THE CENTURY FOUNDATION

A System Still Broken: Reports on the 2001 Elections

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WANG: My name is Tova Wang, and I want to welcome you on behalf of The Century Foundation to our event *Will the Federal Election Bill Fix the Problem: Reports on the 2001 Elections.* The Century Foundation has historically taken a lead and prominent role in finding ways to improve the fairness of our democratic system.

Our previous projects in this regard, as you can tell a little bit from the books that we have out, have been generally focused on campaign finance reform, the presidential debates, the presidential appointments process, and other government reform issues.

So when the 2000 elections happened and all the egregious flaws in our system revealed, The Century Foundation, again, felt compelled to take an active role in finding ways to address the problems that were revealed, and so in January of last year, The Century Foundation along with Miller Center for Public Affairs established a National Commission on Federal Election Reform to investigate and to create reform measures, and we tried to address what was really a crisis in democracy. The honorary co-chairs of the Commission were former Presidents Carter and Ford, and the co-chairs were former White House counsel Lloyd Cutler and former house minority leader Bob Michel.

In August of 2001, the Commission presented its final report to the President in a Rose Garden ceremony, and recently, as you probably know, a House Senate Conference Committee agreed to a bill that was then passed by the House, and is likely to be passed by the Senate – I hope this week – and a lot of what was in our report and the recommendations that were in the report found their way directly, were actually directly incorporated into the bill.

For example, the requirements that states have statewide voter registration systems. That every state has provisional balloting. That every voting system allow the voter to check on his or her vote, and correct it if they want before it's actually cast, and also certain measures to make sure that states do not have too high of a number of lost votes which of course was the big problem in 2000. The bill also includes some measures that the Commission did not recommend and I hope that as part of the conversation today, we'll talk about that as well.

But when the Commission finished its work last year, we really felt that that couldn't be the end of the process. Clearly there was a need to continue to focus on the issue of election reform, and to rigorously monitor whether in fact on-the-ground policymakers were doing anything to make sure that there was not a repeat of 2000 election in 2001.

So we asked the four authors that are at the table to monitor the 2001 elections in New York City, New Jersey, Virginia and Los Angeles, to see how those jurisdictions performed a year later. And we thought that this would give us some indication of whether any real progress had been made since 2000, and also what problems still remained even after all the problems were revealed. It would also very importantly keep the spotlight on the issue of election reform all across the country at the local, state and national level.

So the findings of those four endeavors will be what we talk about today, and also the question of whether the election bill that is likely to be passed by Congress and signed by the President, is going to actually address the problems that our authors found, and if the bill is really going to address the problems that exist at the state and local level.

So now I'm going to turn this over to Juan Williams, our moderator. Juan Williams is a senior correspondent for National Public Radio's *Morning Edition.* From 2000 to 2001, he hosted NPR's national call-in show *Talk of the Nation.* He's the author of the critically acclaimed biography, *Thurgood Marshall: American Revolutionary*, and the nonfiction bestseller *Eyes on the Prize: America's Civil Rights Years, 1954-1965.*

In his twenty-one year career at the *Washington Post* he has served as a political analyst, national correspondent, editorial writer, op-ed columnist, and White House reporter. He won an Emmy Award for his documentary writing, and has contributed articles to magazines, including *Newsweek*, *Fortune*, *Atlantic Monthly*, *Ebony*, *GQ*, and the *New Republic.*

He also hosts *America's Black Forum*, a nationally syndicated weekly news program, and is a political analyst for the Fox News channel.

So I turn it over to Juan Williams.

(applause)

WILLIAMS: Correct. Good morning, and thanks for making it through the traffic and all the other craziness this morning to be with us. My interest in this subject is such that earlier this year, I went down to Florida to Duvall County in Jacksonville to take a look at the aftermath of what happened there in the 2000 presidential race. It was in that county that more voters, more voters were disenfranchised than any other county in Florida, although given the attention on Palm Beach and the Miami area, you would have thought that most of the action was there, in fact it was in that northern section of the state of Florida.

And what was so consequential to me beyond the mechanics and the problems that occurred, everything from people being unfairly purged from voter roles, motor voter registrations, failing to properly register voters, people finding that felons had been thrown off in name, but in fact the people who were thrown off weren't felons, and more, all of this, even questions of literacy, whether or not the largely black population that was most affected, suffering from a poor literacy rate, all of this contributed to a real diminution of civic life in that area.

And I think this is one of the consequences that is so often ignored as we look at the specifics, at the reform proposals, it has a tremendously corrosive effect on the way that we live together as Americans, and whether or not we believe in democracy and in this American way of life. And it's in that spirit that we come together this morning to try to correct that problem. To put on the table what we know and what we can do to make the system work better for all of us as Americans.

Our first speaker this morning is Robert Pastor. Mr. Pastor is vice president of international affairs and professor of international relations at American University here in Washington. He's director of their newly established Center for Democracy and Election Management. Before coming to American, you should know that he was a Professor of Political Science at Emory, and the founding director of the Carter Center's Latin American and Caribbean Program, and also the Democracy and China Elections Project. At the Carter Center, he developed the technique of "election mediation" and organized the observation of more than 30 elections throughout the world. Please welcome Robert Pastor.

(applause)

PASTOR: In 2000, I was asked to organize the observation of just two elections – one in Mexico in July, and the other one in the United States in November – and the implausible occurred. Mexico had a free, fair and virtually error-free election, and the U.S. came up short. This was a result of a 12-year process in Mexico to upgrade their election system, and simultaneously of a steady erosion and deterioration of the electoral process in the United States.

Mexico invested 10 times more on a per capita basis to fix and to maintain their election system than the United States did during this time, though the United States has 10 times the per capita income of Mexico. So the result was not a surprise. As a result of November 2000, Americans began to focus. With the leadership of Tova Wang and The Century Foundation and the Miller Center, the Carter-Ford National Election Commission was established and wrote a report, which has guided the legislation through Congress.

The debate in Congress, however, didn't always focus on the right problem. Democrats were more interested and concerned about extending the franchise. Republicans were more concerned about ensuring that there's no fraud. As an election monitor, both President Carter and myself understood that you cannot conduct elections unless both concerns are taken into account.

I think the final product, which is on the eve, hopefully, of being passed by the Senate and by the Congress, is a quantum leap forward for the United States, and it is imperative that it passes. This is the first significant and comprehensive piece of national legislation to deal with election administration in this country in the 20th Century and in terms of its comprehensiveness since the founding fathers first wrote the American Constitution. That in itself is an important statement for you to focus on because though the debate has reflected age-old fights about voter discrimination, this remains the only piece of legislation focusing on administration and conduct of elections at the Federal level.

The summary of that bill is in your packet. Let me just say a few words about it, and then move on to the topic here. The bill will set up an election assistance commission to provide grants of up to $3.9 billion to states to upgrade their machinery, to train poll workers. It will require of states to set up very specific provisions like the provisional

ballot, an opportunity for voters to correct the ballot, a manual audit capacity, at least one machine that's accessible for the disabled; language capacity, computerized and statewide registration lists, a buyback of the punch card machine system, and also $10 million for college and high school students to help as poll workers. All of this sums up to a very significant piece of legislation.

Now, these four studies that you're going to hear described today are extremely significant, and let me just extract a few key lessons for you to focus on as you hear their description of what they've done.

I think the first and most important lesson is we need reform now; it cannot wait. In the absence of the passage of this national election law, we will see many "Floridas" repeated all over the country. We need the reform passed now.

Secondly, punch card machines are not the problem. Many of us suspected that from looking closely at two states that did detailed analyses, and we found that each of the technologies had a tremendous variation in error rate. Each of the technologies. That is to say they ranged for punch cards from very low error rates to very high error rates, and that was true of the other technologies as well, which means that it wasn't the technology alone or perhaps even in the first place, that was the source of the problem.

It's clear from these studies, for example, that in the case of Los Angeles and Virginia, they used punch cards but they reduced the error rates, whereas New Jersey replaced the punch cards and found the error rates increased. That led to a follow-on conclusion, which is that education of voters and of poll workers may be even more important than the machinery. I'm not minimizing the importance of the machinery; I'm just saying there are other factors at work.

We also learned as we knew in 2000 that the poor and minorities were disproportionately affected in terms of error rates and problems. And, finally, a surprise to some, but a source of concern to all, is that discrimination and intimidation occurs at the ballot boxes, and the Justice Department does act on some of that, but not enough. There is only one way to really deal with that. And that's effective election monitoring. We need that even in advanced democracies, not just in poor countries.

The key point, however, remains. What was wrong in the year 2000 is still wrong and must be fixed. It's not a question of just the punch card machinery, the source of the problem in the United States is decentralization carried to a dysfunctional level. We do not have one election for president. We do not even have 50 elections for president which is what the founding fathers presumed, that is to say that each state would be conducting the election. We have 13,000 separate elections; each county and municipality is responsible for the design of the ballot, for their own machinery, and for collecting the results.

The countries often don't share the data. They don't always give it to the states even when mandated. For example, in the State of Georgia, they've been mandated since 1998

to send their data to the states. The states have had a difficult time collecting it. That's the number one problem, dysfunctional decentralization.

Secondly, the states themselves have been derelict in their responsibilities. They have devolved authority to counties and municipalities. Neither the Federal nor the state governments have given any funding for election administration. That explains the tremendous variation in error rates even within states, let alone between states.

There is no uniformity of standards. There is no clear mandate with regard to understanding the intent of the voter – that's the problem we saw in Palm Beach County. They, for the first time, were trying to set the standard while the election was going, on what the intent of the voter would be. This is a ridiculous proposition. It has to be done beforehand, and it has to be uniform. And there is no investment for maintenance.

So, what are we to conclude? First, the states need to retrieve authority from the counties and municipalities to permit uniformity within the states before we even get to the question of national uniformity and national standards.

The new law will help them to do that through two mechanisms. First is a statewide-computerized registration list. And, secondly, by requiring from the states reports by which they will provide information on how well counties are doing with regard to each of the requirements in the law.

If the law is passed, however, it will not fix everything. There will be some problems that were not anticipated, and there will be new problems that were not addressed. Among the problems not anticipated are provisional ballots. Provisional ballots will be very hard for counties and for states to collect and to include in their vote totals. It will be very costly for them to confirm that citizens did not vote elsewhere.

The only way in the long-term to solve this problem is that the statewide computer registration list should be programmed to each of the polling sites, so that at polling sites, they can quickly identify whether people have voted in other places or are registered in other places.

There are two other areas that need to be addressed in the future. After this is passed, we need to remember that the conduct of elections requires our constant surveillance, and constant work. That will mean in the long-term that the administration of elections should move out of the Secretary of State's office which is a partisan office in our state governments, and into a nonpartisan election commission.

The United States has one of the most primitive systems in the democratic world in the administration of elections. There are three stages in terms of administration of elections. The first is that the government itself is responsible for the conduct of elections, and therefore the incumbent administration has a lot of responsibility. The problem with that is that the opposition feels that the administration is biased or not fair.

The second stage is when they move to a bipartisan commission, which is what we have in the Federal Election Commission, that often leads to collusion, but not effective administration.

The final stage is what Mexico and Canada have. They moved to nonpartisan election commissions that are responsible for the conduct of elections. We need to do that.

And the final reform that's going to be necessary that was not addressed this time for a variety of reasons, is a one-stop, one-time registration system. Everybody who comes of age, at the age of 18, should get one national voter identification card, and be registered for life as long as they're a US citizen, and each time they move, they swipe the card like they would a credit card which deletes them from the previous registration list, and adds them to the new registration list, and spits out a receipt that tells them where to vote. And that national voter identification card will solve the new generation of problems we're going to find with registration lists.

Dan Quayle once said that the trend towards democratization is irreversible, but that could change. (laughter) He's half right of course. I think the most important thing right now is that the law must be passed. It is imperative that it be passed. Not only to enfranchise our people and our voters but to stop embarrassing ourselves before the world. The joke is that once we bring democracy to Iraq, finally, President Bush might consider bringing it to Florida. But I think we don't have to wait for the war in Iraq. We can pass this legislation.

Secondly, the struggle for free elections is a continuous struggle, and we need to monitor that process. The League of Women Voters has played that role. Common Cause may play it. We need everyone to be involved constantly in the electoral process. And, finally, if we do all of those reforms, we may find that in a generation we could catch up with the Mexicans again. Thank you. (applause)

WILLIAMS: Thanks, Robert. Our next speaker is Ronald Hayduk who teaches political science at the City University of New York. Mr. Hayduk was a social worker and worked in New York government as the coordinator of the New York City Voter Assistance Commission in 1993 through 1996. More importantly and pertinent to this appearance here to talk about New York, he served as an expert witness in the recently settled case *NAACP v. Harris*, the NAACP's lawsuit against the State of Florida and several Florida counties regarding the 2000 election. He's also the author of *Gatekeepers to the Franchise: Election Administration and Voter Participation*, which is a book that will soon be published on election practices and their impact on voter participation in politics. Ron.

HAYDUK: I want to especially thank The Century Foundation for having me, and especially Tova Wang for her work with me on my report. It's an honor for me to be here with you all today to speak as part of this distinguished panel, and on such an important topic.

So does the Federal election bill fix the problems, and more specifically will the Federal bill fix problems that I found in my report on the New York City 2001 elections. Well, the short answer is yes, the Help America Vote Act has the potential to address some of

the problems, and will help some voters vote, but it will not fix other problems, and in fact it will likely hinder many other voters from voting, particularly those most in need of assistance. In fact I contend that some of its provisions, especially the new identification requirements, will likely create new barriers reminiscent of poll taxes and literacy tests.

New York City's 2001 elections exhibited many of the same problems that were seen in Florida's 2000 election debacle, albeit on a smaller scale, and with less media attention, but as one election watchdog group aptly summed it up, "thousands of New Yorkers were unable to vote in 2001 not because of any fault of their own, but because they are victims of an antiquated and underfunded election system." My report attempts to tell that story.

New York was one of the most closely scrutinized and extensively analyzed jurisdictions after Florida. And this intense scrutiny yielded a wealth of information, and most importantly, perhaps, improvements in New York City's election administration. This scrutiny of New York's elections left by Florida's wake along with a very effective lobbying effort by voting rights groups, elections officials, and elected officials who worried that they might be the next Katherine Harris or Jeb Bush, produced increased funding to the New York City Board of Elections to the tune of $9 million, and also led to improvements in particular election practices. Yet a number of the problems that manifested in the 2001 elections were significant.

My report presents three general findings. First, thousands, perhaps tens of thousands of voters were disenfranchised. Second, a disproportionate number of these individuals were minority voters. Third, the patterns of disenfranchisement appear to have affected several close elections.

Within the report I identify three main kinds of election problems. First, problems with poll, I'm sorry, with voting machines. Second, poll worker problems, and poll site problems. And, third, administrative foul-ups.

So how does the Federal bill deal with each of these election problems? Time permits me to only discuss a few of the most pressing ones. Let me just take voting machine failures and breakdowns first. One of the biggest problems in New York as Dr. Pastor mentioned, is the kind of technology doesn't matter. We have these voting machines in New York City. They are lever voting machines, which can be very reliable, and in many jurisdictions in New York, are in fact reliable. But in New York City, in part because there's a sensor device that prevents lost votes from happening that was disabled. The number of lost votes in New York City was higher than the national average, which was 2.8%, and higher than Florida's average, New York City's average of lost votes was 3.9%.

These voting machines are over 40 years old, they're based on a technology developed by Thomas Edison originally in 1869, to record votes for Congress. It was his first patent. A greater proportion of the lost votes occurred in minority neighborhoods, and again more occurred in New York City than in the rest of the state in part because of this disabled latch device which is operative in some of the other jurisdictions like Albany or Long Island which have much lower rates of lost votes.

In addition, in New York City, hundreds of voting machines broke down. There was a shortage of voting machines, and this was even after extensive outreach to obtain new machines, and there were problems with voting machine technicians as well. All these problems produced delays, long lines, frustrated voters and poll workers alike, leading many voters to leave poll sites without casting their vote or having one count.

Thankfully, the Federal bill provides sorely needed funding to upgrade New York's lever voting machines, election personnel, money to improve election administration and improve training, provides incentives for broader recruitment of poll workers, statewide voter registration database, for voter education, and regarding the lost votes of course, it provides a mechanism for voters to verify their vote preferences before they cast their ballot.

All these are very important steps forward as Dr. Pastor said, but the funding amount is far too little for the enormous needs that New York has and other states have to ensure that voluntary guidelines will be followed. You know the Federal bill lacks teeth in specificity, I argue, to really improve election practices. The bill does not instill confidence that we will really fix the range of election problems seen in New York City in the 2001 elections.

In fact the Federal bill's similarities in some respects to Florida election reform legislation points to the problem. The problems that people experienced in Florida's 2002 primary election sort of proves this point. As Dr. Pastor mentioned, the bill leaves a decentralized system of administering elections largely intact. State and local officials will still wield wide discretionary capacity, which is part of the reason why some of these problems exist to begin with. And the bill's Election Assistance Commission and the 110-member board of advisors that will be appointed by partisan officials, even if it's bipartisan, have little or no input by other stakeholders, especially voting rights organizations.

So not only must we invest more money in our democracy, we must open up the process of deciding how elections are conducted to other groups that have vested interests. In short, election administration should be professionalized like other government agencies. There remain all too often vestiges of the old political machines in some respects.

These issues are evident in poll worker and poll site problems that I identify in my report. In 2001 in New York City, many poll sites opened late, were short-staffed, had insufficient supplies, poll workers made a host of errors, again, all of which contributed to voter disenfranchisement. Many of these problems are the result of, in part, low pay, long hours, poor working conditions, limited recruitment, primarily through the political party channels, and a lack of effective training.

New York City's Board of Elections was short 3,000 poll workers in 2001 or 15% of the 22,000 poll workers needed to staff, fully staff the elections. And this is despite an increase in the pay for poll workers from $125 a day to $200 a day in 2001. And also successful efforts by civic groups to recruit nearly 3,000 new poll workers. In 2000 by contrast, the Board of Elections was short 7,000 poll workers or 20% of the folks needed

to people the elections on election day. So money does help, but the Federal bill does not provide specific funds to increase poll worker pay. It leaves it to the states to decide how to improve election administration.

Worse still, are things that I found in my report were poll worker errors. Thousands of poll workers made errors or gave improper information to voters. Others didn't offer affidavit ballots or provisional ballots, which we have in New York City for eligible voters. Some poll workers illegally asked for identification. Although the new Federal bill will require that, it's not required in New York State. And there were even some voters that reported being harassed. All of which again contributes to producing longer lines, delays, and confusion causing voters to leave without voting.

For example, one survey found that a majority of poll workers, 57%, were unable to provide critical information to voters. One survey said that 57% of the poll workers asked incorrectly stated that a registered voter who moved within the city should vote at their old polling location instead of their new polling location, and the latter is the correct answer. If voters followed such incorrect directions, they would have ended up having their vote invalidated.

There were over 100,000 affidavit ballots cast that were invalidated in the 2001 elections, many of which were probably due to such poll worker problems and errors. Many of these problems stem from deficiencies in poll worker recruitment and poll worker training. In New York City for example even if a poll worker fails to pass a test given to the poll worker after a training session, demonstrating their inability, these individuals can still work on election day because the Board of Elections is in such need for poll workers.

Again, the Federal bill helps with some of these problems by encouraging greater recruitment and training of poll workers, which is sorely needed, but it does not provide enough funding, enough specificity about how these things can and should be accomplished, enough requirements, enough teeth in terms of specifying specifically how the money should be targeted and used.

Worse still, the new Federal bill erects new barriers that would inevitably lead to a greater number and worse kinds of problems at poll sites. The most egregious of these new barriers are the new voter identification requirements and list maintenance provisions. These are very big steps backwards for New York elections, and would especially hurt New York City voters.

The Federal bill would require first time voters to present state approved identification when they go to the polls unless they include a photocopy of their ID along with their mail-in registration form. This provision has chilling ramifications. A large percentage of New York voters, New York City voters would be more adversely affected than in other parts of the state and as well as other urban areas. Why? Well, New York City voters in general are far likely to hold drivers licenses and this is especially true of younger folks, new citizens, people of color, disabled voters, which is a key chunk of the voting population in New York City.

New York City has fewer drivers per capita than any county in the country because we have a pretty good subway system, and extensive bus public transportation. According to the census, 50% of New York City residents hold a driver's license compared to 91% of the rest of the state – New Yorkers in the rest of the state. This disparity exists also across racial lines. 77% of white households in the state have cars or drivers licenses compared to 60% for Asians, 44% for African Americans, 41% for Latinos. It's even worse for 18 to 24 year olds and disabilities communities. So this is also true of course for – if people have, if the state requires a utility bill as identification.

Because the poll workers in New York have such a checkered history of following election procedures these ID requirements could lead to widespread discrimination in the enforcement of these provisions, and would also produce more paper ballots leading to longer lines and disenfranchisement especially for first time voters. So in short the ID provisions will have the effect of reducing voting power in New York City compared to suburban and rural parts of the state just as it would for other urban areas in the United States.

The same is true for the last four digits of the social security number, which is cumbersome and prone to error. The main point here is in the name of protecting against fraud, the Federal bill will erect bureaucratic hurdles that will depress turnout especially for groups that have the lowest rates of turnout, and further exacerbate the bias in the electorate and political outcomes.

In addition, the Federal bill does not give voters a private right of cause of action in such problems. Instead, enforcement authorities are assigned to the Department of Justice. This will eliminate an important avenue that will potentially remedy such administrative errors. And there is a host of administrative errors that I found in my report from duly registered voters, names not appearing in poll books, NVRA agencies not properly processing registration requirements.

Let me just conclude by saying that the story's not all gloomy. You know while my report focuses on election problems, increased funding and significant improvements were actually made to the New York City Board of Elections in 2001, and they did reduce the rate of voter disenfranchisement compared to previous years. In fact the 2001 elections could have been a lot worse had it not been for the increased funding improvements to the Board's practices.

And despite the problems, New York City's Board of Elections must be commended for being able to carry out the 2001 elections particularly in light of the tragedy of September 11th. That was the original date scheduled for the primary election.

So I conclude with a set of recommendations, many of which were touched on by Dr. Pastor so I'll skip that, but just let me conclude in summation by saying that the main goal of the bill is important, it's many steps forward, but especially in terms of helping states obtain a new generation of voting machines, but the legislation's regressive provisions requiring voter education for first time, voter identification for first time

voters, and other security provisions remain as big obstacles and potential problems. And the amount of money is significant, but it's too little for what's needed, and the requirements are too vague and too general, and leave discretion at the local level much too broadly.

America's the richest country in the world. Surely, we can invest more in our democracy that we take so much pride in. So, thank you. (applause)

WILLIAMS: Thank you very much, Ron. Our next speaker is Jon Gould who's an assistant professor of government and politics at George Mason. He's also visiting assistant professor of law and assistant director of the Administration of Justice program there. He teaches courses in law and judicial process, and has research interests in judicial implementation, legal and constitutional development, legal mobilization and comparative justice systems. Please welcome Jon Gould. (applause)

GOULD: Good morning, and thank you all for coming out, and thank you also to The Century Foundation for continuing to make these issues important. They are and must be fundamental issues that we address. I think I get the role of presenting the good news today.

And the good news from Virginia in 2001 is that the election really went off without too many problems, and, indeed, Virginia already has in place many of the provisions that the Federal legislation would require. There's already statewide computer registration. There's provisional balloting. There's the overseas military absentee ballot project. So Virginia actually is fairly far ahead.

Virginia of 2001, we're now in 2002, is not the Virginia of 1960. This is a fairly professionalized, well-run, election administration process. Now that said, I think the message to take away from Virginia in 2001, as we look at the new Federal legislation, is that it presents three issues for concern as we talk about implementing the Federal legislation.

And the first one is, the Federal legislation requires that by 2006, voters have the opportunity to correct their mistakes in voting. Virginia experimented with software this past year, in 2001, that permits that. It largely went very well, but the problem here is that without Federal funding there will not be monies available to implement this kind of technology throughout the Commonwealth.

And, in fact, I find it particularly apropos that we are having this event today, October 15th, the same day that Governor Warner is scheduled to announce his cuts throughout Virginia up to I believe, as I heard, 15% for each state agency. So without Federal funding there is not going to be the ability to truly put this kind of technology into place across Virginia. And I suspect that is true of many other states.

The second point here is that as good as this software is, it does not help with absentee ballots. Absentee ballots cannot be corrected in the same way with this kind of technology.

And the third lesson from Virginia in 2001 is that while the Federal legislation requires that state legislatures define what a valid ballot is, this definition has to apply to all ballots across all forms of the electoral process. And I'll explain what I mean by that in a minute.

In my short time here I want to give you a little bit more of an understanding of these three issues. The first thing to note is that in 2001, the uncounted ballot rate or the residual vote, as some people know it, in Virginia was less than 1%. Less than 1%. That is an improvement of about 50% over the presidential race of 2000.
The other thing is that punch card ballots in Virginia did better than the statewide average. The residual vote there was .73% as opposed to the state average of .97%.

So if Virginia did well in the residual vote in 2001, particularly as against the presidential year in 2000, the question has to be, why? Why did this happen? Well there are a number of possibilities. The first one is that voter turnout in a gubernatorial year in Virginia is substantially lower than a presidential year, indeed, it's about 30% lower. One argument is that what you're seeing in a gubernatorial year is veteran voters, not first time voters, they know how to use the technology.

The second thing is that many jurisdictions prior to the vote in 2001 cleaned their machines, and were very careful to clean their machines given what they had seen in Florida in 2000. In addition, there was voter education throughout the Commonwealth.

And, finally, given the fact that some of September 11th touched Virginia, there is an argument that there was, for lack of a better term, increased patriotism throughout the Commonwealth, and that people were actually more careful in voting, and voted more of the races. In fact the residual vote was down in every single race, Governor, Lieutenant Governor, and Attorney General.

I think those are all very good potential explanations, but I think the better one and the one that I want to focus on is the fact that in 2001, the Virginia State Legislature allowed jurisdictions to implement, finally, to implement new software that allowed voters to correct their overvotes when they went to put their ballot in the machine.

Now, keep in mind, this only applied to optical scan ballots. It also applied to punch card ballots, and it only applied in those precincts where a voter could actually put his or her ballot into the ballot counter. So it's limited in some sense to those precincts. That said, the reduction in the error rate in many of these precincts was substantial.

In one jurisdiction in Virginia is the jurisdiction in a metropolitan area, fairly large jurisdiction, election officials told me that in 2000 they had between 600 and 700 residual votes – votes that were not counted, votes that the machines could not count. In 2001, they had one uncounted ballot. That's a drop from 600 or 700 to one. And we can talk about voter education. We can talk about all these other things that went on, I think, though, at least in that jurisdiction what we saw was that this software was very effective in reducing the error rate.

So I think there's tremendous possibility here. The problem is there is no money throughout the Commonwealth right now to buy this kind of technology. The legislature has been mouthing very nice statements saying that they are in favor of this, but there is no funding for this at all right now. And in fact new voting machines are not a priority in Virginia, and it will take Federal funding.

It will take Congress fully funding the new bill that they are apparently going to authorize, but they need to fully fund and then provide those funds to states for Virginia and other jurisdictions to be able to implement this kind of technology.

Now, in addition, as good as this technology is, it does not apply to absentee ballots. In another jurisdiction in Virginia, another fairly large jurisdiction, found that in 2001, 7% of their absentee ballots could not be counted. Why could they not be counted? Because the jurisdiction had switched optical scan belts. These are the ones where you draw the line across. Well, in the instructions for the ballots, voters were told to fold the ballot a certain way and put it in the envelope and send it on. It turns out when you fold the ballot that way what you end up doing, in some cases, is smudging your mark, and when you smudge the mark, the machine cannot read it, and since it's an absentee ballot, there is currently not technology or a process that allows that mistake to be corrected.

The only way that that could be corrected is if a voter came in to a central precinct with the software that allows you to correct it or if a jurisdiction were able to take the ballot, say there was an error, somehow track it to the voter, send it back to the voter and say, well, we don't know who you voted for nor do we want to know, but you did make a mistake, you might want to try taking a look at this again.

I doubt that is going to happen so what we're looking at is the possibility that unless jurisdictions truly test out their absentee ballots ahead of time, we may end up losing more votes. Now, again, one jurisdiction throughout Virginia, this is, though, one of the largest jurisdictions in Virginia. It's one of the wealthiest. It's also one of the most professional. If they are having these kinds of problems, I suspect we may be seeing them elsewhere.

The third issue for Virginia is that having watched Florida, the Virginia State Legislature in 2000, excuse me 2001, redefined what counts as a ballot, a legal ballot, but they redefined it only for the purposes of recounting. Now this may seem like a small issue, but it's one for other states to keep in mind, and that is that many states, and Virginia is one of them, have paper ballots in a number of jurisdictions, and a standard that talks about recounting ballots. In other words, where are we going to – where's the check going to count for recounts does not address the paper ballot that is counted through some form of subjective judgement from election officials at the original count. And this is something that Virginia still has not corrected, albeit a small problem, because not much of the state uses paper ballots, but it is an issue worthy of consideration.

There are other issues in my report. I commend the report to you, hope you find it more than the kind of reading that will put you to sleep at night. I would direct you to a few

other issues including Virginia's anachronism of using both a poll book and a voter roster, the State's military overseas absentee voting project, and, of course northern Virginia's unique issues in 2001 in response to the terrorist attacks.

I'd be happy to answer these or any other questions in our time later, but I think these three issues that I address are the ones really to focus on. The money that's going to be required to implement the kind of new software that can fix some of the residual votes. The fact that that technology does not fix problems with absentee ballots. And third, that any new standard for what counts as a legal vote has to address the initial count, not just a recount.

I would also say that for all of this talk about machines and technology and magic bullets to fix the process, that in the end I'm going to join everyone else in saying that an election system rises or falls on the goodwill and the training and the professionalism of those who administer an election system.

I think Virginia in 2001 did a good job, but any student of American history knows that Virginia has, shall we say, somewhat of a checkered past in these issues. I do not mean to be saying that that showed up again in 2001. There were sporadic reports of unequal treatment. These were hard to verify empirically, though.

So what I would want to close with is simply the admonition that as important as the new technologies are, that we need to work as hard on the training and the goodwill of election administrators to make sure that there are no appearances of impropriety at all throughout a system in addition to the actual improprieties that may exist. Thank you very much.

(applause)

WILLIAMS: Thanks, Jon. Our next speaker is Ingrid W. Reed who directs the Eagleton New Jersey Project, an initiative designed to reinforce proper governance of the State of New Jersey. Among its initiatives are programs on campaign and election activity, welfare reform, state planning and governance. She is co-author of *Not Bad But Not Enough*, a report with recommendations about the 1998 New Jersey Congressional Campaigns. She conducted similar studies of the 2000 congressional campaigns and for the 2001 New Jersey gubernatorial and legislative races. She has served as assistant dean of Princeton University's Woodrow Wilson School of Public and International Affairs, directed the Rockefeller Public Service Awards Program, and served as vice president for public affairs and corporate secretary of the Rockefeller University in New York City.

REED: Good morning. I'd like to thank The Century Foundation for giving New Jersey a chance to get a snapshot of its election. We know very little, I think, maybe that's what I found out in working on this report, about really what happens in a state during an election.

New Jersey has a near mirror image of election administration to that of Florida. That is until Florida initiated some reforms in 2002. There is no sign of reform in New Jersey

with the state taking responsibility, and the legislature is unlikely to act without the push of the Federal election reform. You can go into a whole lot details, but I think that's basically the most important thing we need to know about New Jersey, and the most important influence of the Federal election reform.

In saying New Jersey's system is similar to Florida, I say that it's the, it's system is decentralized to 21 counties including training and equipment selection. There is no oversight from the State. There is no accessible information about election performance. There's no comprehensive education or promotion effort. And in New Jersey, there's no recognition that New Jersey is as vulnerable as Florida was, and maybe still is.

What we did notice in New Jersey is some problems, but we didn't notice a flawed system. In our legislature looking at Florida and our governor, did three things. They increased the hours that polls are open – one hour earlier, but they didn't think about one hour later, but they did that without any consultation with the county election administrators.

They increased the pay of poll workers from $100 to $200 and assumed state responsibility for that additional pay, but required no oversight or any kind of reporting from the counties because the state had given that funding.

They replaced a punch card voting system in two rural counties without examining whether those counties really had problems with those systems, and then did not require the replacement systems to contribute to the uniformity of voting equipment that's used in New Jersey.

Now we did have problems in the 2001 election within the context of the World Trade Center attacks which affected New Jersey tremendously, anthrax issues which arose in New Jersey, and very limited news coverage of the election. We had the lowest voter turnout in New Jersey in that gubernatorial election that we have had in years.

And according to the newspapers and to watchdog groups, not state reports, we learned there were problems in New Jersey. Absentee ballots trapped in anthrax related mail holdups were treated differently in different counties. Difficult disputes about the registration of homeless voters and the use of absentee ballots in one county were not examined or addressed as problems in others.

Problems with mistaken translation to Spanish as required in New Jersey in one county were unaddressed there and were not seen to have relevance to other counties. In one county a Federally appointed monitor had to deal, once again, with intimidation of Hispanic voters and try to improve the administration of elections, really sat on the county administration. It's the only report that we have of what happens when you're trying to prepare people to run an election.

We learned that the residual vote rate in our state was less than half of the national average in 2000, but doubled in 2001, and has been completely unexamined in our state.

Voting equipment is a problem. The largest counties which also have the largest number of poor and bilingual voters, have the oldest mechanical equipment. The state uses 11 different systems. There's no conformity, and there's no movement in the state to fund the replacement of equipment or to do it in any kind of consistent way.

There's difficulty in getting information about voting. The state's Website is minimal or minimally helpful. There's no consistent way to find out how you can vote or where you can vote. County Websites vary tremendously, and there's simply no promotion of voting in any kind of modern communication way. We do better promoting Jersey tomatoes than we do promoting voting with state funds.

So there we are. That's the picture. And we don't have a reform effort underway. We have a split Senate that's unlikely to address this. And there's no apparent awareness of any problems, so thank you, Century Foundation. There's no apparent interest in the legislature or the executive office. Bills that were introduced in 2000 were posted again in 2001 with little action.

However, we do have a body known as the Law Revision Commission that is set up by the legislature to do independent work to come up with legislation that would be useful to New Jersey. That commission has drafted a comprehensive reform measure – Title 19 – to address all issues in New Jersey elections that mirrors, to a considerable extent, the recommendations in the Federal Reform Act. However, no one appears to have noticed that they have posted this draft legislation, and the impact that it could have on New Jersey.

We see very little or really no coordinated action by citizen groups calling for a push for change in New Jersey. We have a system without accountability or transparency. It seems to me that Federal reform would be an important catalyst for change and for challenging the state to take leadership, and insuring that more people can vote, that their vote is counted, that is treated fairly and consistently, and that we can vote with confidence in New Jersey.

That's the snapshot. I could go into the details, but I see the legislation that I hope will be passed at the Federal level as being very important for a state like New Jersey. Thank you. (applause)

WILLIAMS: Thank you very much, Ingrid. Before we go on to have some questions and answers not only among the panelists but also with you in the audience, we have a final speaker, Thad Hall. Thad is a program officer with The Century Foundation. He has extensive experience in Federal and state politics, having worked with Georgia's Governor Zell Miller, and as a policy analyst for the Southern Governors' Association here in Washington. He has a doctorate in political science from the University of Georgia, and has published in both academic and popular venues. Thad.

HALL: Like Jon, I have the pleasure of doing the happy story today. I was able to go out to Los Angeles in June to observe their mayoral election, and if you ever have to observe an

election, I highly recommend going to Los Angeles in June and not some of these other places in November.

The interesting thing about going to Los Angeles to observe an election is that it's so different than most other states. They have what's generally considered some of the best election laws in America. For example, they have very liberal provisional balloting rules so that the voters that Juan saw in Duvall County who were sent away from the polls, who were sent away from the polls when they weren't on the lists or whatever, in LA they would just be given a provisional ballot. They'd be told to cast their vote and it would be dealt with later.

Also, unlike Florida, California has this really unique idea that you should actually count all your ballots before you certify your election. And so in Los Angeles they spend, after the narrow race, they spent two weeks actually reconciling their ballots and making sure that they had counted them correctly, and counting all the provisional ballots because you can't count provisionals until you count all the other ones, so it's kind of a unique process.

They also have a very successful voter education program. They actually before every election send out voter guides to every voter that shows what their ballot will look like in their voting precinct, and they have 5,000 voting precincts, and so they have to send out a variety of these ballots before the election. And this was very successful for them in 2001. In 90% of all Latino and minority voting precincts, the error rates in the elections dropped greatly between 2000 and 2001.

Probably also the biggest difference between LA and everywhere else is how diverse LA is. When you go to an LA voting precinct, this is what you see. This is a voting sign for Los Angeles. This has information on – this basically says, voting place in English, Spanish, Vietnamese, Korean, Tagolog which is what they speak in the Philippines, Chinese and Japanese. And so in LA, in addition to having to deal with all these problems you have to deal with everywhere else, you also have to deal with making sure that all of these different people can vote.

And LA's been incredibly successful in being able to do this because they have something called a Community Voter Outreach Committee. And I want to spend just a few minutes talking about that and how it's led to the success in LA. The CVOC, which is what they call it, was created by the language minority community in LA, and basically CVOC does is it helps Los Angeles County target their resources so that they can target language minority voters throughout the county and throughout the city. LA has a very successful program for recruiting bilingual poll workers because they work through this group. They have a very successful effort in targeting these voters with information because they use these language minority groups to get information into the language minority newspapers. And they're very successful in helping the language minority community understand how the voting process works, and these are some of the most difficult groups of people to reach.

Now LA, just to, not to make it sound like they're the most benevolent people in the world, they're required to service language minority people by the Voting Rights Act. But they do this in a much more proactive way than most people do. And let me give you an example of this.

In the past election, that they just had, their primary elections for governor, they determined that there are pockets of Cambodian voters in Long Beach that are not being effectively served. And so there's no requirement that LA do anything to help these Cambodian people. There's none at all, but LA is putting out materials for these people, and they're also hiring bilingual poll workers for these polling sites to ensure that they'll be able to vote, and this is an example of how being proactive is very helpful. And they're not being required to do this by Federal law, they just have a very innovative system there to make sure that these people are served.

The CVOC also does, has been very helpful in doing the kind of monitoring that Bob was talking about. These various groups send out observers to watch the election, to make sure that their voters are not being improperly treated at poll sites, and then they bring all this information back to LA City and LA County, and help them to then adjust their poll worker training, to adjust, to make any kind of other adjustments they need to make to make sure these people are served correctly.

They also help to make sure that their ballots get translated correctly. Translation problems are a huge issue. To give you an example, there's no word for president in certain languages – Asian languages – so they call people premiers, which, for some reason, comes across as not being quite all-American since we don't believe in that kind of thing. They also, the county then hires these translation companies to do this and so the CVOC helps to make sure that the company does it right.

To give you a funny example, they put out some information once about recruiting poll workers and the company translated it as seducing poll workers, which probably was not a good idea.

Probably the most interesting thing that I saw in LA was, there's a – right north of downtown, there's a heavily Chinese area, and if you go to the polling place there, there are very large high rises in the area that house a lot of elderly Chinese people. These people do not speak Mandarin Chinese, which is the language that most young Chinese people speak today. They speak Cantonese. So they can't even communicate with young Chinese people necessarily. And they don't have the physical dexterity to put a punch card ballot into a punch card machine. So these people need help all the way through the process.

But if you go to a polling place there, and you watch, LA County has recruited people who are not only bilingual but trilingual, they speak Mandarin Chinese, Cantonese Chinese, and they speak English, to help these people go through the process, and you talk to these elderly women after they vote, it's the happiest that they could possibly be. I mean they're just so thrilled to be able to exercise their civic duty. And I think that what you see in LA is what the future of America is going to be like as we have more people

move about the country who speak other languages. You're going to see this kind of issue pop up more and more.

The big thing about the Federal legislation's going to pass, hopefully, sometime this week, is that it will have money that will help LA go to touch screen voting which is something they very much want to do because that will allow people to go to the polling place and pull up the ballot in the language that they're comfortable with, and vote without having to have any kind of assistance whatsoever. And it will be very beneficial to them.

LA does have 5,000 precincts. They have 25,000 poll workers. It will cost over $100 million to convert them to this system, and so any kind of Federal assistance will obviously be helpful.

And I can answer any questions anybody has in the Q&A. (applause)

WILLIAMS: Thank you very much, Thad. We're going to just do a few questions here among ourselves, and then we're going to open it up to all of you.

I thought I would start by asking Ron Hayduk about the proposed legislation that we have here in Washington. He expressed great concern over the voter identification requirement, and it struck me in reading about it and in listening to you that the politicians, especially politicians in the Congressional Black Caucus, the Hispanic caucus also, had to agree to go along with this, otherwise the Democratic Party would not have gone along with it. And when I have heard from them about this issue, they say well, it sounds to us reasonable that people should have identification in order to prevent the great concern of the GOP, which is fraud as we heard. Robert Pastor spoke about fraud versus access being the basic division between the Democrats and the Republicans on this issue.

So make a case because I don't find myself persuaded that it would be a sufficient disincentive for people to vote, to simply show identification, some reasonable identification at some point in the process.

HAYDUK: That's a good question, and obviously a hot topic. The way I would like to begin to answer the question is show me the fraud. There's not a lot of evidence of fraud, and my argument is that these new requirements are tantamount to perpetuating and perpetrating a different kind of fraud, which is onerous obstacles that are really not necessary.

New York doesn't require a voter to present any identification when they register to vote or when they show up to vote. There's very little evidence of fraud. In fact, where you do find problems with fraud, oftentimes the cases of fraud involve elections officials themselves who actually have the capacity, by virtue of their position, to tamper with vote totals or voting machines or ballots and so forth.

And so I want to throw it back and say, why is it necessary to have these additional requirements when there's very little evidence of fraud to begin with. And what I alluded to, very provocative language of this being potentially reminiscent of producing consequences that would be like new poll taxes or illiteracy tests, and that's exactly what's going to happen in places like New York City and other urban areas or among constituents who have low rates of voter turnout at this point especially new voters.

WILLIAMS: Just one point before we invite everyone else to join in on this. As I understand it, you said this only applies to people who did not supply some identification when they first registered?

HAYDUK: Well, that's what the new bill would require. (overlapping conversations; inaudible) first time voters.

WILLIAMS: We're not talking about generally stopping people as they approach the table to vote, and asking for that, we're asking only people who didn't provide this information initially?

HAYDUK: First time registrants.

WILLIAMS: And you still make that case?

HAYDUK: Yes.

WILLIAMS: So am I miss – I really feel like I'm still struggling with this. Does anyone else want to jump in here.

PASTOR: I agree with you, Juan. I think that the specific provision in the bill is so modest as to be an almost ludicrous issue. If you register by mail, it seems to me absolutely essential that when they do go to vote they should identify themselves as the person who registered by mail.

Number two, is that there has been voter fraud, historically. It's not easy to prosecute – Jimmy Carter himself wrote a book about his first election in which he was defeated by voter fraud, though the courts later overturned it.

Three, I think there's a broader question which is concealed by this very modest provision that's in the law. And that is the whole question of voter identification cards.

We have monitored elections all over the world. We have not monitored an election in which people did not have a voter identification card. It's a critical element. Now the truth is that that issue was not even raised for a variety of reasons, but it should be.

For example, Mexico invested a half a billion dollars into giving voter identification cards, which were state-of-the-art, and you know what? The people are so proud of that card, they use it for everything. It may be that a voter identification card could be used for many different forms of identification that people might want to use, but if there are

people who are concerned that it could be abused, then you could narrow its use only for voting purposes.

There are other reasons for identification that are emerging, concerns about security or immigration, but at the minimum, we are one of very, very few countries in the world that don't even have an identification card which would solve some of the problem that Ron had mentioned, which is that there are many forms of identification, none very secure, including social security. If we had one very secure card that was given at the person's 18th birthday of citizenship, that could actually solve a host of problems.

WILLIAMS: So you're, in response to Ron, you're saying, Ron said to me, appropriately, show me the fraud. I can't, as a journalist, it's nothing that I would immediately offer up except to say that historically, I guess, if you're not only Jimmy Carter, but if you listen to legends about Chicago elections, there's lots of talk of fraud, of voter fraud, but your point is you believe there is voter fraud, historically, in the United States that you could offer as evidence to Ron?

PASTOR: Oh, yes. There have been cases in Los Angeles, frankly, and also in Louisiana that have gone to the courts. Miami had several very egregious cases which forced a reelection. So there are cases of voter fraud.

WILLIAMS: Well, let me ask other people on the panel to weigh in here.

REED: I look at it from another point of view, and that is how do we get this information out that you need ID? How do we train the poll workers to ask the right people and confirm the right information? This is a huge additional responsibility, but I'm going to be a Pollyanna about this, and say if that's the way it's going to be, we have a whole big new reason to say to poll workers, we need to help you be effective.

This is a new rule, it doesn't affect very many people, but it starts the process and says, this is your responsibility. This is the way the voter rolls are going to be set up. This is the way you engage with voters, and if there is one in, what, *33*, *55*, voters who has registered by mail and you need an ID, this is what you do.

I was looking at it from the other side, that the voter may be able to produce this ID, but what happens in the polling booth or the polling place with these very poorly trained poll workers, and this is another thing that they have to do. A different way they have to look at the lists, we need to get our act together.

WILLIAMS: So you don't think it's an issue in terms of intimidation, which is what I thought, Ron, your point was, it would act to intimidate–

REED: It could. It could.

WILLIAMS: – or as a barrier to someone's participation as a voter. But you don't see it that way.

REED: Well, it could. I mean I can tell you the county that we looked at where there's a Federal monitor that it has every potential for being abused. On the other hand, if this is the rule, if this is what makes us have more confidence in our election, then we just simply have to organize better at the polling place.

And I'm not saying it will be easy, but it is a way of again addressing how do you run the place? Who gets trained? What is it that you want to people to do? Because that's the other side of it. It's not just the poll, the person wanting to vote showing up with the ID, will the poll worker know what to do with that. Will the list be in order? I think that's the big question.

WILLIAMS: Thad?

HALL: I was just going to say that there was a recent study that's been done by Mike Alvarez, the California School of Technology, it's part of the MIT CalTech voting technology project, about voter fraud in California where he looked at vote fraud over a 10 year period, and he basically determined that there was not a lot of voting fraud.

There's a lot of voter registration fraud, or not a lot, but the cases that there are, are mostly in registration, but they do not actually turn up in cases of actual fraud in voting. And the Attorney General there, I mean not the Attorney-General, the Secretary of State there came into office on a mandate that he was going to fight fraud. He was involved in the "three strikes and you're out" law. So he's a tough on crime kind of guy, and there's very little evidence that there's been a lot of fraud there to prosecute.

WILLIAMS: Jon, how would you view this from a Virginia perspective?

GOULD: Well, I confess that I am very much on the fence on this issue, which is why you haven't seen me jump in. I think from a Virginia perspective, well, frankly, the ID requirement is really one that is only going to deter what we would call marginal voters. That is, people who might not otherwise come out to the polls for fear.

Historically, that has meant or should mean, minority voters, new citizens, people who speak – a language other than English is their native language. I think in Virginia it's pretty much a question of what would this do in terms of depressing African American turnout or first time voter turnout.

I don't think it is a large problem only because Virginia already requires that someone show some form of identification or that they file an affidavit saying that they are who they are if there's no record that they've shown it before.

So I would say Virginia has dealt with this. I'm not aware though of a study in Virginia that shows whether in fact this has had the problem that you're talking about in terms of depressing turnout.

WILLIAMS: So, Ron, let me close this particular line of questioning by going back to you and just hearing what you think about what you've heard from your colleagues and my skepticism?

HAYDUK: I would love for there to be a national voter ID card because then you wouldn't create the sort of second class tier of voters who are required – additional requirements, if everyone had, as in Canada or in most –

WILLIAMS: Mexico, most (overlapping conversations; inaudible)

HAYDUK: Yeah, Mexico, and most other advanced industrial democracies, voter ID card or a national ID card, or Canada where they actually do a canvass like our census every year and register voters, shift the onus of responsibility from the individual getting registered to vote to the government making sure that everyone's on a list. Then I'd be fine with that.

I mean I think it would address the issue of fraud. It would make sure that the lists were accurate, I think the statewide voter registration databases or a national one would help do that, but there's still the problems of, for example, if the Social Security Administration or an NVRA agency doesn't properly process someone's application, and a host of other kinds of bureaucratic snafus that might arise.

Someone who duly registers to vote, their name might not appear on a voter registration roll, he may be able to cast a provisional ballot, but that would be invalidated. So it's cumbersome and prone to error that, just to take one example for Social Security Administration or an NVRA agency, you know a woman who may marry or divorce without updating her last name in the database might not match previous registration records. If you have an ID card you have to obviously update that, but that would be a mechanism and I think that would help, go a long way.

WILLIAMS: OK. Let me switch quickly to something Robert Pastor suggested that might speak to Ron Hayduk's issue, which is this national voter card. I can imagine lots of civil libertarians having issues with it almost immediately, but let me ask what's the response, again, across the panel. Ingrid, Thad, if you'd like to start us off.

REED: I would like voting to be easier, and to be recognized as kind of a privilege and you've got it and I think that it would be help in that regard. I'm still so skeptical of the administration of elections, and that we're really capable of implementing that kind of system under our very decentralized approach, that I have some skepticism about how well we would be able to do it, but it makes sense to have the goal of doing it.

WILLIAMS: So forcing you to say what you think, you really think we should go ahead and do this?

REED: Right.

WILLIAMS: Even with the problems that might incur, it would be less, but the error rate you believe would be less than the current decentralized system?

REED: I think what we're seeing is a challenge to the decentralized system. We know that that's not working, and it's going to take us some time to get to a better system. And, therefore, I think we should and I support it. I'm still a skeptic of how well we're going to get there.

WILLIAMS: Oh, you got a vote here. That's the whole idea. You've got to vote.

REED: That's right, black or white, yes or no.

WILLIAMS: That's it. Thad?

HALL: I don't necessarily have a position on whether there should be one, but one of the, I can see one of the big benefits of having one is that if you think about elections, they're not implemented by professionals, they're implemented, in LA, for example they're implemented by 25,000 volunteers basically. Anything that makes it simpler and more uniform for them, that would be great, and if you're going to require people to show an ID, if you have everybody show the same ID, it just limits the amount of confusion and error that can occur.

GOULD: OK. This one, I actually have a stronger view on. I am in favor of the voter ID card provided that we are careful what information goes on that voter ID card. Any voter ID card has to be limited to voting, and I am quite concerned about the ability of government to be able to take additional information. Now, that said, if we can limit the information simply to voting, this opens up a whole new range of other possibilities.

I agree with the other people on the panel that one of the problems is that we have decentralized election administration that is in many jurisdictions not very professionalized. So if we're going to go to a national voter ID card, what's to say that we cannot centralize some of the voting. And what's not to say, for example, that we cannot use certain new technologies to allow people, for example, to vote by the Internet by your typing your voter ID card, you put in some other password, and up pops the ballot that's appropriate for your precinct and for your races.

So if we're going to go that sort of technology, it seems to me we ought to be in a position to open up other sorts of technologies and availabilities for people to vote other than simply having to go to a polling place at a certain time or this cumbersome process of absentee balloting which as Virginia has shown can lead to lost ballots.

WILLIAMS: Ron? Ron, Ron?

HAYDUK: Well, naturally I vote in favor of my own proposal. (laughter) But let me add an additional element. I think one of the problems that we found in democracy in this country is that people have undervalued and do not fully understand citizenship, the concept of citizenship.

Therefore, I would call this not a voter ID card. I would call it a national citizenship card. And help people to realize that part of civic education requires obligations, not just paying taxes, but also participating in the electoral process in some form, at the minimum by voting.

This card, given at the age of 18 in secondary school should be combined with a course that teaches people how to vote, that encourages the students to participate in a polling operation and conducting the polling, and helps them to understand what they need to do to be valued citizens after that. And they will have this card, which could have only a minimal, it could have their photo, it could have perhaps a fingerprint on it, and their address on it – could be limited to take into account concerns they may have, only be asked at the moment of voting.

People may want to use it for other purposes, and they shouldn't be prevented from, but they should not be required to use it for other purposes to assuage some of the concerns people have.

So I see this card as having a very valuable thing, that people actually in the end I think will value themselves as a measure of their citizenship. And the issue of Internet is, let's leave that completely aside for the moment. That's another hard question.

HALL: Well, let me follow-up though on the last part you said, why shouldn't it be used for other purposes? If we're going to have, basically what you've just proposed is a citizenship card because only citizens can vote and you're giving it to them at age 18. Why not have it to use for example the I-9 process or some other method –

WILLIAMS: What's the I-9 process?

HALL: When someone's gets employed they have to prove to their employer that they are a US citizen or otherwise eligible to work in the United States.

HAYDUK: Well, yes, yes,

HALL: Why not use it for that?

GOULD: I would be in favor of that, but I'm just trying to deal from a political standpoint to reduce some of the traction that would come in from either civil liberties groups on the left or conservative groups on the right that are opposed to any identification card. For that purpose, for political feasibility purposes, I might want to limit it. But my personal view would be using it for as many purposes as possible.

WILLIAMS: Ron, did you want to say anything here?

HAYDUK: I think we should just make it as easy as possible to vote for all people who are eligible to vote. That's the bottom line.

WILLIAMS: OK. And one last thing that stood out to me as your moderator was that in none of the studies, did anyone say, "Oh, you know what the problem is? The problem is the machine." Now some of you said, well, you know what we could do better, optical scanner, etc., but nobody said the problem is the machine or the punch card ballot. It really was education of the polling professionals or amateurs, I guess, in your opinion of that. So is that the right perception, that there's no, that the machines are not the problem?

HALL: Well, I'd, the most interesting thing was the first study that was undertaken by MIT and CalTech. You had these super techie universities obviously assumed that there is a simple technological answer to what happened in November 2000. Of course they knew nothing about elections, but they were smart enough that after six months they learned.

And to their great surprise, they found that the highest tech approaches, Internet for example, or even some of the DREs – the electronic machines, actually had, in many ways, the highest error rates or at least the largest variation in error rates. And they backed off a little bit.

And then the second thing they learned was that for each technology there was a tremendous variation on the error rate as well, so this is not this whole problem. Now, having said that, I think the beauty of this new election law is that it will provide enough money out there to begin to modernize and to experiment with new technologies. And I think we will find that some new technologies will enhance the –

WILLIAMS: But what you just said is, every technology has some error rate, and it's not necessarily the case that it would be significantly better than the existing machines?

HALL: I had thought that, but I've just been working with the State of Georgia, which has now introduced perhaps the most comprehensive election reform, and is introducing a Diebold ATM type machine for all of their polling sites. And I've gone through this, and this is a pretty good machine that deals with a lot of the concerns that had been raised before, and that had not been dealt with effectively.

I think that putting money behind research for modernization might very well lead us to finding a machine that will reduce the error rate and reduce the problems to the absolute minimum level.

WILLIAMS: Anyone else want to comment?

REED: Yes, I think the really important issue is participation. I'm very pleased that experts have been looking at error rate and so on, reliability, but the mechanical equipment that we have in New Jersey that's used in our urban centers, a third of the people in New Jersey still use these clunky things, cuts down on so much flexibility.

You can only go to certain polling places that you can move them into. It's very expensive to move them around. There's no way that elderly people who need to sit down can use these machines with any kind of ease. You have no flexibility. We couldn't

entertain flexibility that they have in Riverside, California, for people to vote at libraries for example.

So the issue of equipment has a lot to do with participation, and so we need to look at it from that point of view as well.

WILLIAMS: But that's apart from the error?

REED: That's right. Yeah.

WILLIAMS: OK.

REED: We shouldn't be totally fixed on the error because that has a lot to do with who runs it, who helps people use it.

WILLIAMS: Right. Right. Ron?

HALL: I just want to make two points. One of the benefits of technology, especially going to these, the new DRE machines is they're very helpful for the disabled, and for people with, who are language minority voters. So for instance if you are disabled, you cannot cast a secret ballot on any other voting technology because somebody has to assist you.

And secondly in a place like Los Angeles, it's very difficult to vote on a punch card machine, with all the different languages involved. And kind of an interesting problem, if you go to optical scan you can print ballots in other languages, but San Francisco did this, and they thought it was a great idea until they determined that it was, they were going to have to like buy huge amounts of warehouse space to store all their ballots and their brochures and all that, and so it's, the nice thing about the DREs is that –

To pick up on a point that Jon made, though, there is a big problem with us having the same view of elections that we've had for 100 years, that people go to a poll site and they vote. You know, 20% of all Americans move every year. People travel all the time, there's no reason why we should not come up with new flexible ways to use new technologies like the Internet or like – Oregon has gone to all by mail voting, or whatever people should do, we should be experimenting in these areas, and if you look at what's going on in the UK and in the European Union, there are experiments underway to try out these new technologies, and we should be –the Federal government should be trying to support that.

REED: Yeah.

WILLIAMS: Yes, please, go right ahead, Ron.

HAYDUK: Oh, thank you. When we talk about machines, I think there are two questions to ask, and we kind of put them together, and we sometimes forget they are two different questions.

The first one is, did the machine perform as it was intended or designed to do? This is back to Florida where some of the machines were not cleaned out and they had missed punches.

The second question is, did voters understand how to use the machine. So the machine may have worked fine as intended, but people didn't understand how to use it. And I've seen this watching people try to learn how to use touch screen voting because believe it or not there are many people who don't know how to use an ATM. So the whole thing is quite confusing to them.

One last final point is, we all talk about this error rate, this residual rate, and there's a built in mistake, I think, in some sense, we talk about being able to reduce the error rate to zero. This error rate is based on votes that were not cast by people who went to the polls.

There are a certain percentage of Americans, small, but there is a certain percentage of Americans who choose not to vote every race. So when we talk about reducing residual rates or error rates we have to remember some of that so-called error rate is people saying, ugh, a pox on both your houses or on all five or 12 or 15 of your houses, and not voting.

I want to pick up on two things that Ingrid said, and well, that's the other one, I think that technology does matter. It's obviously very intricately tied to who administers the elections and what voters know about them. In New York what my report found was that technology does in fact make a difference in terms of the error rates.

New York City disabled a device that would prevent undervotes. That did not happen in other parts of the State, in wealthier suburban districts. Their error rates were much, much lower in the other parts of the State. Moving to whatever technology we move to needs to make sure that it's accessible to people with disabilities, which it is not right now, or other mechanisms for alternative schemes of voting.

In Alaska, they almost passed this year instant runoff voting. If instant runoff voting or proportional representation were to be passed in some places which are in fact considering such measures, how would these machines accommodate those kinds of changes, and so there needs to be very, very careful thoughtful analysis about what kinds of technologies are most appropriate, most effective, and they're going to change because as we all know the technologies are changing and developing so rapidly we're going to need to be flexible, but mindful of both who's going to administer the elections, these poll workers who are essentially volunteers and underfunded as well as voters that need to be educated about how their uses (inaudible).

WILLIAMS: Let's go out to the audience, we have about five minutes for questions.

FELKER: Hi, I'm Edward Felker. I'm the Bureau Chief here in Washington for a chain of Illinois newspapers called SNG. The question I'm going to take to the Secretary of State's office in a couple of days, is what do you guys have to do now, once this bill goes

into law? Can the panel address that, and my big concern is the shifts of power from the counties, especially Cook County, say to Springfield or from New York City to Albany. How is that going to work? What challenges are they going to run into?

HALL: Yeah, that is an excellent question to take to the Secretary of State. The new law will have a whole series of about seven different requirements for them to fulfill, and it will also require them to propose a report that they would submit to the Election Assistance Commission, in order to get funding from the Federal Election Assistance Commission.

And essentially the questions I would ask of the Secretary of State in anticipation of the implementation of the law are number one, what data are you collecting on a regular basis from your counties and municipalities? Do you collect data on error rates for example in the residual voting? Do you ask them how they take into account or how they will take into account provisional voting?

In provisional voting, somebody comes in, doesn't see their name on the list, they will now be permitted to vote. That vote will go into a special envelope, technically that polling site in the county should seek to confirm that that person had not voted elsewhere. Now that is no simple proposition for any county to do. In the past I suspect that most counties just threw that ballot away rather than try to count it, or they may have just counted it not verified because it is very costly.

So ask them what are your procedures for ensuring that provisional votes represent a one-time vote, and secondly that they are in fact counted. And are you going to count up the number of provisional votes by county that have been, so we can get some idea as to how the registration list is doing?

Ask them whether the State will have the authority to delete names on registration lists, and to add names? Right now, very few states have that authority. They can recommend to the counties that they add or delete names, but the counties do it.

In the State of Georgia for example, the State only now has the authority to delete names of people who have been dead a certain number of years. And the counties have resisted even that. They don't like to delete their names from the list even if people have been dead. They may still want to vote, right.

So there are a lot of questions and you're going to the right source to go to the Secretary of State. Ask what steps are they going to take to implement this? Have they decided what the report will look like that they're going to seek funding from the Federal government.

WILLIAMS: We have to wrap up quickly so we have another question?

ZGORSKI: Lisa Joyce Zgorski formerly with the National Commission, and currently with the Office of Management and Budget. I have a question about education particularly of poll workers and of the public. It's my understanding that the legislation does include

funding. I would like your assessment of how adequate that funding is? What the legislation dictates how it will be spent, and how effective ultimately?

WILLIAMS: Ingrid?

REED: I think we just ought to use modern techniques. There ought to be a video that a poll worker can get that shows you what your job is, and how you go about doing it. I would go to McDonalds or Wendy's or something and say, how do you train people who have very little knowledge about your business? And give them standards for performance, emphasize uniformity. I think we just don't use the tools that we have, and we should start with modern management.

WILLIAMS: Anyone else want to chime in on this point?

HAYDUK: New York City is actually developing a video for its poll workers right now, but they don't have enough money to reproduce enough copies to send to the 20,000 poll workers that they need, so they have this video but they don't have enough money to get into the hands of the poll workers. And as I mentioned before, the training does, requires people to take a test, but if they fail the test they can still work. So I think there's a lot that needs to get done in terms of training. The Federal bill is fairly silent. It leaves a lot to the states to decide, and that's going to vary from state to state widely.

And then of course between and within states, within their counties so I think, as I said before there's not enough teeth in the Federal bill to require states to do a lot more to make sure that not only poll workers know what they're doing, but that there's enough money to educate voters so that they will walk into a voting booth, they know what to expect and to operate the machinery properly.

WILLIAMS: We have one more.

PRICHARD: My name is Mark Prichard. I was staff director of Governor Jeb Bush's task force on election reform in Florida. One of the things that I found in trying to pull together all the things that we've been talking about today, poll worker training, technology, was there's no repository of best practices in elections.

REED: Right. Yeah!

I mean I spent all Christmas calling people around the country, give me your best practices, and tell me what you're doing. There really wasn't any, and I want to know is there anything in the Federal legislation that gets to that, even the election center didn't have anything?

WILLIAMS: Robert?

PASTOR: Yeah, technically the Election Assistance Commission does have a research arm that could do that, but it's not at all clear that it will develop like that. I've set up The Center for Democracy and Election Management at American University, and one of our

purposes will be to look at best practices, not just in the United States, but internationally. The United States can learn a lot, starting from its neighbors, but also from other countries.

The last decade has seen dramatic innovations all over the world on democratization. The least innovation has come in the United States.

WILLIAMS: Anyone else want to add to that?

REED: I recommended a best practices conference in New Jersey, and an immediate awards program to identify good publicity about campaigns, good Websites, so I think it's definitely needed.

PRITCHARD: That would help, I think. We're tired of the bad press in Florida. (laughter)

WILLIAMS: Well, I want to say thanks to Thad Hall, Ingrid Reed, Jon Gould, Ronald Hayduk and Robert Pastor, and thanks to the Century. And thank you all for coming.