

Testimony of George Gilbert  
Director of Elections  
Guilford County, NC  
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Subcommittee on Elections  
US House of Representatives  
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I am Director of Elections for Guilford County, NC (Greensboro, High Point) with roughly 355,000 registered voters. I have been in this position since February, 1988. In a former life, I was a Legislative Assistant to Senator John Culver (IA.) (1976-1980) and Senator Chris Dodd (CT) (1981-1982). In recent years I have served on the Election Center's Task Force on Election Law and currently Co-Chair the Legislative Committee of that organization. I have participated regularly in National Academy of Science and American Association for the Advancement of Science workshops on electronic voting and Federal Election Assistance Commission working groups on election management guidelines.

I was asked to address my remarks to the experience of the 2008 General Election....specifically to the question "what did we do right"....and I might add...."what can we do better?"

I would like to address my initial remarks in this regard to election administration nationwide before focusing on specific elements of North Carolina's experience. In a nutshell, election administrators were better prepared for the 2008 general election than ever before.

WE were better educated.....thanks to programs like The Election Center's Certified Election/Registration Administrator program and other state and national educational efforts.

WE were better funded.....thanks both the HAVA and to a greater awareness at local and state levels of the necessity to provide adequate resources to the administration of voter registration and elections.

WE had greater stability.....thanks to the lack of changes to HAVA in the intervening years...especially last minute changes, many of which were under consideration as late as last spring and summer.

In 2008 we did more....we did it better....but we did it in the same spirit...we did it with the same commitment that has been at the heart of our efforts for, at least, the three decades of my active involvement in the political system of this great Republic.

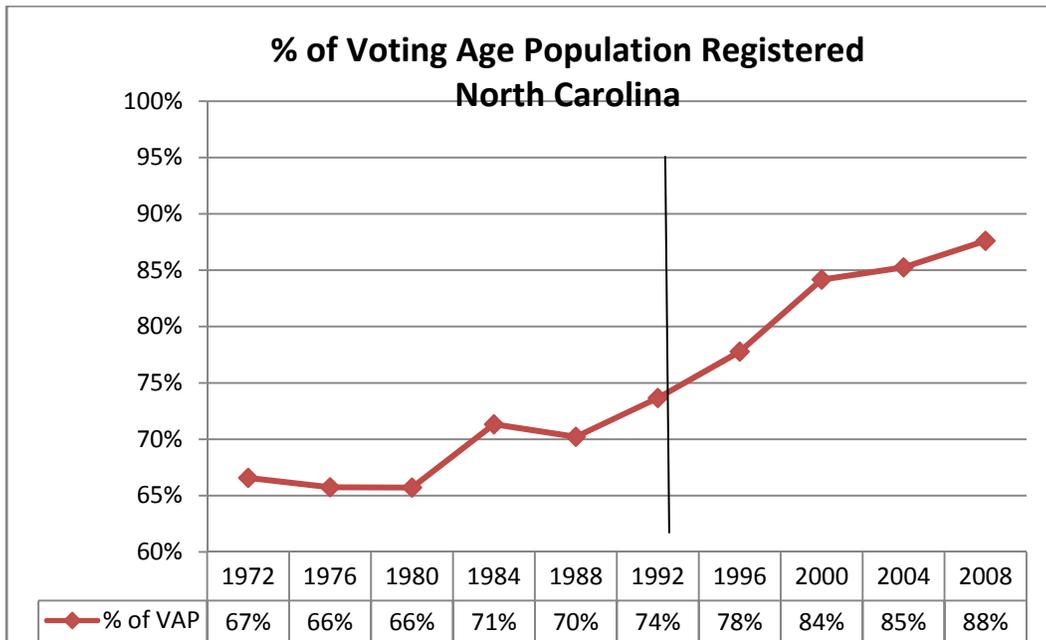
### **Voter Registration**

Having said that, I would like to share with you some of the things that I feel contributed most, in North Carolina and in my county of Guilford, to the largest, yet most uneventful election in memory. (I use the term “uneventful” in the sense of its meaning for election officials.....that is, after the election, we were largely invisible.)

Elections rest on the foundation of voter registration. *Cetera parabus*, as my economic professors used to say, “all other things being equal,” a good voter registration database will yield a good election. Again, for an election official, the term “Good” refers to the process rather than outcome of the election.

It can certainly be argued that, prior to 1964, limiting the franchise was among the chief functions of voter registration. This convention was reversed, in 1964, by the ratification of the 26<sup>th</sup> Amendment and the passage of the Voting Rights Act. The National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA) cleared away many of the remaining procedural barriers to registration. Chart 1, shown below, depicts the rapid increase in the percent of voting age population registered, in North Carolina, following the passage of the NVRA. The increase from 74% in 1992 to 88% in 2008 represents a truly significant success story.

Chart 1



The chief remaining barrier appears to be lack of initiative or lack of foresight by otherwise qualified voters. This is not intended as a criticism of citizens.....it is intended merely as an observation of human behavior.

Even this barrier has been surmounted in numerous states with “election day registration.” This innovation, however, has raised a number of, arguably legitimate, concerns regarding the integrity of the process as well as its administrative desirability. These will be addressed in greater detail later in this presentation.

North Carolina, beginning in 2007, chose to pursue an intermediate course. This was to offer “same-day-registration” during the early voting period with these late registrants being subject to stringent ID requirements. Under North Carolina’s absentee voting law, these “no-excuse absentee” ballots remain identifiable and retrievable. “Verification” notices are promptly mailed following a “same-day-registration” and, if returned undeliverable, the voter’s ballot is removed and not counted.

In the 2008 General election, 6,100 (2.5%) of Guilford County’s 244,000 voters exercised their right to vote by way of the “same-day-registration” process. Statewide in North Carolina 105,000 “same-day-registration” ballots were cast during early voting in the 2008

election. This represented more than 2.4% of the total 4.35 million votes cast. These citizens would not have had the opportunity to vote in the 2008 election had not North Carolina adopted “same-day-registration.”

“Same-day-registration” served a substantial percentage of the previously unregistered voters.....but a significant number remained on election day. Another 27,000 voters statewide cast provisional ballots that were not counted (See Chart 2 on next page) .....most of these were election day provisional ballots that were denied for failure to be properly registered.

Is then, election day registration the answer to this problem? For all the benefits of “same-day” or “election day” registration, the administrative burden alone would be formidable. Same-day-registration during early voting in North Carolina resulted in long delays for many of these late registrants. Each had to fill out a voter registration application. This information then had to be entered into the electronic pollbooks at the early voting sites. Each voter was required to provide identification documenting their name and address of residence before being authorized to vote. All this took considerably more time than did serving a preregistered voter. During busy times, with numerous unregistered voters appearing to vote, long waits resulted.

Completing the processing of these registrations in the central database, after the close of polls each evening, substantially increased the data processing personnel and work hours demanded during this period. “Verification” notices were mailed to each voter within 48 hours (or as soon as possible) and any such notices returned undeliverable had to be recorded and the voters identified. This, of course, was right at the time of our greatest demand for early voting support from the experienced office staff.

We were reasonably effective in processing the 6,100 same-day-registrations we experienced during the 2008 early voting period. In states where election day registration has been used for a number of years, however, most have experienced ever increasing volumes of election day registrations. As voters become more aware of the “same-day” or “election day” registration option, more appear to avail themselves of it. 6,000 voters

becomes 12,000 voters and 24,000 voters over time. Limiting or discouraging this by letting their wait times become longer and longer is not an acceptable option.

The lengthy waits some voters experienced in 2008 were, quite frankly, distressing and disturbing not only to the voters but also to both the office staff and to the pollworkers at the early voting sites. Disturbing.... and exciting in many ways..... This was our first major election with same-day registration. I personally tracked our daily progress in same-day-registrations and shared the ever increasing numbers with staff who received them with enthusiasm.... and dismay. They knew that processing large volumes of unregistered voters during the voting process would be time consuming and would compete directly for the limited resources and expertise needed to efficiently and effectively conduct the voting process. They knew the hours that would be required of them and they gave those hours....70-80 per week for more than a few of them. Exhausted workers make mistakes... they are aware of this....but they make fewer mistakes than inexperienced workers.

Registration information submitted by citizens is often incomplete, illegible or ambiguous. Resolving omissions and ambiguities requires research and individual attention. Whenever possible, in Guilford County and in most elections' offices, these cases receive that attention. With "same-day" or "election day" registrations, our ability to resolve such problems are limited by the lack of time and resources.

If our objective is to make voting a true "right of citizenship"....to enable all eligible citizens to vote while excluding those who are not eligible, the states must assume a more active role in identifying the eligible and enabling their right to vote. There are clear advantages, to both government and its citizens, of establishing the best possible preelection lists.

It is doubtful that government alone can produce a complete and accurate account of eligible citizens. Establishing "residence for voting purposes" requires citizen input.

While I am here today representing only my own county and my own experience, I also am a Co-Chair of the Election Center's Legislative Committee. When this committee met in January, voter registration issues emerged at the top of our agenda. Among the chief

questions we are investigating is whether or not automatic registration of eligible citizens would be preferable to existing registration procedures.

My prediction is that we can and will find a blend of government and citizen initiative far superior to anything we are doing, or even envisioning, today. "Same-day" early voting registration or "election day" registration can provide an important safety net for those missed in pre-registration.....but these will work far better if their need is minimized.

The Election Center and the National Association of Election Officials will welcome the opportunity to work with this committee to find that blend of registration options that will finally make voting a true "right of citizenship."

In addition to adding voters to the registration rolls....nationwide as well as in North Carolina.....the NVRA and HAVA have contributed to the quality of the registration databases. HAVA resources, particularly, have enabled the State to improve integration of the voter registration process with the DMV and among the counties. All DMV data is now transmitted electronically and without duplicate data entry. Likewise, moves between counties are monitored and, where possible, cancelations are executed automatically at the central database level. All documents are now digitized enabling more efficient storage and handling as well as rapid retrieval. I should note that many states have not yet realized the level of automation and database integration that has been achieved in North Carolina. Even with what we have accomplished, we have many improvements yet to make.

We believe these advances have been accomplished without compromising voter privacy or the security of voters' personal information. These factors clearly come even more to the fore as questions such as automatic voter registration and inter-state data sharing are addressed.

### **Provisional Voting**

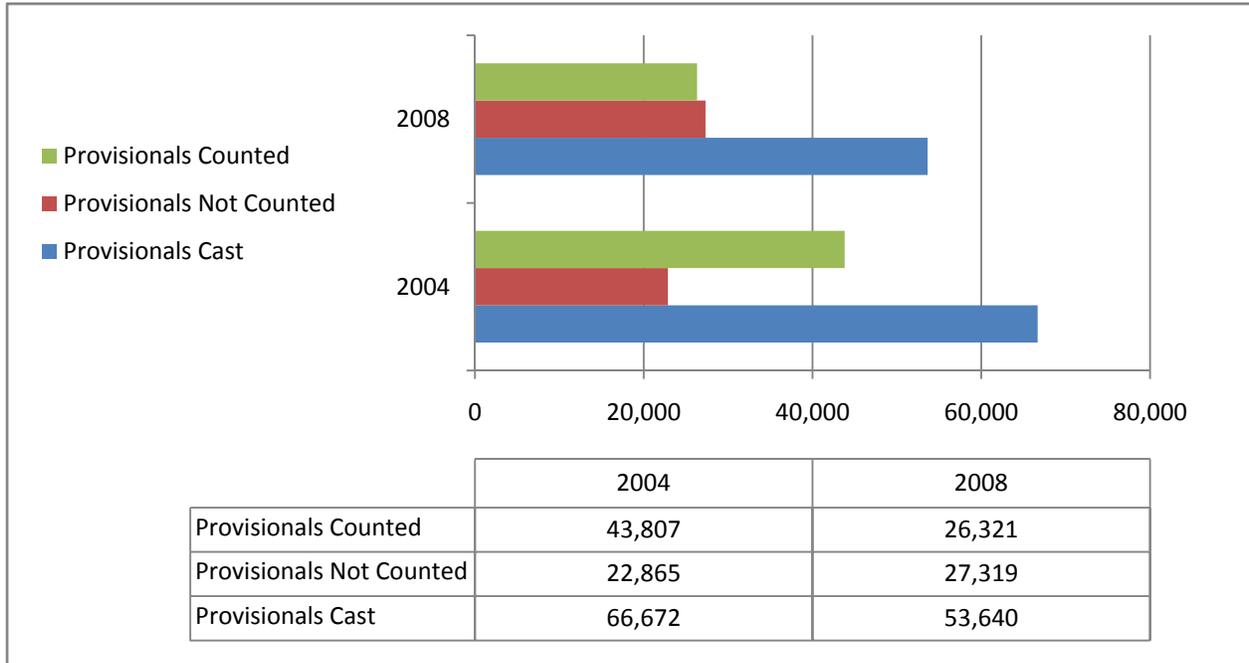
The experience with provisional voting is another good indicator of problems and progress within the election process. Such numbers, however, must be viewed with knowledge of

the local context. For instance, Chart 2 (next page) depicts the North Carolina provisional voting experience for the past two presidential elections.

Chart 2

## Provisional Voting in North Carolina

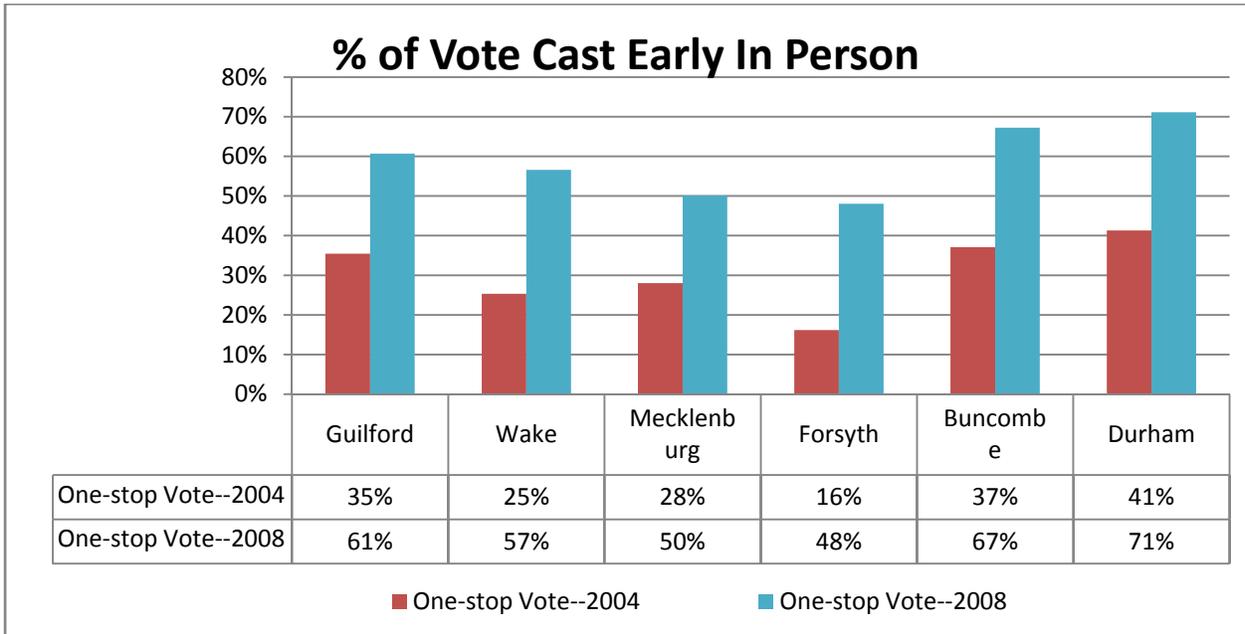
2004 &amp; 2008



North Carolina experienced a substantial increase in voters from 2004 to 2008 (3.5 million to 4.3 million, +23%). Never-the-less, we experienced a decline in provisional voting. This decline can be attributed to several factors. Chief among these was, as mentioned above, the institution of “same-day-registration.” Many voters who failed to register prior to the close of books were able to register and vote during early-voting rather than being required to cast a provisional ballot (which in most cases would not have been counted).

A significant increase statewide in early voting, from 25% in 2004 to 55% in 2008 was another factor. This increase is illustrated in Chart 3 below for selected NC counties. In 2004 early voting in the six largest NC counties ranged from 16% to 41%. In 2008 early voting ranged from 48% to 71% across these counties.

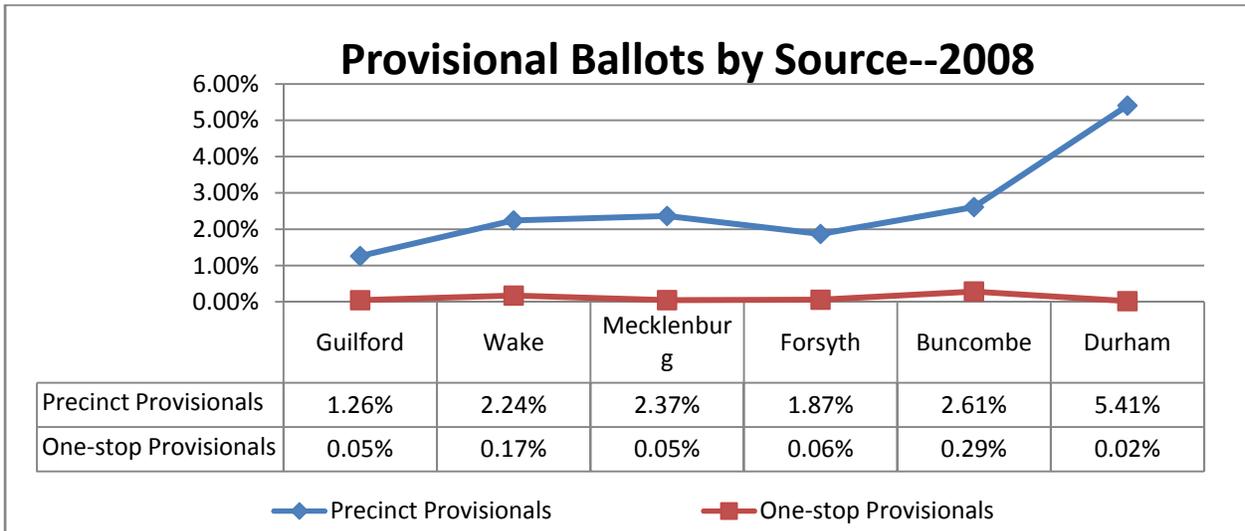
Chart 3



In addition, as illustrated in Chart 4, the rate of provisional voting in early voting was only a small fraction or what it was on election day. This difference can be largely accounted for by four factors:

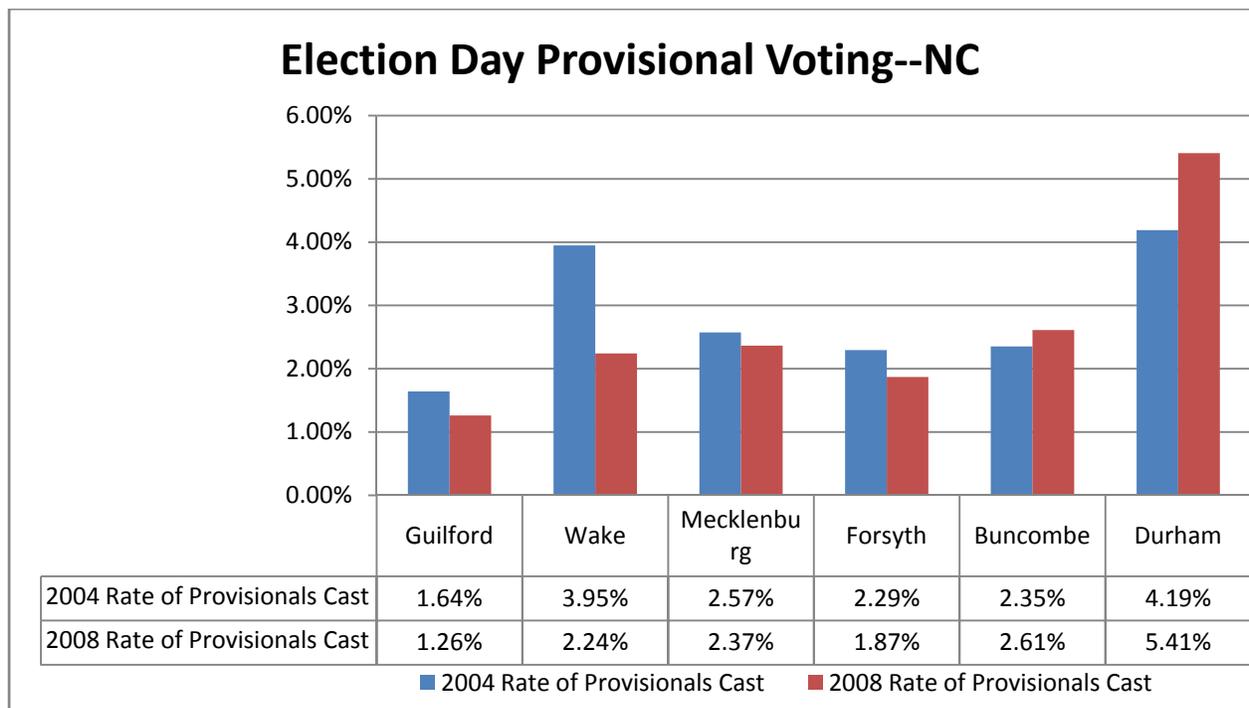
1. The availability of “same-day registration”
2. The availability of all ballot styles at early voting sites...obviating “out-of-precinct” provisional votes
3. The existence of electronic pollbooks at early voting sites and
4. Greater experience and training of early voting pollworkers

Chart 4



The beneficial effect of electronic pollbooks can also be seen at the precinct level. Guilford, Wake and Mecklenburg counties, in 2008, extended the use of electronic pollbooks in all precincts on election day. As depicted in Chart 5, these counties actually experienced a decline in the rate of precinct provisional voting in 2008 whereas Buncombe and Durham counties experienced an increase. These latter counties had only limited or no use of electronic pollbooks in the precincts on election day.

Chart 5



Guilford County's overall lower rates of precinct provisional voting can be attributed largely to the use of electronic pollbooks in the precincts beginning in 2004. Guilford's precinct officials have had four years of experience in the use of electronic pollbooks thus are likely to have applied them more effectively in 2008 than officials in other counties not as accustomed to their use.

One additional observation that illustrates the importance of "context" when comparing provisional voting data is that in 2004 in Wake County and in both 2004 and 2008 in Durham County, precinct transfer voters, those who have moved but not reported their new address, were all voted as "provisional" voters. In the other counties, these "transfer" voters were simply directed to their new precincts to update their address and allowed to vote as regular voters (in accordance with NC law.) This substantially accounts for the

relatively high rates of “provisional” voter in Wake County in 2004 and in Durham County in both 2004 and 2008. Reversal of this practice also accounts for the significant decline in “provisional” voting in Wake County in 2008.

Certainly the overall experience, in North Carolina during the 2008 election reflects significant improvement over the 2004 experience. We experienced record high voter registration and record high voter participation both with substantial declines in provisional voting and no contested elections.<sup>1</sup> Improved voter registration procedures and databases, the widespread availability of “early voting,” “same-day-registration,” use of electronic pollbooks and more experienced, better trained, election workers all contributed to this result.

I would be remiss if I did not point out that these improvements required a significant increase in resources in the elections’ arena. HAVA stimulated....and, in part, funded ..... improvements in voter registration databases. In North Carolina alone, this investment has run into the millions of dollars. HAVA funds also supplemented state and local funds for expansion of early voting and wider implementation of electronic pollbooks. Ironically, the replacement of voting equipment, by far the most expensive HAVA mandate, probably contributed less to improving the election than the other innovations discussed.

Notwithstanding the HAVA investment, the increase in local resources demanded by the 2008 election was substantial. In Guilford County, the only county for which I have hard data, the direct costs of the 2008 general election exceeded \$800,000. No previous election had ever generated direct costs in excess of \$450,000. Further, the largest share of these increases was in operational costs with the largest increases coming in voter registration processing and in conducting early voting (both by-mail and in-person).

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<sup>1</sup> It should be acknowledged that a lack of extremely close contests is always the chief determinant of a lack of contested elections. From everything I have heard and read, the State of Minnesota did an excellent job of conducting the 2008 election. No election is going to be free of ambiguous situations.

The environment that enabled this huge expansion of funding (local, state and federal) for elections has evaporated. Elections has never carried much fat. Cuts being demanded now are extracting sinew and muscle. Without adequate resources, we can go backwards as quickly as we have advanced. That is currently where we are headed.