

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

+ + + + +

REGULAR BOARD MEETING

+ + + + +

TUESDAY

JULY 18, 2023

+ + + + +

The District of Columbia Board of Elections convened at 1015 Half Street, SE, Suite 750 in Washington, DC and via Video-Teleconference, pursuant to notice, at 10:30 a.m. EDT, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
KARYN GREENFIELD, Member
J.C. BOGGS, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel
CECILY COLLIER-MONTGOMERY, Office of
Campaign Finance
WILLIAM SANFORD, General Counsel

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 2. D.C. Board of Elections v. Lamont
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Adjournment

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:34 a.m.)

3 CHAIR THOMPSON: Good morning,
4 everybody attending by Zoom. Looks like 32
5 participants; a couple of dozen here in the
6 audience with us. We are going to mute everybody
7 joining via Zoom. And when the time comes, we'll
8 call on you by Zoom.

9 So, my name is Gary Thompson. I'm the
10 Chair of the Board of Elections. And present
11 today is J.C. Boggs, Karyn Greenfield. So all
12 three Board members are present. We have a
13 quorum. And we are open for business.

14 And the first thing we do is adopt an
15 agenda. So the agenda having been distributed.
16 I would move the agenda.

17 MS. GREENFIELD: Second.

18 CHAIR THOMPSON: All in favor?

19 (Chorus of aye.)

20 CHAIR THOMPSON: And with regard to
21 the agenda, we have our items for our normal
22 meeting process, which we're going to put at the

1 top of the meeting.

2 It's going to take us about 15, maybe
3 20 minutes to get through our regular reports.
4 And then, we'll turn to the main issue of the
5 day, which is obviously the proper subject matter
6 determination hearing for the proposed
7 initiative, the Votes Count Act of 2024.

8 Which will occupy I'm sure the bulk of
9 our meeting. So bear with us over the next 15 or
10 20 minutes while we got me through our normal
11 monthly agenda. And of course, much of it might
12 be of great interest to you.

13 So another quick housekeeping measure
14 are the minutes of our last meeting of June 20th
15 have been distributed to the Board members.
16 We've all had a chance to review them and at this
17 time, I would move those minutes.

18 MS. GREENFIELD: Second.

19 CHAIR THOMPSON: All in favor?

20 (Chorus of aye.)

21 CHAIR THOMPSON: Minutes are adopted.

22 (Simultaneous speaking.)

1 CHAIR THOMPSON: That's my mother, by
2 the way, who's talking. Hi, mom. And my wife,
3 there's my wife. All right, so Board matters, I
4 don't have any random Board matters to address.
5 Any, any other Board members?

6 MS. GREENFIELD: No, I don't.

7 CHAIR THOMPSON: Hearing none, we will
8 turn to the Executive Director's Report from
9 Monica Holman Evans.

10 MS. EVANS: Thank you and good
11 morning. The Executive Director Report for the
12 month of June is as follows. As far as hearings
13 during the month of June, I appeared before
14 Congress on June 7th, and there was a Council
15 roundtable on June 26th.

16 On June 7th, I testified before the
17 Joint House Administration Committee and
18 Committee on Oversight and Accountability to
19 discuss election integrity in the District of
20 Columbia.

21 This hearing was a precursor to the
22 introduction of the American Confidence in

1 Elections Act or ACE Act. And the ACE Act has
2 now passed in committee and will be going to the
3 full House.

4 On June 26th, I testified before the
5 Council Committee on executive administration and
6 labor. I address preparations for the 2024
7 election cycle and the implementation of newly
8 passed legislation.

9 As far as precinct mapping, as
10 required by our regulations, the Board is looking
11 at our current precinct boundaries to divide the
12 District into appropriate voting precincts based
13 on our election wards.

14 We are working with Gottlieb Simon to
15 complete this task. We are currently creating
16 additional SMDs in our Electionware software
17 platform.

18 And we will also need to conduct a
19 comprehensive simulation of the redistricting
20 changes based on the test decks before the
21 mapping process is finalized.

22 ANC vacancies, we have 13 ANC

1 vacancies for the 2023-2025 term. These
2 positions are in different stages of being
3 filled.

4 After candidate filing requirements
5 are met, an open vote of registered voters of the
6 affected SMD will be held during regularly
7 scheduled ANC meetings.

8 Based on current resignation
9 notifications, the number of vacancies is
10 expected to increase at the end of this month.
11 As far as the next steps and off year election
12 planning, our draft primary and general election
13 calendars for the 2024 election cycle have been
14 posted on our website.

15 We have started processing election
16 worker applications that have been submitted for
17 the 2024 cycle. We are updating election worker
18 assignment and training forms.

19 We are updating special ballot
20 envelopes and prompt screens in our poll pads to
21 adhere to new legislation allowing non-citizens
22 to vote in local elections.

1 We are further reviewing the
2 requirements of the Elections Modernization
3 Amendment Act and the Local Resident Voting
4 Rights Amendment Act. And we have provided
5 information to our equipment vendors.

6 We've had several conversations to
7 determine what is needed to augment our current
8 systems. We will need to create a data
9 visualization interface on our website and create
10 a database solution to house non-citizens who
11 registered to vote in local elections.

12 VR Systems is assisting us with these
13 efforts. We will require additional equipment
14 with our mail ballot processing activities. We
15 received funding in our FY 2024 budget to
16 purchase an additional Agilis machine that
17 processes mail ballots and additional ballot
18 tabulation equipment.

19 We are working on a brochure and other
20 informational materials that will be used to
21 assist us with our outreach in the District of
22 Columbia to non-citizens. And we are creating an

1 election worker training addendum to address non-
2 citizen voting in local elections.

3 Additionally, we're updating the
4 election worker training platform, developing the
5 2024 voter education and outreach plan, and
6 assessing our plan for vote center and mail
7 ballot dropbox locations.

8 Our plan for the vote center and mail
9 ballot dropbox locations will be posted this
10 summer, likely late August, or early September.
11 As previously mentioned, we joined a cross-state
12 data workgroup to explore ways to share voter
13 history to address cross-state voter fraud.

14 Even though we are a member of ERIC,
15 the Electronic Registration Information Center,
16 many states are not members. Our participation
17 with this group will allow us to engage more
18 States.

19 Subgroups have met and we are
20 discussing the development of a legal MOU and
21 data requirement if they are utilizing the state-
22 to-state data sharing program to report canceled

1 licenses.

2 Under this program, it provides
3 another step to identify D.C. residents who move
4 out of the District. But we have been informed
5 by DMV that they are not using this data sharing
6 program.

7 We are also engaged in conversations
8 with Maryland, Virginia, and North Carolina to
9 discuss the best ways to share data, and update
10 information outside of ERIC.

11 Virginia has requested a current list
12 of registered voters so that they can conduct
13 their own comparison of the list. Upon request,
14 Virginia will share the results of such a
15 comparison with our office.

16 All of the most recent voting history
17 data is in. And all of the deceased and in-state
18 reports have been received from ERIC. We are
19 currently working on cross-state triage. We are
20 also acting on the records we receive from ERIC
21 regarding the monthly duplication or duplicate
22 information.

1 As far as other administrative
2 matters, voter education and outreach, during the
3 month of June, the Voter Education and Outreach
4 Division conducted six outreach events on behalf
5 of the Agency.

6 Events included a voter registration
7 drive at Pennsylvania Avenue Baptist Church in
8 celebration of Juneteenth and the Mayor's 12th
9 Annual Senior Symposium.

10 Finally, we are preparing a voter
11 education and outreach strategy that will be used
12 in the implementation of the Local Voter Rights
13 Amendment Act.

14 And we did receive funding in our FY
15 24 budget to hire a multilingual outreach
16 specialist. In June, we registered 2,163 new
17 voters and processed 5,145 registration changes.
18 In total, we prepared 7,308 voter registration
19 cards to be mailed.

20 Additionally, 39 registered voters
21 moved out of D.C.. And 321 voters canceled their
22 registrations and registered with other

1 jurisdictions. And 617 voters registered in D.C.
2 after canceling their registrations in other
3 states.

4 We're continuing to register voters
5 using our website portal. To date, we have
6 processed over 36,125 applications using the
7 portal. These include new voter registrations
8 and updates to existing registrations. And that
9 concludes my report. Thank you, Mr. Chair.

10 CHAIR THOMPSON: All right. Thank you
11 very much. And now turning to our Campaign
12 Finance Report from Director Cecily Collier-
13 Montgomery. Is your mic on?

14 MS. COLLIER-MONTGOMERY: For the
15 record, the full report of the activities
16 involved in the Office of Campaign Finance for
17 2023 will be posted on our website,
18 www.ocf.dc.gov before the closing of the hearing
19 today.

20 I will, however, at this time
21 highlight a few items of interest for the public
22 from the report. This office for the record, for

1 the month of June, on June the 26th, 2023, I
2 presented testimony on the fair election program
3 as a roundtable on elections convened by -- thank
4 you.

5 Convened by Council Member Anita
6 Bonds, who is the Chairperson of the Committee on
7 Executive Administration and Labor of the Council
8 of the District of Columbia.

9 In our Fair Elections Program
10 Division, I would report that for the 2022
11 election cycle, the Office of Campaign Finance
12 has of this day authorized the total sum of
13 \$13,557,106.70 for disbursement from the fair
14 elections fund in based amount and matching
15 payments to the two candidates who was certified
16 in the program to participate in the June 2022
17 primary election, as well as the November 2022
18 general election.

19 There was no disbursements authorized
20 during the month of June to the participating
21 candidates in the Fair Elections program for the
22 2022 election cycle.

1 With the 2024 election cycle, to date,
2 there is one certified participating candidate,
3 and one registered candidates who is seeking to
4 participate in the program for the 2024 election
5 cycle.

6 There were no disbursements from the
7 fund, which were authorized by the office during
8 the month of June 2022. The Division conducted
9 29 desk reviews of reports of receipts and
10 expenditures which had been filed and issued four
11 requests for additional information based on the
12 review of those reports.

13 As of June 2023, the total sum of
14 \$686,433.82 has been remitted or deposited in the
15 Fair Elections fund from the campaign operations
16 of those candidates who are certified in the 2022
17 election cycle.

18 With our ongoing 2020 post-election
19 full field audits, there are currently 15 post-
20 election audits which are ongoing before the
21 division at various stages.

22 And most recently, the Kevin Brown for

1 D.C. Council, Ward 7, non-compliance final audit
2 report was issued and referred to the Office of
3 General Counsel on June the 11th, 2023 for
4 enforcement action. And that audit report is
5 available at our website for review by the
6 members of the public.

7 The FTP division has issued a total of
8 19 final audit reports of the post-election
9 audits, which were initiated for the 2020
10 election cycle. The status of all the pending
11 audit reports is stated in our report. And
12 again, it will be posted at the website today.

13 With our 2022 post-election full field
14 audit, I would indicate that we have issued 42
15 post-election audit or letters for the June 2022
16 primary election and the November 2022 general
17 election to the candidates who were certified to
18 participate in the Fair Elections program.

19 And those letters were issued in March
20 of 2023. I would indicate that as of this date,
21 we have issued eight preliminary statements of
22 audit findings, and three final audit reports for

1 the 2022 election cycle. Again, the final audit
2 reports are available for members of the public
3 for their review at our website.

4 During the month of January, we did
5 issue a preliminary audit findings report in the
6 matter of Sriqui (phonetic) for Ward 3 schools
7 for D.C. State Board of Education. And that was
8 a preliminary audit findings report, which was
9 issued on June the 13th, 2023.

10 And for the record, I would just
11 indicate that with our preliminary audit reports,
12 the candidate and the committee have the
13 opportunity to respond to the preliminary audit
14 findings before the final report is issued and
15 made public.

16 In our public information and records
17 management division during the month of June 2023
18 there were no due dates for the filing of
19 reports, or receipts and expenditure.

20 With respect to new candidates and
21 committees for the 2024 election cycle, there was
22 one new candidate committee that registered in

1 the traditional campaign finance program and one
2 candidate who registered in the Fair Elections
3 program during the month of June 2023.

4 In the traditional program, for your
5 information, there are currently a total of four
6 candidates who are registered to participate in
7 the June 2024 primary election.

8 And the new registration is for the
9 office of U.S. Shadow Representative in the
10 primary election, Oye Owolewa and he registered
11 on June the 7th, 2023.

12 In our fair elections program, again,
13 there are currently two candidates who are
14 registered to participate in the 2024 June
15 primary.

16 And one of those candidates has been
17 certified as a participating candidate in the
18 program. The new registrant is for the Office of
19 Council, Ward 2.

20 And the candidate is Brooke Pinto, who
21 registered on June the 14th, 2023. There were no
22 new committee registrations during the month of

1 June. We did have five candidates and treasurer
2 who completed the OCF mandatory entrance
3 conference.

4 And those were: Brooke Pinto,
5 candidate for Ward 2, city council; Gretchen
6 Wharton, treasurer; re-elect Brooke Pinto 2024;
7 Rahman Branch, candidate for Ward 8, city
8 council; Rahman Branch, treasurer; Friends and
9 Family to Elect Rahman Branch; Philip E. Pannell,
10 treasurer; Make all Votes Count D.C.

11 In our traditional campaign finance
12 program and that's our reports, analysis and
13 audit division, during the month of June, the
14 traditional audit programs conducted best reviews
15 of the reports, and receipts, and expenditure,
16 which have been filed.

17 And they conducted 23 desk reviews,
18 and they issued, again, two requests for
19 additional information based on the review of the
20 reports which had been filed.

21 In the traditional audit branch there
22 are two ongoing full field audits. And those are

1 full field audits which were initiated of newly
2 elected officials.

3 The first is Mendelson for Chairman
4 2022. Preliminary draft audit report was issued
5 on June 5th, 2023. And we are awaiting the
6 response from the committee, and once the
7 response is reviewed, the final audit report will
8 be issued and available at our website.

9 The second is Kenyan McDuffie 2022.
10 The audit field work is in progress, and the
11 audit field work is under review by the audit
12 manager.

13 And once that is completed, again, in
14 that particular audit, the preliminary audit
15 report will issue. The committee will have the
16 opportunity to respond to the findings before the
17 final audit report is entered.

18 And I would just also, the one last
19 thing I would mention for members of the public
20 is that we currently have posted on our website
21 the fact information sheets for the 2024 election
22 cycle, for both our fair elections program and

1 the traditional campaign finance program.

2 I would ask William Sanford, who is
3 the General Counsel for the Agency to give the
4 report of the legal division.

5 CHAIR THOMPSON: And while he's coming
6 up, thank you so much for that report.

7 MS. COLLIER-MONTGOMERY: Thank you.

8 CHAIR THOMPSON: And just so everybody
9 understands, we have a fair election program here
10 in the District, which allows candidates access
11 to public taxpayer dollars to fund their
12 campaigns.

13 So we're busy this year auditing all
14 the candidates who availed themselves of that
15 program in the 2022 cycle to make sure that every
16 dollar they spent was properly spent.

17 And we're obviously preparing now for
18 the upcoming 2024 season where we expect the
19 great majority of candidates to utilize the fair
20 elections program.

21 So there's a lot of detail and hard
22 work by the staff that goes into making sure that

1 that program operates appropriately. So thank
2 you.

3 MS. COLLIER-MONTGOMERY: Thank you.

4 CHAIR THOMPSON: And with that, OCF
5 General Counsel, Bill SanFord.

6 MR. SANFORD: Good morning,
7 Mr. Chairman, distinguished Board members
8 Greenfield and Boggs. I'm William SanFord,
9 General Counsel for the Office of Campaign
10 Finance.

11 During the month of June 2023, the
12 Office of the General Counsel completed in eight
13 informal hearings, and issued eight orders which
14 included the following. One order was issued, in
15 which no fine was imposed.

16 Six orders were issued, in which a
17 total of \$9,850 in fines were imposed. And one
18 order was issued, in which the fine was reduced
19 from \$3,450 to \$1,725, pursuant to a motion for
20 reconsideration.

21 During the month of June 2023, the
22 Office of General Counsel transmitted nine

1 petitions for enforcement to the Office of
2 General Counsel for the Board of Elections.

3 For the record, the Office of Campaign
4 Finance transmits petitions for enforcement to
5 the Board of Elections, General Counsel for
6 enforcement of orders and fines that have been
7 imposed, subsequent to the time period in which a
8 respondent could pay the file or appeal. And
9 those petitions are enforced in the D.C. Superior
10 Court.

11 During the month of July, of June,
12 excuse me, the Office of the General Counsel
13 imposed fines against the following respondents.
14 A fine of \$1,300 was imposed against Committee to
15 Elect John Patterson. A fine of \$1,000 was
16 imposed against a second committee to Elect John
17 Patterson.

18 A fine of \$1,000 was imposed against
19 the Committee to Elect Bill Lillis; a fine of
20 \$1,050 was imposed against a second committee to
21 Elect Bill Lillis. A fine of \$2750 was imposed
22 against Friends of Courtney Snowden; and a fine

1 of \$2,750 was imposed against Marcus for D.C.

2 During the month of June, the Office
3 of General Counsel did not have any open
4 investigations. There were no requests for
5 interpretive opinions, and no show cause
6 proceedings were conducted. And that should
7 conclude my report.

8 CHAIR THOMPSON: Thank you so much.
9 And that that demonstrates what happens when a
10 candidate doesn't file their reports on a timely
11 basis, among other things.

12 It elevates to the level of fines
13 being issued. So thank you so much, Counsel
14 SanFord. With that, let's turn to the General
15 Counsel's report from the BOE, General Counsel
16 Terri Stroud.

17 MS. STROUD: Good morning, everyone.
18 I have the only litigation status on my report
19 for this morning, I have three cases. The first
20 is Public Interest Legal Foundation v. Monica
21 Evans in her capacity as the Executive Director
22 of the Board.

1 And this case is in the U.S. District
2 Court for the District of Columbia. It is a suit
3 that was filed under the NVRA, the National Voter
4 Registration Act alleging that the Board is out
5 of compliance with the NVRA's public records
6 provision.

7 The Board's motion to dismiss, which
8 was filed by the Office of the Attorney General,
9 which is handling the case for the Board, was
10 denied. And we are awaiting a briefing schedule
11 on this matter.

12 The next matter is Petition for
13 Enforcement, which Mr. SanFord and the Board
14 Chair just spoke about. This matter is the D.C.
15 Board of Elections v. Lamont Harrell in the
16 Superior Court of the District of Columbia.

17 The Board's petition for enforcement
18 of an Office of Campaign Finance order issuing a
19 fine for failure to file a report was granted and
20 a judgment was entered.

21 The last matter is Stacia Hall v. the
22 Board of Elections. This is in the U.S. District

1 Court for the District of Columbia. The Office
2 of the Attorney General, which is handling this
3 case for the Board, as it concerns the
4 Constitutionality of an act of the counsel.

5 The motion to dismiss that was filed
6 by the OAG was filed on July 14th. And the
7 Board's reply is due on July 28th. And so,
8 that's where those matters stand. And that
9 concludes my report.

10 CHAIR THOMPSON: All right. Thank you
11 so much. And just so everybody's aware, that
12 last lawsuit by Stacia Hall is the suit that
13 asked a Court to enjoin our implementation of the
14 D.C. Counsel's Act to allow non-citizens to vote.

15 So unless, and until, a Court issues
16 an injunction in that regard, we are proceeding
17 with planning for the 2024 election to include
18 non-citizens as per the D.C. Council Act.

19 Okay. With that, I will turn to the
20 main subject of today's hearing, the proper
21 subject matter determination for the proposed
22 voter initiative, The Make All Votes Count Act of

1 2024.

2 SUBJECT MATTER DETERMINATION HEARING

3 MAKE ALL VOTES COUNT ACT OF 2024

4 CHAIR THOMPSON: And I'll start with
5 how we're going to proceed. I'll make some
6 opening remarks. Then our General Counsel, Terry
7 Stroud, will supplement my remarks. We'll cover
8 some of the clerical/technical issues.

9 And then we'll turn to hearing your
10 testimony. We will start with those who are in
11 favor of the proposed initiative. And then,
12 we'll turn to those who are opposed.

13 And when we start with those who are
14 in favor, I'd like to start with the proposer,
15 Lisa Rice. She's welcome to speak. And in
16 addition, I believe she has counsel, Joseph
17 Sandler, who will, we would also recognize.

18 I don't know if somebody from the D.C.
19 Office of Attorney General would like to speak,
20 but I would recognize them next as they submitted
21 an opinion in favor of the proposed initiative.

22 And then I'll just call out the names

1 in no particular order really. Just it's the
2 list I have based on written comments that were
3 submitted to make sure we hear from everybody in
4 the space of no more than three minutes.

5 We generally aren't strict about
6 timekeeping. But I think we're going to have to
7 stick to that today, because we have almost 30
8 people signed up.

9 So that would be over an hour and a
10 half, even at three minutes. So think about your
11 comments in advance. Think about how you could
12 limit them to three minutes, or it would be great
13 if we were only two minutes.

14 If you're an organization, we extend
15 that to five minutes. So if you're speaking, if
16 your organization is speaking on behalf of many
17 individuals, we'll extend that to five.

18 And then when we turn those opposed,
19 we'll hear first from the General Counsel's
20 Office at the D.C. Council. Ms. Nicole Schiller
21 submitted an opinion opposing the proposed
22 initiative. So either he or someone from that

1 office could speak first, if they're here.

2 Otherwise, we'll turn to the list of
3 those who have submitted written testimony or
4 signed up to testify. So that's, that's how
5 we're going to proceed. And so I'll start with
6 my opening remarks.

7 You know, just in case everybody
8 doesn't understand this, our D.C. charter, our
9 Home Rule Act, allows for voters to propose laws,
10 just like our D.C. Council can propose laws.

11 There are provisions in the charter
12 itself. And as further addressed in our D.C.
13 Elections Code, in our own regulations, to
14 provide for an orderly process for the voters to
15 place initiatives on our ballot.

16 In any election, there's typically one
17 or two such initiatives as many longtime D.C.
18 residents know. The process for having a voter's
19 initiative appear on the ballot involves several
20 steps.

21 The first step is this one. We, the
22 Board have to ask ourselves whether the proposed

1 initiative is, quote, proper subject matter,
2 which I'll summarize in just a second.

3 If it is a proper subject matter, we
4 then turn to what will this Act be called? What
5 are the words that will appear to summarize the
6 voters' initiative?

7 That's a whole another, that's a
8 different hearing from this one. And then the
9 proposer has to go and acquire a certain number
10 of signatures from across the city.

11 And a certain threshold has to be met
12 in all eight wards, as well as the city-at-large,
13 5 percent, I believe. And if that threshold is
14 met, then we would certify the initiative to
15 appear on the ballot.

16 And that's subject to challenge, as
17 well. And that's a different, that's a whole
18 different hearing. So it's at least those three
19 major steps and probably a few more.

20 (Audio interference.)

21 CHAIR THOMPSON: All right. Maybe we
22 took care of that. And so that's a common

1 occurrence in the age of Zoom. Zoom bombers make
2 a run at it from time from time to time. You
3 might hear another one before the day is over.
4 So our apologies. So where was I?

5 So there's multiple steps in the
6 process. At no point in this process does our
7 Board take a position on the merits of the
8 proposed initiative. We don't ever say we're for
9 it or against it.

10 We are the process for getting that
11 initiative onto our ballot. So we don't mean to
12 suggest we have a position one way or another
13 when we're talking about procedural issues, like
14 whether this is a proper subject.

15 That's not our role. That's obviously
16 for the voters to decide, and that starts with
17 whether or not this is a proper subject matter.

18 And to summarize that issue, our D.C.
19 charter itself, which allows for initiatives,
20 defines an initiative as a process by which the
21 electors of D.C. may propose laws, except laws
22 appropriating funds.

1 And that's -- that's one of the
2 hurdles that the initiative has to cross. And
3 there's at least seven or eight D.C. Court of
4 Appeals opinions on this issue.

5 Because this frequently gets appealed
6 up into the Court system. So we have a decent
7 amount of guidance from our Court of Appeals. To
8 quote one case, it's called Hessey, a measure is
9 deemed to appropriate funds if it, quote, would
10 intrude upon the discretion of the Council to
11 allocate District Government revenues in the
12 budget process.

13 And it then defines as unlawful any
14 initiative that: 1) blocks expenditures of funds;
15 2) directly appropriates funds; 3) requires the
16 allocation of revenues to new or existing
17 purposes.

18 And I won't read the rest, but there's
19 some pretty good guidance. And in that regard, I
20 was reading from one of our own opinions since
21 we're frequently called upon to address this
22 issue of appropriations.

1 That was the more recent case of In Re
2 Elizabeth Davis, Education Equity Pathway Policy
3 Act of 2022, which our Board ruled upon I think
4 about a year and a half ago. So we're no
5 stranger to the issue. But that's not the only
6 hurdle or issue that we have to address before
7 we (audio interference) in our D.C. code, as well
8 as our own municipal regulations. And those are
9 well summarized in the notice that was issued for
10 this meeting.

11 That our Board must refuse to accept
12 the measure, if it determines that number one,
13 the measure conflicts with the charter, our D.C.
14 charter.

15 And that's not just with respect to
16 appropriations. But there's other aspects of the
17 charter that I think we'll hear about today, like
18 the charter's design of a partisan election
19 process.

20 Which impacts how we conduct our
21 primaries, and whether the proposed open primary
22 aspect of the initiative would interfere with

1 that. That's where that would fall.

2 We also have to address whether the
3 measure conflicts with the United States
4 Constitution. Obviously, it can't violate equal
5 protection of laws, due process clause, et
6 cetera.

7 In a more technical vein, we have to
8 address whether the measure was properly filed,
9 whether there's a verified statement of
10 contributions that was filed in a timely manner.
11 We have to address whether the measure would
12 authorize discrimination in violation of the D.C.
13 Human Rights Act.

14 We have to, of course, address the
15 appropriations issue, whether it would negate or
16 limit a budgetary act. Or more to the point, I
17 think, here today, whether the measure would
18 impermissibly appropriate funds under applicable
19 D.C. Court of Appeals ruling.

20 So we have a lot to think about as a
21 Board. And there's also, obviously, two aspects
22 to this proposed initiative. They really might

1 have been two different initiatives.

2 But they're together in one, which is
3 -- I'll let other people summarize exactly what
4 it is. But it proposes the possibility of
5 utilizing ranked choice voting in our elections
6 here in D.C.

7 And in addition, it proposes having
8 open primaries so that unaffiliated voters who
9 aren't affiliated with either party could if they
10 choose, participate in the Republican or
11 Democratic primary election, at that time.

12 So those are the two issues that are
13 proposed for our consideration. We have to
14 filter it through all of those issues. And so,
15 that is, that's my overview.

16 And I wanted to explain that in part
17 to make sure people understand that, that's our
18 focus today, is proper subject matter
19 determination.

20 We're thinking about whether this
21 requires appropriations. We're thinking about
22 whether this is Constitutional or violates the

1 Human Rights Act.

2 We're thinking about whether this is
3 consistent with our charter. We're not really
4 thinking about whether this would ultimately be
5 good, or bad, or a wise, or unwise thing for D.C.

6 And we very much appreciate it if you
7 would like to share your opinions in that regard,
8 but just so everybody understands what our focus
9 is for this hearing, we're thinking about proper
10 subject matter determination.

11 And with that overview, I would ask
12 General Counsel, Terri Stroud, to supplement or
13 add to anything I said.

14 MS. STROUD: Thank you, Mr. Chair. I
15 think you did a very comprehensive job of
16 explaining the background on initiatives and what
17 the Board is to do today.

18 I would just state for the record that
19 the initiative measure was filed on June 16th
20 with our office. It met all of the filing
21 requirements necessary in order to proceed.

22 The proposer, Ms. Lisa Rice provided

1 the requisite number of copies of the text
2 measure for the initiative: a summary statement
3 that did not exceed 100 words, a short title of
4 the measure to be proposed by the initiative.

5 And she provided an affidavit which
6 gave all the required information. And we also
7 received a copy of the statement of organization
8 and a report of receipts and expenditures, which
9 are collectively called the verified statement of
10 contributions with the Office of Campaign
11 Finance.

12 And Wesley Williams, who is a staff
13 member, he's the Operations and Policy Officer
14 for the Office of Campaign Finance did provide a
15 message to me on June 16th.

16 Indicating that the verified statement
17 of contributions had in fact been timely filed,
18 as well as the committee's first report of
19 receipts and expenditures. And he indicated that
20 the committee had satisfied its registration
21 requirements with the Office of Campaign Finance.

22 They also provided that ahead of

1 submitting the initiative measure. And so, Board
2 members, the initiative did meet all of the
3 clerical requirements with respect to filing.

4 CHAIR THOMPSON: All right. Thank you
5 so much. So that's two of the seven issues that
6 I talked about, we don't have to think about
7 anymore.

8 It met all the proper requirements for
9 filing and contributions, et cetera. So with
10 that, unless there's any other opening comments
11 from our Board members, we will turn to testimony
12 from those who are in favor.

13 And by the way, I mean, we divided
14 this between those who are in favor and those who
15 are opposed. Obviously, some people might have a
16 mix of opinions in that regard so don't feel like
17 these are absolute (audio interference).

18 She's submitted written. Ms. Rice,
19 thank you so much, and welcome. And also remind
20 everybody who speaks -- yes, please have a seat.

21 As all of us perhaps need reminding,
22 from time to time, is to lean into the

1 microphone. And try to speak up especially so
2 that I think the people on Zoom can hear, as
3 well, so.

4 And yes, please. And I will try to
5 keep time, you know, in a three minutes. Five
6 minutes as the proposer? You're the proposer.
7 You've got five minutes. All right. Thank you
8 so much. Please proceed.

9 MS. RICE: Thank you. Good morning,
10 Chairman Thompson. Members of the Board and the
11 Office of General Counsel. I am Lisa D. T. Rice.
12 I use she/her pronouns.

13 I'm the proposer of the Make All votes
14 Count Act of 2024. I'm a registered Independent
15 voter, designated as NP, no party, on my D.C.
16 voter registration card.

17 Born and raised in Washington, D.C..
18 I live in the Ward 7 home my husband and I
19 renovated in 2015, which my parents bought in
20 1964 when I was just three years old.

21 I've registered to vote in D.C. when
22 first eligible to exercise the right to vote at

1 age 18. I am the matriarch of a deeply rooted
2 multi-generational Black family with a vested
3 interest in this community. I'm also the mom of
4 a D.C. public school teacher.

5 I serve my local community as an
6 Advisory Neighborhood Commissioner for single
7 member district 7B07, representing residents of
8 the Penn Branch, Dupont Park, and Fort Davis
9 neighborhoods.

10 The Make All Votes Count Act of 2024
11 is deeply important to me. The two electoral
12 reforms proposed in the measure, open primaries
13 and ranked choice voting are critical in making
14 our elected officials accountable to we, the
15 people of Washington D.C.

16 The combination of the two would be a
17 bold, next step forward in holding politicians
18 accountable and ending voter suppression. I,
19 along with 86,000 others am currently ineligible
20 to vote in D.C.'s most important election, the
21 primary, because I don't belong to a political
22 party.

1 Independent voters like me are
2 discriminated against, our votes suppressed,
3 simply because we choose to exercise our
4 Constitutionally guaranteed right to vote without
5 subscribing to a political party.

6 If D.C. voter registrations aligned
7 with national trends, over 50 percent of our
8 young people aged 18 to 25 are registering as
9 independent. We risk losing an entire generation
10 of voters if we don't accept them and expand the
11 franchise.

12 (Audio interference.) Open primaries
13 (audio interference) primary elections. We must
14 have that right. Voter suppression in D.C. must
15 end. I wonder if in fact the current system
16 where independent voters are excluded from
17 primary elections may be in violation of the
18 intent of the D.C. Human Rights Act.

19 This proposed ballot initiative seeks
20 to correct the error which permits discrimination
21 against a specific category of voters, those
22 registered with no party. I am one of these

1 voters.

2 Reforming primaries is a necessary
3 policy change to encourage the participation of
4 more Washingtonians in the democratic process.
5 From a voter's perspective rank choice voting is
6 easily explained and executed. As adults, we
7 rank our decisions regularly.

8 The criticism that rank choice voting
9 is too complicated for Black voters and seniors,
10 I am both, is insulting and archaic. Ranked
11 choice voting gives candidates the opportunity to
12 campaign in a new and exciting way.

13 Because candidates need more than 50
14 percent of the vote to win, we would be rewarded
15 with politicians who must work hard for our
16 support. What could be better or more democratic
17 than that?

18 I strongly believe that combination of
19 open primaries and ranked choice voting gives
20 candidates and elected officials more
21 independence and freedom to be true to their
22 values and the concerns of their constituents.

1 These electoral reforms helped create
2 the space for politicians to engage with us as
3 true public servants, as they likely intended to
4 in the first place.

5 It's time to put voters first. Let's
6 end voter suppression here in D.C. with open
7 primaries and make politicians work to be
8 accountable to the people.

9 I appreciate each and every one of
10 you. Thank you for the opportunity to address
11 this hearing. I'm delighted to bring these
12 reforms to the ballot in 2024 and let the people
13 decide.

14 CHAIR THOMPSON: Ms. Rice, I want to
15 thank you.

16 MS. RICE: You're welcome.

17 CHAIR THOMPSON: Our charter and our
18 laws have a process for voters to propose laws.
19 And it's quite elaborate, but it takes a voter to
20 step up and make the proposition. So thank you
21 for taking the time.

22 MS. RICE: My pleasure to do it. I'm

1 really excited. Thank you.

2 CHAIR THOMPSON: You were provided
3 five minutes. Thank you. And if I didn't say it
4 before, I'll hold up one when you're speaking
5 when you have one minute left. And just do your
6 best.

7 And also, I should say for the record,
8 we have received written comments. Some of the -
9 - those who have submitted written comments also
10 signed up to speak, to speak as well. But just
11 so everybody knows, we received that. And we
12 read them carefully.

13 Your comments, Ms. Rice, comments from
14 Kelsye Adams, Kymone Freeman, Stefan Katz, Harsha
15 Jodali, John Koza, Brianna McGowan, Slobodan
16 Milic, and Whitney Quesenbery. We have all those
17 in the record and we read them closely. With
18 that, I believe Ms. Rice is represented by Joseph
19 Sandler --

20 MR. SANDLER: Yes.

21 CHAIR THOMPSON: -- by Zoom. And
22 Mr. Sandler, please proceed.

1 MR. SANDLER: Thank you very much,
2 Mr. Chairman and members of the Board. Can you
3 hear me?

4 CHAIR THOMPSON: We sure can.

5 MR. SANDLER: Great. Of the seven
6 potential grounds on which the Board could
7 determine that initiative is not a proper
8 subject, it appears that only one is really
9 potentially at issue here, and that is whether
10 the measure appropriates, impermissibly
11 appropriate funds.

12 We recognize that there's a
13 disagreement on this issue between the counsel to
14 the D.C. Council and the Attorney General of the
15 District of Columbia. But we respectfully
16 suggest that the Attorney General's opinion on
17 this issue has the better of the argument.

18 As the Attorney General points out, if
19 an initiative is made subject to appropriations,
20 it does not compel then the Council to
21 appropriate any money, but it's conditioned on
22 the independent decision of the Council to

1 appropriate funds for the measure if that is
2 necessary, according to the fiscal analysis.

3 The counsel to the D.C. Council
4 suggests that if that position were adopted, then
5 every initiative that requires the allocation of
6 additional funds would be a proper subject of
7 initiative which render a nullity the Home Rule
8 Act's prohibition on initiatives that are laws
9 appropriating funds.

10 That is not so. It's only in the
11 situation where an initiative is made subject to
12 appropriations that it basically would not cross
13 the prohibition that's set in the Home Rule Act.

14 Furthermore, the Home Rule Act
15 provision precedes two statutory developments.
16 One, the requirement for, basically that
17 everything is subject to, automatically
18 considered to be subject to appropriations, D.C.
19 Code 1.301.47A(d). And the more recent 2020
20 amendments, which require a fiscal analysis for
21 initiatives.

22 So we respectfully suggest the

1 Attorney General has the better of this argument.
2 It does not appropriate funds. It is only
3 effective if the Council determines to
4 appropriate such funds as may be necessary to be
5 appropriated based on the fiscal analysis. And
6 accordingly, it's a proper subject for an
7 initiative.

8 CHAIR THOMPSON: Mr. Sandler, I'm
9 going to ask you some questions. If I may?

10 MR. SANDLER: Sure, Mr. Chairman.

11 CHAIR THOMPSON: You are in what the
12 Attorney General set forth in his opinion. I
13 mean, obviously, and I think it's a matter of
14 record as well, ranked choice voting if
15 implemented, and open primaries if implemented,
16 would require expenditure of funds, additional
17 staff, additional time, et cetera.

18 There's really no doubt that money
19 would have to be spent. The act, as proposed,
20 you know, mandates that these things happen. And
21 then in Section 5 of the proposed act that it has
22 special statutory language that in so many words

1 says, subject to appropriations.

2 So I guess the hard question for you
3 is, well, if all you have to do is add this final
4 section that says subject to appropriations,
5 don't you, in fact, circumvent or really make
6 meaningless the charter and the code's
7 prohibition on initiatives that require
8 appropriations?

9 For example, you could propose that a
10 new school be built, and just say at the end,
11 subject to appropriations. I mean, isn't that a
12 circumvention?

13 And if you could, in your answer,
14 maybe I'm sure you've read it, maybe address this
15 campaign for treatment case that the Attorney
16 General underlined?

17 MR. SANDLER: Well, it's not a
18 circumvention precisely because despite the will
19 and the voters approving the measure, it does not
20 become effective. It doesn't become a law of the
21 District unless funds are appropriated, and
22 there's no limitation in initiative, or also in

1 the law, on the discretion the Council can
2 exercise in the normal course as to whether it
3 ever decides to appropriate those funds.

4 So it's a very, very significant, you
5 know, limitation condition on the act becoming
6 effective. And it's not, you know, in that
7 regard, it's not a, you know, it's not a
8 circumvention at all.

9 It serves the purpose of the Home Rule
10 prohibition by not forcing, you know, the
11 Council's hand or forcing the appropriation of
12 funds that aren't independently decided to be
13 appropriated by the Council.

14 The campaign treatment case in which
15 the Attorney General relies appears to, you know,
16 support that position, because in the one case
17 where -- they didn't find a prohibition in the
18 one case where it was subject to appropriations.

19 But you know, declined to just read
20 that language into everywhere else. And
21 therefore, those other provisions did infringe
22 the prohibition. So we agree with the Attorney

1 General's reading that, subject to appropriations
2 condition, obviates the prohibition, and would
3 also note that, in terms of reading it into the
4 language, it's automatic now under, again, this
5 Section 1.301.47A.

6 But in any event, we have tried to
7 obviate any ambiguity on that by including the
8 subject appropriations language in the proper
9 form.

10 CHAIR THOMPSON: So I guess to be
11 clear, if this initiative, if it is approved for
12 the ballot and the voters were to implement or to
13 adopt, say yes, and it was passed, to be clear,
14 the initiative would not, in fact, implement
15 ranked choice voting or open primaries.

16 That D.C. Council would then have the
17 completely independent ability to decide whether
18 or not to fund it. And it could be the present
19 Council or maybe a future Council, they have the
20 final say and really the only say on whether
21 appropriations would be a dedicated to it
22 actually implementing the ranked choice voting

1 and open primaries. Is that right?

2 MR. SANDLER: Yes, that is that is
3 exactly right. It would note that the -- yes, it
4 would, of course, there's a certain, you know,
5 moral force, equitable force to the voters'
6 decision that then, hopefully, you know, we would
7 hope the Council would respect and follow.

8 But they're absolutely under no, you
9 know, legal obligation to do so, as you point
10 out. And this is on the assumption, Mr.
11 Chairman, that the fiscal analysis shows that
12 there are appropriations needed.

13 CHAIR THOMPSON: Yes, well the
14 consequences --

15 MR. SANDLER: We're assuming that for
16 purposes of our argument, though. And that's --

17 CHAIR THOMPSON: My last one -- the
18 concept that I read is that the voters are
19 allowed to propose any law that the D.C. Council
20 can propose. They really sit in substitution of
21 our D.C. Council when they're proposing
22 legislation.

1 So my question is, does the D.C.
2 Council, maybe not typically, but sometimes adopt
3 legislation that is left contingent on a
4 subsequent decision by a different Council, or a
5 different act of Council to fund it?

6 MR. SANDLER: I'm not sure about that.
7 I don't know if that's -- I assume, I mean, I
8 can't think of examples right away. But
9 theoretically, certainly that's possible.

10 CHAIR THOMPSON: I saw some hands go
11 up. Maybe someone in comment will address that.
12 But those are all my questions of a legal nature
13 for counsel Sandler. All right. Anything else?
14 Mr. Sandler, I did have one more question. You
15 said -- I apologize.

16 You said that the subject to
17 appropriations issue is perhaps the only issue.
18 And I wanted to point out that there are other
19 issues we have to address. And maybe I'll throw
20 this one to you as well.

21 Our D.C. charter quite clearly
22 provides that our Mayor, our Council, and the

1 Attorney General are all to be elected on a,
2 quote, partisan basis. Which means that the
3 party, that proper party, whoever that might be,
4 Democrat, Republican, Libertarians, Statehood, a
5 party has the right to put forward a nominee for
6 the general election.

7 And to quote from the charter, a
8 political party may nominate a number of
9 candidates for the office at-large member of
10 Council, et cetera. So there's reference to not
11 just partisan elections, but the right of
12 political parties to make this nomination.

13 So when you turn to this concept of
14 there being an open primary, you know, generally
15 as a -- well, right now we have a closed, what
16 you would call a closed primary where only those
17 who choose to affiliate with the Democratic Party
18 can vote in the Democratic primary, et cetera for
19 Republicans.

20 This initiative proposes that we have
21 a system whereby you still can't switch from
22 Republican to Democrat, or vice versa, within 21

1 days of the election.

2 But if you are unaffiliated going into
3 the election like Ms. Rice said she is, on the
4 very day of the election, you can choose to
5 select the ballot, or say the Democratic primary
6 and vote in that primary.

7 Allowing unaffiliated voters,
8 individuals who have chosen not to affiliate the
9 Democratic Party or the Republican Party to
10 nevertheless vote in that party's primary, does
11 that run afoul of the system that's outlined in
12 our D.C. charter?

13 And it's really an intertwined
14 question. Does that in fact, violate the First
15 Amendment Right of a party to select a nominee of
16 its own choosing, what's called the right of
17 association? If you read the case law, there's a
18 Supreme Court case on this called Jones, et
19 cetera.

20 So there's this issue of whether an
21 open primary is permissible under D.C. charter,
22 which distinguishes itself perhaps from Maine, or

1 San Francisco, or some of these other, you know,
2 cities where this has been looked at. Is that
3 something we should be concerned about?

4 MR. SANDLER: No. It does not violate
5 the home rule provision. A partisan primary
6 means that each party nominates whatever in the
7 case of at-large, whatever the permitted number
8 is, for at-large it's two. The number of
9 candidates that you know, are supposed to be
10 selected, they're labeled by party.

11 Only those who are either registered
12 party members or publicly declare themselves to
13 be affiliated with the party for purposes of that
14 one election participate in the primary.

15 And if you look at the, you know, the
16 concepts in the Jones case, and the Washington
17 Grange case, it's clear that this is consistent.
18 It's a partisan election, you know. They're
19 nominated by, the candidates are nominated by
20 party. They run with the party label.

21 They're not multiple, you know, it's
22 not a blanket primary where you have, you know,

1 multiple candidates from the same party in one
2 general election, or they don't run with the
3 party label under any, you know, framework.

4 It's definitely a partisan election.
5 It is, we don't believe that it, you know,
6 violates the Constitutional, the associational
7 rights of the party.

8 Again, these are voters that publicly
9 declare themselves to be, you know, wanting to
10 participate in the primaries of their choice.

11 The party can contact them. They can
12 treat them as, you know, members going forward.
13 And we do not, we don't believe that there's any
14 Constitutional concern in that regard.

15 MS. STROUD: But just for the record,
16 by the terms of the measure, the individuals who
17 are unaffiliated do not register prior to the
18 ballot?

19 MR. SANDLER: Right.

20 MS. STROUD: Okay, I just want to
21 clarify that.

22 MR. SANDLER: Exactly. But there is

1 a record of which ballot.

2 MS. STROUD: Thank you.

3 CHAIR THOMPSON: All right. Thank you
4 so much, Mr. Sandler.

5 MR. SANDLER: Thank you.

6 CHAIR THOMPSON: We really appreciate
7 you being here. Next, I'll ask if Attorney
8 General Brian Schwab or somebody from his office
9 is present and would like to speak? You don't
10 have to. We have your written comment. But I'll
11 look for a raised hand on Zoom if somebody from
12 OAG would like to address us.

13 (Pause.)

14 CHAIR THOMPSON: All right. And just
15 so, you know, everybody knows this process of
16 rendering a subject, proper subject matter
17 determination, expressly entails advisory
18 opinions being submitted to us from the Attorney
19 General, and also from the General Counsel to the
20 D.C. Council, which is also counsel to D.C.,
21 counsel of Council.

22 And we've received those two opinions.

1 And they differ. So we have, I guess,
2 representing both sides is rare I think, we have
3 those dueling opinions. So we've read them
4 closely.

5 I want to thank Attorney General
6 Schwab and his team for submitting this opinion.
7 And it's really quite a detailed and contains a
8 lot of legal citation.

9 And as an attorney, it gave me all the
10 citations I needed to, kind of, find my way to
11 relevant cases and statutes. So just a word of
12 appreciation. So not seeing a hand from OAG, if
13 you change your mind, just let us know.

14 I will turn next to, I guess, the
15 second person who signed up for testimony, the
16 Reverend Wendy Hamilton. If she's here, or here
17 by Zoom? And bear with us as we kind of spot
18 somebody that's here by Zoom only.

19 REVEREND HAMILTON: I am here. Can
20 you hear me, okay?

21 CHAIR THOMPSON: Yes, I can. Thank
22 you so much.

1 REVEREND HAMILTON: I'm not sure why
2 my camera's not showing right now. But I am here
3 and thank you so much for allowing me to testify
4 this morning. Good morning to all of the Board
5 members and all of the folks on the call.

6 My name is Reverend Wendy Hamilton.
7 And I am here to testify in support of the Make
8 All Vote Count D.C. Act of 2024 as a valid
9 subject matter and a critically important
10 opportunity for D.C. voters.

11 I am an ANC Commissioner in the great
12 Ward 8. I'm a D.C. statehood activist, a faith
13 leader, and a Caucus Co-Chair on the D.C.
14 Democratic Party State Committee.

15 But I am also, and most importantly a
16 resident, a voting resident of Washington D.C.,
17 who believes that opening the primaries is a
18 tangible step toward ending voter
19 disenfranchisement in our city.

20 As all D.C. residents are taxpayers
21 and they pay for the Democratic primaries.
22 Though, unaffiliated residents are barred from

1 participating in these primaries, where most
2 political outcomes for D.C. elections are
3 decided.

4 Since we are a majority Democratic
5 city, I think it's important that all the people
6 in the city have a voice in our elections. Over
7 one sixth of the D.C. voting population right now
8 is disenfranchised because of our closed
9 primaries.

10 And this ballot initiative rectifies
11 that violation of voting rights. So open
12 primaries, but also rank choice voting. I
13 support rank choice voting because it is a proven
14 system that reflects our democratic values of
15 inclusion, equity and choice.

16 I have been a vocal proponent and
17 supporter of rank choice voting for several
18 years, after seeing how it can address a number
19 of problems in our electoral system, and help
20 elect and protect the political power,
21 particularly of women and people of color. In
22 both -- excuse me.

1 In Federal, State, and local
2 elections, nationwide, rank choice voting has
3 demonstrated its effectiveness in assuring that
4 candidates win with a majority, 51 percent of the
5 vote.

6 And that represents the voices of the
7 voters, the majority of voters in those
8 jurisdictions. I believe we deserve that same
9 opportunity here in D.C., and this initiative
10 makes that happen.

11 So if we care about all voices being
12 represented, and this is, you know, indicative
13 even in the statehood fight. We're fighting for
14 representation for all 700,000 D.C. voters. I
15 think we need to do the same thing here.

16 And I believe that open primaries, and
17 certainly ranked choice voting are two measures
18 that will move us more close to that particular
19 goal.

20 So let's make all votes count here in
21 D.C. and take this initiative to the people. Let
22 the people decide. Thank you so much for your

1 time. I appreciate being able to testify.

2 CHAIR THOMPSON: All right. Thank
3 you, Reverend Hamilton. And as a former ANC
4 Commissioner, thank you for your service on the
5 ANC. Next, speaking of an ANC Commissioner, we
6 have Peter Wood, from ANC 1CO03. If Mr. Wood is
7 here? Or maybe --

8 MR. WOOD: Right here.

9 CHAIR THOMPSON: -- there he is. Go
10 ahead, please.

11 MR. WOOD: Good morning, hi. My name
12 is Peter Wood. I'm a Ward 1 resident, currently
13 serving Adams Morgan as ANC Commissioner. I'm
14 here today to express my support for affirming
15 the Make All Votes Count Act of 2024 as being a
16 proper subject matters to be considered as a
17 ballot initiative on the 2024 general election
18 ballot in Washington, D.C.

19 To begin, I want to advocate for why
20 D.C. voters should be given an opportunity to
21 vote on this act. As we know D.C.'s history with
22 democratic representation leaves quite a bit to

1 be desired.

2 For example, we have seen it is
3 extraordinarily difficult for any group to earn
4 elected representation in D.C. unless it is done
5 through the majority political party.

6 Because of this, closed primaries with
7 low turnout, and until the advent of the Fair
8 Elections program, relatively few candidates have
9 been the mechanisms for determining who governs
10 D.C.

11 This system was not chosen by D.C.
12 residents, but imposed through Federal
13 legislation written by Congress members, D.C.
14 voters had no choice and electing. Including,
15 the Make All Votes Count Act on the 2024 ballot
16 gives D.C. voters an opportunity to choose a
17 system that works for us.

18 I just want to briefly review how this
19 act holds up when evaluated according to the
20 rules binding this Board's decision. First, the
21 U.S. Constitution, which states the United States
22 shall guarantee to every state in this union a

1 republican form of government.

2 Now, of course, the key word in this
3 clause is State, given that D.C. Statehood
4 remains a goal unachieved. But this is the exact
5 type of moment D.C.'s local bodies like the Board
6 of Elections need to make abundantly clear. D.C.
7 behaves like a State because we are one.

8 And as such, D.C. voters are given
9 fair opportunity to vote on proposals to
10 potentially make our elections more
11 representative of the voting populace.

12 Related to this is Federalist Paper
13 39, which notes it is essential to such a
14 government, that is one that is a Republican
15 representative system, that had been derived from
16 the great party of the society, not from an
17 inconsiderable proportion, or a favorite class of
18 it.

19 The Make All Votes Count Act addresses
20 this question of representation in government and
21 deserves to be decided upon by the voting
22 populace. Next, the D.C. Human Rights Act, D.C.

1 has 21 protected traits listed in this Act.

2 No. 12 on that list reads, political
3 affiliation belonging to or supporting a
4 political party. Not only does the Make All
5 Votes Count Act of 2024 not violate this, but is
6 a useful example of how we still have room for
7 improving how political minorities are treated in
8 D.C. and that includes non-affiliated voters.

9 Voters deserve to decide whether the
10 Make All Votes Count Act is a desirable proposal
11 for further advancing human rights in the
12 District of Columbia.

13 And lastly, the D.C. Home Rule Act, of
14 the many items addressed in the text, section
15 regarding at-large members of D.C. Council is, I
16 think, particularly relevant. The specific
17 language reads not more than two of the at-large
18 members, excluding the Chairman shall be
19 nominated by the same political party.

20 It is clear, by at least to me, that
21 the rules regarding elected representation in
22 D.C. were written with an understanding that

1 single party monopolies on power ought to be
2 avoided.

3 By offering the people of D.C. a
4 chance to vote on the Make All Votes Count Act of
5 2024, we can take a step toward potentially
6 furthering this goal of representing diverse
7 viewpoints in our diverse community.

8 Washington D.C. is a democracy that
9 has too often had its residents denied
10 opportunities to speak for themselves. I urge
11 the Board of Elections to let us vote on this act
12 next year. Thank you.

13 CHAIR THOMPSON: All right.
14 Commissioner Wood, thank you so much. Next, we
15 have David Krucoff. He's here in person. Nice
16 to have everybody here in person -- either way.

17 MR. KRUCOFF: Good morning. Hello,
18 can you hear me?

19 CHAIR THOMPSON: We're good. Okay,
20 three minutes.

21 MR. KRUCOFF: Good morning. My name
22 is David Krucoff. I'm a third generation

1 Washingtonian. I'm happy to be here today to
2 testify in support of the initiative.

3 I believe what could be more
4 appropriate than it being allowed, because it
5 empowers us Washingtonians to have a stronger
6 franchise. I'll be as brief as I can. I have
7 some written remarks.

8 Many of us complain about political
9 polarization nationally. We are a very, we are
10 pretty upset with partisan political battles on
11 Capitol Hill that prevents smart legislative
12 action.

13 We are upset that almost everything
14 the administration does is about the next
15 election instead of about helping citizens.
16 Locally, this condition is not a problem except
17 when it comes to our disenfranchised existence.
18 In political polls --

19 In D.C. public polls polarization is
20 not the issue. Monopolization, is. For example,
21 there has never been a non-Democratic person
22 elected to the Council from a ward. It hasn't

1 happened.

2 Diversity of reasoning and background
3 should provide a better foundation for decision
4 making. We don't have any political diversity in
5 the District of Columbia.

6 Human beings are individuals. But in
7 D.C., our vote, for our vote to matter, we must
8 be part of a Democratic primary. Perhaps
9 hundreds of thousands of us who live in D.C. do
10 not either wish to be a Democrat nor a
11 Republican.

12 The first reason why I support the
13 Make All Votes Count initiative, if implemented
14 over time, it will help empower voters who do not
15 wish to affiliate with either party, or with any
16 party for that matter.

17 It empowers the individual. A closed
18 Democratic Party which garners 20 percent turnout
19 should not be the determining election in
20 Washington D.C.

21 The second reason why I support the
22 initiative is, non-majority winner takes all

1 primary winners, helps myopic candidates.

2 Using rank choice voting, on the other
3 hand, encourages candidates to win over more than
4 just their base. Going after second and third
5 place votes in all places for all types of voters
6 becomes much more important. Evidence shows the
7 candidates campaign accordingly.

8 Lastly, and related to the second
9 point, obtaining majority support just
10 legitimizes the winner. Winning a closed primary
11 without a majority of the vote in a multi-
12 candidate field does not.

13 Elected politicians who won with a
14 majority provided in instant runoff through rank
15 choice voting should provide us with better
16 leaders. Let's work together to improve our
17 democracy in D.C., the nation's capital.

18 One way to do this is to allow the
19 Make All Votes Count ballot initiative hit the
20 ballot. We'll gather the signatures. Then the
21 voters will vote on initiative. And it will pass
22 or fail by majority vote.

1 The political monopoly way of doing
2 things in our city should be over. Let's
3 encourage new ways and ideas for a better, more
4 pluralistic system. The Make All Votes Count
5 initiative is the way. Let's do this. Thank
6 you.

7 CHAIR THOMPSON: Thank you very much,
8 Mr. Krucoff. Appreciate your comment. Next we
9 have Barbara Zia, the President of the League of
10 Women Voters of D.C. who is here with us in
11 person. Welcome.

12 MS. ZIA: Good morning and thank you.
13 I'm representing the League of Women Voters of
14 the District of Columbia. And the League
15 encourages electoral methods that provide the
16 broadest voter representation possible, that are
17 expressive of voter choices and encourage those
18 with minority opinions to participate.

19 The League recognizes that many voters
20 in the District choose to be unaffiliated because
21 of preference, job requirements, professional
22 discretion or, as is often the case with our

1 incarcerated voters, a distrust of political
2 parties.

3 The League has been working with the
4 Board of Elections and many coalition members to
5 register incarcerated voters and provide voter
6 education in the D.C. jail and in Federal prisons
7 around the nation.

8 We registered 747 D.C. voters at the
9 D.C. Department of Corrections, of which, 241
10 voted in the 2022 election. And we registered
11 920 D.C. voters at the Federal Bureau of Prisons,
12 of which over 400 voted.

13 At this time, a sizable share, 16
14 percent of registered voters in D.C. have no
15 party affiliation. Providing opportunities to
16 voters without party affiliation to choose to
17 vote in one party's primary election supports our
18 goal of voter participation and engagement.

19 And the League has supported rank
20 choice voting in the District since 2015 for
21 partisan elections in both primary and general
22 elections.

1 We believe it provides voters more
2 choice in elections. It assures that the winning
3 candidate will obtain a majority vote. And it
4 leads to more representative government. Based
5 on our understanding of the D.C. Human Rights
6 Act, this ballot initiative does not authorize
7 discrimination in violation of the Act.

8 Actually this ballot initiative
9 broadens the rights and access of voters by
10 providing those who register without a party
11 affiliation an option overwhelmingly chosen by
12 our incarcerated voters to have a voice in the
13 primaries.

14 Based on our understanding of Title 4
15 of the D.C. Home Rule act, this ballot initiative
16 is not in conflict with that Act. The initiative
17 preserves partisan primaries consistent with the
18 Act's requirements. Thank you.

19 CHAIR THOMPSON: All right. Ms. Zia,
20 thank you so much. Next, we have Ankit Jain. I
21 hope I said that correctly. Ankit? Okay.
22 Thanks for being here.

1 MR. JAIN: Thank you for giving me the
2 opportunity to speak today. My name is Ankit
3 Jain. I'm a member of the Make All Votes Count
4 Act team.

5 I'm an attorney admitted to practice
6 law in Washington D.C. And I am both a Statehood
7 activist and a member of the Ward 2 Democrats.

8 So there are several requirements for
9 an initiative to be on the proper subject matter. I
10 first want to talk about what's not at issue
11 here.

12 No one is arguing that this ballot
13 initiative is not in the form of legislative
14 text, does not include a short title or summary
15 statement of no more than 100 words.

16 That it does not meet the necessary
17 technical filing requirements. That it violates
18 or seeks to amend the Home Rule Act. That it
19 authorizes or would have the effect of
20 authorizing discrimination prohibited under
21 D.C.'s Human Rights Act.

22 That it negates or limits an act of

1 the D.C. Council pursuant to section 1-204.46.
2 Or finally, that it violates the U.S.
3 Constitution. So really the only question at
4 issue today is whether this ballot initiative
5 appropriates funding.

6 The D.C. Attorney General has written
7 now two thorough reasoned analyses explaining why
8 this ballot initiative does not appropriate
9 funding.

10 In the first opinion, the Attorney
11 General's Office found that even if the
12 initiative would appropriate funding, which it
13 expressly reserved judgment on, this Board could
14 add a subject to appropriations clause to the
15 initiative to void any appropriation of funds.

16 Out of an abundance of caution, the
17 Make All Votes Count Act team withdrew the
18 initiative and refiled it with an explicit
19 subject to appropriations clause to ensure there
20 was no question that it did not appropriate
21 funds.

22 The Attorney General's Office has now

1 reanalyzed the modified initiative and once again
2 concludes that it does not appropriate funds
3 because it is subject to appropriations. The
4 Board should listen to this thorough and well-
5 reasoned opinion.

6 Now, the D.C. Council's General
7 Counsel, which is a very learned at office that
8 has issued many, you know, proper opinions, they
9 argue that this ballot initiative does
10 appropriate funds.

11 The Council's General Counsel filed a
12 one page opinion simply directing the Board to
13 its first opinion, which it claims addresses the
14 possibility of the initiative appropriating funds
15 even if a subject appropriations clause is added.

16 Now, that opinion seems to hinge
17 mostly on a legislative purpose or public policy
18 argument, I should say. It seems to argue that
19 if this were allowed, then it would it opened the
20 door to other options.

21 So I think there's two things to say
22 here. First, as the Chair, implied, there are

1 plenty of times where the D.C. Council has passed
2 the law subject to appropriations of a future
3 D.C. Council.

4 And this would be something very
5 similar to that where the law would be passed,
6 but it would be subject to a future Council
7 deciding to move forward on that. And that is
8 generally in keeping with historical practice
9 with the D.C. Council.

10 Second, I'll point out that the
11 Council seems to have understood that this was a
12 possibility when it passed the initiative and
13 referendum, Improvement Act of 2020. The first
14 opinion by the D.C. Attorney General cited this
15 Act.

16 And in that Act, there's a requirement
17 for a fiscal impact statement. And the question
18 is, why would they require a fiscal impact
19 statement if there wasn't an assumption that it
20 was possible to pass a ballot initiative that is
21 subject to appropriations, and that could then be
22 funded later by the D.C. Council?

1 And so I would say the legislative
2 purpose is that this would be valid. If the
3 Council felt otherwise they could always pass a
4 law, to change the law, and prohibit something
5 like this from happening.

6 But we believe that a subject
7 appropriations clause is valid and makes this
8 initiative a valid proper subject matter. Thank
9 you.

10 CHAIR THOMPSON: I really appreciate
11 your testimony, especially your point that this,
12 the D.C. Council itself can make its own Act
13 subject to appropriations, an appropriations
14 decision by subsequent Council.

15 And also, just so, I just want to get
16 this in the record. This voter initiative does
17 come with a fully drafted piece of legislation
18 with full Text. Maybe you were involved in that?
19 So thank you.

20 But the phrase, we say subject to
21 appropriations. But there's a phrase in Section
22 5A -- this act shall apply on the date of

1 inclusion of its fiscal effect in an approved
2 budget and financial plan. Can you comment on
3 that? What does that phrase mean? There's a lot
4 of words in there.

5 MR. JAIN: Yes. I believe that's just
6 the general language that's used for Council laws
7 that they want to make subject to appropriations.
8 Just requiring that the budget fund the law for
9 it to take effect.

10 CHAIR THOMPSON: Okay. So picked that
11 up from precedent?

12 MR. JAIN: Yes. From previous
13 Council, yes.

14 CHAIR THOMPSON: Thank you so much.
15 Okay, Commissioner, ANC Commissioner Joseph Van
16 Wye. Okay. I understand Mr. Van Wye is not
17 going to testify live today.

18 We're looking for a hand just in case
19 he's here by Zoom. Feel free to raise your hand
20 at a later time or put it in the chat box, if
21 we're running right past you. That would make
22 Mr. Ryan Prince next. Welcome.

1 MR. PRINCE: Thank you for having me.
2 I'd like to thank the Board for having us all
3 here today. I'm here in favor for this ballot
4 initiative.

5 Every Washingtonian knows how it feels
6 to not have a say on the national level. We pay
7 our taxes, and yet we don't have a voting
8 representative in Congress.

9 This injustice is compounded for an
10 independent voters here in D.C., but by the local
11 government. This is not right. The Democratic
12 primary here is the only election that matters.

13 By the time, the general rolls around,
14 all the decisions have been made. I understand
15 why some in local government would oppose this.
16 The City Council, local government, they would
17 oppose this.

18 It's because they fear for their
19 monopoly. But I believe residents here in D.C.
20 want everyone to have a voice. They want people
21 to take part in their local government.

22 I think this democracy reform would

1 have a positive effect for everyone in D.C. And
2 I would just like to at least have the voters
3 have a say and give it a chance. That's all.

4 CHAIR THOMPSON: All right. Thank you
5 very much, Mr. Prince. Next, we have Victoria
6 Pelletier, I guess, either perhaps by Zoom? Ms.
7 Pelletier?

8 MS. PELLETIER: Thank you.

9 CHAIR THOMPSON: Welcome.

10 MS. PELLETIER: Thank you so much.

11 CHAIR THOMPSON: We can hear you.

12 Please go ahead.

13 MS. PELLETIER: Okay, great. Hi,
14 everybody. My name is Victoria Pelletier and I'm
15 speaking on behalf of Represent Women in support
16 of the Make All Votes Count Act of 2024.

17 Thank you all for the work you do and
18 for your careful consideration of what we are
19 sharing with you today. Represent Women, which
20 is based in D.C. has the most comprehensive
21 database on jurisdictions that use rank choice
22 voting, and the impact rank choice voting has on

1 the representation of women and women of color.

2 We have published two -- on rank
3 choice voting. One, in 2016, and one in 2020.
4 We are published in the academic journal,
5 Politics and Governance, and in various textbooks
6 on politics and gender.

7 Based on our own research, and
8 research from around the world, we know that
9 having more women in office strengthens
10 democratic processes and policy outcomes.
11 Representation is not only about equality, but
12 it's also about doing democracy better.

13 And I'd like to share some of the
14 evidence we have on the impact of rank choice
15 voting on equitable representation within our
16 government.

17 So based on our data as of January
18 2023, women make up 40 percent of mayors in
19 cities that use rank choice voting. This is
20 compared to the national average of 31 percent of
21 cities with over 30,000 residents.

22 And as of January 2023, women make up

1 49 percent of city councils in cities that use
2 rank choice voting. This is compared to the
3 national average of 33 percent in cities with
4 over 30,000 residents.

5 And I'd also like to talk about my
6 personal experience with rank choice voting. I'm
7 an elected official serving on the Portland,
8 Maine, City Council. I'm the second black woman
9 Portland has ever elected.

10 We currently have the most racially
11 diverse Council in our city's history. Our
12 Council is currently women led for the first time
13 in our city's history.

14 We have all women committees for the
15 first time in our city's history. And the
16 implementation of rank choice voting here in
17 Maine made this possible.

18 One of the words that got thrown
19 around a lot in my race was experience. The
20 person I ran against was 30 years older than me,
21 was a former State Representative and a former
22 Counselor.

1 He out-funded me and was an extremely
2 well-known candidate. And I was what the press
3 lovingly called a political newcomer and an
4 activist with no political resume.

5 So that being said, I have always
6 countered the word experience with the words
7 access and opportunity. And I believe you can't
8 get opportunities without being granted access.

9 And you can't get access without
10 dismantling systemic barriers, the same systemic
11 barriers that disproportionately impact black
12 women, indigenous women, women of color, low
13 income women, women with disabilities and women
14 who are disenfranchised.

15 By enacting this initiative, D.C.
16 would be doing its part and pushing for a fair
17 representative democracy and would be eliminating
18 the barriers that block so many women from having
19 that access and opportunity that we all deserve.

20 We have countless examples of the
21 positive outcomes that occur in rank choice
22 voting elections to ensure that the winner of the

1 election is truly decided by the will of the
2 voters.

3 The Make All Votes Count Act of 2024
4 is a critical step to advancing our democracy
5 into the 21st century. Thank you.

6 CHAIR THOMPSON: All right. Thank you
7 so much. We appreciate you joining us from
8 Portland, Oregon. Oh, Maine, Portland, Maine,
9 sorry.

10 MS. PELLETIER: Portland, Maine.
11 That's okay. Everybody does that.

12 CHAIR THOMPSON: Okay. I'm such a
13 D.C.'er. Phillip Pannell, Treasure of the Make
14 All Votes Count, D.C. Committee. Welcome,
15 Mr. Pannell.

16 MR. PANNELL: Thank you.

17 CHAIR THOMPSON: Thanks for being
18 here.

19 MR. PANNELL: Thank you for having me
20 here. Good morning, members of the Board. My
21 name is Phillip Pannell. And I'm here to testify
22 in support of the Make All Votes Count D.C. Act

1 of 2024 as valid subject matter and a critically
2 important opportunity for D.C. voters.

3 I am the Treasurer of this initiative,
4 a former Recording Secretary of the D.C.
5 Democratic Party, a five time president of the W8
6 Democrats and have been active in the civil
7 rights movements for over five decades.

8 As treasurer, it was imperative that
9 we set up the campaign correctly, following our
10 due diligence and ensuring that we submit a
11 verified statement of contributions and the
12 committee's statement of organization in order to
13 begin the ballot initiative process to bring rank
14 choice voting and open primaries to our great
15 District of Columbia.

16 Lisa Rice, the proposer of the
17 initiative, and I did this on May 17th of this
18 year. Rank choice voting is a proven system that
19 reflects our small d, democratic values of
20 inclusion, equity, and choice.

21 As someone who trusts science and
22 data, I have been a proponent of rank choice

1 voting for over 20 years after seeing how we can
2 address a number of problems in our electoral
3 system and help elect and protect the political
4 power of women, of people of color and other
5 minorities.

6 Council Member Henderson's RCV bill,
7 the Voice Act, wasn't able to make it out of
8 committee. I hope and pray that the people can
9 decide whether we support this needed improvement
10 reform to the way that we vote in the District of
11 Columbia.

12 I know how some D.C. Democratic Party
13 leaders feel about open primaries because I was
14 once vehemently against them. At one time, I
15 felt that open primaries were an assault on the
16 organizational integrity of my party.

17 I was affronted by the idea that
18 independents who are not part of the daily
19 operations of the party could participate in
20 selecting its nominees.

21 But I have evolved to realize that
22 many registered Democrats are exactly the same

1 way and that the party should focus on engaging
2 voters. Even if they aren't already willing to
3 join the party, like so many young people are
4 these days.

5 We should make room in our big tent
6 for the one in six Democratic voters whose votes
7 are suppressed under the current primary voting
8 system.

9 In New York City, there was a campaign
10 leading up to 2022 election where voters learned
11 about and decided they wanted a new system that
12 helps hold politicians accountable. The voters
13 of D.C. deserve the same. Let's make all votes
14 counts here in D.C. Thank you.

15 CHAIR THOMPSON: Thank you. Thank
16 you, Mr. Pannell. Next, we have Brianna McGowan.

17 MS. MCGOWAN: Hi, all, good morning.

18 CHAIR THOMPSON: Welcome.

19 MS. MCGOWAN: Thank you. Thank you
20 for holding this hearing. My name is Brianna
21 McGowan. I'm a Ward 5 resident, a Democrat, a
22 grassroots advocate fighting to make common sense

1 changes that are proven to hold politicians
2 accountable.

3 And in the deeply felt voter
4 suppression for one out of every six D.C. voter,
5 and to help protect black political power in the
6 District of Columbia in the face of a rapidly
7 gentrifying city, I'm here today to raise my
8 voice in strong support of the Maker Votes Count
9 Act of 2024 to enact rank choice voting and open
10 the primaries.

11 And I know that this hearing, however,
12 is not on the merits of this initiative, but
13 rather to address if it is proper subject matter.
14 I would argue that this ballot initiative
15 rectifies a voting rights injustice by
16 establishing a new voting right for a protected
17 class under the D.C. Human Rights Act.

18 The OAG opinion found this to be
19 proper subject matter after extensively
20 explaining their sound legal reasoning. The
21 D.C.'s Council Office of General Counsel whoever
22 rejects this people-powered initiative without

1 laying out their legal reasoning.

2 They base their entire opinion on one
3 comment made about a different bill. Though
4 inspired by the Voice Act, the Make All Votes Act
5 of 2024 has significant differences.

6 It does not tell the BOE how it should
7 spend funds for education. That was an
8 intentional move to allow this initiative to be
9 considered proper subject matter.

10 The OGC opinion fails to consider
11 this, a crucial oversight. It is clear that this
12 initiative is proper and we should be able to
13 take this to the people.

14 The Attorney General's Office lays out
15 clearly while we are legally sound by meeting all
16 seven criteria and leaving the appropriation to
17 remain in the hands of the legislature.

18 I am worried at the OGC's opinion was
19 hasty, possibly even negligent, which furthers
20 the cracks and mistrust in our democratic
21 process. I hope that our Board of Elections will
22 honor legal precedent and clear election law

1 analysis so we can move forward.

2 You can restore trust in our democracy
3 and let voters decide whether they want this
4 change for D.C. or not. Let all, let's make all
5 votes count in D.C. and take this initiative to
6 the people. Thank you.

7 CHAIR THOMPSON: Thank you so much.
8 Appreciate your comments. Next is Kelsye Adams,
9 listed as from, Long Live Go-Go. Perhaps with us
10 by Zoom? Could you raise a hand, or unmute
11 yourself?

12 I think, oh I thought I saw Kelsye
13 Adams's name up there a moment ago. Looked like
14 he was walking through a Starbucks of something.
15 No? Oh, all right.

16 I'll tell you what? We'll circle back
17 or raise your hand when you got here. We'll
18 double check on you at the end. Next is Makia
19 Green. Makia, I'm sorry. Makia Green is listed,
20 but not here.

21 So next Jacqueline Castaneda. Also
22 not here. Thank you for letting us know. Next

1 is Kymone Freeman from We Act Radio. Oh, there
2 he is. Kymone Freeman, can you hear us? We see
3 you.

4 MR. FREEMAN: Yes, can you hear me?

5 CHAIR THOMPSON: Sure can.

6 MR. FREEMAN: Okay, give me a second.
7 I'm driving. Let me just pull over here.

8 CHAIR THOMPSON: Yes, step one, be
9 safe. I won't start the clock yet.

10 MR. FREEMAN: All right. Just give me
11 ten seconds. Okay. All right, greetings. My
12 name Kymone Freeman, Every Black Man Therapy. I
13 dropped the phone. Co-Founder, We Are Graham.
14 My pronouns are me/we.

15 As an independent media professional
16 for the past decade, I've seen establishment and
17 corporate media try to ruin a lot of good ideas.
18 Just like the Zoom bomber on this call today.

19 The most insulting notion, that's
20 critical of rank choice voting, that I come
21 across in my research was from some of our
22 leaders in the D.C. Democratic Party Committee.

1 The corrupt establishment, as I like to call
2 them, they think black people are too stupid to
3 understand how to rank their choices.

4 Like we don't do that every day trying
5 to decide what, how do we survive in the most
6 expensive city in America? So let me say this,
7 we just had a Mayoral race.

8 But let's go to our alternate
9 universe. The incumbent is a popular
10 establishment candidate, but there's a growing
11 opposition. Let's say there's a mayoral
12 election, 40 percent re-elect the Mayor but
13 there's 60 percent out there willing to support
14 the opposition.

15 But instead of being a one, single
16 challenger, you had a Robert White, Trayon White,
17 Barry White, Maurice White all running and they
18 had to split that 60 percent under our current
19 system ensuring that none are successful in
20 unseating an incumbent.

21 Now, like all the ways I just
22 mentioned, but by creating a ranked system where

1 I can select my first, second, third choices, we
2 have more choice.

3 It stops political displacement where
4 multiple candidates you do like run. It opens
5 the door for people who want to run for Mayor,
6 but don't even join the race because their name
7 is purple, or black, or off white.

8 It nullifies the notion of voting for
9 the less of two evils. Ranked choice voting will
10 ensure that the winning candidate would truly
11 represent the majority of the voters' support and
12 make it easier to hold politicians accountable.

13 And opening the primary elections will
14 allow young people who don't know whether they
15 want to join the Democratic Party to still have a
16 say in the most important races, ending D.C.
17 voter suppression.

18 It won't cost the Board of Elections
19 any extra than what they already get to make this
20 happen. We are ready to get the word out and
21 educate the community about ranked choice voting,
22 open primaries and making all votes count.

1 Let's build better community for
2 better power. Put it on the ballot. Let the
3 people decide. This is Kymone Freeman. Do
4 something.

5 CHAIR THOMPSON: All right, thank you,
6 Mr. Freeman. We appreciate it and please drive
7 safely.

8 MR. FREEMAN: Yes, sir. Peace.

9 CHAIR THOMPSON: Next we have Malik
10 Mack. Mr. Mack? Can you raise your hand or
11 unmute yourself. Mr. Mack is there?

12 We don't see in the list of names.
13 Some people use nicknames or phone numbers. But
14 I will, we'll open it and we'll give a chance at
15 the end if you, to make sure we're not missing
16 anybody.

17 Next is Kenyatta Smith. All right,
18 Kenyatta Smith? We'll give it a second to look.
19 Okay, not seeing Kenyatta Smith, we'll turn to
20 Nolan DiFrancesco.

21 MR. DiFRANCESCO: Thank you, yes. Hi,
22 I'm Nolan DiFrancesco a Ward 2 resident and I'm

1 grateful to be able to submit testimony today in
2 support of the Make All Votes Count Act. And I
3 encourage the Board to consider the merits in
4 determining this initiative as proper subject
5 matter.

6 Very briefly on the need for this
7 reform. In our current system, communities often
8 split their vote and weaken their collective
9 power.

10 And in crowded D.C. primaries, a
11 candidate can and often will win with far, far
12 less than 50 percent of the vote. Ranked choice
13 voting would allow for campaigns in which diverse
14 communities are free to vote in solidarity and
15 build a power together.

16 And the candidate who wins can only do
17 so once they get a real majority, representative
18 of the true views of the people. At the same
19 time, over 86,000 registered voters in the
20 District do not belong to a political party and
21 cannot participate in the most important
22 elections.

1 We should do all we can to fight
2 against that disenfranchisement, and open
3 primaries are the clear solution. I strongly
4 encourage the Board to fully consider the
5 arguments laid out by the Office of the Attorney
6 General.

7 The initiative is not in violation of
8 the Home Rule Act nor the U.S. Constitution and
9 is subject to appropriations clause is sufficient
10 for legality.

11 Ranked choice voting and open
12 primaries are these kinds of issues that can
13 sometimes lead to strong opinions or strong
14 assumptions. But what we should all agree on is
15 that the people have a right to have their voices
16 heard.

17 They should have the right to vote on
18 this initiative so the law can reflect the will
19 of the people. And I encourage the Board to
20 ensure that voters have that right and allow this
21 initiative to go to the ballot. Thank you.

22 CHAIR THOMPSON: All right, thank you

1 so much. Next is Nikolas Schiller.

2 Mr. Schiller, welcome.

3 MR. SCHILLER: Welcome. Finally nice
4 to see you guys in person today.

5 CHAIR THOMPSON: Yes.

6 MR. SCHILLER: You can see me on the
7 little square screen. Folks up there see the
8 square scene as well. I was actually hoping to
9 be able to respond to the other side's opinions.

10 Because today we're doing it, you
11 know, who was in support and who was against, and
12 I was hoping to hear what everyone had to say who
13 was against it.

14 But we're going first. So it changes
15 things around. My name is Nikolas Schiller. I
16 was in one of these subject matter hearings about
17 ten years ago for what ultimately became
18 Initiative 71.

19 During that subject matter hearing,
20 there was a divided opinion. The Attorney
21 General's Office, or Nathan at the time, he said
22 that the ballot initiative violated the, it

1 discriminated because people in low income
2 housing wouldn't be able to legally possess
3 cannabis.

4 They still can't actually. But that
5 division still allowed the ballot measure to go
6 forward. And the larger issue here at hand is,
7 are we stuck with the same electoral process?

8 Like, we as voters have the ballot
9 initiative process to allow us to change laws
10 that we feel are not being addressed by the
11 people that we elect?

12 So right now, if we had a law that
13 said, you have to only use pencils to vote with,
14 but no, we want to have red pens. And you can
15 only vote with red pens and voters are like, you
16 know what?

17 We want to vote with blue pens. Would
18 that have a process that we have to change? Are
19 we stuck with only using pencils or red pens? Or
20 we, the voters, can we actually create new laws
21 to change the way we vote?

22 And that is the essence of this

1 hearing today is that, are we able to change the
2 electoral processes that we have? Are we only
3 beholden to the 13-member Council that we have?

4 And so ballot initiatives all cost
5 money. And I think I mentioned it earlier that
6 the CFO analysis is going to be there, like for
7 Initiative 82.

8 They have to put up the minimum wage
9 posters in, in every different establishment.
10 Well, someone has to pay for those posters.
11 That's going to be something that's going to be
12 required.

13 It's not necessarily directly saying,
14 hey, this ballot initiative requires you to post
15 new posters in there. That's the existing law,
16 and it has an effect no matter how you slice or
17 dice it.

18 With Initiative 71, the police
19 officers had to be trained. There was a new
20 protocol. You can't arrest people anymore. That
21 costs staff time.

22 So no matter what, changing laws is

1 going to cost money. The question is, does it
2 appropriate the money? Does it say, you must
3 spend this money on it?

4 I mean, the question that you offered
5 earlier, Mr. Thompson was, can we write a ballot
6 initiative that says we want to build a school
7 subject to appropriations? I believe we can.

8 And I think if we wanted to be able to
9 do that process, the citizens should be able to
10 go forward and say, you know what? We think a
11 new school should be built in Ward 3.

12 And we don't, although we don't,
13 aren't able to appropriate the funding for this,
14 we want to have a ballot initiative on that. But
15 we can't actually do that for just Ward 3.

16 It would have to be 5 percent of the
17 citywide signatures to actually put that question
18 on the ballot. So I really appreciate your time
19 here today.

20 And another thing that actually came
21 up while we are on the way here, and it was my
22 analysis of the Human Rights Act about when the

1 Attorney General's Office actually put in there
2 that this is actually going to expand the Human
3 Rights Act.

4 Because right now people are
5 discriminated against. And I was like, man, we
6 can have a class action lawsuit. All of the NPA
7 voters, all 86,000 of them signed up to be like,
8 we want to be able to be able to participate in
9 all aspects of District life, which right now
10 they're being denied. And I thought about how,
11 like, the Board itself -- almost done? On time,
12 okay.

13 CHAIR THOMPSON: Well, I'll let you
14 finish out your point.

15 MR. SCHILLER: Well my point was that
16 I just want to thank you guys for your time. And
17 that NPAs are actually, it makes you think like
18 the largest, second largest voter registration in
19 the District of Columbia are people that are not
20 registered with any political party.

21 CHAIR THOMPSON: I just also wanted to
22 thank you. You just registered a point that I

1 think it's important that something can cost
2 money but appropriation means something
3 different.

4 Appropriation means the Council's
5 making a decision to actually spend that money
6 relative to other things they might choose to
7 spend it on, like affordable housing or fighting
8 crime.

9 There's a lot of issues right now that
10 the Council is juggling in terms of what he wants
11 to spend its money on. But you, I mean, I think
12 it's good that you drew attention to the word.

13 MR. SCHILLER: Well it has a mission
14 to educate voters.

15 CHAIR THOMPSON: Right.

16 MR. SCHILLER: That's a part of the
17 mission. So that's already going to be spent to
18 educate voters about how to vote. So if it
19 changes how the people vote, that's already
20 within the mission of the, of the Board of
21 Elections.

22 CHAIR THOMPSON: Yes.

1 MR. SCHILLER: So thank you so much
2 for your time and I appreciate, you know, the
3 opportunity to speak today.

4 CHAIR THOMPSON: Okay, Keshini
5 Ladduwahetty, who I believe is on here and is
6 with us by Zoom. Welcome.

7 MS. LADDUWAHETTY: Thank you so much,
8 commissioners. My name is Keshini Ladduwahetty.
9 I'm here today to testify in strong support of
10 the May All Votes Count act of 2024.

11 I enthusiastically support the Make
12 All Votes Count Act of 2024. I enthusiastically
13 support this initiative to expand the power of
14 D.C. voters to rank candidates, and to open
15 primaries to independent voters.

16 And I am confident that the act is a
17 proper subject of initiative. I very much hope
18 that this Board concurs with Attorney General
19 Schwab, who has concluded that it is a proper
20 subject of initiative because Section V specifies
21 that the act shall apply only when any additional
22 costs have been appropriately budgeted.

1 I believe that the Office of General
2 Counsel, OGC, is wrong. The initiative may
3 require additional funds temporarily to make
4 administrative and procedural changes as well as
5 for public education.

6 These are costs that are associated
7 with most ballot initiatives. It merely, if we
8 were to apply OGC's logic, the Board would have
9 denied many ballot initiatives that it has
10 approved in the past because they required
11 administrative changes and public education.

12 Here are a few examples of past
13 initiatives that BOE has approved despite the
14 fact that they entailed additional costs.
15 Initiative 71, as Nick Schiller just said,
16 legalized the possession and cultivation of
17 limited amounts of marijuana.

18 Such a major change to drug policy
19 required significant administrative changes on
20 the part of MPD and the D.C. courts, as well as
21 public education by a variety of government
22 agencies.

1 Initiative 70, approved by BOE in
2 2012, which prohibited corporate campaign
3 contributions in D.C. elections would have
4 required changes in administrative procedures and
5 public education by the Office of Campaign
6 Finance.

7 Initiative 69, the Video Lottery
8 Gambling Terminal Initiative of 2006, which would
9 have expanded the lottery to include Video
10 Lottery terminals, would have required new
11 administrative procedures on the part of the D.C.
12 lottery and charitable games Board.

13 These examples illustrate the fact
14 that BOE has approved a number of initiatives in
15 the past that entailed changes to administrative
16 procedures and public education.

17 Such changes frequently have a fiscal
18 impact of a temporary nature, but the Board has
19 rightly concluded that they do not pose an
20 obstacle to D.C. voters exercising their
21 democratic rights through the ballot initiative
22 process.

1 The Make All Votes Count Act of 2024
2 is similar to the initiatives that BOE has
3 approved in the past. I hope that you will
4 follow your own precedent in finding it a proper
5 subject of initiative. Thank you for the
6 opportunity to testify.

7 CHAIR THOMPSON: Thank you very much.
8 Thanks for being with us by Zoom. So now I'm
9 going to circle back and make sure I didn't miss
10 a few people. Kelsye Adams, Malik Mack, Kenyatta
11 Smith? Did we accidentally miss someone
12 scrambling to sign on by Zoom?

13 Okay, and is here anybody else present
14 that would like to speak in, on the in favor
15 side? If you could just maybe come forward and
16 take turns and just state your name, please. And
17 what we appreciate it if you'd maybe take just
18 two minutes, but please take three if you need
19 it.

20 MR. EIDINGER: And I did, I did email
21 that I was going to testify. I don't know why
22 I'm not on the list. My name is Adam Eidinge.

1 I'm a Ward 2 resident.

2 I'm a Democrat. I've lived in D.C.
3 most of my life. I'm here because I believe our
4 limited democracy should be about the will of the
5 people before the will of party bosses.

6 The Make All Counts, Make All Votes
7 Count Act is indeed a proper subject matter. I
8 was the proposer of Initiative 71. I was also
9 the treasurer of Initiative 81 and the treasurer
10 of Initiative 82.

11 All these initiatives there was talk
12 about them costing money but until the Chief
13 Financial Officer determines the true costs of
14 this measure, I think we're assuming this is
15 going to cost money but we shouldn't be.

16 You already have a budget to
17 administer elections. You're just going to be
18 using that budget to administer this type of
19 election if this becomes law.

20 Also, I think it's very clear that
21 it's not subject, it's not spending money. This
22 is more of an advisory ballot initiative. But

1 they all are.

2 Every single ballot initiative that
3 has been passed can be overturned or ignored by
4 the D.C. Council. And this one is no different.
5 Except it now says if there's a cost, it will be
6 paid for by the Council, not by this ballot
7 initiative.

8 So I think that we actually are not
9 spending any money here. We're not appropriating
10 money. We're leaving it up to the Council but
11 we're giving a lot of advice to this Council.

12 And the unicameral government, where
13 the ballot initiative process is the only hope we
14 have for a bicameral government where we have the
15 people as the other chamber or the other branch
16 of government, and we are very limited in what we
17 can do.

18 I want to point out also that
19 initiatives have been overturned in the past by
20 the D.C. Council, Initiative 77. And it we know
21 was subject to referendum and we turned in 35,000
22 signatures. We still were not able to have

1 another vote on that matter because of process
2 errors made by the Board, unfortunately.

3 I'd like to also address the term
4 unaffiliated. I think this is an important legal
5 term. It's another way of saying I don't belong
6 to a party. However, if you choose a ballot
7 under this new law, you are affiliating.

8 You're saying I want to vote in the
9 Republican primary or I want to vote in the state
10 of Green Party. Or maybe you want to vote in the
11 Democratic primary as a citizen who's paying for
12 the primary.

13 I mean, it's our tax dollars that are
14 paying for the primary as citizens. So really, I
15 think right now, we're already violating the D.C.
16 Human Rights Act.

17 We're already disenfranchising 86,000
18 independent voters. So, you know, is there
19 affiliation? Yes, at the time of when you vote.
20 That's when you're affiliating.

21 You're not voting in two primaries.
22 You're voting in just one and you're affiliating.

1 Almost out of time, okay. The last thing I want
2 to say is that, let's, you really should be
3 waiting for the CFO to determine things as well.

4 And I think this process is a little
5 out of order sometimes. I think we should have
6 had that coming into this hearing. It would help
7 everyone determine what we're really looking at.

8 Like, I think this ballot initiative
9 might actually save the District money, not
10 actually cost money. Initiative 71 saved over 26
11 million, I think was the number in policing
12 costs. So whatever costs there were in educating
13 the voters were offset by the savings. Thank
14 you.

15 CHAIR THOMPSON: Thank you,
16 Mr. Eidinger. Welcome. What's your name?

17 MR. STREGE: My name is Brian Strege.
18 Thanks, Mr. Chairman, and members of the Board.
19 I'm an ANC Commissioner representing a portion of
20 8F, which is Navy Yard referring.

21 But I'm not here today representing
22 the ANC. So feel free to cut me off at three

1 minutes. But I'd like to come in support of this
2 ballot initiative.

3 I know that today's hearing is just a
4 subject matter determination to decide whether or
5 not the text submitted is valid. But I wanted to
6 express my sincere hope that the measure makes it
7 through today.

8 And with a clean bill of health, then
9 the question of ranked choice voting and semi-
10 open primaries is ultimately put before the
11 voters of D.C.

12 I think that this measure, were it to
13 be adopted by the voters, would inject some
14 vibrancy into our electoral process. I get the
15 sense that there's kind of a general
16 dissatisfaction with the process here.

17 And that there's a whole lot of
18 strategic voting going on, which is basically one
19 voter cares more about who they're voting against
20 than who they're voting for.

21 Then they try to become a pundit and
22 predict who has the best chance of beating the

1 candidate that they don't like, and they vote for
2 that person, even if they don't really like them.

3 To me, that's kind of a sad state of
4 affairs. And it's a direct result of rule
5 elections in multi-candidate races. The ranked
6 voting piece of this measure would solve that
7 problem.

8 Instead of voting for someone that
9 they don't really like because they've got the
10 best shot against the least favorite candidate,
11 voters would be free to vote for their actual
12 favorite candidate. And if nobody gets a
13 majority, depending on who's eliminated, they've
14 been able to at least register their choice for
15 second.

16 I have a part also advocating for the
17 semi-open the primary component but I want to get
18 to a question that you posed about whether or not
19 it conflicts with the on a partisan basis
20 language of the District charter. So I'll skip
21 this part and try to address that.

22 CHAIR THOMPSON: Thank you.

1 MR. STREGE: I believe that it does
2 not run afoul of that language. And I think the
3 Board would do well to look at the differences
4 between the Alaska System and the Maine system.
5 They are two states that are both experimenting
6 with ranked choice voting.

7 However, in Alaska they've combined
8 all the primaries into one called a jungle
9 primary, where a certain number then make the
10 general regardless of party.

11 So it could be four Democrats could
12 make, four Republicans or whatever you may.
13 Maine doesn't change the underlying structure,
14 and neither does this.

15 So there's still a Democratic primary.
16 There's still a Republican primary, and they
17 still own a slot into the general election. So a
18 Republican is going to be on the ballot in the
19 general election because there will be a
20 Republican primary. That means this is still on
21 a partisan basis.

22 It is not a jungle system. So, I

1 would implore you guys to take a look at the
2 difference between those two systems. I don't
3 believe it runs afoul of the language and I'll
4 end it there. But as I said, I sincerely hope
5 that it makes it through today. Thank you.

6 CHAIR THOMPSON: Thank you very much.
7 I appreciate that. Welcome, tell us your name.

8 MR. CRUZ-RODRIGUEZ: Hello.
9 Mr. Thompson and members of the Board. My name
10 is Daryl Cruz-Rodriguez. I am the founder of
11 Students for Open Primaries, a national project
12 of the National Open Primaries Organization.

13 A lot of people have already spoken on
14 the issue of subject matter. And so I'm just
15 here to lightly touch on why open primaries are
16 beneficial.

17 I understand you guys don't take a
18 position but I'd still like to remind the
19 opposition to what they're standing in front of.
20 In D.C. 16.5 percent of voters are independent.
21 They make up the second largest voting bloc in
22 the entire District.

1 And personally, I find it kind of
2 ironic that our nation's capital is probably one
3 of the most undemocratic places in the country,
4 given you guys don't have representation in
5 either chamber of Congress.

6 Independent voters can't votes, etc.,
7 etc. I feel like this ranked choice voting open
8 primaries measure will allow more Washingtonians
9 a voice in who they elect, so that they can focus
10 on electing representatives that care about them
11 more than their party lines.

12 Open Primaries and national
13 organization in a partnership with Student for
14 Open Primaries actually did research last summer
15 on the impact on young voters.

16 One important metric is that 69
17 percent of young voters feel that they're not
18 represented by either the Republican or
19 Democratic Parties.

20 I remember Mr. Rice mentioned that
21 about 50 percent of young voters between the age
22 of 15 and 25 are independents in D.C. And so

1 ranked choice voting in open primaries poses a
2 true possibility that we can have a system where
3 voters can elect people that represent them
4 instead of a hardline party base.

5 And so I would just like to make it
6 clear that I am in support of open primary until
7 it's backwards. Thank you.

8 CHAIR THOMPSON: Thank you. Thank you
9 very much. Welcome, sir. Tell us your name and
10 please proceed.

11 MR. AMINE: Thank you. My name is
12 Abel Amine. I am a Ward 4 resident. I am a non-
13 citizen, which if I'm counting the days right, as
14 of today, I'm now a qualified elector because of
15 a law that was passed by the D.C. Council with
16 exactly the same applicability clause.

17 Which was only just removed as of
18 today, July 8, when the Budget Support Act, the
19 Emergency Readiness Support Act became law. So I
20 will also cite another example of this later on.

21 I want to first speak about the D.C.
22 Council's opinion on this matter. In their

1 second opinion, they state that their original
2 opinion addresses the subject of whether a ballot
3 initiative includes, whether it's a proper
4 subject matter if it includes a subject to
5 appropriation clause.

6 And I went back and looked at their
7 original opinion. And it was only in their
8 footnote on the very last page on footnote 14 in
9 which they actually refer to this subject.

10 And they do it in a very dismissive
11 way by referring to the fact that when the
12 advisory opinions were was submitted for the
13 Elizabeth David Education Equity Pathways Policy,
14 and when your Board offered an opinion on that,
15 that neither the advisory opinions, your opinions
16 mentioned the topic of subject to appropriations.

17 But I would posit that the fact that
18 you didn't mention it does not mean that that is
19 not proper. If they had read that opinion, they
20 would have noticed a mention of Hessey, which was
21 mentioned earlier. And Hessey defines a measure.

22 It says that a measure is deemed to

1 appropriate funds if we would if we would intrude
2 upon the discretion of the Council to allocate
3 District government revenues in the budget
4 process.

5 This ballot initiative does not do
6 that. In fact, it expressly gives, it expressly
7 states that that power still remains with the
8 Council.

9 So I would posit that this, this
10 ballot initiative is a proper subject matter.
11 And to refer to what you've been saying, it is
12 actually true that the Council passes bills all
13 the time.

14 One in particular is the language
15 access for Education Amendment Act of 2028. If
16 passed in 2028, it was not funded for two Council
17 periods and automatically repealed.

18 So here's an example of one, and
19 actually I think an argument can be made that
20 this ballot, if it passes, will be automatically
21 repealed after two separate. But that's a
22 subject for another day and another argument

1 and --

2 CHAIR THOMPSON: Now I see why your
3 hands shot up when that came up earlier.

4 MR. AMINE: Yes. So thank you very
5 much for this opportunity and please find this
6 proper subject matter valid.

7 CHAIR THOMPSON: Yes, thank you.

8 MR. AMINE: Thank you.

9 CHAIR THOMPSON: Yes, thank you and
10 thank you for focusing on putting it in the
11 language of Hessey.

12 MR. AMINE: Yes. Late in access, you
13 are required to but the D.C. Council is not
14 because they passed the law and didn't fund it.
15 Thank you.

16 CHAIR THOMPSON: Okay, thank you.
17 Okay, everybody. I think we have about 30, maybe
18 35 minutes of additional testimony in opposition
19 or anyone else who would like to speak. But I
20 think we need like about a five or call it an
21 eight minute break for the restroom, et cetera.

22 But we're going to power through

1 without a lunch break and, you know, finish at
2 around 1:00 something if that's, you know, if
3 anybody wants to really take a long break.

4 So we'll break. We'll adjourn, move
5 to adjourn. Do I have to move to adjourn? I
6 move to adjourn for a seven minute break. All in
7 favor? All right. Seven minutes.

8 (Whereupon, the above-entitled matter
9 went off the record at 12:35 p.m. and resumed at
10 12:44 p.m.)

11 CHAIR THOMPSON: All right, thank you
12 so much everybody. We are back on the record.
13 There are two sides to every issue. And indeed,
14 we have a number of citizens signed up to state
15 their opposition.

16 We've in fact received a number of
17 written comments for the record. I would note
18 that, of course, we received the opinion letter
19 from the General Counsel of the Council of the
20 District of Columbia.

21 We've also received written comments
22 in opposition from Ms. Renee Bowser, from Deirdre

1 Brown, from Celeste Garcia, Linda Gray, from
2 Robert King, from Jeanette Mobley, from Hazel
3 Bland Thomas, and Charles Wilson.

4 So, we've read all those carefully.
5 And on the opposition's side, I would like to
6 start with Nicole Streeter or perhaps somebody
7 else from the Office of General Counsel of the
8 D.C. Council if they happen to be here.

9 So just if you are raise your hand and
10 we'll call upon you. And not seeing anyone
11 present, which is -- which is fine, we thank you
12 for your opinion that we obviously read
13 carefully.

14 So next, I'm going to turn to Charles
15 Wilson of the D.C. Democrats. Yes, And then
16 we're going to go with, after Mr. Wilson, Robert
17 King, Renee Bowser, Brandaun Dean, Deirdre Brown,
18 Anita Shelton, Keith Towery, Dorothy Brizill in
19 that order. So we'll start with Mr. Wilson.
20 Thank you so much for being here.

21 MR. WILSON: Thank you.

22 CHAIR THOMPSON: And please take five

1 minutes if you need it.

2 MR. WILSON: Thank you. Good morning
3 or good afternoon, good morning still, District
4 of Columbia Board of Election members. My name
5 is Charles Wilson.

6 I am also a former ANC commissioner in
7 Ward 8. Civic Association, former Civic
8 Association founder and president in Anacostia.
9 And I'm also a parent. But I'm also chair of the
10 D.C. Democratic Party.

11 I'm here today to express my
12 opposition to the proposed Make All Votes Count
13 Act of 2024 ballot initiative on behalf of the
14 Democratic Party of the District of Columbia.

15 The Democratic Party is charged with
16 selecting Democrats as our candidates. I believe
17 that implementing open primaries and ranked
18 choice voting in the District of Columbia
19 conflicts with or seeks to amend Title IV of the
20 D.C. Home Rule Act.

21 It conflicts with the U.S.
22 Constitution, authorizes discrimination and

1 violation of the D.C. Human Rights Act, and has a
2 negative fiscal impact on the D.C. -- District's
3 budget.

4 Consequently, the initiative does not
5 meet the threshold requirements for qualifying
6 for the ballot, as set forth in the public notice
7 hearing that was sent. I also firmly believe
8 that having open primaries and implementing
9 ranked choice voting would negatively affect the
10 District's electoral system.

11 I would like to present the following
12 arguments. Number one, the ballot initiative
13 will conflict with the D.C. -- with the Home Rule
14 charter. The basis for this opposition to the
15 initiative regarding ranked choice voting and
16 open primaries lies in the provisions of the
17 District charter.

18 The District charter strongly supports
19 the establishment of political parties and the
20 selection of candidates by the party.
21 Consequently, decisions regarding these issues
22 are the prerogative of the parties.

1 The Democratic Party has also taken a
2 position on ranked choice voting. The Democratic
3 Party believes ranked choice voting is not right
4 for the District. Our position can be found on
5 our website. And it is actually in line with the
6 Washington Post article that came out yesterday
7 regarding the officials in Arlington, Virginia.

8 Open primaries would undermine the
9 partisan nature of elections and dilute the
10 voices of the party members in the election
11 process. Allowing those who do not identify with
12 a political party to participate in partisan
13 elections directly conflicts with provisions of
14 the District charter.

15 Title IV, Subpart -- Part A, Subpart
16 1 of the District charter specifically states
17 that the Council of the District of Columbia and
18 its members shall be elected by the registered
19 qualified electors in the District.

20 Section B1 explicitly states that
21 these members shall be elected on a partisan
22 basis. The same is true for candidates for the

1 Mayor of the District of Columbia.

2 This means that the intention behind
3 the District charter was to have partisan
4 political parties nominate their candidates in
5 the election and subsequent general election.
6 Subsequently, the District charter included
7 partisan elections for the newly created Attorney
8 General's position as well.

9 Moreover, the District charter limits
10 the number of at-large Council members from the
11 same political party and directs that the
12 political party of an at-large Council member
13 vacating his or her position be filled by the
14 political party of the Council member vacating
15 the position.

16 Other elected officials are elected on
17 a nonpartisan basis. For example, Advisory
18 Neighborhood Commissioners, ANCs, are elected on
19 a nonpartisan basis. State Board of Education
20 candidates are elected on a nonpartisan basis.

21 All of this demonstrates that the
22 drafters of the charter intentionally

1 differentiated between partisan and non-partisan
2 elections and left the method for determining
3 partisan elections up to the parties.

4 Open primaries would be in direct
5 violation of the D.C. Home Rule charter.

6 Allowing non-affiliated voters to participate in
7 partisan elections would undermine the intent of
8 the charter and dilute the votes of the party
9 members who seek to nominate their party
10 candidates to stand in subsequent general
11 elections. It is crucial that we respect and
12 uphold the provisions of the Home Rule charter to
13 maintain the integrity of our election system.

14 CHAIR THOMPSON: Thank you so much,
15 and for your written comments. When I read your
16 written comments and those of Renee Bowser, it
17 just kind of stopped me in my tracks and made me
18 realize this is a real issue that we have to
19 really think through.

20 And I guess what you're arguing, in so
21 many words, is that the language of our charter
22 itself, although it's not expressed, in effect,

1 it requires there to be a closed primary?

2 MR. WILSON: Yes.

3 CHAIR THOMPSON: So let me just sort
4 of sound out the argument on the other side and
5 see what -- I'm curious to see what your response
6 is. The way it works currently is anybody who
7 registers can affiliate with any party they want.
8 It's sort of self-selecting.

9 And I'm guessing a lot, some people
10 who maybe aren't -- don't identify with the
11 Democratic Party's platform or values,
12 nevertheless check that box because they decide
13 well, you know, I'd rather vote in the primary.

14 It seems to be outcome determinative
15 in certain races. And, indeed, even if you're a
16 registered Republican, I think you can make that
17 switch up to 21 days prior.

18 So there's already a system where
19 those who vote in the Democratic primary may not
20 be Democrats. And so the argument here is that
21 with respect to unaffiliated voters, up until the
22 day of the election, and we have same-day

1 registration, if they choose, if they select in
2 that moment to vote in the Democratic primary,
3 they are in fact affiliating, choosing to
4 affiliate at least at that moment in time with
5 the Democratic Party for purposes of
6 participating in the primary.

7 There's some pretty intricate case law
8 on this starting with the Supreme Court Jones
9 case, but there's case law to suggest -- that
10 suggests that, yeah, that -- that's fine.

11 That does not, at least with respect
12 to the Constitutional arguments that having a
13 semi, what I heard somebody say, a semi open
14 primary or partially open primary as perhaps
15 envisioned by this initiative, that that passes
16 muster under the First Amendment.

17 It does not unduly interfere with the
18 associational rights of a political party in this
19 respect. And nor does the charter expressly say
20 whether they're -- what type of primary there has
21 to be. So that's kind of also what the Attorney
22 General has opined.

1 And so I'm just sort of summarizing
2 all that kind of out loud mostly for myself, just
3 to sort of articulate it. How do you, how do you
4 respond to that?

5 Why is it that you think that, no,
6 that having a semi open primary like this would,
7 in fact, unduly interfere with the rights of the
8 Democratic Party here in D.C. to conduct a closed
9 primary?

10 MR. WILSON: Sure, so I -- Chairman
11 Thompson, I think it goes back to your earlier
12 statement in that every resident has a free
13 choice to register or not, to participate in the
14 political party.

15 No one is forcing anybody to register
16 as a Democrat, Republican, or not register. You
17 have a choice. If you choose not to register in
18 our -- as a member of our party, that is your
19 choice.

20 But we believe that those who do make
21 a conscious choice to register as Democrats may
22 not all believe in the same principle, may not be

1 in agreement on every issue. But we do believe
2 that as Democrats, we have the right to choose
3 our nominee. And if you want to be able to
4 participate in the process, just register as a
5 Democrat. It's that simple for us.

6 CHAIR THOMPSON: And, but you're okay
7 with the concept that at least up to 21 days
8 before an election somebody who was unaffiliated
9 or even registered as a Republican can cross over
10 and choose that Democrat box instead and vote in
11 the Democratic primary?

12 MR. WILSON: I really, I would have to
13 take some time to think about that. But as it
14 stands right now, you have to be a registered
15 member of the party in order to participate.

16 CHAIR THOMPSON: Okay, all right. No,
17 I really appreciate your argument. I've been
18 reading the cases and thinking a lot about this.
19 And you're right to point out some of the
20 language in the charter, and it doesn't just say
21 partisan basis. It actually says political
22 parties may nominate a candidate of their

1 choosing.

2 MR. WILSON: And, again, it
3 specifically states that if you want to run for
4 school Board or ANC, you're elected in the
5 general election and on a nonpartisan basis.

6 CHAIR THOMPSON: Okay.

7 MR. WILSON: It's very clear.

8 CHAIR THOMPSON: Okay, all right.
9 Thanks very much.

10 MR. WILSON: I wasn't done.

11 CHAIR THOMPSON: Keep going, sorry.

12 MR. WILSON: Yes, all right.

13 CHAIR THOMPSON: Yes, please take
14 another minute.

15 MR. WILSON: The ballot initiative
16 would conflict with -- may conflict with the U.S.
17 Constitution. There are legitimate concerns
18 regarding ranked choice voting. It violates the
19 equal protection clause of the Constitution.

20 And since I only have another minute,
21 you have my testimony, I want to go to, there's
22 been this argument about the Council having the

1 ability to pass legislation for it to be funded
2 or not funded by the next Council. They have
3 that liberty.

4 We have rules based on what you guys
5 sent that a ballot initiative cannot appropriate
6 funds. We cannot just change the language just
7 to circumvent the process.

8 So implementing ranked choice voting
9 and open primaries will require the Board of
10 Elections to commit a significant financial
11 obligation that has neither been agreed to or
12 appropriated by the D.C. Council. The Courts
13 have ruled that a ballot cannot make an
14 affirmative effort to appropriate funds.

15 New costs associated with the
16 initiative would include developing voter
17 education materials, purchasing new voting
18 machines and software, significantly redesigning
19 the ballot in all elections and general
20 primaries, creating a system that would allow
21 independents to vote in a political party's
22 primary, maintaining separate ballots for those

1 participating, hiring additional staff to
2 implement the measure, and securing the services
3 of community non-profits to even educate the
4 public.

5 This could potentially negate or limit
6 a budgetary act of the D.C. Council and force a
7 new budget line item. The level of funding
8 appropriated by the District agencies can only be
9 determined annually by the local legislation of
10 the D.C. Council.

11 In conclusion, I urge the Board of
12 Elections to carefully consider these concerns
13 regarding the Make All Votes Count Act '24. The
14 proposed open primaries and ranked choice voting
15 system will conflict with the District charter,
16 potentially violate the U.S. Constitution, the
17 D.C. Human Rights Act, and could significantly
18 affect the District's budget.

19 It is crucial that we preserve the
20 integrity of our electoral process while ensuring
21 equal representation and fairness to all voters.
22 Because the initiative does not meet the

1 threshold requirements for qualifying for the
2 ballot, it should be denied. Thank you.

3 CHAIR THOMPSON: Well, thank you. We
4 really appreciate you being here and thank you
5 for all your written and in-person comments. All
6 right. Okay, next is Robert or Bob King.

7 MR. KING: Bob King. Good afternoon,
8 Mr. Chairman, and members of the Board. My name
9 is Robert Bob King, former ANC Commissioner for
10 Fort Lincoln for over 32 years, 10 years as the
11 civic association president for a total of 43
12 years, and I chair the Ward 5 Dems Senior COVID-
13 19 Commission.

14 The proposed ballot initiative would
15 authorize great discrimination, which is in
16 direct violation of the Home Rule, of the Human
17 Rights Act under trait four which is address --
18 disabilities and prohibited under Chapter 14
19 Title II of the D.C. official code, disability.

20 A disability is defined as a physical
21 or mental impairment substantially limiting one
22 or more life activities. Physical can include

1 auditory, speech, visual, neurological
2 impairment, mental, and include cognitive and
3 learning impairments.

4 According to the 2020 census, there
5 are 689,544 residents in the District of
6 Colombia, and according to the (audio
7 interference), 17 percent or 116,418 of these
8 residents are seniors over the age of 60.

9 They live behind door number nine
10 (phonetic) and they are the elders of the
11 village. 89,855 resides in Wards 1 through 6.
12 Seniors reside in public housing, public, private
13 housing, nursing home, group homes, home bound,
14 assisted living, homeowners, renters, rooming
15 houses, hospitals, and correctional facilities.

16 They are one of our most vulnerable
17 yet the most reliable and stable voting blocs not
18 only in the city, but in the country. Here's
19 some critical statistics to give evidence that we
20 must provide a ballot initiative assessment to
21 ensure seniors in D.C. are ready for this
22 monumental initiative petition.

1 A preponderance of seniors suffer from
2 the following: blind, visually impaired, physical
3 limitations, functionally illiterate, language
4 barriers, homebound, registered require the use
5 of a cane, wheelchairs, scooters.

6 A substantial number of these seniors
7 have to depend on Metro and other forms of public
8 transportation. 15,000 seniors live below the
9 federal -- below the federal poverty level. And
10 they only comprise 17 percent of the D.C.
11 population.

12 Senior health issues diabetes, heart
13 disease, lung disease, hypertension, dementia,
14 mental health, mental illness, and have the most
15 limited form of insurance, Medicaid and Medicare.

16 The disability status of D.C. 25.9
17 percent of the senior population have
18 disabilities. 18.5 of seniors 65 to 69 have a
19 disability.

20 65 percent of older black adults have
21 a disability compared to 30.3 older white adults.
22 Veterans comprise of 44 percent over 65. 17.1

1 percent of veterans have at least a connected
2 disability.

3 62.5 percent of senior blacks compared
4 to 45 percent of all of the D.C. residents. 58.6
5 percent older adults are unmarried. 54 percent
6 of seniors live alone, 14 percent higher than the
7 national level. Washington, D.C. has been deemed
8 the loneliest city in America.

9 D.C. has the highest rate of food
10 insecurity in the country. Seniors live on, 70
11 percent of seniors live on fixed income. 20
12 percent of black residents live below the federal
13 level compared to 9 percent of white residents.

14 65.5 percent of seniors are
15 homeowners. 28 percent are renters. Seniors on
16 the SNAP program have an average of \$23 a month.
17 If the District would be a state, it would, the
18 seniors would have the highest poverty rate in
19 the country.

20 Wards 3 and 4, Mr. Boggs and you,
21 Chairman, have the largest number of seniors over
22 85 and older. Ward 3, Mr. Boggs, and Ward 4, Mr.

1 Boggs, you have in Ward 4 19,362 seniors over the
2 age of 60.

3 Mr. Thompson, Ms. Greenfield, you have
4 17,587 over the age of 60. In my ward, I have
5 53,033. I have 68,084 for a total of 53,033
6 seniors that -- part of that 116,000.

7 CHAIR THOMPSON: So if you can wrap it
8 up? Yeah.

9 MR. KING: Yes, the issue, the ballot
10 initiative is the backdoor attack to achieve
11 ranked choice voting. Ranked choice voting turns
12 checkers into chess and upends our traditional
13 democracy in favor of a system that few
14 understand and virtually no one can explain,
15 especially seniors.

16 I would be totally remiss,
17 Mr. Chairman, if I didn't recognize Ms. -- if I
18 didn't recognize Ms. Monica Evans, Executive
19 Director, former Chairman Bennett, Melissa
20 Alexander who have been promoted, Alice Miller,
21 senior policy advisor, LaDawne White, the manager
22 of Education and Outreach Division and Cecily

1 Collier for Finance.

2 The reason I point that out,
3 Mr. Chairman, I've been working with Ms. Monica
4 for the past, since '20, going out to those
5 senior complexes.

6 What we are doing now revolutionize
7 how seniors are voting. We have containers and
8 not drop boxes that were purchased by the Chair -
9 - prior Chairman.

10 We go to the building at the Board of
11 Elections and do education and registration, come
12 back with those containers, and go and pick up
13 those ballots.

14 I maintain, Mr. Chairman, that the
15 only public transportation is the elevator. They
16 can get on the elevator, come down and get the
17 sticker that say I voted.

18 Failure to support this, you would go
19 down in the history as their greatest suppression
20 and modernization since the Voting Rights Act of
21 1965.

22 In the words of Spike Lee, Mr.

1 Chairman, do the right thing. And in the words
2 of James Brown, please, please and let
3 congressman, please, this is good trouble. Thank
4 you.

5 CHAIR THOMPSON: All right. Thank you
6 so much. I was going to call time, but if you
7 start complimenting the BOE staff, you can just
8 go on and on and on.

9 (Simultaneous speaking.)

10 MR. KING: -- Patrick Mahomes on what
11 you did with the Board of Elections.

12 CHAIR THOMPSON: I very much
13 appreciate that.

14 MR. KING: And I hope you get a
15 chance, before you vote, for the four of us to
16 meet and talk about all them people you've got up
17 in your ward.

18 CHAIR THOMPSON: Yeah. Thank you,
19 sir. Soon enough, I'll be one of them seniors,
20 myself. So Renee Bowser?

21 MR. KING: Thank you for being an ANC
22 Commissioner for eight years. And you've chaired

1 your ANC for four years. Chevy Chase, my hat
2 goes off to you.

3 CHAIR THOMPSON: While you're still
4 complimenting me, you can go, you can continue.
5 Thank you so much, sir.

6 MR. KING: I only waited till the
7 other 20 people.

8 CHAIR THOMPSON: All right.
9 Ms. Bowser, I think you're on by Zoom. I see you
10 there. Yeah.

11 MS. BOWSER: Good afternoon.

12 CHAIR THOMPSON: Good afternoon.

13 MS. BOWSER: How many minutes do I
14 have?

15 CHAIR THOMPSON: Three, please.

16 MS. BOWSER: Okay. All right, I'll
17 read fast. Good day members of the D.C. Board of
18 Elections. My name is Renee Bowser, and I'm a
19 Ward 4 resident and Ward 4 Committeewoman of the
20 D.C. Democratic State Committee. Also former ANC
21 Commissioner for 14 years.

22 I'm testifying today in opposition to

1 the open primary provision contained in the
2 proposed initiative. My testimony will show that
3 the provision as written is not suitable subject
4 for the ballot in the initiative process.

5 Specifically, the open primary
6 provision of Make All Votes Count violates the
7 Home Rule Act and severely burdens the First and
8 Fifth Amendment rights of the D.C. Democratic
9 Party members and voters under the U.S.
10 Constitution.

11 Initially, I want to say the summary
12 statement also of the Make All Votes Count Act
13 has been improperly filed because it's misleading
14 and inaccurate.

15 Although the ranked choice voting
16 system proposed in the initiative would result in
17 a preferential majority for the winner, the
18 winner does not receive an actual majority of all
19 votes counts. Therefore, the summary statement
20 is misleading and should be stricken. And I cite
21 the one study, but there are several studies that
22 talk about that.

1 Secondly, and more importantly, the
2 initiative open primary provision openly violates
3 the District of Columbia Home Rule Act as it guts
4 the Home Rule Act's requirement that the Mayor,
5 D.C. Council, and Attorney General be elected on
6 a partisan basis. Under the D.C. Code, it
7 defines the term partisan stating that when used
8 as an adjective means related to a political
9 party.

10 Further, under another provision of
11 the D.C. Code, it provides that a partisan
12 political group means any committee club or
13 organization that is regulated by the District
14 and that is affiliated with a political party or
15 candidate for public office in a partisan
16 election or organized for a partisan purpose or
17 which engages in partisan political activity.

18 Therefore the Mayor, D.C. Council, and
19 Attorney General to be elected on a partisan
20 basis, the Democratic Party must be able to elect
21 its own standard bearers to espouse the party's
22 values.

1 Contrary to the Home Rule Act's
2 mandate of partisanship, the open primary
3 provision states a duly elected voter who is not
4 registered as affiliated with any political party
5 shall be permitted to vote in the primary
6 election held by a single political party of that
7 voter's choice.

8 This would allow -- conservative
9 voters would be able to cast ballots for the
10 Democratic primary and thereby skew the platform
11 in the Democratic primary and nominee selected
12 for the general election because the general
13 election standard bearer of the Democratic Party
14 is selected in the primary.

15 So we would have to go with the most
16 conservative people for our candidate, and that
17 will thereby skew our voice. The third and most
18 fundamental problem with the Make All Votes Count
19 initiative is the open primary provision violates
20 the D.C. Democratic Party's members and voters
21 rights to freedom of association.

22 U.S. Supreme Court precedent provides

1 that the First Amendment protects the freedom to
2 join in furtherance of common political beliefs,
3 which necessarily presupposes a freedom to
4 identify those who constitute the association and
5 to limit association to those people only.

6 As a corollary, the Court precedent
7 provides that freedom of association would prove
8 an empty guarantee if associations could not
9 limit control over their decisions to those who
10 share the interests and persuasions that underlie
11 the association's being.

12 Like D.C. law, the California law
13 considered in Jones provided that political
14 parties can only nominate their candidates
15 through primaries. The Court concluded that the
16 initiative considered in that case imposed a
17 substantial intrusion into the associational
18 freedom of members to allow non-party members to
19 participate in the selection of the nominee in
20 violation of Democratic Party rules.

21 Nor did the proposed initiative serve
22 a compelling state interest because it was not

1 narrowly tailored.

2 CHAIR THOMPSON: Yeah, if you
3 summarize. Go ahead.

4 MS. BOWSER: Okay, in contrast to the
5 D.C. Home Rule Act's mandate of partisan
6 elections, a state law that was considered in
7 Democratic Party of Ohio v. Nago that provides
8 for an open primary and the state law provides
9 for an open primary and does not provide for
10 partisan registration and prohibits declaration
11 of party preference or nonpartisanship would not
12 be facially unconstitutional as a violation of
13 associational rights.

14 And I want to say that the Fourth
15 Circuit in Miller v. Brown held that the Virginia
16 law unconstitutional as applied because it
17 burdened parties' associational rights, even
18 though Virginia allowed nomination of candidates
19 by primary and other methods.

20 The Court held that the state's
21 interest in encouraging broad voter participation
22 cannot overcome the severe burden placed upon a

1 political party when it is forced to associate
2 with those who may not share its views. Thank
3 you.

4 CHAIR THOMPSON: All right, thank you
5 so much. I really appreciate all of that, and I
6 very much appreciate your written comments. When
7 I sat down to read everything over the weekend
8 this one really stopped me in my tracks, as I
9 said.

10 I spent a lot of time reading
11 everything you cited, all of the cases including
12 Miller v. Brown from your footnote four. It's a
13 difficult issue that we're going to have to
14 wrestle with. So I very much appreciate your
15 comments. So thank you. Okay, turning then to
16 Brandaun Dean. Thank you for being here.

17 MR. DEAN: Thank you. Brandaun Dean
18 representing Campaign X Policy. My name is
19 Brandaun Dean. My street name is Poda
20 (phonetic). I am a voter and a civically active
21 citizen of the Douglass Commonwealth.

22 I serve as director of the Southern

1 Christian Movement for Reparations, and as
2 principal of Campaign X Policy, which
3 unofficially operates and is based out of the
4 Martin Luther King, Jr. Memorial Library at 9th
5 and G.

6 Since 2017, Campaign X Policy, CXP,
7 has investigated more than 276 measures,
8 proposals, initiatives, and referendum on the
9 issue of democratic system protections, election
10 security, and ballot justice.

11 Pay extraordinarily close attention to
12 the merits of the testimonies by my colleagues,
13 Anita Shelton and Renee Bowser, who spoke so ably
14 about the threats that this particular initiative
15 poses to our system, or the progress thereof.

16 The U.S. Supreme Court's 1964 decision
17 in Reynolds v. Sims established the principle of
18 one person, one vote, OPOV, a doctrine which
19 requires every state legislative district to
20 contain roughly the same number of people.

21 When each representative has the same
22 number of constituents, people are equally

1 represented in their votes, have an equal
2 opportunity to influence policies in their state.

3 Section 110018A, ranked choice voting,
4 notwithstanding any provision of this Act
5 beginning with the June 2026 primary election and
6 all subsequent elections thereafter, ranked
7 choice voting shall be used for each primary
8 special and general election involving three or
9 more qualified candidates, for electors for
10 President and Vice President of the United
11 States, mayor, Attorney General, Chairman of the
12 Council, Delegate to the U.S. House of
13 Representatives, members of Council, members of
14 the State Board of Education, U.S. senator, U.S.
15 Representative Advisory Neighborhood
16 Commissioner, and any other elected office or
17 official as defined in this section.

18 The ADA requires election officials
19 conducting any elections at the federal, state,
20 and local level to provide communication with
21 voters with disabilities that is as effective as
22 that provided to others.

1 To ensure that voters with
2 disabilities can fully participate in election
3 processes, officials must provide appropriate
4 auxiliary aids and services at each stage of the
5 process for registering to vote or casting a
6 ballot.

7 Only if providing an aid or service
8 will result in a fundamental operation --
9 alteration or undue financial and administrative
10 burden is a jurisdiction not required to provide
11 the aid or service. I ask the question as a
12 Baptist living in the District and my --

13 CHAIR THOMPSON: Yes, take a few --
14 let's wrap it up though.

15 MR. DEAN: What does the Lord require
16 of me but to do justice? And to love kindness
17 and it comes not as a surprise that some
18 constituencies are turning to changes in voting
19 procedures on the theory that if elections were
20 run better, elected officials would better mirror
21 the preferences of voters.

22 When asked, are you familiar with the

1 MAVCA Act and will you sign my petition to
2 support it, are you familiar with ranked choice
3 voting and its practices, do you understand the
4 open primary systems, overwhelmingly, residents
5 were unaware. The design and methodology of the
6 current population census and surveys includes a
7 description of the data collection process. This
8 data, which is critical to the apportionment and
9 resource distribution, cannot be isolated in a
10 scenario where voters are compounded by deep
11 participation by a over-represented population.

12 CHAIR THOMPSON: All right, thank you.

13 MR. DEAN: Sorry, are we on the three
14 minutes or five?

15 CHAIR THOMPSON: You've taken four but
16 yeah.

17 MR. DEAN: I'm on the five minute
18 because I'm representing an organization, Mr.
19 Chair.

20 CHAIR THOMPSON: Okay. Yeah, but if
21 you can --

22 MR. DEAN: Ranked choice and instant

1 primary is unequal and breaks from the tradition
2 of basing election outcomes on whole numbers.
3 Basing election outcomes on unnatural data,
4 integers, and fractions becomes problematic when
5 we evaluate the over-representation of non-
6 disenfranchised racial -- racial, ability, and
7 gender identities.

8 Say that there are five candidates
9 running, but the voter ranks only three, all
10 three of those eliminated prior to the last
11 round. As a result, none of those votes would
12 have gone to a winning candidate, or the runner
13 up. In effect, their ballots don't figure into
14 the outcome.

15 The threats: prison gerrymandering,
16 malapportionment, uncompetitive election, and
17 instant primaries representing electoral
18 gentrification.

19 CHAIR THOMPSON: So now we're on five
20 minutes. Now, if you could wrap it up.

21 MR. DEAN: Yes, sir. Again, asking
22 the question as a Baptist living in the District,

1 what does the Lord require of me but to do
2 justice and love kindness?

3 I posit to this committee of three
4 that this initiative is neither just nor kind for
5 Douglass Commonwealth citizens who are voting
6 while black, while differently abled, while poor
7 or underliterate. Thank you, Mr. Chairman.

8 CHAIR THOMPSON: Thank you so much.
9 All right, we appreciate you being here. Okay,
10 Deirdre Brown. Deirdre Brown from Voters
11 Protections Collaborative may be on my Zoom. You
12 can raise your hand or I'll certainly take a
13 minute or two at the very end and make sure we're
14 not missing anybody. If we could go ahead with
15 Anita Shelton. Anita Shelton?

16 MS. SHELTON: Yes?

17 CHAIR THOMPSON: Yes. Go ahead.

18 MS. SHELTON: Thank you very much.
19 First of all, I'd like to correct the record. I
20 had noticed that you did not include my
21 information which I sent to you, on the record,
22 written information. So I would like to check

1 with staff. And if for some reason it didn't go
2 through, I'd like to make that available to you.

3 CHAIR THOMPSON: Yeah, we're happy to
4 receive that. Thank you.

5 MS. SHELTON: Thank you. I'm Anita
6 Bellamy Shelton, a super voter, and chairperson
7 of D.C. Women in Politics, which is a
8 nonpartisan, non-profit, diverse group for over
9 ten years working on behalf of women, educating
10 and advocacy.

11 Commissioners Thomas, Boggs, and
12 Greenfield, I potentially understand the dilemma
13 in which you have now been placed. One, you must
14 provide an opportunity for citizens to express
15 themselves, to change laws, and to modify laws,
16 even if they go to the sacred right of vote.

17 On the other hand, you must provide us
18 also an opportunity to be heard, and also to be
19 presented with content information from which we
20 can make intelligent votes. So we recognize the
21 nature of your responsibility.

22 And therefore, D.C. Women in Politics

1 will not take this time to talk about the merits
2 of the vote -- of the initiative, but to focus
3 your particular attention on some areas of
4 concern. First of all, we are concerned about
5 the title.

6 The title, which says Make All Votes
7 Count is at best incomplete, deceiving, and may
8 be unintentionally fraudulent. We therefore look
9 at your regulations, which outline the
10 responsibilities in the initiative.

11 It talked about brevity, it talks
12 about completeness, et cetera, et cetera.
13 Therefore, we determined after a careful review
14 of the title, and after -- and taking the stance
15 that we'd like to do, and that is what would a
16 reasonable person do if presented with this
17 title?

18 And we have concluded that a
19 reasonable person would probably vote not knowing
20 what they were voting for. We therefore
21 recommend --

22 CHAIR THOMPSON: If you could wrap it

1 up.

2 MS. SHELTON: Pardon me, sir?

3 CHAIR THOMPSON: It's been three
4 minutes if you could just wrap it up.

5 MS. SHELTON: I have five minutes.
6 D.C. Women in Politics, correct?

7 CHAIR THOMPSON: Yeah, I don't have
8 you listed as speaking for a group. But if you
9 could just, you know, wrap it up in about a
10 minute, that would be great.

11 MS. SHELTON: Well, I will, I will
12 wrap it up. I want to recommend to the Board
13 that you decline the title of this initiative,
14 and that you have the power to do so. That you
15 can either decline it or send it back for
16 revision, or you can present, according to your
17 rules, a revised title.

18 The only appeal that the group would
19 have is to take us, take you and the citizen into
20 court. My final opportunity is to address the
21 question of appropriated funds.

22 You have heard many arguments on that

1 regard that I'd like to talk about a little novel
2 approach. We are not talking about future
3 expenditures. We're talking about expenditures
4 in this fiscal year.

5 We contend that there is a need for
6 the Board to expend funds if you're going to
7 protect the integrity. One, you need to engage
8 in a voters guide that talks about the
9 initiative.

10 You need to assist in developing cost
11 analysis, certain things which are not covered in
12 the current budget. So we're not talking about
13 future expenditures.

14 We're talking about current, the need
15 for current expenditures in this particular
16 fiscal year. So therefore, the question of
17 whether or not it applies is moot because we're
18 talking about the future here.

19 The Board therefore has no other
20 alternative but to reject or decline this
21 application for cause. The cause being that you
22 do not have the resources to do the job. Thank

1 you very much for the opportunity to participate.

2 And we look forward to working closely
3 with you as you ponder this revolutionary thought
4 of whether or not an initiative can violate the
5 Constitution, can violate the Home Rule Act, and
6 can be dealt in a way that is not appropriate to
7 the interests of the voters. Thank you very
8 much.

9 MS. BRIZILL: Good afternoon. My name
10 is Dorothy Brizill, and I'm the Executive
11 Director of D.C. Watch, a good government
12 organization.

13 I would like to ask two procedural
14 questions before I give my testimony. First, can
15 you tell me when the record will close and
16 whether or not submissions can be submitted to
17 the Board before it makes its decision?

18 CHAIR THOMPSON: My mic wasn't on. If
19 you'd like to submit additional written
20 testimony, please do. The prior speaker is going
21 to submit some; you're welcome to also.

22 MS. BRIZILL: My second procedural

1 question is will you make available the witness
2 list so that people can see the individuals as
3 well as their organization affiliations that are
4 testified today since it was not available during
5 the course of this hearing?

6 CHAIR THOMPSON: Yes.

7 MS. BRIZILL: That's not a complete
8 witness list, what I was handed. This is not a
9 complete witness list.

10 CHAIR THOMPSON: Okay. Well, yes,
11 obviously as you can see, some witnesses are
12 appearing today and for the first time, to our
13 knowledge, and we'll certainly --

14 MS. BRIZILL: The reason I ask this is
15 because you were asked to sign up by four o'clock
16 last Thursday. So you have to go online and do
17 it. So I know there is a record, and you have
18 been reading from a list.

19 CHAIR THOMPSON: The Chair's
20 prerogative is to permit witnesses to testify up
21 until the day of the hearing, and I permitted
22 people to testify today.

1 And I'm going to ask at the end, after
2 you're finished, if there's anybody else who
3 wants to testify. We'll amend the witness list
4 when this is concluded and certainly make it
5 available.

6 MS. BRIZILL: I'm not addressing the
7 issue of the chairman's prerogative. I'm asking
8 the chairman, in terms of making available on the
9 website, or by email, a copy of the witness list
10 so people can see who testified and what
11 organizations were represented today.

12 It's not your -- it's not a question
13 of your prerogative as chairman, if you want to
14 go there. It's a question of whether or not
15 you're going to make this information available
16 to the public.

17 CHAIR THOMPSON: I think I just said
18 that I -- that we would, yes.

19 MS. BRIZILL: Okay, but this is not
20 it. Again, my name is Dorothy Brizill. I'm the
21 Executive Director of D.C. Watch. For more than
22 20 years, I have attended monthly Board meetings

1 of the Board of Elections.

2 I am quite familiar with the issue of
3 initiatives and referendum. The issues that have
4 been discussed by and large today are not really
5 relevant.

6 The issue before the Board today is
7 whether or not the Board can approve this
8 initiative as a proper subject for an initiative.
9 As you know, there are seven issues by which --
10 matters by which you cannot propose an
11 initiative.

12 The sixth and the seventh one refer to
13 the measure cannot -- the measure cannot be
14 approved if it would negate or limit a budgetary
15 act of the D.C. Council, or the measure would
16 appropriate funds.

17 The proponents of this initiative have
18 come up with a unique solution to the
19 appropriation question. They have added a
20 Section 5 from the original version of the
21 initiative to essentially say the matter would be
22 subject to appropriations.

1 I have never heard that used -- phrase
2 be used before. Nor has it been relied upon over
3 the many years by anybody who has proposed an
4 initiative before the Council, before this body.

5 I would like to submit for the record
6 testimony that Monica Evans, our Executive
7 Director on the Board of Elections, gave on
8 November 18, 2021, regarding the Voter Ownership,
9 Integrity, Choice, and Equity Amendment Act of
10 2021.

11 It's a virtual carbon copy of the
12 initiative that's before you today. In it,
13 Monica Evans goes into detail about the cost of
14 implementing ranked choice vote.

15 As you also know, the experience of --
16 recent experience of Arlington when they did not
17 have sufficient funds or use sufficient funds to
18 do a voter education campaign.

19 So first and foremost will be the need
20 for a very costly, very costly, voter education
21 campaign. The need to modify our ballot design,
22 the need possibly for new voting equipment, and

1 certainly for new software. Moreover, the
2 tabulation of the vote will go through multiple
3 rounds, calling upon additional personnel to do
4 so.

5 I would like to close by commenting on
6 something in the OAG's Memorandum to the Board.
7 I find it interesting, ironic, and almost comical
8 that he would say -- he would say that the issue
9 is moot as regards the appropriation of funds.
10 And he uses this logic.

11 The Board is already charged with
12 administering the underlying elections. It is
13 possible that the proposed initiative would not
14 impose any additional costs. It is also
15 possible, however, that the proposed initiative
16 will propose additional costs. What is it?

17 Any person who knows how elections are
18 conducted in the District of Columbia, as has
19 Ms. Evans in her testimony a couple of years ago
20 indicated, there will be substantial, substantial
21 additional costs in doing ranked choice voting.
22 Thank you.

1 CHAIR THOMPSON: Thank you,
2 Ms. Brizill. We appreciate your testimony.
3 Okay, I've gone through all the names on the
4 sign-up list. I've passed over a few.

5 So let me make sure everybody has the
6 opportunity. Let me start with people in the
7 room here in person. Is there anybody else who
8 would like to testify? Here comes a gentleman.

9 If there's anybody else, if you could
10 take the other chair? At this point, good
11 afternoon, and just tell us your name and take
12 three minutes, please.

13 MR. MEADOWS: Good afternoon. My name
14 is David Meadows, a D.C. resident and longtime
15 voter, a member of the D.C. Democratic Party, and
16 I'm here to not speak in favor or against ranked
17 choice voting.

18 What I am here is to speak to the
19 provisions that the Board must consider when they
20 are accepting or rejecting an initiative. And
21 basically, you have those provisions.

22 I think that this initiative violates

1 the provision of the U.S. Constitution. As it's
2 been discussed earlier, we already have spoken
3 about the Home Rule charter, about the
4 establishment of our federal district, Article
5 One, Section Eight of the U.S. Constitution,
6 which imposes Congress the rights to exercise
7 authority over the District and territory.

8 And so basically, the Home Rule, Home
9 Rule Act was passed in 1974. And so they set the
10 precedents on how our elections would be
11 conducted.

12 And so that needs to be upheld. To do
13 so would go against Congress, would go against
14 the Constitution, exactly like the U.S. Supreme
15 Court of the year 2000.

16 That is the Democratic Party of
17 California v. Jones, and they upheld seven to two
18 the right of the U.S. First Amendment, the right
19 to assemble and to join together. They upheld
20 that that blanket primary that was proposed for
21 California was unconstitutional.

22 So when you look at those two

1 revisions, this initiative proposal should be
2 rejected. Also, I would argue that it
3 discriminates against those that are elderly, are
4 seniors, those that have second language, that
5 English is their second language, and those that
6 have disabilities.

7 Ranked choice voting studies, and I
8 will, before your deadline, I will send you some
9 studies that have shown how negatively it affects
10 elderly, those with disabilities to rank the
11 votes properly.

12 So not only does it violate one of
13 your statutes for the Constitution, it violates a
14 statute, in my opinion, against those with
15 disabilities.

16 And others have spoken to the effect
17 of the funding and the appropriation. And to
18 follow up earlier, you were asking about the D.C.
19 Council's appropriations. The city Council, they
20 passed many, many pieces of legislation that have
21 not been funded.

22 And then when the budget comes around,

1 if they fund it, they do. But there is a list at
2 dccouncilbudget.com. And it will have a list of
3 all the laws that our Council passes that are not
4 funded. And so therefore, they're not enacted
5 into law. Thank you.

6 CHAIR THOMPSON: Thank you, Mr.
7 Meadows. I appreciate that. Seeing nobody else
8 here that would like to testify, is there anybody
9 on by Zoom who would like to take a minute or two
10 to also testify regarding our subject matter.
11 And you would probably have to raise a Zoom hand
12 to let us know.

13 We have 66 participants by Zoom.
14 Thank you, everybody, for being here. We
15 appreciate you sticking with us. We know this is
16 an important issue to a lot of people and to
17 everybody in D.C. Okay, well seeing no hands
18 raised, I want to first thank everybody.

19 Hold on. We've already heard from Ms.
20 Bowser. So it -- I don't know if it --

21 MS. BOWSER: I have a brief question,
22 if I may?

1 CHAIR THOMPSON: Okay, go ahead. Yes.

2 MS. BOWSER: Will you in your decision
3 address point by point the cases that I cited and
4 even more with regard to the issue of the right
5 of association and the encroachment upon that
6 right?

7 Not just in generalities, but very
8 specifically, because I really believe that the
9 D.C. Home Rule Act and the provisions I --
10 defining what partisan political party means, you
11 know, we just can't throw that aside.

12 And so I really -- I heard some people
13 earlier basically saying oh, well, that doesn't
14 mean anything that there's supposed to be
15 partisan political parties.

16 But I think you really need to give
17 some detailed analysis as to why the Home Rule
18 Act and the U.S. Constitution don't prevent this
19 initiative as far as the open primary.

20 CHAIR THOMPSON: Yeah, thank you for
21 that. We certainly will address every issue
22 that's been raised, including the issue of

1 whether the proposed semi-open primary system
2 would violate the Constitution or the Home Rule
3 Act.

4 Every issue that's been raised in all
5 the written comments, we will address it. I
6 can't promise we'll discuss every case that's
7 been cited, but we'll probably discuss many of
8 the cases. In that regard, I would imagine we'll
9 certainly make mention of the Supreme Court's
10 decision in Jones. So, but we don't know yet.

11 And so, also, again, I wanted to thank
12 everybody for all your testimony, written and
13 live. It's been really, really informative.

14 And I think what we've all absorbed
15 here today is we still have a lot of work to do
16 to get our heads around all of these issues and
17 issue a proper and thorough ruling, as Ms. Bowser
18 just suggested. So we just need more time. So
19 what I'm going to do is make a motion that we go
20 into Executive Session.

21 My motion is under the D.C. Code, 1-
22 275(b)(13), which allows us to go into executive

1 session to deliberate on a decision and
2 adjudication action or proceeding by a public
3 body exercising quasi-judicial function.

4 So Executive Session, that just means
5 we sit in a conference room and hash it out until
6 we come to a conclusion. And we, sometimes -- or
7 frequently, we go into Executive Session right
8 away, spend about a half an hour to maybe two
9 hours, make our decision, come back and issue it.

10 But I think we need more time. And a
11 lot -- we have to read a bit more as well. So as
12 I mentioned, my motion includes leaving our
13 record open until Friday at noon.

14 We will be in Executive Session at
15 some point between now and Friday afternoon. And
16 I'm not sure if we'll come back on the record
17 Friday afternoon.

18 But it -- that's my aspiration, I
19 can't, I won't promise it but around two or three
20 or four o'clock, perhaps we'll come back on the
21 record. And you'll hear our decision.

22 We'll certainly provide public notice

1 in advance of that date, of that time as we
2 become more certain. We might need -- we may
3 need the weekend into next week, I'm not sure.
4 So we'll make sure everybody knows that by public
5 notice. So with that, which would also include
6 adjourning this meeting otherwise.

7 Or let me, let me, let me just with
8 respect to the proper subject matter issue that's
9 before us. On that issue, I'm going to move we
10 go into Executive Session. Assuming it passes,
11 we'll table it, and we'll come back for
12 additional public comment presenting.

13 MR. BOGGS: I second.

14 CHAIR THOMPSON: All in favor?

15 (Chorus of aye.)

16 CHAIR THOMPSON: The motion passes.

17 And before we all stand up, we generally in our
18 regular meetings just have open, basically open
19 mic for public comment about what's happening.
20 We certainly have heard everything I think we
21 need to hear about the proposed voters
22 initiative.

1 So at this time, is there anybody who
2 would like to take a few moments to speak about
3 something else? Yes, Ms. Rice, if you'd like to
4 come to the mic?

5 MS. RICE: Thank you. I want to thank
6 everyone in front of me. I also want to thank
7 all the witnesses supporting and against this
8 initiative.

9 This is about democracy and this is
10 how democracy works. So I'm very happy to have
11 heard from people on all sides of the issue
12 today. And I'm very, very excited for what's
13 going to happen next. And thank you so much.

14 CHAIR THOMPSON: Thank you. I really
15 appreciate that. Anybody on Zoom? Just scroll
16 down. Let's see if we're missing any hands. And
17 seeing none, I will -- see, that's what we're
18 doing right now, yes. We have one last witness.

19 MS. BRIZILL: Again, my name is
20 Dorothy Brizill. I'm Executive Director of D.C.
21 Watch. I have a matter that I'm bringing to the
22 Board meeting because it's perhaps the only way

1 I'll get an answer. I would like to ask the
2 chairman and Monica Evans, the Executive Director
3 of the Board, how are personnel vacancies filled
4 by the Board?

5 MS. EVANS: We have a director of
6 human resources that works with the Board that is
7 on staff, and she works with DCHR. And so we are
8 responsible for developing the PD. And once we
9 develop the PD, we work with --

10 MS. BRIZILL: What's the PD?

11 MS. EVANS: The Program Description
12 for the position. So, yeah, the position
13 description for whatever the vacancy is.

14 MS. BRIZILL: And you work with the
15 Department of Human Resources to fill the
16 position?

17 MS. EVANS: Yes, we send that and they
18 actually post, so our positions are posted on
19 DCHR website. And then we also use other venues
20 such as NASED, National Association for State
21 Election Directors, and Election Center and -- to
22 make sure that we're trying to cast a wide net

1 with our vacancy announcements.

2 MS. BRIZILL: Approximately three
3 weeks ago, you gave testimony before the Council
4 in which you indicated that one position you were
5 seeking to fill for the Board of Elections was
6 Communications Director.

7 MS. EVANS: Yes, ma'am.

8 MS. BRIZILL: I not only went on the
9 website of the Department of Human Resources, but
10 I also called and spoke to an associate of the
11 director there.

12 That position had never been posted
13 over there, okay? And indeed, there were no
14 positions for the Board of Elections posted on
15 the Board -- on the website of the Department of
16 Human Resources.

17 Can you tell me how long you believe
18 you have been posting positions with the
19 Department of Human Resources? And if you're not
20 posting them, where are you posting them?

21 MS. EVANS: Well, we are. I'm not
22 exactly sure I can speak to the information you

1 were given. But I can provide the information
2 that we sent to DCHR.

3 And I can work with my director and
4 get that to you. But we have been sending and
5 individuals have been finding those positions and
6 applying. So I'm not exactly sure what the
7 disconnect is.

8 MS. BRIZILL: So you are looking for
9 a Communications Director?

10 MS. EVANS: Yes, ma'am.

11 MS. BRIZILL: If you go on the website
12 of the Department of Human Resources, it's not
13 posted now at all.

14 MS. EVANS: Well, it is currently
15 closed. And so we're in the interview process
16 right now. But it was posted, and we are
17 looking, so we're currently in the interview
18 process for that position.

19 CHAIR THOMPSON: Thank you so much.
20 Mr. Schiller, something other than the Voters
21 Initiative?

22 MR. SCHILLER: Procedural. So the

1 witness testimony that was required to be
2 submitted, there was a deadline of last Thursday?

3 CHAIR THOMPSON: Yeah.

4 MR. SCHILLER: And so you have decided
5 to extend the testimony? There shall be another
6 --

7 CHAIR THOMPSON: Yes.

8 MR. SCHILLER: -- public hearing, or
9 the executive session will be rendered in private
10 -- or the decision will be rendered in private,
11 will be made public?

12 CHAIR THOMPSON: No, you or anyone
13 else can submit additional written testimony
14 through Friday at noon.

15 MR. SCHILLER: Okay.

16 CHAIR THOMPSON: We will deliberate in
17 private, and then hopefully on Friday afternoon,
18 we'll come back on the record and simply,
19 essentially, announce our decision.

20 MR. SCHILLER: In a public forum?

21 CHAIR THOMPSON: Yeah. Oh, yeah.

22 MR. SCHILLER: Okay, so they'll be

1 another hearing similar to this one?

2 CHAIR THOMPSON: But there won't be
3 testimony.

4 MR. SCHILLER: Right, right, right.

5 CHAIR THOMPSON: It'll just be we'll
6 come out of Executive Session. Somebody will
7 make a motion.

8 MR. SCHILLER: There will be a
9 memorandum issued on --

10 (Simultaneous speaking.)

11 CHAIR THOMPSON: -- a written opinion.
12 Yeah, we don't rule in the Executive Session. We
13 rule formally --

14 MR. SCHILLER: This is the first time
15 in subject matter determination hearings that
16 it's been extended. It's usually the witness --

17 CHAIR THOMPSON: Right.

18 MR. SCHILLER: -- everything is
19 provided. You go into Executive Session. We
20 take a break. You come back and render the
21 decision. So this is a new procedure?

22 CHAIR THOMPSON: Yes, we just need

1 some time.

2 MR. SCHILLER: Thank you.

3 CHAIR THOMPSON: Thank you. With
4 that, I'd move we adjourn. All in favor?

5 (Chorus of aye.)

6 CHAIR THOMPSON: Thank you, everybody.

7 (Whereupon, the above-entitled matter
8 went off the record at 1:45 p.m.)

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In the matter of: Board Meeting

Before: DC BOE

Date: 07-18-23

Place: teleconference

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