face ballot machines, they're
18 so much easier for people with disabilities.
19 And I think they would work in New York
20 State.

21 Right now, the front-runner, the
22 Sequoia AVC Advantage, I think as that
23 machine is right now, it will not meet the
24 diverse needs of people with disabilities in

1 New York. I think that the buttons are too
2 difficult to push. I don't think it's clear
3 enough. I don't think the keyboard that
4 they have -- and I know they're still
5 working on it, but that they have is
6 accessible for people with disabilities. I
7 don't think that they have adequate sip and
8 puff technology. And I don't think that
9 we'd be able to meet the language
10 requirements.

11 One of their big selling features is
12 that they're a New-York-based company. And
13 that's fine, but I don't think that should
14 be the sole determination in looking at what
15 machine to purchase and what machine
16 counties should be recommended to use. I
17 think opening it up to allow non-full-face
18 ballot machines to be considered is the way
19 to go.

20 And it's not that I have anything
21 against Sequoia. I've also looked at their
22 AVC Edge, which is a small,
23 non-full-face-ballot machine. And that
24 machine is vastly improved over the

1 Advantage.

2 And something that I can't help but
3 wonder about is that Sequoia retained
4 lobbyist Jeff Buley, and I know that he's
5 heavily involved with the Republican Party
6 on implementation of the Sequoia Advantage.

7 And I think that taking some people's best
8 interests -- the individual's best interests
9 shouldn't be taken over the opportunity of
10 people with disabilities to vote.

11 And there's so many laws and so much
12 legislation going on right now that is
13 turning up against people with disabilities.

14 And almost 20 percent of the population of
15 New York State has one disability or
16 another. And I think that a lot of this
17 legislation is passing because people with
18 disabilities are not being properly
19 represented at the polling places. And I
20 think accessibility is one of the big issues
21 why.

22 Another machine that's being considered
23 right now, the ES&S iVotronic, to me, was a
24 little bit better of the two. But again, it

1 was another poor choice for New York. I
2 think it's too big, I think it's confusing
3 to look at when you approach the machine.
4 It's touch-screen, but again, I think the
5 expense is a huge drawback to that machine,
6 with both the full-face ballot machines,
7 when you can purchase two or maybe even
8 three AccuPolls or Diebold AccuVote-TS
9 machines for the same cost as one of the
10 large full-face ballot machines.

11 I think that that -- that since the
12 non-full-face-ballot machines are so much
13 easier for people with disabilities, and
14 that that money could be spent on other
15 things, on voter education, voter
16 recruitment, materials to teach people how
17 to use the non-full-face ballot machines.

18 It's a change, but I see change as a
19 good thing. And I know that it's not always
20 easy to change, but I think that any initial
21 resistance that you would receive after
22 implementing non-full-face ballot machines,
23 I think that you'd see it as really, truly
24 the better way to go.

1 And I just think that any other
2 arguments against non-full-face ballot
3 machines -- that they'll put candidates at a
4 disadvantage, that people won't scroll
5 through the elections and vote for every
6 race -- just in playing around with the
7 machines that I've done, it seems to me that
8 you would pretty much have to deliberately
9 not want to vote for a particular candidate
10 or participate in voting in a particular
11 race, just the way they work.

12 And I think the biggest thing to
13 consider is that every -- 48 other states in
14 the union use these machines, and it works
15 fine. So I just don't see why New York has
16 to be one of the two states that will not
17 allow the use of these machines.

18 And we'll be required to have all of
19 these machines in place by 2006. And again,
20 this is an opportunity. The federal
21 government is going to provide us with this
22 money. And I don't see why we should blow
23 it on these non -- on the full-face ballot
24 machines when this money can be used on

1 training and other things.

2 People that are in charge of ensuring
3 polling places are accessible are
4 uninformed, they're not up-to-date on
5 accessibility and disability rights issues,
6 etiquette, and especially on access.

7 In looking at polling places in the
8 Syracuse area, Syracuse, New York, and
9 Onondaga County, there are some polling
10 places with glaring problems, with steps
11 near doorways, whatnot.

12 But most of the problems are -- one of
13 the biggest problems was just signage, that
14 there is -- that if you were to pull up in a
15 polling place and you have a disability and
16 need wheelchair access, there may have been
17 an accessible route around the back of the
18 building, but you didn't know it was there.
19 And to just go up and take a look at it and
20 see the step, you just keep going and just
21 assume that you can't get in.

22 And I think that's a cheap way to make
23 sure that people with disabilities do vote,
24 to have that signage. And again, if we want

1 to keep this money in New York, rather than
2 going with the Sequoia machine, we could
3 request that all the signage that's
4 necessary be made in New York.

5 Title I and Title II funds should go
6 through the Office of the Advocate for
7 People with Disabilities and Independent
8 Living Centers. We've established a working
9 relationship with polling places in our
10 county, as an Independent Living Center, and
11 it's a good relationship. I think that
12 people with disabilities are best suited to
13 teach about disability etiquette.

14 And you can have a doctorate in working
15 with people with disabilities, but really
16 the best people to tell you about working
17 with people with disabilities are people
18 with disabilities.

19 And as far as just wheelchair access or
20 visual impairment, I mean, people with
21 disabilities are so different. But there's
22 a real representation in the Independent
23 Living Centers statewide. And I think
24 that's a good resource for HAVA to tap as

1 far as educating polling workers on
2 disability etiquette.

3 And again, I feel that we've been kind
4 of kept out of the loop. As I said to
5 start, I've been trying to keep as
6 up-to-date as I can, but it always seems
7 that I'm one step behind. And I'm aware of
8 other states where they've been a lot more
9 open to this type of forum early on. And I
10 think it should be a working relationship,
11 that we should be working more together.

12 And one big misconception is that
13 county voting committees need to understand
14 that to offer a person with a disability the
15 option of voting at home with an absentee
16 ballot is not the same as casting a ballot
17 in a polling place integrated with their
18 peers.

19 And, I mean, there's so many people
20 with disabilities who have severe
21 disabilities who have just grown up either
22 not being able to vote at all or using the
23 absentee ballot and not even really
24 considering going to a local polling place.

1 And again, this is really our
2 opportunity to allow these people to be
3 integrated with the community. Polling
4 places were supposed to be accessible since
5 the ADA was passed in 1990, but few are.

6 We need close monitoring of HAVA funds
7 that come from the federal government to the
8 state and then to the counties. And in your
9 proposal there is the memorandum of
10 understanding between the state and counties
11 to ensure that money that is distributed to
12 counties to be spent on modifications is
13 actually spent that way and that it's not
14 used for anything else once it goes down to
15 the county level.

16 Just in conclusion, lawsuits have been
17 filed against Florida, the District of
18 Columbia, Maryland, Pennsylvania, and Texas
19 for having inaccessible voting machines in
20 polling places. And I think that we don't
21 want to make New York State another one of
22 the defendants in a lengthy and costly
23 ordeal. This is New York's chance to end
24 discrimination once and for all and finally

1 give people with disabilities the right and
2 duty we have deserved for so long, the right
3 to vote.

4 Thank you.

5 CHAIRMAN KOSINSKI: Thank you,
6 Matthew.

7 Any questions?

8 Thank you, Matt.

9 Next we have Beata Karpinska-Prehn,
10 director of advocacy for the Independent
11 Living Center.

12 MS. KARPINSKA-PREHN: Good morning.

13 I just wanted to say I'm very happy to
14 be here and I appreciate the opportunity to
15 testify in front of the committee.

16 But I also would like to note that
17 persons with disabilities need to be invited
18 more to these hearings. And I was hoping
19 the committee would do more outreach. If it
20 wasn't for the network of Independent Living
21 Centers, myself and other people that are
22 here would not know about these hearings.

23 And I think the general public is very
24 unaware of what is going on with HAVA and

1 what is the process. So I think it would be
2 very important to hold more of those
3 hearings, to notify the public more about
4 them, keep the public posted.

5 But also I'd like to, if possible,
6 invite the committee to hold more hearings
7 in other parts of the state. I think that
8 we should have at least two more hearings,
9 including perhaps Syracuse and also northern
10 parts of the state, like maybe the town of
11 Watertown, to reach the voters in rural
12 areas, which is very important.

13 SENATOR MORAHAN: Can you tell me
14 where you are in your testimony?

15 MS. KARPINSKA-PREHN: Oh, I'm
16 nowhere. I'm in the beginning. This is not
17 in my testimony.

18 So anyway, I work at an Independent
19 Living Center. I'm the director of advocacy
20 there, and I work with many persons with
21 disabilities in Onondaga, Oswego, and
22 Madison Counties.

23 And I come here mainly to express my
24 support for the fundamental right of persons

1 with disabilities to be able to cast a vote
2 in an independent and private manner,
3 without any onlookers and in privacy.

4 And currently I feel that the voting
5 rights of persons with disabilities really
6 exist on paper rather than in reality,
7 because the polling places are not
8 accessible, often, and also that the voting
9 machines are not accessible.

10 And so even -- I have great hopes for
11 the HAVA process, because I'm hopeful that
12 as a result of this, at the end, with the
13 input, with the necessary input of persons
14 with disabilities, we will be able to
15 achieve this access to polling places so
16 persons with disabilities will be awarded
17 the true right to vote.

18 In the past, other groups of persons
19 that were not allowed to vote included
20 women, people who could not read, persons of
21 color, and also those who did not have
22 property. That was centuries ago, the 18th
23 century. Now we have the 21st century, and
24 people with disabilities, potentially

1 53 million persons with disabilities, are
2 being denied access to polling places.

3 They face many, many barriers to
4 voting, including architectural barriers
5 like stairs, too high thresholds, lack of
6 directional signs to where the accessible
7 entrances are. Also, too heavy doorways is
8 another big problem, poor access to
9 accessible parking, and also lack of
10 maneuvering spaces in the polling places.

11 And other program barriers include lack
12 of privacy to cast a vote, little disability
13 sensitivity and etiquette of the workers at
14 the polling places, and lack of accessible
15 voting machines.

16 And statutory barriers that people with
17 disabilities are facing is the New York
18 State requirement for a full-face ballot.

19 People with disabilities also continue
20 to experience barriers on a local level in
21 their own polling places regarding the
22 actual physical access. We have conducted,
23 last year, a survey of Onondaga County,
24 60 polling places, and we found that

1 30 percent of those polling sites had some
2 sort of problem with access that would
3 potentially prevent a person with a
4 disability from coming inside. There were
5 no directional signs, the existing doorways
6 were too heavy to open, and also there were
7 problems with accessible parking.

8 And so this potentially would
9 exclude -- we have 70,000 people with
10 disabilities in Onondaga County, so any of
11 them potentially could be excluded from
12 voting because of those reasons.

13 And there's also another important
14 reason why we need to increase access to
15 polling places. It is our growing older and
16 disabled population. We have every fifth
17 Americans, which translates into 53 million
18 people nationwide, that reported a
19 disability in 1997, and nearly 33 million of
20 those persons had a severe disability. So
21 the numbers speak for themselves.

22 It is very important to afford an equal
23 right to vote to people with disabilities
24 because we're also more likely to live in

1 poverty and to remain unemployed and also
2 more likely to experience the hardship of
3 paying medical bills. Therefore, the only
4 way to change that is to have access to vote
5 and to make the system change that way.

6 People that are disabled struggle with
7 polling places but also struggle with the
8 accessibility of voting machines. And I
9 wanted to express to the committee my deep
10 concern for the newly proposed full-face
11 ballot machines that are too difficult to
12 reach and they are also inflexible.

13 Many persons who are quadriplegic have
14 automatically been disqualified by those
15 machines because they cannot reach. And
16 many persons who are learning-disabled
17 cannot read all this information that's
18 included because the information is in
19 inaccessible format, too small print, and
20 also it's too much information on one
21 full-face ballot.

22 So we need machines that will minimize
23 the use of sight, strength, manual dexterity
24 and manipulation, height and reach. It is

1 very hard to believe that given today's
2 technological capacities -- we have things
3 like Global Positioning and laser
4 technology -- that we cannot come up with
5 one machine that would be able to
6 accommodate use by anybody with any level of
7 ability. So I think we need to try harder
8 and work together to find a voting machine
9 that will be able to offer all those
10 features for accessibility.

11 But most importantly, people with
12 disabilities have to be included in the
13 process of the decision-making. And I think
14 the way that things are going, that we are
15 not kept up on all the events of the
16 committee, that we feel we're being left out
17 of the process so far.

18 One of the biggest stumbling blocks to
19 independent voting machines is the NYS
20 statutory requirement for a full-face
21 ballot. I support legislation to remove
22 this requirement from the New York State
23 election law to allow an equal opportunity
24 of persons with disabilities to cast their

1 votes independently and to be able to
2 participate in our democratic process.

3 This is an outdated requirement that
4 only exists in two states nationwide. I
5 looked it up; the other one is Delaware. If
6 other states are able to conduct their
7 elections without the full-face ballot, I
8 think we can learn to do the same and join
9 the rest of the country that is joining into
10 progress.

11 Also, in 2002 there was a New York
12 State Task Force on Election Modernization,
13 and they have recommended the same thing, to
14 eliminate the full-face ballot. But
15 unfortunately, nobody really listened to
16 them and took their comments seriously. And
17 I was hopeful that the committee and the
18 legislators will listen to that very
19 important suggestion.

20 A recent survey proposed by -- well,
21 actually, the recent survey of the proposed
22 voting machines were also conducted by the
23 Centers for Independence of the Disabled in
24 Manhattan, and they evaluated the machines

1 based on five categories, such as wheelchair
2 access, dexterity, arm range, visual,
3 hearing, cognitive and neurological
4 disabilities.

5 And they also concluded, many persons
6 with disabilities concluded that full-face
7 ballot machines were considered the most
8 confusing by people with cognitive
9 impairments and not accessible to those
10 using wheelchairs and having problems with
11 manual dexterity.

12 Persons also expressed a very strong
13 preference to list candidates on a
14 scrolling-type screen by race, rather than
15 include all of them on one full page,
16 because it's just too confusing. And it's
17 always -- the machines are not big enough to
18 list everybody, so the print is always very
19 tiny. The advantage of an electronic system
20 is also that the letters can be enlarged
21 with poor vision. But if you have a huge
22 screen with all those names, it's not
23 possible.

24 And that brings me to a comment about a

1 newly proposed Sequoia AVC Advantage voting
2 machine that, in my opinion, is as much
3 outmoded as the full-face ballot requirement
4 itself. Sequoia has a lobbyist that they
5 hired for making sure that this machine
6 makes it into the purchasing of the new
7 voting machines. But unfortunately, I think
8 the legislators should not listen as much to
9 the lobbyists as they should listen to the
10 people of New York State and the voters.

11 And they should really make a recommendation
12 to purchase a machine that's not just
13 offering jobs in New York State but it is a
14 machine that is accessible to people with
15 disabilities.

16 The lobbyists are using the main
17 argument, which is to retain jobs in
18 New York State, because when we purchase
19 these machines there will be employment and
20 there will be a need to make parts and that
21 will be a good thing. The problem is we
22 cannot forget why we are here, that this
23 task force has been designated to make sure
24 that we increase access to voters from

1 New York State. And employment is
2 important, but it should be a secondary
3 consideration. We don't want to waste
4 taxpayers' money and defeat the entire
5 purpose of HAVA, which requires equal access
6 for persons with disabilities.

7 I also think that the company that
8 manufactures the full-face-ballot Sequoia
9 machine is also making a
10 non-full-face-ballot smaller voting machine
11 called AVC Edge, as Matthew mentioned
12 before. And that machine offers much more
13 accessible features. It is not a full-face
14 ballot, so it's easier to read. It
15 offers -- the screen offers information by
16 race, of all the candidates by race.

17 And that would be something that should
18 be the focus of the efforts of the vendors
19 of those machines. But unfortunately,
20 because those machines that are
21 non-full-face ballot are illegal in New York
22 State, the machine producers are not putting
23 any efforts into improving those machines.
24 So right now the only type of machine that

1 is legal is that full-face ballot machine,
2 which is not accessible.

3 Other similar machines that also would
4 be more accessible than full-face ballot
5 machines would be AccuVote-TS and AccuPoll.
6 Those are also better machines that are
7 smaller. They also cost less, which is much
8 more effective. And I think that it is very
9 important to strike down the full-face
10 ballot requirement, because it is keeping
11 the progress away from New York State voting
12 machines.

13 Some of the legislators have other
14 concerns about the full-face ballot. For
15 instance, they think that people will not be
16 voting the party line and somehow it will be
17 made impossible or difficult if we don't
18 have a full-face ballot machine. And I
19 think that just the whole thing about
20 arranging all candidates according to party
21 line pretty much equals, to me, encouraging
22 the voters to vote party line.

23 And I think the voters can think for
24 themselves. They know what they want to

1 vote for, who they want to vote for, and
2 they are capable of making their own
3 decisions. So we do not need to have a
4 prearranged ballot that has all the
5 candidates on one page. It is not
6 necessary.

7 Other recommendations that I have for
8 the committee to consider would be to make
9 sure that the HAVA state plan includes
10 detailed and uniform requirements for each
11 county regarding the accessibility of the
12 voting machines, and also all the features
13 need to be listed that are required of those
14 machines, like alternative -- like audio,
15 handheld devices, and especially sip and
16 puff technology, as well as larger print.
17 Some of those machines, like Sequoia, do not
18 have a very good sip and puff technology,
19 which would basically -- if not provided, it
20 would eliminate a lot of persons who are
21 quadriplegic, who don't have the use of
22 their hands, from voting.

23 Also, HAVA resources should be spent on
24 improving access to polling places and

1 accessible voting machines and not on local
2 operating expenses in each county. So
3 that's why it is very important to have a
4 maintenance of efforts clause, which is
5 already in the plan, but it's important to
6 maintain it to make sure that the priority
7 always will remain on accessibility.

8 People with disabilities should not
9 have to rely on absentee ballots to vote.
10 This is not a valid alternative for lack of
11 access to polling places or to access to
12 voting machines. And therefore, polling
13 places must be made accessible or moved to
14 more accessible locations. The need for
15 funding must be rigidly documented as a
16 necessity. With limited resources, money
17 should not be provided to places that are
18 already required to provide access under
19 ADA, like public entities.

20 People with disabilities and advocates
21 should have an opportunity to also verify
22 accessibility of polling places. And
23 New York State as well as this committee
24 should encourage the participation of people

1 with disabilities in the final decision
2 about what machine for all of New York State
3 is going to be purchased. That decision
4 should be a collaborative effort, and
5 persons with disabilities should be
6 consulted in large numbers. And that's why
7 it's very important to hold more hearings in
8 different areas of the state.

9 And I'd like to note again that people
10 with disabilities feel left out of the
11 process, and that will hopefully be
12 rectified in future hearings.

13 We also must make sure that people with
14 disabilities are not disqualified from the
15 voting process by requiring a driver's
16 license ID as the only proof of identity for
17 newly registered voters, because many
18 persons with disabilities are unable to
19 drive and therefore don't have this type of
20 ID. And the details on other types of
21 acceptable IDs should be posted and used as
22 uniform details throughout all the counties.

23 We should also have at least one
24 accessible voting machine at each polling

1 place by the 2004 elections. The use of new
2 voting machines by constituents in each
3 county in 2004 will be an excellent test of
4 their accessibility before their full
5 implementation in 2006.

6 Title II funds must also be directed
7 through an established network of disability
8 rights advocates, like NYSILC and the
9 New York State Office for Persons with
10 Disabilities, to make sure that the
11 guidance, the proper guidance is provided to
12 the polling places, to the Board of
13 Elections officials for years to come, to
14 make sure that the expertise that's
15 represented by persons with disabilities who
16 work for those centers will be used.

17 All constituents should be informed
18 about the HAVA Voting Bill of Rights, and
19 that should specify in detail the rights and
20 requirements of equal access of persons with
21 disabilities to vote.

22 Advocates representing people with
23 disabilities must conduct disability
24 sensitivity trainings of polling place

1 workers, because they are the best fit for
2 the job, and the public at large, and board
3 of election officials also should
4 participate in those trainings. People with
5 disabilities should be invited to
6 participate actively in the development and
7 distribution of materials about the new
8 voting process.

9 In February of 2000, there was a ruling
10 by the federal district court that made all
11 counties ultimately responsible for
12 accessibility at polling places. I think it
13 would be a good thing for counties to also
14 become the owners of the voting equipment.

15 People with disabilities should also be
16 directly involved in the process of making
17 the decision about which voting machine will
18 ultimately be chosen for 2004 and all future
19 elections. And we cannot afford to waste
20 any taxpayers' money on inaccessible
21 equipment that will not allow everyone to
22 cast a vote independently.

23 So I urge Mr. Kosinski and other
24 members of the committee to take a stand

1 today to fully implement HAVA in New York
2 State so all people with disabilities will
3 be free to participate in our democracy, and
4 no one will be left behind.

5 CHAIRMAN KOSINSKI: Thank you.

6 Next I'd like to call another task
7 force member up here, Brad Williams, from
8 the New York State Independent Living
9 Centers.

10 SENATOR MORAHAN: You'll have to
11 excuse me, Mr. Chairman.

12 I just want to express my gratitude to
13 those who came and gave testimony today and
14 those who will continue to give testimony.

15 Unfortunately, I have another
16 commitment that requires me to leave. But
17 I'm sure we will get the copies of the
18 written testimony being submitted as well as
19 the stenographer's recording of what is
20 happening, and we'll be happy to review
21 that.

22 And the next meeting will be in New
23 York City.

24 CHAIRMAN KOSINSKI: Thank you,

1 Senator. I appreciate your coming today.

2 MR. WILLIAMS: Thank you, Peter.

3 You know, through the meetings I've

4 expressed my opinion on many issues,

5 consistent issues, over and over again.

6 I've had the opportunity to do so.

7 What I think I'm going to use my time

8 for here is to just highlight some of the

9 items that are in the state plan that

10 perhaps I haven't commented on before in any

11 of the public, you know, meetings or what

12 have you.

13 The first one is the replacement of the

14 lever voting machines. You know, ideally we

15 had wanted to see that happen for Election

16 Day 2004. I think when you think of HAVA,

17 you think of Election Day 2000. And in

18 terms of access and need and, you know,

19 really providing, you know, kind of the need

20 to change, you know, our election systems,

21 especially to allow more access to people

22 with disabilities, I would really love to

23 see that people with disabilities can in

24 fact get to polling places and be able to

1 vote independently and privately on Election
2 Day 2004.

3 I fully understand HAVA puts out a
4 deadline down the road, if you want to put
5 it that far out, to 2006. What I'd love to
6 propose is that in fact there could be some
7 purchasing of the voting machines and there
8 be at least one accessible voting machine at
9 each polling site, so that people with
10 disabilities can in fact vote independently
11 and privately for the presidential election,
12 which is very important. And then the
13 replacement process, you know, that follows
14 can obviously take up to 2006.

15 I'm just very concerned. I want to see
16 people with disabilities be able to vote in
17 the next presidential election the way they
18 should. So that is my reaction to the 2006
19 deadline, is if it takes that far to replace
20 all of them, so be it. But maybe we can
21 focus it or put it in a way so that we can
22 have a machine at each site.

23 It could probably be beneficial to the
24 counties too. To have, in the localities, a

1 machine at each site in 2004 could allow
2 them to test the technology, rather than
3 having all of the machines be brand-new. I
4 mean, in at least one of them people can
5 test, get a feel for the technology, the
6 type of technical assistance that might be
7 needed, et cetera. I just see a lot of
8 value in this, and I'd like to see if we can
9 perhaps prioritize that somehow.

10 The second thing relates to the
11 physical accessibility funds. I noted on
12 page 27 I believe there's a fund of about
13 \$10 million. I definitely have some
14 feedback on this. You know, I'm pleased in
15 one sense that we're probably going to be
16 able to do something and help out those
17 counties that really have difficulty, you
18 know, trying to find accessible polling
19 sites. Because part of the solution has
20 been to just move the polling site.

21 On the other hand, it's balanced
22 against the fact that everyone needs to know
23 that a private and public entity, as it
24 stands right now, is already obligated under

1 the Americans With Disabilities Act to make
2 their locations accessible.

3 So to move forward with this program, I
4 really would like to have advocates meet
5 with you at some point to define the
6 guidelines so that we avoid some pitfalls
7 and make what is a well-meaning program
8 beneficial.

9 You know, I'll give you, just as an
10 example, some of the guidelines that this
11 might include. I think one would want to
12 start off making sure there's documentation
13 of what accommodations need to be made,
14 including cost. You can work with people at
15 the local level -- centers, advocates -- who
16 have experience doing this. You need to
17 maybe document that in fact an alternative
18 site was explored without success.

19 This is a finite amount of money, so
20 maybe you want to make sure that it's
21 reduced down to only those folks who truly,
22 you know, can't move the site.

23 I think there should be
24 documentation -- and this is where that

1 conflict with the ADA and what's already --
2 folks are already obligated to maybe show an
3 undue hardship. Because under the Americans
4 with Disabilities Act, you know, an undue
5 hardship would allow someone for the current
6 time period to be able to do the best with
7 what they have in terms of providing kind of
8 like a reasonable accommodation or something
9 alternative.

10 But in this case, maybe the public or
11 private entity that is the property owner
12 would have to pretty much show they don't
13 have the funds. Because that's the way, you
14 know, the federal ADA law is written. There
15 could be, in fact, a set limit per
16 application per site.

17 We have found that a lot of
18 accommodations can be done from between \$500
19 to \$2,500. So maybe, after you go through a
20 process with this, there could be up to \$500
21 per site for minor modifications -- maybe
22 it's signage, maybe it's the parking, things
23 that could be handled, you know, with
24 relative ease. And then going up to

1 something like \$2,500 if something more
2 substantial needs to be done, like a ramp,
3 et cetera.

4 And then I would also say that I think
5 that this would work because what we don't
6 want is this to turn into a bricks and
7 mortar fund. And I'd also suggest that if
8 we went this way, the counties look at some
9 of the more modular ramps. Rather than
10 making a fixed, you know, modification to a
11 public or private building that is there
12 year round, the county could probably get
13 more use out of something that, you know,
14 they could put up and dismantle after
15 Election Day and potentially use in other
16 places. You know, better use out of it.

17 But you can tell that we have a lot of
18 ideas on this one particular item and
19 certainly, you know, would very much like to
20 work with you, you know, our network of
21 centers, to identify the whole process. I
22 think it will work out well if we define it
23 right from the beginning.

24 A few other things. I certainly

1 support the plan for county ownership of the
2 new technologies. You know, I can remember
3 back, you know, on February 8, 2000. It's
4 consistent with that federal district court
5 decision in concept for the accessibility of
6 the polling places. I don't know whether
7 that ruling lends itself to the machines the
8 way when you think in terms of the county's
9 responsibility. But if not, I certainly
10 would be in support of any legislation that
11 would make that change.

12 I also think that as counties are
13 looking at changing, maybe they're
14 evaluating and finding that there is in fact
15 a current polling site that just is not
16 accessible and it will not be reasonable or
17 feasible in order to, you know, pull off
18 accessibility into that site. Possibly
19 looking at working with the board of
20 elections for the different Independent
21 Living Centers across the state and their
22 satellite offices. There's well over -- I
23 would say around 50 that could serve as a
24 polling site. We know the Independent

1 Living Centers are accessible. And in fact,
2 even their bathrooms are accessible. So you
3 could even kind of promote an accessible --
4 you know, kind of like a polling worker kind
5 of, you know, promotion or some kind of
6 program where you might want to give an
7 incentive for people with disabilities to
8 look at becoming polling place workers. I
9 don't know if that's something you want to
10 do. It kind of does both.

11 It certainly provides the election
12 commissioners with an opportunity for a
13 quick solution in their community if they
14 need an accessible site, by having it at an
15 Independent Living Center. And it also
16 allows an opportunity for many people with
17 disabilities to get that much more vested in
18 the system by becoming a polling place
19 worker.

20 And of course that issue goes a little
21 bit further when you start thinking of like
22 bathroom facilities. You know, once you
23 start getting into polling place workers,
24 then that's when you have to make sure that

1 a person who's going to be there for several
2 hours, you know, they're going to be able to
3 have what they need in order to accommodate
4 their needs.

5 But that's it in terms of my comments.
6 You have my written comments. You have all
7 the correspondence I've been, you know,
8 exchanging with you back and forth. And I
9 hope that we can see some of these changes.

10 CHAIRMAN KOSINSKI: Thank you, Brad.
11 Appreciate it.

12 Next we have Barbara Murphy.

13 MS. MURPHY: Thank you for holding
14 the public hearings.

15 And I think I agree with some of the
16 other speakers who said that we need more
17 outreach to the public to let them know that
18 these meetings are going on. I had a little
19 difficulty even on your website having
20 access to the date and the location. So
21 that would be helpful if that could be a
22 little easier to get the information. Thank
23 you.

24 Well, the Help America Vote Act was

1 implemented at the federal level to overcome
2 voting irregularities uncovered in the 2000
3 year elections. The result of the 2002
4 elections indicate that the proposed
5 solutions may be at least as bad as the
6 original problems.

7 The two issues I want to address are
8 the possibility of a voter not being able to
9 cast a vote on Election Day due to a false
10 purging of his or her name from the rolls,
11 and, second, the HAVA directive to encourage
12 and eventually require the use of
13 computerized voting machines.

14 With regard to an erroneous purging of
15 a voter from the rolls, persons who state
16 that they are eligible to vote must be
17 allowed to cast a vote and have the vote
18 held until a full investigation of that
19 right is made. If the name was falsely
20 purged, a call to the Board of Elections on
21 the day of the election may not be
22 sufficient to determine the legitimacy of
23 the voter's right to vote. A vote should
24 not be thrown out based on a brief check of

1 the records.

2 Election results cannot be certified
3 until all votes are tallied, the votes of
4 all who had the right to vote are tallied.
5 And this may take longer than the day of
6 election process. I don't think in a
7 democracy we need to rush through the
8 process of announcing winners. We need to
9 take our time and do things correctly.

10 With regard to the use of computers for
11 casting votes, in the course of my work in
12 the field of research I did many years of
13 computer programming. I'm well aware that
14 computers have great potential for
15 performing complex tasks such as affording
16 access to handicapped voters and printing
17 ballots in multiple languages.

18 However, they are not the only voting
19 methods that can accomplish these tasks, and
20 they are subject to a variety of complex
21 problems that must be addressed to ensure
22 voting security and integrity, including the
23 vulnerability to be tampered with, human
24 error, and computer malfunctions.

1 There must be an accompanying paper
2 ballot printed out, able to be verified by
3 the voter and accepted as the official vote
4 in any contested count.

5 (Applause.)

6 MS. MURPHY: I should like to repeat
7 that. There must be an accompanying paper
8 ballot printed out, able to be verified by
9 the voter and accepted as the official vote
10 in any contested count.

11 I will make my points by citing
12 problems that are not hypothetical but have
13 already occurred in the 2002 elections and
14 elsewhere.

15 Rebecca Mercuri, of Bryn Mawr College,
16 who has been an expert in voting security
17 for more than ten years, notes these
18 examples:

19 In a 2002 New Jersey election, with
20 four candidates running for two slots, one
21 Sequoia machine recorded a vote pattern with
22 no votes whatsoever for one Republican and
23 one Democrat. Sequoia said that no votes
24 were lost, just never registered.

1 Regardless, the votes were gone.

2 On ES&S machines in Raleigh,
3 North Carolina, voters had to try several
4 times to record their votes. When officials
5 compared the number of voters to the votes
6 counted, they found 294 votes had apparently
7 been lost.

8 In Georgia, on newly purchased Diebold
9 touch-screen machines, some voters touched
10 one candidate's name on the screen and saw
11 another candidate's name appear. People who
12 may not have noticed this would not have
13 corrected the error before submitting their
14 vote. There was no way of knowing how many
15 votes were incorrectly counted.

16 In Miami-Dade and Broward, precincts
17 that reported hundreds of people having
18 voted listed virtually no votes counted on
19 ES&S touch screens. Because the discrepancy
20 was so noticeable, the votes were ultimately
21 retrieved. But if the differences were 1100
22 instead of 1200, you might not think to look
23 for lost votes.

24 Representative Rush Holt of New Jersey

1 is introducing legislation to address some
2 of these problems. His website notes that
3 new computer voting systems used in Florida
4 in 2002 lost over 100,000 votes from
5 software error. Irregularities were also
6 reported in Missouri, Georgia, Texas, and at
7 least ten other states.

8 In one county, in Comal County, Texas,
9 three Republican candidates in different
10 races received precisely the same number of
11 votes: 18,181.

12 Lynn Landes is a journalist. She noted
13 that Dan Spillane has sued his employer for
14 firing him when he pointed out holes in
15 their system that he claims could lead to
16 vote-rigging. He notes that the
17 certification system in place works "very
18 much like Arthur Andersen in the Enron
19 case."

20 Ms. Landes said the former Republican
21 mayor of Boca Raton, Florida, claims the
22 city council elections should be rerun due
23 to malfunctions in the new \$14 million
24 Sequoia computer voting machines.

1 She also notes that on an unsecured
2 website, a software patch was found which
3 had apparently been applied statewide to
4 Georgia's voting machines just days before
5 the election, along with a folder titled
6 'rob-georgia.'

7 We have a U.S. senator who was elected
8 using ES&S computerized machines. It has
9 been disclosed that he is a substantial
10 owner/stakeholder of ES&S.

11 When voting machine companies have been
12 challenged to produce audits of their vote
13 or to disclose details of their software,
14 they cite the privacy rights that come from
15 corporations being considered "persons" in
16 the United States.

17 There's no place in a democratic voting
18 process for secrecy in the operations which
19 are recording and counting our votes.

20 (Applause.)

21 MS. MURPHY: The procedures must be
22 transparent and have a paper printout that
23 is the legal final count.

24 In addition to these problems,

1 computers would have to be retrofitted to
2 allow for instant runoff voting should that
3 be implemented. Such processes should be
4 under consideration before major purchases
5 occur.

6 I am a long-time member of the League
7 of Women Voters, and I feel very strongly
8 that the league does an excellent job in its
9 research. But I was disappointed in their
10 recent decision to not push for paper
11 ballots. In spite of this decision, I know
12 of local leagues that are circulating draft
13 proposals to insist on a paper trail for
14 voting processes.

15 All of these concerns deal with our
16 most basic civil rights and duties in a
17 democracy. We must not let our right to
18 vote slip away. We need to have the right
19 to cast our vote, have it accurately
20 counted, and have a transparent voting
21 process. So we need a paper trail.

22 I don't believe that's been discussed
23 at all, but I think it's essential.

24 CHAIRMAN KOSINSKI: Thank you,

1 Barbara.

2 MS. MURPHY: Thank you.

3 (Applause.)

4 CHAIRMAN KOSINSKI: Next we have
5 Brian Levine.

6 MR. LEVINE: Mr. Kosinski, honorable
7 members of the New York State Board of
8 Elections and the Help America Vote Act
9 State Implementation Plan Task Force, my
10 name is Brian Levine.

11 I'm a student at the State University
12 of New York at Albany, and I serve as the
13 director of legislative affairs for the
14 Student Assembly of the State University of
15 New York. The Student Assembly represents
16 the over 400,000 students in the SUNY
17 system.

18 I'm here today to explain specific
19 concerns the Student Assembly has regarding
20 implementation of the Help America Vote Act
21 in New York with regard to its impact on the
22 students of SUNY, and I'd like to thank you
23 for the opportunity to testify on their
24 behalf.

1 The intent of the Help America Vote Act
2 clearly is to enhance citizens'
3 participation in our nation's democratic
4 process by ensuring that citizens are able
5 to vote and have their votes counted.
6 Voting, the most basic form sort of
7 electoral participation, is the bedrock of
8 our nation's democracy. The more voters
9 participating in our nation's elections, the
10 stronger our democracy becomes.

11 It is also essential that citizens
12 begin partaking in the electoral process as
13 early as possible. The more young people
14 who choose to begin voting as soon as they
15 become eligible, the more likely they will
16 be to stay engaged and civically active in
17 our democracy. Unfortunately, today's
18 citizens aged 18 to 24 have the lowest voter
19 registration and participation rates of any
20 age bracket.

21 In an effort to get more people and
22 especially young people to become engaged
23 and active citizens at an early age, the
24 Student Assembly has and continues to

1 encourage the over 400,000 students on the
2 64 campuses of the State University to both
3 register to vote as well as to actually vote
4 in our nation's elections. This is done
5 through annual voter registration drives
6 sponsored by individual campus student
7 governments, along with other student groups
8 and campus organizations. When possible,
9 collaborative efforts are also coordinated
10 with each campus's voter registration
11 programs required under the federal Higher
12 Education Act.

13 While the Help America Vote Act is
14 designed to foster and encourage voting, we
15 have concerns over some of its provisions
16 and how such provisions may be implemented
17 in New York State. Specifically, we find
18 some of the requirements for voter
19 identification problematic.

20 First, many students do not have a
21 driver's license and as such would not have
22 either a driver's license number to provide
23 nor a driver's license to present as a form
24 of valid photo identification.

1 Second, could a driver's license could
2 be used to in fact disenfranchise potential
3 voters? Many students have a driver's
4 license containing their parents' address,
5 but many of these students, after beginning
6 their studies and becoming a part of their
7 local college community, choose to register
8 to vote in that community but may not have
9 changed their address on file with the
10 Department of Motor Vehicles.

11 Will the discrepancy between the
12 student's current address in their college
13 community and those on file with the DMV be
14 used to prevent students from voting?

15 In the past, in some counties, local
16 county boards of election were preventing or
17 hindering college students from being
18 allowed to vote in their college
19 communities. In some instances, the courts
20 had to intervene to prevent the arbitrary
21 denial of college students being allowed to
22 register to vote in their college community.

23 The Student Assembly has concerns that
24 inconsistent information from the DMV could

1 be used to prevent college students from
2 registering and voting in their college
3 community. As such, we urge that the use of
4 DMV data be clearly limited to verify the
5 existence of voters, not determine the
6 accuracy of voters' addresses.

7 Third, we believe that the provision
8 requiring the presentment of photo
9 identification should be defined and
10 interpreted as broadly as possible. This
11 definition should specifically include
12 student identification cards as a valid form
13 of photo identification. This will help
14 ensure that college students have a form of
15 photo identification, as almost every
16 college student has a student ID card.

17 It should also be clear that a valid
18 photo identification need not include the
19 address of the voter. We support the broad
20 definition of "photo identification" and
21 other forms of identification included in
22 Assembly Bill 8842 sponsored by Assembly
23 member RoAnn Destito and passed by the
24 Assembly last month.

1 Fourth, as the Help America Vote Act
2 only requires voter identification by voters
3 who register to vote by mail, voters who
4 register via in-person voter registration
5 drives should not be required to present
6 identification. We support the language in
7 Assembly Bill 8842, as discussed above, that
8 specifically states that voters whose
9 registration forms are submitted directly to
10 the county boards of elections should not be
11 considered as voters who registered by mail.

12 Additionally, we support the bill's
13 provisions with regards to in-person voter
14 registration drives in which voters who
15 register via an in-person registration drive
16 would not be considered voters who
17 registered by mail.

18 We believe the Help America Vote Act
19 should be used to help people both become
20 registered to vote and to actually vote
21 without making the registration or voting
22 process so burdensome that it will in any
23 way discourage or prevent college students
24 from partaking in the electoral process.

1 I thank you for your time and the
2 opportunity to testify and would be happy to
3 answer any questions that you may have.

4 CHAIRMAN KOSINSKI: I really don't
5 have any questions, Brian. Thank you for
6 coming.

7 MR. LEVINE: Thank you.

8 CHAIRMAN KOSINSKI: Next I have Ruth
9 Young.

10 MS. YOUNG: Good afternoon, Chairman
11 Kosinski, and the State Board of Elections.

12 CHAIRMAN KOSINSKI: Good afternoon.

13 MS. YOUNG: The presidential election
14 of year 2000 was a disgrace and an
15 embarrassment to our country. Had that kind
16 of thing happened in a developing country,
17 our government would have been in the lead
18 to request a United Nations monitoring of
19 the election procedures in the future.

20 Because of this questionable process,
21 there has been a rush to remedy the election
22 process by means of the HAVA. And this act
23 appropriates money to states to replace the
24 so-called outdated voting machines called

1 lever machines.

2 Lever machines have no software in
3 them. They are mechanical, they can break
4 down -- but when they do, they can be fixed.
5 And they cannot be subject to prior errors
6 in chip production which is duplicated
7 across the entire state or nation at the
8 same time.

9 We cannot afford, nor can we permit,
10 another major assault on the integrity of
11 the American electoral process.

12 (Applause.)

13 MS. YOUNG: Imagine -- imagine that
14 it's Election Day 2004. You enter your
15 local polling place and go to cast your vote
16 on a brand-new touch-screen voting machine.
17 The screen says your vote has been counted.
18 As you exit the voting booth, however, you
19 begin to wonder: How do I know if the
20 machine actually recorded my vote? The fact
21 is, you don't.

22 HAVA is fueling a rush by states and
23 localities to purchase computer voting
24 systems that suffer from a very serious

1 flaw. Voters and election officials have no
2 way of knowing whether the computers are
3 counting votes properly. A voter-verified
4 paper trail is a critical safeguard for the
5 accuracy, integrity, and security of
6 computer-assisted elections.

7 Voting should not be an act of faith,
8 it should be an act of record. Current law
9 does nothing to protect the integrity of our
10 elections against computer malfunction,
11 computer hackers, or any other potential
12 irregularities.

13 There have already been several
14 examples of computer error in elections. In
15 the 2002 election, brand-new computer voting
16 systems used in Florida lost over 100,000
17 votes due to software error. We think.
18 Errors and irregularities were also reported
19 in New Jersey, Mississippi, Georgia, Texas,
20 and at least ten other states.

21 A recount requires that there be a
22 reliable record with which to check.
23 Without an actual paper record that each
24 voter can confidentially inspect, faulty or

1 hacked computer systems will simply spit out
2 the same faulty or hacked result.

3 "Every vote in an election matters. We
4 can and should do this in time for the 2004
5 federal election." The quotes mean that I
6 have quoted from the House 2239 bill, "The
7 Voter Confidence and Increased Accessibility
8 Act of 2003," which has been sponsored by
9 Congressman Rush Holt. It now has over 20
10 cosponsors, and moving ahead. Thank God to
11 the citizens of America who are awake. The
12 Senate has yet to act on this.

13 Recounts will become history if
14 paperless Direct Recording Electronic voting
15 machines -- typically, touch-screen
16 machines -- become prevalent. About one in
17 five Americans vote on such machines now.
18 HAVA subsidizes the purchase of many more
19 DREs. All of the internal mechanisms of
20 voting are hidden from the voter. A
21 computer can easily display one set of votes
22 on the screen for confirmation by the voter
23 while recording entirely different votes in
24 electronic memory, either because of a

1 programming error or a malicious design.

2 Election officials are powerless to
3 prevent accidental or deliberate errors in
4 the recording of votes. If there is
5 tampering, it likely will be present in the
6 DRE's code, to which election officials have
7 no access. In fact, DRC code is usually
8 protected by code secrecy agreements, so
9 that no one but the manufacturer has access
10 to it. In recent cases, the complainants
11 have not been allowed to review the code
12 even when DRE-based elections have been
13 contested in court.

14 When I called the State Board of
15 Elections yesterday to request permission to
16 address this body, Mr. Todd Valentine
17 indicated that Saratoga and Hamilton
18 counties already have electronic voting
19 machines and had no problems with them. My
20 question is, how would you know?

21 If you placed your entire paycheck into
22 an ATM and received no paper audit for the
23 amount, how would you support your complaint
24 to the bank when it went into someone else's

1 account?

2 Anyone who doubts the result of an
3 election is now obliged to prove that those
4 results are inaccurate. But paper ballots,
5 the main evidence that would provide that
6 proof, have been eliminated or are being
7 eliminated in this present process. Vendors
8 and election officials are free to claim
9 that elections have gone smoothly when there
10 is no evidence that the votes that were
11 counted had anything to do with the intent
12 of the voter.

13 Another question that comes up is, if
14 you're going to have a paper audit, why have
15 a machine at all? That is an excellent
16 question. Since the state can replace its
17 20,000 voting machines with electronic ones
18 at \$7,000 each, that's at least \$140 million
19 of federal dollars that could instead be
20 helping to relieve our state of its Medicaid
21 crisis that is bankrupting our counties. I
22 know that because, sitting on a small county
23 legislature, I'm aware of the costs.

24 The State of Oregon has decided to do

1 voting by mail, which is much less costly
2 and has a definite paper trail. In year
3 2000, when only 51 percent of registered
4 voters actually voted nationwide,
5 79.8 percent voted in Oregon, which mailed
6 ballots directly to registered voters. This
7 would eliminate all of the problem with
8 people who have handicapped accessibility
9 problems. They mailed the ballots directly
10 to registered voters.

11 The State of Washington also offers
12 voting by mail as "permanent absentee
13 ballot," which was chosen by approximately
14 60 percent of its voters. Voting by mail
15 has not even been considered in New York
16 State.

17 The direct costs of the machines do not
18 include the costs of training, maintenance,
19 proper storage in climate-controlled
20 situations, and transportation. By the way,
21 Schuyler County has no place in its county
22 office buildings to store these things in a
23 secure way. This is another cost to us,
24 another what I call unfunded mandate.

1 There are no indications of warranty,
2 service costs, service contracts, and the
3 general malaise of "who cares who touches
4 the machines between elections" to hack the
5 software as time goes on.

6 All in all, we need a Senate companion
7 bill to Assembly Bill 8847. Better still,
8 we need a duplicate to Rush Holt's House of
9 Representatives 2239 in both houses of the
10 State Legislature. Most of all, we need to
11 explore carefully what our sister states of
12 Oregon and Washington are doing to increase
13 the interest in our election process and
14 keep our technology from far outpacing our
15 wisdom.

16 If this is an evolutionary, ongoing
17 process, how does it happen, once we have
18 shot our wad and spent all the money donated
19 by the feds, that we address critical,
20 expensive changes at a future date? Who
21 takes care of those? As a county official,
22 I think I know. Here we go again. County
23 ownership, one more unfunded mandate in
24 terms of costs. So be careful what we wish

1 for.

2 If Senator Morahan was still here, I
3 would certainly love to have asked him why
4 there is no action in the United States
5 Senate [sic] paralleling Assembly Bill 8847
6 by Assemblyman Keith Wright.

7 Thank you very much.

8 CHAIRMAN KOSINSKI: Thank you, Ruth.

9 (Applause.)

10 CHAIRMAN KOSINSKI: You're Marcia
11 Douglas; right? You wanted to speak as
12 well?

13 Sure, go ahead.

14 MS. DOUGLAS: Thank you very much for
15 holding these hearings. I agree with much
16 of what has been said today.

17 Why am I here? Because I believe this
18 is one of the most important nonpartisan
19 issues facing the state and the nation. In
20 part, I'm here to learn the facts
21 surrounding the proposed changes, and I have
22 learned a lot. But I'm also here because
23 I'm concerned about the low percentage of
24 citizens with the right to vote who do not

1 vote, why they don't, and if these changes
2 will help increase the percentage of those
3 who do vote or if it won't.

4 For example, my 59-year-old brother --
5 he's an engineer -- doesn't vote. He claims
6 it's because his individual vote has no
7 impact. And he laughs when he learns voting
8 may become electronic, without a paper
9 trail. Now he certainly won't vote.

10 My daughter, in graduate school,
11 intends to vote. However, she needs to
12 believe that her vote will be counted as
13 it's cast and wants to see a paper printout
14 of her vote or at least know that there is a
15 paper trail.

16 I've been working around young people
17 as a social worker and a school social
18 worker for about seven years. And over the
19 years, I've asked many of my clients and
20 students what they think about voting. Most
21 say they won't bother because they're
22 convinced it won't make a difference or the
23 results will be rigged anyway. After all,
24 they've heard the stories about the results

1 of votes being influenced by paid voters,
2 dead voters, voters being frightened away,
3 and/or people voting twice.

4 When these things happened, the media
5 was primitive at best and the Net was
6 nonexistent. These stories were like
7 legends, and they could be believed or not.

8 However, today, thanks to the Internet,
9 we have almost instant global access to
10 every story about voting fraud, in great
11 detail and from every angle.

12 Young people today are very familiar
13 with the Internet, computers, computer
14 programs, and hacking. I believe when they
15 learn that we are even thinking about voting
16 electronically, without a paper trail, it
17 will confirm their decision not to vote.

18 We cannot afford fewer voters. We
19 cannot afford questionable results. And we
20 cannot afford nonverifiable results.

21 Thank you for your time.

22 CHAIRMAN KOSINSKI: Thank you,
23 Marcia.

24 We have Andria Doldo.

1 MS. DOLDO: Good afternoon. My name
2 is Andria Doldo. I am a consumer with the
3 Northern Regional Center for Independent
4 Living in Watertown, New York. I am also a
5 volunteer at that center.

6 I believe that New York State should
7 have -- New York State needs to have at
8 least one accessible voting machine
9 available at polling places by the year
10 2004.

11 I have personal experience not being
12 able to get into a polling place on my own.
13 In the election of 2000, I had to be
14 physically lifted, in my manual wheelchair,
15 up steps.

16 And when I got into the polling area, I
17 had to have a poll worker help me push the
18 levers. As a result of that, she pushed the
19 wrong voting -- she pushed the wrong
20 candidate for voting. She did not push the
21 candidate I requested her to push. When I
22 informed the poll worker of her mistake, she
23 would not change it. She said it had
24 already been counted.

1 I will not vote again unless something
2 is changed. I almost didn't vote in the
3 2000 elections. If it had not been for my
4 grandmother telling me that my vote counted,
5 I would not have.

6 If you want the disabled population to
7 vote, they need to have the right to vote
8 privately and they need to have accessible
9 voting machines.

10 Thank you.

11 CHAIRMAN KOSINSKI: Thank you,
12 Andria.

13 Glenn Stewart is next.

14 MR. STEWART: Good afternoon, ladies
15 and gentlemen. Thank you for having a forum
16 for the public, our comments.

17 My name is Glenn Stewart. I'm a youth
18 advocate. I work with youth from ages 21 to
19 12. I'm from the Northern Regional Center
20 for Independent Living. And I have some
21 concerns that are very important for our
22 future generation of voters coming to the
23 sites, voters with disabilities.

24 MS. SMITH: Hi, I'm Kim Smith, and I

1 also work at the Independent Living Center
2 in Watertown. And I'm going to read Glenn's
3 comments.

4 As he said, his position is youth
5 advocacy coordinator for youth with
6 disabilities. And he would like to address
7 the following concerns and the importance of
8 polling-site accessibility.

9 "I work with youth between the ages of
10 12 and 21 years old. It's critical that all
11 polling sites are accessible to all
12 Americans. I was at Saratoga for the
13 accessibility demonstration in March of
14 2003. There were between 11 to 12
15 polling-site machines that were tested, and
16 the demos I assessed were not usable for
17 people who are vision-impaired. The
18 following concerns need to be addressed.

19 "One, there was no pause button for any
20 of the polling sites that I used. I could
21 not stop the machine from talking and could
22 not follow where I was on the machine. All
23 demonstrators had no clue what to do about
24 this problem. Their comment was, 'You will

1 just have to go back to the beginning.'

2 "Well, I can't see any youth at age 18
3 to 21 wanting to have to start all over from
4 the beginning, over and over, if they need
5 to do that to pick a candidate. I was very
6 dissatisfied with each of the demonstrations
7 because they had no way to pause any of the
8 voting machines.

9 "Some of the polling-site machines had
10 no sound control or speed of speech control.
11 Some were too loud and some too low. The
12 speech was read too quickly and, once again,
13 I could not slow it down or pause any of the
14 machines.

15 "Another problem was that the
16 demonstrators did not have the proper
17 knowledge in answering my questions and had
18 no idea on how to give me useful information
19 on their product. I became unwilling to
20 wait around and have the demonstrators try
21 to figure out how to answer any of my
22 questions. It was a poor demo event for
23 people with vision impairments and for
24 myself.

1 "Working with youth with disabilities,
2 I can assure you that having a vision
3 impairment, reading disability, or mental
4 health disability at the transitional stages
5 of youth into the adulthood, there will be a
6 very low returning rate to vote in the
7 future if changes are not implemented.

8 "It's very important that accessibility
9 at polling sites is made in a comfortable
10 and convenient way. I was not able to
11 complete any of the voting machines. I am
12 also a patient individual, and I did lose my
13 patience at all of the demos.

14 "Having youth turning 18 years old, we
15 want them to exercise their right to vote,
16 and every vote counts. In Florida, at the
17 last presidential election, it was a very
18 narrow margin that took the presidency, just
19 a few hundred votes. That is a prime
20 example of knowing the importance of
21 accessibility at polling sites. There were
22 more than a few hundred individuals with
23 disabilities that could not access their
24 right to vote.

1 "The youth that have disabilities and
2 are turning 18 will lose interest in voting
3 if they are not accessible and easy to
4 understand. These concerns need to be
5 addressed immediately. Individuals with
6 disabilities have been shut out long enough
7 in the past, and our new generation of youth
8 need to be ensured that they will have the
9 right to vote in their area and have no
10 barriers in their way to doing so."

11 Thank you.

12 CHAIRMAN KOSINSKI: Thank you. Thank
13 you for coming.

14 That actually completes the list of
15 people who have signed up to speak today.

16 Well, let me say this. If there are other
17 people who want to speak, we'll give you
18 that opportunity.

19 How many others here are here to speak?
20 Five? Okay. If you just want to come down
21 one at a time, and we'll take you as you
22 come.

23 If you have written testimony, I'd
24 appreciate it.

1 MS. BOLSTA: Hello. Thank you for
2 holding these meetings.

3 And I'm concerned about the new
4 electronic devices that are under review
5 today, for a few reasons. Accountability,
6 efficiency, and economics are my three big
7 concerns.

8 Most of what I am going to say is
9 really a reiteration of some of the other
10 speakers. And it's short, so I guess I'll
11 read it.

12 Accountability. Votes must be
13 verifiable. Without a paper trail, this is
14 difficult or may not even be possible.
15 These machines can have errors, as all
16 electronic devices may have from time to
17 time. We all have computers. This
18 obviously is a cause for concern, as well as
19 the fact that these devices can easily be
20 rigged. At least this is my understanding.
21 Judging from the myriad ways in which
22 computers can be tampered with, I think this
23 is a valid worry.

24 Efficiency. These machines will have

1 to be stored over long periods of time, and
2 they'll have to be maintained. They'll need
3 some kind of climate control. They'll be
4 moved and require special handling. So it
5 seems to me that they have more requirements
6 and seem to be more delicate than mechanical
7 voting machines. And people will have to be
8 trained to maintain them.

9 Economy. This is an expensive
10 proposition for the state. Besides the
11 costs of maintaining and training, as I
12 mentioned before, there's the initial cost.
13 My understanding is that you might be paying
14 \$7,000 per machine. Now, a very good
15 computer can be bought for about \$2,000, and
16 that computer will have many more functions
17 than one of these voting machines. So how
18 does it work that these machines are so
19 costly? I certainly think an investigation
20 into these costs needs to be undertaken
21 before any purchasing takes place.

22 But most importantly, I hope you will
23 stay away from the electronic voting
24 machines altogether.

1 I offer a positive proposal -- that you
2 investigate alternatives. I want to follow
3 the state of Oregon here in New York and
4 adopt the same kind of voting apparatus that
5 they employ, mail-in voting.

6 And then I have listed a couple of
7 ideas. You know, we could make voter
8 registration convenient by including it
9 automatically at the same time one registers
10 a car or gets a new license. I'm sure lots
11 of ideas to improve registration could be
12 thought of.

13 Furthermore, in Oregon, I think there
14 was a 71 percent turnout in the last
15 election, according to the report I heard,
16 and this surpassed the 51 percent vote in
17 the 2000 general election.

18 So I hope the Board of Elections
19 seriously takes the people's comments to
20 heart and looks hard before it leaps into
21 territory that could give us more trouble
22 than any of us want.

23 And after coming here today and looking
24 at your report, I notice that on the bottom

1 of page 1 and page 2 that you have a
2 deadline of September to have something in
3 in order to get money from the federal
4 government. And I just heard about these
5 meetings. And, you know, I don't see where
6 we're going to have time for you to take to
7 heart some of these ideas that people have
8 presented, investigate them, have more
9 meetings, and then make some valid
10 decisions.

11 So I'm wondering (a) can you get an
12 extension; (b) can you really have meetings
13 that will be -- I'm a very fortunate person
14 that I could come today. There are many
15 people who have questions and really have
16 concerns about the whole process. And we're
17 voters, so we want to vote. We're people
18 who are involved.

19 I would hope that you'd want to -- that
20 all of us would be able to show up at one or
21 another meeting, that you're much more
22 accessible, not only for the whole voting
23 process be accessible, but the formation of
24 our new voting process be accessible. Which

1 at this time it really hasn't, I don't
2 think, done you service.

3 I also think that there are a lot of
4 ways -- I used to work with disabled people,
5 and I understand some of the problems. And
6 I have a disability myself, which I was in a
7 wheelchair for quite a while. So now what
8 my question is, is that if there are other
9 ways of getting people to vote, like with
10 Oregon's mail-in, then how about
11 investigating that? And that would free up
12 quite a bit of money, it would free up a lot
13 of people's energy and time, which could in
14 fact be devoted to do something else about
15 educating people about voting or any other
16 issue, even within the confines of voting in
17 this state.

18 Thank you.

19 CHAIRMAN KOSINSKI: You're welcome.

20 Thank you for coming.

21 You know, I just -- just to, I guess,
22 talk about that issue just for a second,
23 about the timing and everything.

24 You know, as I mentioned earlier, this

1 is an ongoing process. And we understand
2 there are a lot of decisions that New York
3 has to make about, you know, where it's
4 going with its elections process. And this
5 document we think provides an outline that
6 New York will use.

7 But certainly a number of these issues
8 have to be decided and will be decided.
9 Some of them are to be decided by the State
10 Legislature, because they'll require
11 statutory changes. And, you know, those
12 discussions will be taking place in the
13 Legislature, and those issues will be
14 resolved there.

15 But not every issue is addressed in
16 this report. We understand that. And this
17 is a three-year project. So we certainly
18 anticipate having more meetings and having
19 more discussions. And the public is always
20 welcome for input. We've tried to provide a
21 number of forums, as I mentioned, for people
22 to comment on.

23 But this document that we're sending to
24 Washington that has to be in this year we do

1 not expect to be the final document that has
2 all the answers to all the questions.
3 That's not realistic. This will be going on
4 for the next couple of years.

5 Are there others at the table who want
6 to speak? Could you just identify yourself
7 before you speak, and then go ahead.

8 MR. ELMENDORF: Hi, I'm Bob
9 Elmendorf, from Malden Bridge, New York.
10 I'm part of the Chatham Peace Initiative,
11 which is partly represented here at the
12 table.

13 Thank you, Chairman Kosinski, for
14 having these hearings, and the chance to
15 speak.

16 I've just got about ten points. Some
17 of them you've never heard before. And that
18 is because I worked for New York State for
19 18 years and have some knowledge I want to
20 give you at the end.

21 First of all, I didn't see any mention
22 in the State Board of Elections
23 implementation plan of a permanent paper
24 record, with a manual audit capacity for

1 such system, which HAVA has in its
2 legislation.

3 Point number two, HAVA's effective date
4 for this permanent paper record is 01/01/06.

5 The inclusion of the concept is laudable,
6 but the timing is lamentable.

7 However, Assembly Bill No. A8847, which
8 was passed on June 17, 2003, and is
9 effective immediately, the bill requires
10 that pursuant to this legislation -- HAVA,
11 that's the HAVA legislation -- each voting
12 machine will be required to produce a paper
13 voter-verifiable audit record. These
14 records will be retained by the voting
15 machine.

16 This legislation requires that in
17 2 percent of election districts, these
18 records shall be manually examined and
19 tallied, and that such tallies will be
20 compared against electronically recorded
21 results.

22 This bill is now, as you know, in the
23 Senate Rules Committee. What chance is
24 there of passage and timely implementation?

1 That would be one of my questions for you
2 guys.

3 MS. SVIZZERO: Thank you.

4 MR. ELMENDORF: No. 4, to increase
5 voter turnout, please consider voting by
6 mail, which 11 states allow in one form or
7 another. Voting by mail is less expensive,
8 increases voter turnout, is easier to
9 conduct, and makes it easier to update the
10 rolls.

11 In lieu of this, or supplementary to
12 it, consider e-mail or Internet ballots and
13 use portable voting machines that could be
14 taken to hospitals, nursing homes, senior
15 citizen centers, federal and state
16 low-income housing projects, and so forth.

17 Consider streamlining registration
18 systems that would allow online or in-person
19 registration even on the day of voting.
20 Data on every registered voter should appear
21 at any polling place, and even for those who
22 were refused.

23 Because I remember in Florida what
24 happened, people would go from polling place

1 to polling place in one night and be
2 refused, or sent back and forth and nothing
3 ever happened.

4 DMV has a non-driver ID program. We
5 looked into this in Tax and Finance, and we
6 were going to take all the state badges, we
7 were going to take the database from DMV and
8 load it into a program that would produce,
9 you know, badges for New York State Tax and
10 Finance. We found out that we could not do
11 that. It is illegal.

12 But what you guys can promote, working
13 with DMV, is that you can promote -- get
14 them to get a program, an outreach program
15 where people in New York City and the
16 largest cities that don't have driver's
17 licenses and have difficulty registering,
18 they could be made aware of this DMV
19 non-driver ID program.

20 The fee could be waived. DMV could
21 take their picture, produce the card, and
22 that would allow them to get registered a
23 lot easier than fooling around with lots of
24 other cards. Because you'd know the

1 registration was good, it was accurate.

2 However, I am suspicious, as I said
3 earlier, of sharing DMV database information
4 with the election database, because I don't
5 think that's allowable under current law.
6 In other words, I don't think you can take
7 material from DMV and put it onto the
8 election database to see who voted or who
9 could vote and so forth.

10 I also -- and I'm not sure whether this
11 is true or not, but I'm in favor, regardless
12 of a conviction, either a misdemeanor or a
13 felony, that everybody should vote in
14 New York State -- prisoners, whoever they
15 are.

16 And I think this number is correct, I
17 think there were 75 million people that did
18 not vote in the last election, either
19 because they were not registered or they
20 were registered and they decided not to
21 vote. I'm pretty sure that's a correct
22 figure. I can send that to you guys, I
23 think. I've got your e-mail. I'll send you
24 the figure on that. Something should be

1 done about that.

2 Thank you very much. I appreciate it.

3 CHAIRMAN KOSINSKI: Thank you.

4 MS. DWYER: Hi. My name is Wendy
5 Dwyer. I'm a member of Peace Action and the
6 Columbia County Chapter of the Green Party,
7 and I'm a registered nurse working here in
8 Albany. I live in Canaan, New York.

9 I'm really glad for this opportunity to
10 speak out. I'm very disappointed in our
11 country, my country. I grew up believing in
12 our democracy and being proud of the
13 country. And to me it's revolting to see
14 election fraud in this country. The
15 cover-up is even worse.

16 The arrogance of our country overseeing
17 other countries' elections as ours allows a
18 corrupt, discriminatory election process to
19 occur is embarrassing and disheartening.

20 The discrimination against persons of color
21 in Florida is unacceptable and unforgivable.

22 We need more controls to prevent future
23 installments of unelected persons into
24 office. There needs to be a paper receipt

1 and trail to document each vote. When I
2 vote, I want proof that my vote is counted
3 in the manner I intended.

4 I also feel strongly we would have a
5 stronger democracy if instant runoff voting
6 became the standard of practice, allowing
7 qualified candidates access to office.

8 Please work to ensure accuracy, as a
9 sense that a vote will not be counted will
10 only further the apathy and distrust seen
11 across our country. The pervasive feeling
12 that corrupt politicians and corporations
13 are running and ruining this country can
14 only further deteriorate our democracy.

15 I apologize for writing this in a
16 moment's notice, and I hope I've conveyed my
17 feelings.

18 And I also want to say, from my
19 personal experience in the last presidential
20 election, that I feared giving my vote to my
21 most feared candidate. And I therefore
22 voted for the person I wanted second-best.

23 As I left my polling place in Canaan, I
24 cried. And I thought, in America you

1 shouldn't cry walking away from the polling
2 place. You should feel proud, not grief.

3 And I think, as Ralph Nader said, the
4 lesser of two evils is still evil. And
5 that's why I feel that instant runoff voting
6 would allow qualified candidates'
7 involvement and strengthen our democracy.

8 Thank you.

9 CHAIRMAN KOSINSKI: Thank you, Wendy.

10 MR. O'CONNELL: Hi, I'm Brendan
11 O'Connell of Chatham High School Students
12 for Peace.

13 And a concern of our group that we've
14 been discussing a bit is these new voting
15 machines. And I don't think I have to go
16 into all the reasons. Other people have
17 already brought in the corporate conflicts
18 of interest with politicians. Companies
19 such as ES&S and Diebold have had past
20 problems in elections that have been run.

21 So I think that New York State needs to
22 look very carefully at the company -- I
23 recognize that electronic voting probably is
24 going to take place in New York State. So I

1 think New York State needs to look very
2 carefully at the company and the machines it
3 chooses, if you don't want youth to get more
4 disaffected with the political process.

5 A lot of people already believe voting
6 is a joke already, echoing a lot of the
7 sentiments of the guy from SUNY. So if you
8 don't want youth to be even more tuned out
9 of the political process, I say require a
10 paper trail and other measures to ensure
11 accountability and accuracy in voting.

12 And the proposition that's been
13 discussed a lot, if these machines aren't to
14 our satisfaction, is voting via absentee
15 ballot in the next election. That way we
16 can know that our votes are actually being
17 counted and know who we voted for. So
18 that's a measure that my group will consider
19 if the machines aren't to our satisfaction.

20 Thank you.

21 CHAIRMAN KOSINSKI: Thank you,
22 Brendan.

23 MR. GOLDRICK: Hi, there. My name is
24 Azim Goldrick. I'm from Lebanon, New York.

1 And I welcome this opportunity to speak and
2 hopefully be heard.

3 I've spent a lot of my life being
4 largely apolitical and feeling that the
5 political process was tainted. And the
6 events of the last two years have shaken me
7 from my apathy, and I've felt that I was
8 called to come forth and act and speak.

9 And I have met many compatible and
10 similarly motivated people who feel that
11 we're at a crossroads now as a people, as a
12 world, and that it's in our hands, all of
13 our hands individually, to do what we can to
14 bring about a world that's liveable.

15 Voting is a cornerstone of our
16 democratic process and our democratic life.
17 Since the 2000 election, for many of us the
18 right and the duty to vote has been called
19 into question. That's intolerable. We
20 can't have that. We're not going to be a
21 free people while that is in question.

22 So we as people -- I'm just a person,
23 I'm here and these other people are all
24 here, I think, for similar reasons: that

1 right now, as we stand at this moment, that
2 many of the principles of our democracy are
3 in shadow, in question.

4 We've just been engaged in what I can
5 only characterize as an illegal, immoral
6 war, against the opposition and the good and
7 just criticism of the rest of the world, and
8 yet we've gone ahead and done it. And to
9 me, it's unthinkable, it's hideous and
10 horrible, and yet it's happened.

11 Now we're looking at a way of altering
12 our -- you know, the basis of our democracy,
13 our voting, our way of participating in our
14 democratic process. And even beforehand,
15 before we're really into the meat of it, the
16 mechanism by which we will exercise our
17 right of opinion and choice is in question.

18 And in my experience of our -- you
19 know, the machinations of our recent
20 societal changes, I guess I would call them,
21 it seems that, you know, we have a situation
22 where the leadership proposes an avenue, a
23 direction, and yet there are options that
24 are available to us that we're not even

1 looking at. And I think our agendas are
2 being dictated by people whose interests are
3 not those of the whole.

4 And I think that has to be the criteria
5 by which elections or so much that's before
6 our society at this moment is viewed; that
7 is, what is good for the whole, what is good
8 for all the people.

9 And I myself have some experience with
10 computers, and I know they can easily be
11 tampered with. So I'm not so sure that
12 that's the way to go, even though that seems
13 to be our primary option at this point. But
14 there are other options.

15 And I would like to trust, myself, that
16 we have an integral and competent leadership
17 to present the choices to the people and to
18 allow some faith in the good graces and the
19 good judgment of the populace to make a
20 choice, to choose a direction that is in the
21 interest of us all.

22 And that's all I have to say. Thank
23 you very much for listening.

24 CHAIRMAN KOSINSKI: Thank you for

1 coming.

2 (Applause.)

3 CHAIRMAN KOSINSKI: Is there anyone
4 else here who would like to speak?

5 I see Mark Dunlea in the room.

6 MR. DUNLEA: Good morning, or good
7 afternoon, at this point. My name is Mark
8 Dunlea. I'm the state chairperson of the
9 Green Party of New York State.

10 I unfortunately found out about this
11 hearing last night. Maybe I can give my
12 address for the record: 156 Big Toad Way,
13 Poestenkill, New York, 12140.

14 As the chairperson of the third largest
15 party in the country, we would appreciate
16 being on the mailing list, you know, for
17 these type of events. We did speak
18 previously at one of the HAVA task force
19 meetings. But we'd like to be kept up to
20 speed as to what's going on.

21 I've submitted testimony that we
22 provided to the Assembly hearing that was
23 held on HAVA previously. I have not, other
24 than the last five minutes, had an

1 opportunity yet to read this document
2 (indicating) completely, so we may need to
3 make some additional comments.

4 I assume certainly that the comments
5 made before will be ones that we generally
6 would agree with. Certainly having quickly
7 reviewed the testimony of the League of
8 Women Voters of New York State and the
9 New York State Citizens' Coalition on HAVA
10 Implementation, the Green Party would be in
11 general agreement with the points that they
12 have made.

13 A couple of particular points that
14 we've been making throughout this process is
15 that we want to make sure that whatever
16 voting machine system is instituted in
17 New York State accommodates all the various
18 forms of voting systems presently employed
19 in the United States.

20 We particularly want to make sure that
21 whatever computer system or whatever voting
22 machines are used are able to accommodate
23 instant runoff voting, preferential voting,
24 choice voting, proportional representation.

1 We do not want to be in a situation two
2 or three years from now that we're told that
3 the reason why we can't implement what we
4 would view as a more democratic form of
5 voting is because the hundreds of millions
6 of dollars that were recently invested by
7 the state does not accommodate these type of
8 electoral systems.

9 I trust that that recommendation is
10 included in this report, because I know it
11 is supported at the federal level. It's not
12 a very difficult thing to do with the new
13 type of computer systems. But it is
14 something that we want to highlight. There
15 are at least three IRV bills presently
16 pending in front of the State Legislature,
17 and hopefully we'll see some process on that
18 in the future.

19 It's been heartwarming to see how many
20 Democrats in New York City have recently
21 come out in favor of IRV. Now that the
22 Republicans are pushing nonpartisan voting
23 in New York City, Democrats suddenly have
24 become converted to the issue of IRV as an

1 alternative.

2 The Green Party certainly supports
3 elimination of the requirement for a
4 full-face ballot. We certainly think that a
5 requirement to post a ballot on the wall
6 where people can look at it prior to going
7 in is sufficient. And we're concerned that
8 the full-face ballot requirement in New York
9 will make it more difficult to accommodate
10 some of the voting systems or voting
11 machines that are being looked at.

12 Certainly one of the key issues that
13 the Green Party and others are very
14 concerned about is the issue of protection
15 against computer fraud, computer
16 manipulation in any voter system. It is
17 very important that there be a verifiable
18 paper trail or some type of trail that the
19 voter can in fact ensure that their voting
20 is being correctly recorded.

21 We think it's also essential -- a
22 no-brainer, in fact -- that there has to be
23 public ownership of any of the software
24 that's used in the computer system for the

1 voting machines.

2 We support standardized machines,
3 obviously, voting machines across the state.
4 Already it's very complicated, as a
5 statewide party, trying to explain to people
6 the difference between the voting machines
7 in New York City and Albany versus the rest
8 of the state. It presents problems,
9 particularly for statewide elections.

10 We would actually prefer that the state
11 basically take a lead on purchasing of the
12 machines. If you do decide to go to a
13 county-type system, we, you know, certainly
14 would urge that there be a standardized
15 system that is purchased, that there not be
16 different machines from county to county.
17 It would make it easier to repair, it would
18 make it easier to train the poll inspectors,
19 the poll workers, it would make it easier
20 for voters to understand the difference as
21 they move from county to county.

22 One of our pet issues -- I mean, I
23 think one of the concerns that's been
24 addressed by the League of Women Voters and

1 the Citizens' Coalition on HAVA
2 Implementation is the lack of specificity in
3 the draft or the statewide implementation
4 plan. Certainly a lot of that comes in the
5 area of the statewide voter registration
6 database. We'd love to see that
7 immediately.

8 We'd actually love to see -- I don't
9 know, I haven't checked in the last week,
10 but we'd certainly love to see the updated
11 list of voter enrollment numbers on the
12 statewide database, statewide web page for
13 the Board of Elections, since the Green
14 Party still continues to use that for
15 various internal purposes. And the fact
16 that they were not updated in April has
17 caused us, you know, some significant
18 problems.

19 We have tried to compile our own
20 statewide database of enrolled Green voters
21 in New York State. After considerable
22 expense, considerable time over the last
23 seven or eight months, we have still not
24 achieved that. It is incredible to see how

1 the counties so differently approach how to
2 do basic things such as to create the field
3 for a voter's address and how that can be
4 separated out.

5 This is long overdue. We would like to
6 see the statewide voter database, you know,
7 as soon as possible. If the state does not
8 take complete ownership of the maintenance
9 of that statewide database, it clearly needs
10 very detailed -- two field lengths -- field
11 size in terms of what the counties are
12 doing.

13 If one was paranoid, one would almost
14 think that the counties intentionally create
15 a chaotic computer voter registration system
16 at the present time to make it difficult for
17 insurgents and third parties and
18 independents to get easy access to the list
19 of registered voters in New York State.

20 And certainly we urge the State Board
21 of Elections to correct that problem as soon
22 as possible. And we would like to see it
23 done by the end of this year.

24 One of the other concerns is the issue

1 of identification requirements for new
2 voters. I will remark that I believe it's
3 illegal for poll inspectors, poll workers,
4 to ask for identification on Election Day
5 for voters prior to them voting. We have
6 certainly seen numerous reports of that in
7 the past, particularly targeted at student
8 voters, Saratoga County most recently coming
9 to mind.

10 And we hope that with the new ID
11 requirements there will be intensified
12 efforts by the State Board of Elections to
13 ensure that the county boards of election do
14 not illegally restrict the voters' rights to
15 participate in the elections, something that
16 we see all too common here in New York
17 State.

18 I think the plan needs to be a lot more
19 specific as to what will be the different
20 types of databases that the state will
21 routinely access in order to verify
22 identity.

23 I think we're all very concerned that
24 the identification requirement should not in

1 fact be used as an opportunity to
2 disenfranchise voters, particularly the
3 poor, tenants, young people, people of
4 color -- all practices we've seen
5 previously.

6 And we hope that the State Board of
7 Elections takes an opportunity to help write
8 a very strong Voter Bill of Rights to
9 educate voters as to their rights on
10 Election Day. I think there is a very -- a
11 loss of faith in our democratic system over
12 the last two years. And I think HAVA
13 implementation is an opportunity for the
14 state and the federal government to try to
15 restore the public's faith that in fact
16 every vote does count here in the United
17 States.

18 I will say that so far the task force
19 has not done a very good job on restoring
20 the public's faith. It was a very
21 restrictive process in terms of inclusion of
22 other voices and community voices,
23 particularly as compared to some of the
24 other states in the country.

1 But there's still time to head off in a
2 better direction. And as I say, we've just
3 five minutes ago got a copy of your report,
4 so we probably will have more detailed
5 comments once we've had an opportunity to go
6 through it. We just wanted to share some of
7 our general concerns about the proposed
8 plan.

9 CHAIRMAN KOSINSKI: I appreciate
10 that, Mark, thank you. Thanks for coming.

11 MR. DUNLEA: Anytime.

12 CHAIRMAN KOSINSKI: Anytime. Well,
13 maybe we'll see you again, then. We have
14 two more hearings --

15 MR. DUNLEA: New York City and
16 Buffalo.

17 CHAIRMAN KOSINSKI: -- New York City
18 and Buffalo. And you're certainly welcome
19 to attend either or both.

20 MR. DUNLEA: We will try to have some
21 people there to speak.

22 CHAIRMAN KOSINSKI: That'd be great.
23 Thanks again.

24 Again, unless someone else wants to

1 speak, we will close the hearing. And I
2 thank everybody for coming, thank the task
3 force members, John Haggerty, for coming,
4 Aimee. Again, maybe we'll see you in
5 Buffalo or New York City.

6 But at any rate, we'll take your
7 comments and appreciate very much your
8 coming today.

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10 (Whereupon, the hearing concluded
11 at 1:12 p.m.)

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