Dan Seligson, editor
electionline.org

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Thank you to the members of the Election Assistance Commission for the opportunity to testify on the 2006 election today. I am Dan Seligson, editor of electionline.org. Electionline, previously known as the Election Reform Information Project, was established just after the 2000 election by The Pew Charitable Trusts as a non-partisan, non-advocacy clearinghouse of news, analysis and data on election reform issues. We are solely funded by The Pew Charitable Trusts with a grant that is administered by the University of Richmond.

Since launching in the spring of 2001, the organization has produced 15 single-issue briefing papers on election issues, including provisional voting, voter ID, voting machine security and statewide voter registration databases. We maintain a web site updated daily with news from around the country on election administration issues, produce a weekly newsletter with original reporting and analysis as well as produce annual reports on the state of election reform across the country.

In addition, we have authored election previews in 2002, 2004 and 2006. And we have produced post-election analysis of what went right – and wrong – in presidential and mid-term elections.

Our latest report, sporting the highly original title "The 2006 Election" was released on Wednesday. Copies are available and I will provide information on that at the end of my testimony.

It is from this report that I will offer *electionline's* analysis of the election.

In the weeks and months leading up to the election, many people, including us, predicted widespread problems in the 2006 vote. With an estimated third of all voters living in jurisdictions with new voting machines (compared to 2000), new rules in some states concerning voter ID, new registration systems and polling place check-in procedures, and a divided electorate casting ballots in a high-stakes vote for control of Congress, the ingredients for chaos appeared to be in place.

Indeed, the level of suspicion with electronic voting had reached a pinnacle before the election. Both Republicans and Democrats in some quarters were urging voters to forgo e-voting in favor of paper ballots, and in two states,

antiquated, soon-to-be-scrapped lever machines were used widely, despite the fact that this Commission has noted in earlier correspondences that the machines have significant barriers to HAVA compliance.

Scrutiny by private organizations, government monitors, political partisans, civil rights organizations and of course the media was intense. There were no shortage of outlets for voters to report trouble at the polls, and those problems that did occur received unprecedented attention from a news media seemingly hungry for election-day chaos.

With all of the new machines, procedures, partisan ill will and scrutiny, just how did the election turn out? Meltdown or successful vote? We found there were elements of both.

We had clear winners in most cases. We had difficulties at the polls in many areas. And we had a voting process that, while successful in producing clear winners and losers, did little to boost the confidence of a wary electorate.

Let me address three particular areas of concern that received the most attention before the election and detail how we saw things on election day - voting systems, identification rules and statewide voter registration databases.

First, and most significantly, voting systems.

VOTING SYSTEMS
The November vote marked the first general election in which every polling place in the country was required to have at least one machine accessible to people with disabilities. Many more direct-recording electronic machines were deployed as replacements for older systems nationwide, with Election Data Services reporting before the election that 63 percent of the country's voting jurisdictions had changed voting equipment since 2004 – the largest shift in the nation's history.

The performance of voting systems in the midterm is a question open to debate. Those opposed to the use of paperless voting systems continued to raise questions about their security and reliability.

Maryland recovered nicely from problems in the September primary to have a virtually trouble-free general election. Connecticut and New York ran elections on lever machines in most jurisdictions without a hitch, even with the scrutiny of a recount in one Connecticut congressional district.

But success was not universal.

Sarasota County's 18,000 non-votes in the race to replace Katherine Harris in the 13th Congressional district once again has placed that state, one county's

ballot design, and the "what goes on inside the black box" nature of electronic voting in the public eye. The high number of missing ballots on one type of voting system and one type of ballot – along with the inability of auditors to figure out why it happened – has bolstered the case for voter-verified paper audit trails, if not paper ballots outright, in Florida and beyond.

Sarasota was hardly the only locality with machine problems, however. Incidents of poll workers having trouble starting, operating, trouble-shooting or tabulating totals on electronic machines were reported coast to coast, with reports from North Carolina, New Mexico, Massachusetts, Texas, Indiana, Arkansas, Pennsylvania, Rhode Island and elsewhere.

Poll workers had difficulty with long ballots and optical-scan machines in Rhode Island; one Arkansas county could not get consistent totals when tabulating; machines could not start up on time in parts of Pennsylvania and Indiana.

"Vote flipping" – where machines did not accurately record a desired voter's choice – was another issue reported in Georgia, Colorado, Florida, Texas, Illinois, Texas, New Jersey and Ohio. Democrats and Republicans both reported machines not accurately recording votes, showing different candidates on review screens than their choice on the vote screens and miscalibrated DREs.

Some might seek to dismiss the problem on inaccurate touches – a voter using the flat part of a finger rather than the finger tip – paranoia, sour grapes or other reasons. But the problems seemed to be bipartisan, with machines taken out of service in two Pennsylvania jurisdictions after poll watchers and lawyers from both parties observed the vote-flipping problem.

VOTER ID
Voter identification, another perennial hot-button issue, was expected to cause problems for voters in some states on election day. At this early stage, it is impossible to know whether, as some organizations had warned, that stringent photo-only voter ID laws would disenfranchise voters.

With voter ID requirements being fought in courtrooms just weeks or even days before the election, confusion over verification rules seemed almost inevitable in some states. And there were problems, but perhaps not as many as some pre-election analyses had anticipated. With problems in some pockets of the country, the second general election with HAVA's limited voter ID requirements nationwide as well as new rules in a number of states did not cause significant widespread difficulties on Election Day.

Indiana Secretary of State Todd Rokita said the mid-term was "one of Indiana's finest hours," with a new photo-ID law causing few reported problems at the polls. Whether those who might have had problems because they lacked ID did not show up in the first place is unknown, and may never be known.

Nationally, Common Cause reported voters in a number of states were being asked to show ID when it was not necessary or being requested to show photo IDs when other forms were acceptable.

In Missouri, local and state election officials were at odds over instructions by St. Louis's election board chairman to have poll workers ask voters for a photo ID when they checked in at the polls, despite a decision by the state Supreme Court throwing out the state's photo-ID rules.

Secretary of State Robin Carnahan said it was "disturbing" that the St. Louis Board of Elections was "unwilling or unable to follow the law regarding voter ID."

There was reported confusion in Georgia as well, after some voters said they believed a court decision barring the state's photo ID law meant no verification was required at polling places at all. Poll workers reported being confused as well, with some voters being asked for photo IDs at precincts in Decatur and elsewhere.

REGISTRATION DATABASES
The debut of statewide registration databases went largely unnoticed in most states. That's because once rolls were assembled, they had little bearing on Election Day, except if those rolls were rife with errors. According to initial post-election reports from around the country, that was not the case. However, questions from both the media (with pre and post-election reports on dead voters on the rolls in New York and Rhode Island) and advocacy groups about the quality of information on these lists remain.

To be sure, there were sporadic instances of voters being left off the rolls, an issue that could be attributed as much to enhanced scrutiny of the election process this year than to actual increases in the number of mistakes in voter lists.

There were some noteworthy problems with electronic poll books, however, that caused a meltdown in Denver vote centers. Computers in the city froze or slowed when poll workers attempted to sign in voters and program appropriate ballots, leading to hours-long waits for many and provisional ballots for others who opted not to walk away.

Poll books also caused problems during one day of early voting in New Mexico, though a computer malfunction slowing voting in the morning was repaired by the afternoon.

The debut of same-day or election-day registration in Montana led to some delays at the polls, with the state's registration system apparently being taxed by counties logging on and off throughout the day.

CONCLUSIONS

At this early juncture, with the election one month behind us, we can only point to issues reported by the media. We lack the ability to draw any conclusions based on nationwide data.

It is clear, however, that the election, while largely uncontested, was also riddled with problems – some anticipated, with the glut of new machines and relatively inexperienced poll workers and voters and some not, including Sarasota's missing ballots and Denver's long lines and malfunctioning poll books at vote centers.

The margin of victory in many cases exceeded what can best be termed as the margin of error – that is to say no single problem or race came to the fore nationally with the partisan control of Congress in the balance.

If the purpose of the election was to establish winners and losers in the political arena, then it could be said that it was a relative success (a few undecided races aside). If it was to restore confidence in the American electoral system that has been so shaken since 2000 and to ensure that every vote is counted accurately, it cannot be considered as successful.

As I mentioned at the beginning of my remarks, the report "*electionline Briefing*: The 2006 Election" is available at www.electionline.org, or by emailing feedback@electionline.org for a hard copy.

I appreciate the opportunity to testify and look forward to your questions.