

1 BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON ELECTIONS

3 -----

4 Public Hearing Held In The Matter of
5 State's Voter Registration Laws
6 and Regulations

7 -----

8 Erie County Hall
9 94 Franklin Street
Buffalo, N.Y.

10 April 23, 2009
11 10:15 a.m.

12 PRESIDING: Senator Joseph Addabbo, Jr.
Chairman

13 PRESENT: Senator Antoine M. Thompson
14

15 STAFF: David Fogelman
Legal Counsel
16 Elections Committee

17 Bernadette Oliver
Committee Staff

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1	LIST OF SPEAKERS	
2	TOM FERRARESE	13
	Commissioner	
3	Monroe County Board of Election Chair	
	Executive Committee	
4	Election Commissioners Association	
5	DENNIS WARD	21
	Commissioner	
6	Erie County Board of Elections	
7	SENATOR MICHAEL RANZENHOFER	48
8	FRANK MESSIAH	61
	President	
9	NAACP	
10	FRANK HOUSH	66
	New York Democratic Lawyers Council	
11	MIKE KUZMA	80
12	Counsel	
	Buffalo Common Council President	
13	PETER REESE	82
14	Election Lawyer	
15	AARON MILLER	92
	Project Director	
16	Center for Community Alternatives	
17	GERALD BALONE	97
	Private Citizen	
18	ROBERT VOLPE	101
19	Executive Committee	
	Citizens for a Better New York	
20	KEVIN GALLAGHER	113
21	Citizen Action of Buffalo	

22	PASTOR JAMES GILES	119
23	JAMES OSTROWSKI	123
	President of Free New York	
24		

1 SENATOR ADDABBO: Good morning
2 everyone. I want to thank you all for being
3 here. This is the Senate Election Committee
4 oversight hearing, a public hearing, on
5 elections and voter registration and voter
6 participation.

7 At this point, I would like to start
8 with the Pledge of Allegiance. Please rise
9 and face the flag.

10 (Whereupon, the Pledge of
11 Allegiance was recited.)

12 SENATOR ADDABBO: Thank you very
13 much. Again, welcome all. It's a pleasure
14 to be here in Buffalo. My name is Joe
15 Addabbo. I have the privilege and honor of
16 chairing the Legislation Election Committee
17 for the State Senate. And again, it is a
18 pleasure to be here in Buffalo in the first
19 of our series of public hearings.

20 At this point, I want to introduce you
21 to, and really no introduction needed, to a

22 good friend of mine, a colleague of mine,
23 the great State Senator Antoine Thompson.
24 Senator Thompson?

1 SENATOR THOMPSON: Thank you. Thank
2 you all. I want to welcome Chairman Addabbo
3 to Buffalo and Western New York. I'm
4 pleased that he chose to begin his
5 state-wide series of hearings in Buffalo and
6 Western New York. It shows the new Senate's
7 commitment to giving the citizens of Western
8 New York a stronger voice in state
9 governing.

10 And today, we're seeking public
11 comments on a series of bills that the state
12 legislature will be considering this
13 session. The first step in participation
14 always is to register to vote, but I think
15 it's also important to note that it's not
16 just about registering, it's also about who
17 can register. I am a staunch supporter of
18 voting rights and providing enhanced access
19 to the Democratic process of America by way
20 of voting.

21 I believe that we need to enact a

22 series of reforms to the voting process over
23 the next couple of years. Hopefully, we
24 will be able this year to move through a

1 number of items.

2 Number one, the issue of early voting.

3 In states like Iowa, they have been voting
4 through early voting for many, many years.

5 They have high rates of voter participation
6 than New York State. To vote by absentee
7 ballot, you simply have to not only be
8 really sick, but at work or out of town or
9 permanent confinement or something of that
10 nature.

11 I believe in early voting and satellite
12 voting as well, which is voting off-site,
13 outside of the board of elections, and a
14 community center or a post office is
15 something that should be enjoyed by
16 residents of New York State who are eligible
17 to vote.

18 I also believe that people who just
19 don't want to go to the polling booths who
20 do want to exercise their right to vote, who
21 are not out of town or who are not working

22 but choose to want to vote by absentee
23 ballot, should have that right in the State
24 of New York.

1 So those are some of the things that
2 I'm concerned about. In addition to
3 believing that just because people are
4 incarcerated does not mean that they are not
5 a citizen of the United States of America,
6 so they still should have the right to vote.
7 I don't know if we'll be able to do that
8 soon, but that is something that I believe,
9 like many other states believe as well.

10 I just want to thank Senator Addabbo
11 for being here, and that we need to push
12 reforms. People, whether they pay big taxes
13 or small taxes or used taxes or fees,
14 contribute in small ways and in big ways,
15 and they are a citizen of the United States
16 of America.

17 I believe that we should do everything
18 that we can to make sure that their ballot
19 is counted, because so many people come to
20 the United States through various ways and
21 for various reasons, and one of their

22 driving things is the democracy that each of

23 us enjoys.

24 So I want to thank you for being here,

1 and thank you for giving me a couple of
2 minutes.

3 SENATOR ADDABBO: Thank you, Senator
4 Thompson. I want to thank you for having me
5 here, and working with your constituents in
6 the State Senate and thank you for being a
7 friend. Thank you very much.

8 Again, good morning everybody. It's a
9 pleasure being here.

10 Let me just do a little housekeeping.
11 First, let me thank those who put this
12 hearing together, our staff, especially to
13 my right here, legal counsel for the
14 elections committee, David Fogelman; my
15 staff, Bernadette Oliver; and again everyone
16 who has played a part and put time into this
17 hearing.

18 My intention as the chair of the
19 election committee is simple. How do we
20 examine the process as a person goes from
21 registration to the actual voting? And we

22 examine that process by making it easier and

23 facilitative for our qualified individuals.

24 So this is the first of a series of

1 public hearings and we'll go throughout the
2 state, and we'll do more as time goes on, to
3 try and get public input on some of the
4 issues that we are discussing in the
5 elections committee and some of the pieces
6 of legislation that have been proposed.

7 We're kicking off this hearing series
8 in Buffalo, one of the westernmost parts of
9 the state, with the opinions of voters in
10 every stretch, every corner of the state,
11 meaning something. Sure we have an
12 upstate, sure we have a downstate, but the
13 bottom line is that it is one New York
14 State, and we have voters and individuals
15 with concerns and we want to hear from them.

16 So that is why we are hoping to have a
17 conversation and discussion.

18 The right to vote is a precious and
19 fundamental right. And yet, with this
20 right, there are barriers. So we are
21 looking to break down the barriers that

22 separate some people from actually voting

23 and looking to see what we can do. The

24 bills to be discussed at this hearing are

1 designed to lower those barriers and create
2 better civic involvement.

3 And just a little bit about the bills
4 that we are discussing today. These are
5 proposed bills, they'll have a senate number
6 and they will be approaching the committee.
7 But for the most part, they are proposed
8 bills. They are not written in stone, and
9 that is another reason why we are having
10 these hearings, so we can discuss these
11 bills, the pros and cons of these bills, and
12 that will include constructive conversation,
13 but I'm going to be listening to both pros
14 and cons, and I'm going to be listening to
15 the points. I have no doubt that there will
16 be those that will oppose some, if not all,
17 of these bills, and tell you how bad they
18 are, but I want to hear -- I want to hear
19 from them, too.

20 I want to hear some of their useful
21 ideas. I don't want to hear just criticism,

22 I want to hear alternatives. I want to hear
23 difference of opinions. It's easier to
24 criticize proposed legislation, but I want

1 to hear some constructive criticism, not
2 destructive criticism. I want to hear good
3 ideas. I want to hear substance. I want to
4 hear facts. I want to hear if you have an
5 opinion or alternative and I want to hear
6 what it's based on. I don't want any real
7 unsubstantiated arguments with nothing
8 backing it up. So I look forward to a
9 constructive conversation amongst this
10 committee and individuals giving their
11 testimony today, and I thank you for your
12 participation.

13 I will read off the seven bills that we
14 are entertaining today. I want to do a
15 little bit more housekeeping. We are going
16 to limit our speakers to five minutes, and
17 I'll remind you of the time remaining. The
18 reason for doing that, we want to allow for
19 questions and answers. We want to get to
20 everybody. We have about eight panels with
21 each panel made up of about two or three

22 people. So I want to have the opportunity
23 for questioning and having a good
24 conversation. So we are going to limit and

1 keep this hearing going.

2 At this point, the seven bills that we
3 are entertaining today:

4 Senate Bill Number 1616, which allows
5 voters to register and vote on election day
6 through constitutional amendment.

7 A related bill, S3372, S3372, also
8 allows voters to register and vote on
9 election day once the constitutional
10 amendment has been passed.

11 Senate Bill 4317, reducing the
12 deadline through a change in party
13 enrollment to twenty-five days prior to an
14 election for unaffiliated voters and ninety
15 days to those already registered to a party.

16 Senate Bill 3996 reduces the deadline
17 which registration must be received from
18 twenty-five days to ten days before an
19 election.

20 Senate Bill 3995 provides a party --
21 provides an additional opportunity for new

22 registrants to indicate a choice on the
23 party enrollment when their choice was
24 omitted or void.

1 Senate Bill 1266 informs those
2 incarcerated about their voting and absentee
3 ballot rights, provides assistance in
4 registering and voting by absentee ballot.

5 And lastly, Senate Bill 4035, which
6 requires State Board of Elections to assist
7 local and county boards when voters download
8 the form from the Web site.

9 Those are the seven bills. Obviously,
10 if anybody brings up other bills, we are
11 going to try and talk about them, but those
12 conversations we're going to try and limit
13 because we want to try and get to at least
14 these seven bills, okay?

15 At this point, we're going to call up
16 our first panel. If you are here, please
17 step forward and take one of the seats up
18 front here in the first row. Dennis Ward,
19 and Dennis Ward is the commissioner of the
20 Erie County Board of Elections, Mr. Ward.
21 Mr. Tom Ferrarese, and he is the

- 22 Commissioner of the Monroe County -- Monroe
- 23 County Board of Elections and Chair of the
- 24 Executive Committee and Elections Committee.

1 And I've been corrected, it's Mr. Ferrarese.

2 Addabbo gets slaughtered as well.

3 Mr. Ferrarese, it's nice to see you,

4 and thank you for being here.

5 Gentlemen, thank you for being here.

6 Mr. Ferrarese, you are up. Please state

7 your name for the record and give your

8 testimony.

9 TOM FERRARESE

10 Commissioner

11 Monroe County Board of Election

12 TOM FERRARESE: My name is Tom

13 Ferrarese. I'm the Commissioner of the

14 Monroe County Board of Elections and also

15 the Chair of the Executive Committee for the

16 New York State Election Commissioners

17 Association.

18 Mr. Chairman, members of the committee

19 that are here and other distinguished

20 guests, I'm really honored to be here this

21 morning to be able to talk about some of

22 these issues. Although I won't be speaking
23 for the association today, I have had a lot
24 of input from the members of the association

1 and my comments will generally reflect their
2 views.

3 I quickly want to start out at the
4 beginning and take you back to 2002, and the
5 passage of the Help America Vote Act, HAVA,
6 but only for a second. Most of us are not
7 interested in revisiting this legislation as
8 it has caused us a lot of confusion here in
9 New York State and actually throughout the
10 country. Part of the problem was the rush
11 to create legislation that tried to right
12 every single error or problem that existed
13 that people received around the 2000
14 election. Unfortunately, it never addressed
15 the root cause of the problems in Florida
16 or, for that matter, the elections of other
17 areas, like possibly Chicago.

18 New York State is one of only about
19 five or six states in the whole country
20 where the elections are run by bipartisan
21 from the highest level in its government

22 right down to the polling site. About
23 forty-five other states in this country have
24 solely one party or another running some

1 level of election process. I think for New
2 York the idea that this bipartisanship can
3 work here and that it works so well, we
4 should really be proud of and not
5 underestimate it as a tool to assure fair
6 elections in our state. With that being
7 said, I ask you to proceed cautiously.

8 I understand the desire to allow as
9 many voters as possible the opportunity to
10 exercise their right to vote. Allowing
11 voters to register and vote on the same day
12 would extend that opportunity to a number of
13 people. With the necessary controls in
14 place, it can work. Very often in the
15 political season, issues that catch people's
16 attention don't surface until late in the
17 campaign. Unfortunately we, as elected and
18 appointed officials, pay much more attention
19 to those kinds of things than the general
20 public does. Most commissioners in our
21 state would suggest that same-day

22 registration can only be done through an
23 affidavit-ballot-type process. I personally
24 believe that you may be able to find a

1 combination of identifications that could
2 permit a high degree of confidence that a
3 voter is who they say they are and live at
4 the address they have given.

5 When looking at Senate Bill 3372, I do
6 believe that it doesn't provide sufficient
7 ID requirements to allow a voter to vote on
8 the voting machine. The bill seems to
9 attempt to use ID requirements that are
10 already in the law. In those circumstances,
11 where that ID is accepted, there are other
12 checks and balances in place that make that
13 ID requirement part of a larger, more
14 extensive process. I believe it would be
15 necessary to consider a tighter, more
16 restrictive process of identifying a voter
17 before allowing them to vote on a machine.
18 Same-day registration using the affidavit
19 balloting process, would provide a chance to
20 confirm the information a voter has provided
21 when that level of proof can't be met at the

- 22 polling site.
- 23 A logical first step to same-day
- 24 registration would seem to be reducing the

1 deadline for voter registration from
2 twenty-five to fifteen days, and the receipt
3 of forms from twenty to ten days, but this
4 change, as proposed in Senate Bill 3996,
5 will create several problems. To be honest
6 with you, after receiving that last
7 registration, making sure the data is input
8 and the second party check is done, creating
9 poll books that can be secured and delivered
10 to the polling place in the time frame that
11 we elected is really questionable. Meeting
12 the current deadlines has caused many
13 problems for the boards in presidential
14 years. It has been necessary to produce
15 supplemental books that often cause
16 confusion at the polling place on an already
17 very busy day.

18 In addition, trying to have different
19 rules, depending on the year, will cause
20 more confusion among the voters. Confusion
21 is what we're trying to avoid, because

22 that's like taking things done in so many
23 other states. The same-day registration
24 proposal should deal with the late

1 registrations concept while leaving the
2 current deadlines for voters to appear in
3 the polling books. This way, the integrity
4 of that is assured.

5 Senate Bill 1266 deals with a number of
6 issues as they relate to people who have not
7 been -- who have not been convicted of a
8 felony but are incarcerated, or those that,
9 although convicted of a felony, have
10 completed their sentence and are now not on
11 parole.

12 I've done several presentations to
13 halfway houses in the last year and can
14 assure you that the confusion regarding
15 these voters' rights is widespread.

16 In one case, I had the opportunity to
17 speak with eight women who were about to
18 move back into their communities. All eight
19 women believed that they could not register
20 ever again. And after determining each
21 person's circumstance, I was able to

22 register all eight women. As a matter of
23 fact, even the person running the halfway
24 house was surprised to learn that all those

1 women could reregister.

2 A lot of education is needed, not just
3 among those whose rights are being
4 undermined, but among the various courts and
5 detention facilities. In addition to the
6 registration problems, making absentee
7 balloting available for those who are
8 awaiting sentencing or who have not been
9 convicted of a felony but are incarcerated
10 is not on many people's radar screens.

11 Unless a legal process is put in place, I
12 believe that this inequity will continue.
13 For the Board of Elections, these situations
14 can be treated like any other facility where
15 we have voters confined to their location.
16 It is surprising that in a system that seeks
17 to protect the rights of its citizens, we
18 are so quick to deny those rights without
19 any review of the law.

20 The intent of your proposals to improve
21 our laws is apparent. I believe that the

22 concerns regarding extensive voter fraud are
23 often overstated and with continued
24 precautions, as I've noted in a number of

1 these cases, I think its proposals can be
2 passed and implemented. In the last eight
3 years in Monroe County, we have prosecuted
4 only two people out of millions of votes
5 cast. Voters generally are honest. When
6 you consider the number who vote against
7 those that try to beat the system, it
8 appears at least in New York State that that
9 number is completely acceptable when you
10 consider keeping the system open and other
11 processes.

12 In New York, we have in place
13 procedures that provide checks and balances
14 within counties and between counties. Times
15 are changing and we need to keep up with the
16 times, but I would suggest that this
17 treasured right and responsibility, the very
18 core of our democracy, the right to vote is
19 something we are charged with protecting.

20 Please work with the commissioners as
21 you consider changes to the law. I believe

22 that you will find that most of the
23 commissioners are very committed to
24 protecting the voter's rights and

1 encouraging as many people as possible to
2 vote.

3 SENATOR ADDABBO: Thank you very
4 much. Mr. Ward?

5 DENNIS WARD
6 Commissioner

7 Erie County Board of Elections

8 DENNIS WARD: Thank you, Mr.
9 Chairman and Senator Thompson. Thank you
10 for convening this in Buffalo and giving us
11 an opportunity to give us -- to give our
12 opinions on some of the issues that you have
13 raised in these bills.

14 I would like to start out by saying
15 that, and I know I've spoken to the staff,
16 that I'm sure the committee will be paying
17 attention to and dealing with the extensive
18 agenda that the Election Commissioners
19 Association has submitted to the legislative
20 committee. I know that your staff has
21 already gone over it in detail in Albany. I

22 realize that it's not part of these bills,
23 because these are bills of greater
24 magnitude, but I would encourage the

1 committee to take a good hard look at the
2 fifteen present issues that have been
3 presented on the ECAs agenda.

4 Realizing that as the election
5 professionals, most of them are actually
6 things that tend to be technical in the
7 election law on the administration of
8 elections and, therefore, we do not always
9 provide the excitement, perhaps, or the
10 philosophical interest such as the issues
11 that you have presented here. I would
12 encourage the immediate past chair of the
13 legislative committee and the continuing
14 members, with Commissioner Toombs in Tioga
15 County, I think that that committee has
16 worked hard, I know, with Commissioner
17 Ferrarese. The executive committee and the
18 Election Commissioners Association is full
19 of professionals who take their job very
20 seriously and are interested in the
21 administration of the election process.

22 I defer to Commissioner Ferrarese,
23 because he's much better spoken than I am.
24 But also, because we think very much alike.

1 I didn't want to be repetitive in a lot of
2 the stuff because he had done a better
3 preparation, because those of us in Buffalo
4 are in the midst of administering a school
5 board election citywide and he did provide a
6 greater text.

7 I would like to comment on a couple of
8 things, particularly among the bills that
9 are considered here.

10 Number one, just to fill in what
11 Commissioner Ferrarese had indicated about
12 the question of same-day registration. It
13 is a concept that is very worthy of
14 explaining. There is no question that other
15 places throughout the country do it.

16 We do have to recognize that there are
17 limitations, and I think Commissioner
18 Ferrarese indicated one of the things that
19 we would have to be careful of is the delay
20 at the polling places. We are always
21 concerned about the delay, because there are

22 always some voters sadly who, if there is
23 any type of delay due to, perhaps,
24 scheduling or just lack of time, they may

1 simply walk away from the polls. We do not
2 want to impose any additional delays on
3 voters. Part of the problem, when you
4 institute registration on the same day as
5 voting, is that it may increase the lines
6 which, in turn, may, in fact, encourage
7 persons like that not to vote.

8 And because of the identification
9 issues that may arise and the probable use
10 of affidavit ballots because, as
11 Commissioner Ferrarese has indicated, there
12 may not be a way to verify or people may
13 simply show up without the proper identi-
14 fication, they may be discouraged from
15 voting and going home and getting the proper
16 identification.

17 Also, one concern that I have there,
18 I'm not sure it's enough to oppose it, but a
19 concern I have is that if you make
20 registration on election day the norm and
21 persons who are interested in registering

22 simply figure, well, we'll just register on
23 election day, it has two effects; number
24 one, it tends to bulk up a lot of work which

1 might have been spread over the months
2 before if persons knew that they were
3 registered, as they do today. A lot of
4 people may simply not do that but come in on
5 election day, that will increase the
6 workload of the board of elections on that
7 day and it has the tendency, perhaps, to
8 push the timetable on the certification of
9 the election because, don't forget, the
10 board has to address each one of the ballots
11 before it gets counted. And before we can
12 certify an election, we have to count the
13 affidavit ballots.

14 The second thing I would be concerned
15 about, at least we should be aware of, is if
16 people get lulled into, and I don't want to
17 use that as a pejorative sense, but lulled
18 into the fact that they can register on
19 election day rather than doing it over the
20 period of months before then, they may not
21 -- they may get there and see there's such a

- 22 long line, they choose not to.
- 23 So I think that we have to be careful.
- 24 We certainly want people to register, even

1 if it's registering on election day, but we
2 do want to avoid those long lines because
3 that can have a much more detrimental effect
4 on people's voting and turnout than the fact
5 that they hadn't registered under the
6 current system of 1(5)(b).

7 Senator Addabbo's bill on reducing the
8 deadline for registration from twenty-five
9 days to ten days, obviously, that could be
10 -- I mean, these bills are sort of could be
11 inclusive. Obviously, if we have same-day
12 registration, then that may or may not be of
13 any necessity. I don't think anybody has,
14 in principle, any problem with reducing the
15 days from twenty-five -- the registration
16 days from twenty-five to ten. However, the
17 same issue comes up in that, as Commissioner
18 Ferrarese had indicated, the board of
19 elections does have to print poll books.
20 Printing them, if we get the registrations
21 in just ten days before, keep in mind that

22 at the time the board has to simultaneously
23 deliver these poll books and get that to the
24 polling place, along with the machines, it

1 is increasing the workload on the board.

2 So, as many things, and I'm sure you
3 have heard this many times over when you're
4 legislating, changes oftentimes include the
5 need for resources and a lot of these just
6 impose new burdens, financial burdens and
7 time burdens on the boards of elections.

8 Keeping in mind, we really do want to make
9 certain that the entire votes are cast and
10 counted properly, and we have to always
11 weigh that in the overall.

12 I would indicate -- on the other two
13 bills, on 1266, Senator Montgomery's bill on
14 incarceration, right to vote of those
15 incarcerated, I think there's another side
16 that can be stated on that. I know there
17 are those that would say that all this is
18 simply paying for people who are
19 incarcerated and involve more resources. I
20 also think that the other side of that,
21 however, is that this will also ensure that

22 those who have been incarcerated, primarily

23 those who have now been paroled, will

24 understand clearly what their rights are but

1 what their rights aren't.

2 We had an example last year at the
3 board of elections where someone, probably
4 someone who is still on parole, innocently
5 had registered to vote attempted to run for
6 a committee person, probably not
7 intentionally knowing, but simply did not
8 know. This bill would allow the education
9 of those people to know that they, in fact,
10 are not eligible to vote. So those that say
11 that you are doing this simply for
12 criminals, I think that you should be doing
13 this for society, in general. Everybody
14 knows their rights and would be afforded
15 those rights.

16 I would comment, Senator, that it's a
17 small -- I know it's a technical bill that
18 doesn't probably get the headlines of
19 newspapers, but the issue of requiring the
20 state board of elections to address forms to
21 the local board. This doesn't sound like a

- 22 big problem but, in fact, for the person who
- 23 downloads the form off of the state board
- 24 Web site, and it gets sent to the state

1 board by accident, they may miss the
2 deadline. And for that individual voter, a
3 small change like this is a very good thing.
4 So I would -- certainly that should have --
5 I can't imagine anybody having any
6 opposition to a bill like that.

7 SENATOR THOMPSON: You'd be
8 surprised.

9 DENNIS WARD: Okay. One other thing
10 that I'd like to touch on, and I want to
11 compliment Senator Thompson on his --
12 touching on it. Again, it's not on the
13 agenda, but the overall concept of early
14 voting and I would couple that with the
15 concept of universal absentee voting, which
16 you also referred to, the Election
17 Commissioners Association is in support of
18 some of the changes in the absentee voting.
19 I would say from a personal -- my personal
20 belief that the right to vote is so precious
21 that it seems that we ought to be beyond

22 making up an excuse for forming -- having
23 people forced to say why they shouldn't go
24 down to the polling place.

1 I personally don't see any reason why
2 someone who wishes to vote shouldn't simply
3 be able to vote, even if they're sitting at
4 home watching television that night. There
5 are many things that come into people's
6 lives that prevent them from voting or may
7 prevent them from voting. And I think it's
8 certainly something which we should assign
9 such a high value to, probably a
10 constitutional amendment. There's been a
11 lot of legal commentary, and it probably
12 would even be better to having a state
13 constitutional amendment which would simply
14 enable the legislation -- the state
15 legislature to provide, as it will, for
16 either absentee voting or voting on election
17 day.

18 So I think that, perhaps, those two
19 concepts could be weighed together, I guess
20 they don't have to be, but a single
21 constitutional amendment that would simply

22 vest the legislature with that authority and
23 would remove the legal question as to
24 universal absentee voting, for example, and

1 would enable legislation to pass the
2 appropriate legislation in support of those
3 concepts.

4 Other than that, thank you very much
5 for the opportunity, and I know we have some
6 distinguished guests coming behind me.

7 SENATOR ADDABBO: First of all, I
8 want to thank both commissioners for their
9 testimony and their input. Questions from
10 Senator Thompson?

11 SENATOR THOMPSON: Yeah, just on the
12 issue of universal absentee voting. It's
13 been my experience, and in other states, two
14 things, one, is that when you have early
15 voting, some people still wait until --
16 especially places like Iowa where you have
17 to fill out an application, you got to still
18 submit that application like New York, and
19 someone still has to return it. And they
20 still have the authority, just like in New
21 York, because at the last minute, they

22 decide that they want to use the machine,
23 they could still use the machine and the
24 paper ballot is discounted. But in those

1 states that have early voting, it's my
2 understanding that their rates of
3 participation are extremely high.

4 And in addition to that, you still have
5 the folks, like myself, who want to go to
6 the machine and pull that -- you know, pull
7 that lever. So I think it could be
8 extremely helpful in terms of increasing
9 participation and process, and I think that
10 if you want to submit something, maybe I
11 will try to get a copy of that as well, if
12 you all are in support of that.

13 And the other thing is, just on the
14 early voting -- satellite voting rather, I
15 think that that is something that needs to
16 happen in New York. There is no reason why
17 we shouldn't have satellite voting in New
18 York State. It will not be onerous. You
19 can have big city or small city in a
20 regulated way, posted days where satellite
21 voting will be available, and it will

22 provide an increase in participation. So
23 hopefully, you know, as we look at the other
24 bills that are being proposed as well, but I

1 think those are two things that are
2 no-brainers.

3 I just want to emphasize to you, too,
4 that how do we -- you made a good point, Mr.
5 Ferrarese, I think, that I didn't realize in
6 most of the states that they were not --
7 they weren't bipartisan.

8 TOM FERRARESE: At some level of
9 government, it's a single party who's
10 running and controlling the election. So it
11 really makes New York quite unique, and this
12 information is from the Elections Assistance
13 Commission of the federal agency.

14 SENATOR THOMPSON: I think that that
15 is something that the federal agency in New
16 York should be charged on. I don't
17 understand why nor how that wasn't
18 addressed. To me, I know voting seems -- is
19 still somewhat of a state's rights issue,
20 but I think that --

21 TOM FERRARESE: It's a real cause of

22 the problem.

23 SENATOR THOMPSON: It's a real cause.

24 I think that it's shameful. If that's the

1 case, that is just mind-boggling.

2 TOM FERRARESE: If I might, just an
3 issue on the relaxed absentee voting? The
4 other thing that can do, in addition to
5 helping more people be able to vote, it does
6 relieve some of the pressure on election day
7 on the number of people -- at the number of
8 people at the polls in advance of the
9 elections. With the changes that we see
10 going on, it certainly would be something
11 that would not -- would be helpful to a lot
12 of people at the most.

13 SENATOR ADDABBO: Both commissioners,
14 I want to thank you for pointing out,
15 obviously, some of these pieces of
16 legislation that would affect the county
17 board of elections, and so pointing out how
18 you play a role in these, I appreciate that.

19 With early voting, would it alleviate
20 some of the issues that you might have with
21 same-day registration? How would they

22 interact?

23 DENNIS WARD: Well, I don't think

24 they would interact. The problem with early

1 voting, I think, that -- I think the early
2 voting is something that is going to be --
3 should be studied. Because New York is now
4 going to be moving to off- scan balloting,
5 the problem with early voting is, the
6 experience we see from other states is that
7 we have selected sites, and I know you've
8 seen, perhaps, shopping malls and things
9 like that, there is no question that the
10 machines themselves have the capacity to
11 read the entire ballot, all of the ballots
12 for the county, they can be programmed to
13 read all of the ballots. I think the
14 problem is going to be that in order to set
15 up these selected locations throughout the
16 county for so-called at large voting, you
17 would have to have copies of the printed
18 ballots at every single what we call code,
19 which is every single different ballot.
20 Because if someone walked in from one town
21 or the other city, they would have to have a

22 paper ballot there to accommodate that

23 person.

24 There's some technical problems on

1 that. I think most of the places, my
2 recollection, that have these types of early
3 voting stations have been in places that
4 have had touch screen, is that not correct?

5 TOM FERRARESE: I talked to the --

6 DENNIS WARD: So I think that --
7 because I think this has been the subject
8 for many years of discussion, why New York
9 has ended up as the optimal scan choice for
10 all of the voting systems at this time
11 because of that, I think there's going to be
12 some technical problems on scattered site
13 early voting.

14 Is there a connection between early
15 voting and same-day registration? I'm not
16 sure that there's a direct connection. I
17 think they both address the issue of better
18 participation, which I think is one of the
19 goals, but I do think that -- I think that
20 the universal absentee balloting really
21 provides an awful lot -- I mean, that's

22 actually getting closer to the Oregon
23 experience in Oregon, which I believe
24 Commissioner Ferrarese will correct me, has

1 the highest turnout of the fifty states. In
2 the State of Oregon, everyone votes
3 essentially by an absentee ballot.

4 Now, I realize that that may be rather
5 -- that's an interesting concept,
6 particularly as we now proceed towards
7 buying all of these new voting machines with
8 the federal money. I don't want to be
9 scandalous here or anything, but that's
10 closer to the Oregon model, as far as
11 turnout goes. I think that everybody agrees
12 that right now Oregon, I believe, has an
13 average of a sixty-five percent turnout,
14 which is the highest amongst the fifty
15 states. So if we're talking about
16 participation in elections, the early
17 voting, which gives -- the early universal
18 vote -- the universal absentee voting, which
19 could be viewed as early voting, is one of
20 the things which could help us push towards
21 higher turnout.

22 TOM FERRARESE: That's the difference

23 between -- I talked to -- I spoke to Dr.

24 Brenda Snipes, who's the action town

1 commissioner in Florida, who was the
2 commissioner that replaced the commissioner,
3 and I went down to meet with her and talk to
4 her because I wanted to find out what they
5 were doing. And the point she did make is
6 to do satellite voting they need to keep
7 their touch screen machines because it was
8 the only way that they could have somebody
9 from --- I mean, say you worked downtown and
10 you lived in Lockport and you walked into a
11 satellite office downtown to vote. In order
12 to do that is on a touch screen versus that
13 satellite office having, in some cases,
14 forty-five or fifty ballot cuts and enough
15 of them for whoever might walk in, that is
16 as adverse as Commissioner Ward was pointing
17 out, the early voting concept or the
18 universal absentee ballot where you
19 accomplish some of the same objectives, but
20 I do understand your interest in satellite
21 voting. And, you know, maybe there is a way

22 that we can regionalize it or something,
23 it's hard to figure out, but it's something
24 that we should talk about certainly and try

1 and look at that and I was willing to do
2 that.

3 SENATOR THOMPSON: Just one quick
4 point. My understanding on the early -- on
5 the satellite voting is basically, at least
6 from my experience in Iowa in '04, was that,
7 say for example, you live in a particular
8 precinct or an election district or ward or
9 something, they will let all of the folks in
10 that area know that if you live in this
11 area, you could participate in early voting,
12 and they would publicize it and put it in
13 the newspaper, et cetera. So it wasn't a
14 situation where you could live anywhere in
15 the county, you had to live within maybe a
16 certain district or county leg. or town
17 board district and you would have -- and
18 they would notify people that early voting
19 was available. So it wasn't like total
20 universal -- I think every state may be
21 different, but it wasn't like you could go

22 to the mall or something, or a supermarket.
23 If you did go to the supermarket, there were
24 still some restrictions.

1 So I think studying it and examining it
2 and looking at some of the different models
3 can also be helpful.

4 TOM FERRARESE: That's what I meant
5 by regionalizing.

6 DENNIS WARD: Senator, one other
7 thing on that. If you're thinking about
8 exploring that, and I think it would be
9 applaudable if you did, another thing that
10 comes up periodically would be whether to
11 change the actual days of voting. I know
12 historically we've always had it on a
13 Tuesday, and it's a fifteen-hour day, but
14 one of the other concepts that always floats
15 around is the idea of possibly moving to
16 weekend voting but having two days to avoid
17 religious concerns, but also to have a time
18 where people would be much more available to
19 vote, a lot of that -- perhaps doing that in
20 conjunction with universal absentee voting.
21 We could make it easier for folks and

22 take the burden off the backs of most
23 working people who may find it difficult
24 with children and families and

1 responsibilities coming home from work to
2 actually get out to the polls before nine
3 o'clock at night.

4 TOM FERRARESE: The other thing that
5 might tie to that, and this is in terms of
6 universal voting is that if, in fact, you
7 cast that ballot, that's the only bite at
8 the apple you get, you don't get to come
9 back on election day and say that you
10 suddenly changed your mind and want to bite.
11 In a lot of ways that will then allow us to
12 place appropriate controls on that kind of
13 thing and you can actually open those
14 doorways wider. Thank you.

15 SENATOR ADDABBO: I know we have
16 other panels, I'm going to ask you one more
17 question with three parts but I need brief
18 answers, okay? And that pertains to
19 election day registration, same-day voter
20 registration, and the three questions are
21 this: Commissioner Ferrarese, you mentioned

22 this in your testimony, resources that board

23 of elections has, especially affidavit

24 ballots, that you do have enough resources,

1 do you foresee there being a problem with
2 voter fraud? Again, you mentioned that in
3 your testimony as well.

4 I think, you know, in the past eight
5 years to -- the issue of fraud becomes an
6 issue, and it has worked in other states. I
7 don't like to compare New York to other
8 states. I think we are quite unique. But
9 if you feel election day registration works,
10 fine. If not, do you have other ideas to
11 increase voter participation?

12 TOM FERRARESE: In terms of
13 increasing voter participation, I think
14 there is a lot of ways to do that, in
15 particularly, what we talked about in terms
16 of the universal absentee regional --
17 possibly regional voting, those kinds of
18 things.

19 I'm not actually opposed to same-day
20 registration. I'm just very concerned about
21 the established solid cutoff points so we

22 know who is and who isn't in our poll books.

23 And that if, in fact, you're going to do

24 election day registration, you need to have

1 some type of identification, and that has to
2 be very specific, certainly not well spelled
3 out in the law, because that identification
4 actually is backing up other things that
5 have already been checked and balanced, but
6 identification where you have
7 identification. I think I heard places
8 where they talked about picture ID with an
9 address and signature and another ID with at
10 least an address.

11 So, in fact, if you want to vote on the
12 machine, you have to have a pretty high
13 degree of belief that that person is who
14 they say they are and they live at the
15 address they have indicated. So I think
16 that that can be done. We really need to
17 look at that kind of stuff and bring it back
18 to the regulators, but that is something
19 that we can do.

20 SENATOR ADDABBO: Very quickly, on
21 fraud and the resources?

22 TOM FERRARESE: You know, in
23 particular in New York State where we have
24 bipartisan, I think all the commissioners

1 keep a very good eye. We have registration
2 issues where we pay close attention to
3 registration coming in. And anything that
4 we've ever investigated certainly has not
5 indicated that there was any actual
6 attempted fraud.

7 Even the two people that we prosecuted,
8 one of them was doing it on a dare, and the
9 other one was doing it because they wanted a
10 sticker, because one of the radio stations
11 had said, well, if you come to the station
12 with the sticker, they wanted two instead of
13 one. So even those two people were
14 prosecuted and actually they were found
15 guilty, it isn't voter fraud. In reality,
16 particularly in New York State, the systems
17 we have in place, I don't see any of these
18 bills actually undoing any of those systems,
19 really.

20 The systems that we have in place
21 protect us because we have interboard checks

22 and balances, and we have -- now we have
23 between boards checks and balances between
24 counties. So I think that the fraud issue

1 is definitely one that's way overstated
2 maybe in other states, but I can't speak for
3 other states; but in New York, I feel like
4 we have done a really good job keeping fraud
5 pretty in check and we need to appreciate
6 that.

7 DENNIS WARD: Yeah. I think that the
8 commissioner is right. I think on the fraud
9 issue, because of the nature of the
10 bipartisan board with -- and don't forget,
11 this goes down to the poll workers of the
12 elections, the election inspectors
13 themselves are a bipartisan board and they
14 are the board on the day of election if
15 there are concerns raised. I do believe
16 that there could be some concerns raised,
17 people walk in with inadequate
18 identification. The simple matter is, if
19 there is any questions such as residency or
20 identification, they can simply be referred
21 to an absentee ballot and the issue will be

22 handled that way.

23 I think, Senator, it's more the issue

24 of the resources and that is just -- I don't

1 want to repeat what I said. But the
2 resources in that, if we do start getting an
3 awful lot of people who are voting by
4 absentee ballot for whatever reason, that's
5 up to the board of elections in how quickly
6 we can complete the tally and then certify
7 the election.

8 But I concur with Commissioner
9 Ferrarese. I have been a commissioner for
10 almost four and a half years. We have only
11 investigated in that period of time two
12 particular individuals, and neither of them
13 have been prosecuted. It's unclear --
14 sometimes people -- you will have people
15 that will move back and forth between
16 counties and may be registered in both
17 counties, and hasn't been removed from one
18 county, it may look like they're both duly
19 registered, but they aren't actually voting.
20 Where some people will be in one county one
21 year and the other county the next year, and

22 move back, the crime, I think, is voting

23 twice on the same day.

24 If somebody is confused -- many people

1 are confused about their residences when
2 they move around a lot. I don't think there
3 are many examples of people voting in
4 Buffalo and jumping on a plane and going to
5 Brooklyn just to vote again. I just don't
6 think that it happens that much. So I think
7 that that's an overstated issue on fraud.

8 SENATOR ADDABBO: I want to thank
9 both commissioners for their participation
10 today, and for the work that they do, not on
11 election day, but I understand over all
12 year-round. Again, we thank you and your
13 staff, your employees, both on the board of
14 elections. Thank you very much.

15 TOM FERRARESE: Thank you very much.

16 SENATOR ADDABBO: We've been joined
17 by Senator Ranzenhofer. Senator?

18 SENATOR RANZENHOFER: Welcome to
19 Buffalo.

20 SENATOR ADDABBO: Pleasure meeting
21 you.

22 SENATOR RANZENHOFER: I would like to
23 tell you that this used to be my seat here
24 on the legislation. I'm looking for my name

1 tag that used to be on my desk.

2 SENATOR ADDABBO: Are you ready to
3 start?

4 SENATOR MICHAEL RANZENHOFER

5 New York State Senator

6 SENATOR RANZENHOFER: Well, first of
7 all, good morning. I don't have to welcome
8 Senator Thompson back to Buffalo, who lives
9 here, but Senator Addabbo it's good to have
10 you here in Buffalo. We wish you came up
11 tomorrow, tomorrow is supposed to be in the
12 seventies, so a little bit nicer than it is
13 today. I had prepared some remarks, which I
14 submitted to you previously, so let me just
15 speak from those remarks.

16 We are here to discuss the bills that
17 we actually discussed in Albany that were
18 proposed by Senators Addabbo, yourself,
19 Valesky and Montgomery that relate to our
20 state's election law. I'm sure that we can
21 all agree that it is always a positive thing

22 for our democracy when those that are
23 eligible to vote exercise that right. But
24 the crux of the problem with almost all of

1 these bills is that instead of focusing on
2 the rights of the average voter and
3 protecting the integrity of each legitimate
4 ballot, these bills, in my opinion, will
5 lead to more ineligible voters casting
6 ballots, which would place burdensome new
7 regulations on local boards of elections and
8 in the process undermine the legitimacy of
9 elections in New York State.

10 Allowing voters to register on election
11 day, as Senate Bills 1616 and 3372 envision,
12 may have good intentions, but the reality is
13 that their impact is far from good. How
14 will anyone be able to truly verify if
15 someone who registers the same day is a
16 qualified voter? It would be very possible
17 for people who are not allowed to vote,
18 people that are here illegally and people
19 who are not residents to cast ballots under
20 this law, which is problematic in my
21 judgment. The possibilities for voter fraud

22 are endless.

23 While it is important that all voters

24 who are qualified be able to cast ballots,

1 it is equally important to ensure the
2 integrity of our system by making sure that
3 only qualified voters may cast ballots.
4 These bills, it's my opinion, will severely
5 undermine our ability to ensure that
6 unqualified voters do not cast ballots and
7 therefore, in my opinion again, should be
8 rejected.

9 Another proposal would allow a voter to
10 change party enrollment twenty-five days
11 before an election if unaffiliated and
12 ninety days before an election if you are
13 already enrolled. Again, I am sure that the
14 sponsors put forward this bill with good
15 intentions. Unfortunately, in my judgment
16 again, they did not take the time to measure
17 the unintended and negative consequences.

18 Under this proposal, we would be
19 opening up the very real possibility of one
20 party meddling in the internal primary
21 process of another. In this age of cynicism

22 about politics, how much confidence would
23 anyone have in the system if we allowed a
24 law to pass that would empower one party to

1 choose a candidate of the other party,
2 whether it's Democrats choosing republicans
3 or vice versa? I don't think that that's a
4 fair system.

5 Bill S1266 sponsored by Senator
6 Montgomery of New York City is, by far, the
7 most objectionable. I believe that this
8 bill is ill- conceived and would actually
9 use the money of law- abiding citizens to
10 aid and abet criminal voters. Let me
11 restate this. I think the Montgomery bill
12 uses money inappropriately and encourages
13 convicted criminals to participate in our
14 electoral process. I think that expanding
15 the role of allowing criminals to vote for a
16 Democratic process is the wrong way which we
17 are headed, and again, in my judgment is
18 just not the direction we should be headed.

19 I caught Commissioner Ward's comments
20 at the end. The tremendous burden that
21 these new laws will place on local boards of

22 elections, I think that that's a recipe for
23 disaster in terms of the management of the
24 system and cost.

1 Here in Erie County, again having
2 served with this body for many years and
3 knowing firsthand the problems that the
4 election workers have, and the jobs that
5 they have to do, they're understaffed,
6 they're underfunded and we'll now be asking
7 public servants to take on the impossible
8 tasks of compiling and verifying the
9 legitimacy of voters that register up to and
10 on election day.

11 You may not be aware of this, but
12 currently the poll books that list qualified
13 voters in each district are produced about
14 two weeks before election day. How would
15 this process work if these changes were
16 implemented? Again, I think the answer is
17 that they won't work or they will just
18 require a tremendous increase in the number
19 of employees that we currently have working
20 for the boards of elections and, therefore,
21 calling for a tremendous amount of new

22 funding for these positions.

23 Everybody agrees, and it can't be

24 overstated, that all citizens should

1 participate in the Democratic process. The
2 devil, though, is in the details. Overall,
3 again in my opinion, these bills would
4 encourage voter fraud. I think it assists
5 criminals and increases the likelihood of
6 partisan shenanigans. I think this
7 undermines the integrity of our elections.
8 I would urge the public to oppose them and
9 the committee to reject them.

10 And again, having participated in the
11 electoral process and having been the victim
12 of election fraud bipartisans, I speak about
13 this more than just in an abstract sense but
14 from a very personal sense, and not only the
15 tremendous heartache and frustration that
16 somebody goes through when you're convicted
17 of election fraud, but there is a tremendous
18 expense and resources that an innocent
19 person has to avail themselves of in order
20 to try to sift out this fraud and prove that
21 the fraud has taken place, and maybe that's

22 why I have a stronger position than some is

23 because I have been convicted of election

24 fraud. I wouldn't wish it on anybody. It's

1 the ugliest thing in the state and, for
2 those reasons, again, I just wish to express
3 my opinions.

4 SENATOR ADDABBO: If I may? Senator,
5 I want to thank you again for being here and
6 for your opinions about the bills.

7 In my opening statements, I had
8 mentioned that it's the intent of the
9 committee to try and actively and
10 efficiently increase voter participation and
11 voter registration, obviously increases the
12 number of voters. Do you see -- do you have
13 any ideas on how possibly we can entertain
14 doing that?

15 SENATOR RANZENHOFER: I think through
16 education is probably the best way. I think
17 public forums for sponsors, making
18 registration more available than they are
19 right now. Right now, it's a cumbersome
20 process to try to get a registration form,
21 making them more readily available in public

- 22 buildings, libraries, on the internet,
- 23 obviously post offices, just places where
- 24 people go on a regular basis. I think it

1 would be a lot easier for people to see
2 these in their regular course of business,
3 instead of making a trip to downtown Buffalo
4 or downtown New York City in order to vote.

5 SENATOR ADDABBO: Senator Thompson?

6 SENATOR THOMPSON: Just a couple of
7 quick questions for you and your testimony.

8 The -- I just wanted to get some
9 clarification. If a person -- I know you're
10 a trial lawyer as well, you're an attorney
11 as well. I was just concerned about whether
12 or not -- most people make mistakes in life,
13 whatever we do, we all mistakes. None of us
14 come through life without making mistakes.

15 And I think most people in America, whether
16 they think the criminal justice system works
17 or doesn't work as much as people like,
18 recognize that if someone is incarcerated,
19 that once they have served their time to --
20 whatever, six months or sixty years, that
21 there are some restrictions that should be

22 on them, and there are certain restrictions

23 that should not be.

24 According to the Constitution of the

1 United States of America states that the --
2 the 15th Amendment, I believe, guarantees
3 the right to vote, except for when you are
4 incarcerated. That's the gray area where
5 people are -- that's the -- that's the gray
6 area that people always debate based on the
7 state. I think the challenge that I see
8 with the testimony here is that it is
9 suggesting that when people have paid their
10 debt to society, that's always a debatable
11 issue on what debt is. In my opinion, you
12 murder somebody, the family of the victim or
13 that person who has been murdered will
14 never, in my opinion, feel that that debt
15 truly has been paid, but the guys -- the
16 broader community that that person, the
17 judge and/or jury said this person is
18 serving one year to five years in jail,
19 they're going to be released on parole or
20 some other type of release just totally
21 based on the system.

22 It says here that -- it suggests that a
23 person who is leaving prison, who has given
24 their pay with what the courts have told

1 them to do should not be given information.
2 With that said, based on these two
3 gentlemen, I don't know if Mr. Ferrarese is
4 a Democrat or Republican, I just know that
5 he has been around as a commissioner of
6 Monroe County for a long time, that we have
7 in America, in particular this state,
8 numerous people who have been out of jail
9 for years who don't know that they have the
10 right to vote. Why would we deny people
11 that access to information? All of us know
12 that knowledge is power, particularly when
13 it's properly applied that they now have
14 access to information at the time of their
15 release. One sentence -- or when they have,
16 as you know, a highly trained attorney that
17 as part of their release, when they are
18 being released by parole or by corrections,
19 they give them all of the things they can
20 do, they cannot do. Why wouldn't we want to
21 allow them to participate in a part of the

22 things that are given to them and have a
23 voter registration application, which makes
24 them feel like they are now a citizen again

1 of the United States of America?

2 In addition to that statement saying
3 that you can't vote, I don't understand.

4 Why would we be opposed to voter
5 registration applications or that
6 information being shared with the person
7 who, under the guise of most people in
8 America, would say that once you served your
9 time that you paid your debt to society?

10 SENATOR RANZENHOFER: I think there
11 was a question somewhere in there.

12 SENATOR THOMPSON: I'm trying to
13 figure -- you say in here that we're aiding
14 and abetting criminals, but you're saying
15 that the bill says that when you leave,
16 you're on your way out, you're about to be
17 released to society, you should be able --
18 somebody should afford you that information.

19 I don't understand why we would be in the
20 business of denying someone who may or may
21 not have been convicted of anything. They

22 have a felony, they're going to be released,

23 they're going to have their right to vote

24 restored to them, why shouldn't they be

1 allowed to be notified?

2 SENATOR RANZENHOFER: That's a good
3 question. First of all, in response to your
4 first question about making mistakes,
5 obviously everybody makes mistakes and, you
6 know, there's no disputing or discussion on
7 that issue.

8 My feeling is that you shouldn't be
9 carving out or creating any sort of special
10 exceptions or exemptions for any particular
11 person. As I was discussing with Senator
12 Addabbo as his last question, you know, I
13 fully support making, you know, information
14 available. And as he had asked me about
15 making registration reforms more available
16 to the general public, okay, whether they be
17 in supermarkets or libraries or the drug
18 store, in the post office, I certainly
19 support that. But I do not favor, you know,
20 carving out any special exception for any
21 class, whether it be people leaving prison

22 or any particular person.

23 I mean, this is something that should

24 be available to the general public equally,

1 accessibly, and, you know, that information
2 should be available in the community so
3 anybody can access it. That's my personal
4 feeling on the matter. That's a much more
5 broader and fairer way of dealing with --
6 telling everybody of what rights they have
7 and how to actually access the information
8 so they can register in a timely fashion and
9 participate in the election or the next
10 election. That's my feeling at this time.

11 SENATOR THOMPSON: Okay.

12 SENATOR ADDABBO: Again, I want to
13 thank you, Senator, for being here. Just as
14 a reminder, we did pass in the senate the
15 accessibility of the voter registration and
16 places. So, again we're on the right track.
17 So again, I appreciate you being here,
18 Senator. Thank you very much for being
19 here.

20 SENATOR RANZENHOFER: Again, welcome
21 to Western New York and Buffalo.

22 SENATOR ADDABBO: It's a pleasure

23 meeting you. Thank you again.

24 Our next panel is Frank Messiah,

1 President of NAACP, and Mr. Messiah is here,
2 and Frank Housh, New York Democratic Lawyers
3 Council. Gentlemen?

4 FRANK MESSIAH

5 President, NAACP

6 FRANK MESIAH: Senator Addabbo and my
7 Senator Thompson, my name is Frank Mesiah,
8 President of the Buffalo branch NAACP, which
9 is a volunteer membership civil rights
10 organization. We receive no funding from
11 the federal, state or local government.
12 We're a 501(c)(4) organization and, as such,
13 we are not allowed to participate in
14 partisan political politics, but that does
15 not mean that we are not politically active
16 in areas of voter registration, get out and
17 vote initiatives, conducting political
18 information forums and expressing ourselves
19 relative to a variety of political issues.
20 I just learned of this hearing a few days
21 ago. The ideas expressed here by me have

22 not been coordinated with the state or
23 national NAACP offices and reflect the
24 approach taken by the Buffalo branch NAACP.

1 And because of the shortness, I did not
2 know how long we're going, but I did the
3 usual Googling voter reform, voter
4 registration reform and I read all about
5 Oregon, California, all of the other places,
6 but I didn't incorporate any of that. I'm
7 speaking purely from what we, in Buffalo,
8 the Buffalo NAACP, have tried to deal with.

9 Our first issue is to urge the state
10 legislature to eliminate a major obstacle to
11 voting in this state by passing a
12 legislation permitting same-day voter
13 registration. The TV -- with the TV, we can
14 watch election day in a myriad of Democratic
15 countries around the world and see those
16 voters patiently standing in line to vote,
17 with an overwhelming number of them being
18 first-time voters, and to contrast our
19 Democratic voting process which arbitrarily
20 cuts off voter registration thirty or more
21 days before the election shows that we might

22 be able to learn something from those
23 Democratic countries. It seems that those
24 responsible for our current practices enjoy

1 the confusion of absentee voting and other
2 policies that lock millions of eligible
3 voters out of the Democratic process. We
4 urge that you pursue legislation to permit
5 same-day registration and voting.

6 Now, I find this -- so, you know, it
7 wasn't that it was given to -- we don't have
8 secretaries because we're all volunteers,
9 and I didn't know the length, of course.

10 We're talking about same-day registration
11 with all of the safeguards.

12 Our second issue is seeking legislation
13 to clear away even more obstacles by
14 creating an option for sixteen year or high
15 school students to preregister, and when
16 they turn eighteen, that registration will
17 become active. We in Buffalo, the Buffalo
18 NAACP, currently register seventeen year old
19 students who will turn eighteen prior to the
20 next election day. And to create
21 legislation to provide an option for sixteen

22 year olds would allow young people to be
23 motivated in the Democratic process at an
24 earlier age. And bear in mind, I was not

1 aware of these bills that were pending. I
2 did not have that information.

3 Third, the issue of persons with a
4 felony conviction who serve that need to
5 know that they can vote if they are on
6 probation, were not sentenced to prison, or
7 had their prison sentence suspended or
8 served their maximum prison sentence or were
9 discharged from parole or were pardoned. As
10 we register people to vote, many of the
11 persons just mentioned above are not aware
12 of their right to vote, nor do their
13 families know they can register and vote.
14 We find that many of the judges and
15 attorneys fail to inform these persons who
16 are now eligible to vote. We're suggesting
17 legislation would be -- which would require
18 judges and attorneys involved in such cases
19 to share this information where applicable.
20 But we're also -- and what I'm hearing and
21 we're aware that Willie Horton wants to ride

22 again, and that's the danger when we're
23 talking about these people that use Willie
24 Horton and we're going to hear that as we

1 talk about voter reform and about all of
2 those criminal types who are going to be
3 registering and so forth. I just didn't
4 have time because I didn't know that was
5 going to be an issue today.

6 And our last concern, and we're well
7 aware of the state's fiscal condition, but
8 we feel there is the need for legislation
9 requiring boards of election to arrange for
10 transportation to voting sites for persons
11 living in some of the senior citizen housing
12 units that do not offer such a service.
13 Many of our seniors have walking problems
14 and do not have their own personal
15 transportation and lack the physical ability
16 to walk to the polling sites, especially in
17 upstate areas in November in this kind of
18 climate.

19 And one of the things that we do and we
20 coordinate with other people is to have a
21 day that we announce to take people to the

22 polling places, because that group of
23 people, they don't have an automobile or
24 transportation, and we just feel that this

1 needs to be addressed. I know that it's not
2 part of one of your bills, but I didn't -- I
3 was not aware at the time of the bills that
4 we are to address that. With that, I thank
5 you for allowing me to speak.

6 SENATOR ADDABBO: That's good. Thank
7 you.

8 FRANK HOUSH

9 New York Democratic Lawyers Council

10 FRANK HOUSH: Good morning, Senator
11 Addabbo, members of the committee. My name
12 is Frank Housh and I'm Western New York
13 regional vice president of the New York
14 Democratic Lawyers Council. We are a voting
15 rights project of the New York State
16 Democratic Committee and the Democratic
17 National Committee. As you may know, the
18 NYDLC is a coalition of lawyers and others
19 dedicated to fostering universal
20 participation and trust in the electoral
21 process by ensuring that all eligible

22 persons can register to vote easily -- thank

23 you -- all registered voters are able to

24 vote simply, fairly and without

1 intimidation, and all votes are counted and
2 all voting systems are open and reliable.

3 I'm an attorney in private practice,
4 but I began practicing law in 1994 as
5 counsel to Assemblyman Sam Hoyt. Although I
6 am currently a litigator by trade, I am
7 experienced as an election lawyer and poll
8 monitor, most recently in Missouri during
9 the 2008 elections.

10 As a former legislative aide, I am
11 aware of the competing public policy and
12 political agendas which can prevent the
13 implementation of broad reforms such as
14 those being contemplated here today. I know
15 that there are a number of critical issues
16 competing for the legislature's attention,
17 and election law reform traditionally
18 becomes a next session issue.

19 As a lawyer and as a citizen, I urge
20 you that the development of New York's
21 Election Law is at a critical juncture. New

22 York must bring its election law regime into
23 the 21st century if the voting franchise is
24 to have any meaning in the years to come.

1 Here in the United States, we often
2 take free, fair and transparent elections
3 for granted, given our long history of
4 peacefully resolving the competition for
5 political power through elections. Since
6 the 2000 presidential elections, however, we
7 have seen what can happen when complacency
8 replaces vigilance regarding the voting
9 franchise. We have been reminded of Thomas
10 Jefferson's famous admonition that the price
11 of freedom is eternal vigilance. For this
12 reason, I appear before you today to speak
13 in support of several of the measures being
14 considered by this committee.

15 We need look no further than the 2008
16 election to see that New York's election
17 system is falling behind. According to
18 George Mason's University's United States
19 Election Project's analysis of voter turnout
20 in the 2008 election, voter turnout in New
21 York in 2008 was fifty-eight percent. This

22 compares to sixty-two percent of the United
23 States as a whole. However, compared to
24 those states which New York shares a border,

1 we come in last. Connecticut and Vermont's
2 voter turnout in 2008 was sixty-seven
3 percent, Massachusetts and New Jersey were
4 sixty-six percent and Pennsylvania turned
5 out sixty-four percent of its eligible
6 voters. A table summarizing these turnout
7 rates is attached to my testimony.

8 New York's voter turnout rates are
9 unacceptably low because its Byzantine
10 election laws effectively disenfranchise
11 many who have neither the will or the
12 capacity to follow and adhere to its strict
13 and, at times, unnecessary regulations.
14 Most of the problems at the polls are
15 related to registration, which result in the
16 denial of a right to vote because a
17 potential voter's name does not appear on
18 the official list of registered voters,
19 often through no fault of the voter. This
20 is a big problem, and it has a
21 disproportionate impact on those who have

22 recently moved, recently become a citizen,

23 recently turned eighteen years old or an

24 individual who has not regularly voted but

1 wishes to.

2 An examination of the accompanying
3 chart of turnout rates show that the nine
4 states which have election day registration,
5 Idaho, Iowa, Maine, Minnesota, Montana, New
6 Hampshire, North Carolina, Wisconsin and
7 Wyoming, had some of the highest voter
8 turnout rates. Indeed, an astounding
9 seventy-eight percent of Minnesota voters
10 turned out to vote in the 2008 elections.

11 What explains the twenty percent
12 differential in New York's voter turnout
13 compared to Minnesota's? Are the people of
14 Minnesota more engaged, less apathetic than
15 New Yorkers? Obviously, the answer is no.
16 Minnesota has simply done a better job in
17 eliminating the roadblocks between the
18 citizen and the voting booth.

19 By enacting the reforms in these
20 measures, by beginning the process of
21 amending the Constitution to allow for

22 same-day registration, by reducing the
23 period between registration and voting, and
24 by making voting registration Web sites more

1 citizen-friendly, we begin the long overdue
2 process of reform.

3 Now, the objections to these reforms,
4 some of which you heard this morning,
5 especially same-day registration, may be
6 summarized as two propositions: First, they
7 are too costly and cumbersome to enact;
8 second, liberalized registration rules
9 create the potential for increased voter
10 fraud. These are serious objections and
11 must be considered.

12 Same-day registration certainly will be
13 more expensive. Budgets and staff for
14 county election bureaus will have to be
15 increased, as will staffs at polling
16 stations throughout New York. As to these
17 objections related to cost, I make two brief
18 points: First, we haven't put any money
19 into our election system in about one
20 hundred years. We've let it go far too long
21 and it's going to take a big investment to

22 bring our elections system into the 21st
23 century. To illustrate this point, consider
24 that here Erie County uses the mechanical

1 lever voting machine which was first used in
2 Lockport, just north of here, in 1892. As
3 you know, they haven't made these machines
4 in some time and you can't get parts for
5 them.

6 I'm reminded of a high school friend
7 who drove his beloved 1977 Dodge Dart with
8 three on the tree until 1998. After the
9 trans- mission failed and no mechanic would
10 touch it, it took an intervention by ten of
11 his closest friends to persuade him that it
12 was time to give up his car. He finally
13 did, having been persuaded that his beloved
14 machine just wouldn't work anymore. It was
15 time to invest in an upgrade if he wanted to
16 function in the 21st century.

17 Second, as it relates to cost, a
18 personal, and I hope not too blunt,
19 observation. A democracy which won't spend
20 the money to enable its citizens to vote
21 easily, fairly, simply and reliably simply

22 isn't worthy of the name.
23 As to voter fraud, it is a concern
24 which must be addressed by sufficient

1 safeguards, such as requiring qualifying
2 proof at registration and prosecution of
3 offenders. As a former prosecutor, however,
4 my first questions when analyzing crime
5 trends are, who are committing the crimes
6 and how are they doing it? Put simply, the
7 crime of in-person voter fraud just isn't
8 being committed.

9 The Brennan Center for Justice has
10 found that in-person voting fraud is
11 exceedingly rare, occurring approximately as
12 often as Americans are struck and killed by
13 lightning. Make no mistake, if found, voter
14 fraud should be investigated and prosecuted,
15 but the lack of any documented instance of
16 voter fraud seems to make the fraud
17 objection an idea in search of a problem.

18 I would remark on Senator Thompson's
19 comments in support of early voting,
20 off-site voting and no cause of absentee
21 voting as further measures which would

22 increase the voting franchise.

23 And finally, before I conclude, I would

24 like to briefly address Senate Bill 1266,

1 the Voting Rights Notification Registration
2 Act whose legacy -- this specific issue of
3 felony disenfranchisement has a legacy which
4 can be traced to the Jim Crow Laws after
5 registration. I applaud the senate for
6 considering this progressive and needed
7 measure. I will be very brief, as my
8 colleague Debra Cooper, the chair of the New
9 York Democratic Lawyer's Minority Voting
10 Rights Committee will be speaking on this
11 issue at length at your hearing in New York
12 tomorrow.

13 Just as the legislature has rejected
14 some long-held beliefs about the criminal
15 justice system by repealing the Rockefeller
16 drug laws, it's time to consider the
17 efficacy of felony disenfranchisement. Does
18 denying an incarcerated citizen or a felon
19 on parole the voting franchise strengthen
20 our democracy? I'm pleased that the senate
21 has begun to consider this issue and I look

22 forward to a meaningful public discussion in

23 the future.

24 In conclusion, my organization supports

1 the reforms contained in the bills being
2 considered by this committee today. They
3 begin a long overdue process of reform which
4 will remove some of the barriers New Yorkers
5 face when trying to make it to the polls,
6 and bring us to the level of voter
7 participation enjoyed by our closest
8 neighbors. Meaningful reform will be costly
9 and it will require vigilance, but it cannot
10 be postponed any longer.

11 SENATOR ADDABBO: Thank you, Mr.
12 Housh. Mr. Messiah, it's okay that you
13 didn't know obviously that the bills were in
14 discussion, and that's okay because you gave
15 us two other ideas, at least, to consider
16 when we go back to work in Albany,
17 registering sixteen year olds and certainly
18 transportation for seniors. So you gave us
19 a couple of good ideas and I appreciate
20 that.

21 Certainly -- again, a question to you

22 both quickly. You know, again, our goal is
23 to increase voter participation. We prepare
24 ourselves -- do you think that we are on the

1 right path? Is there anything else that we
2 need to consider when looking at the idea of
3 increasing the voter participation or voter
4 registration?

5 FRANK MESSIAH: I guess our concern
6 is just to make sure that safeguards are in
7 place, because what happens is if you find,
8 you know, something goes astray, then those
9 people objecting to it use that as an
10 example of what's happened to the entire
11 system, and I didn't get into all of the
12 details of being able to identify yourself
13 and all those different processes, but that
14 has to be tightened up to make sure and to
15 eliminate the fraud, there's always that.

16 But from what I have -- I went to Google and
17 found out that there was minimum findings of
18 fraud, and I think that as long as we're
19 vigilant in that regard.

20 SENATOR ADDABBO: Thank you.

21 FRANK HOUSH: First, I think -- can

22 the committee do more? Yes. I think the
23 committee needs, along with Governor
24 Paterson and other elected officials, to

1 bring New York into compliance with the Help
2 America Vote Act.

3 Obviously, as you're well aware, New
4 York was the last state to comply. In fact,
5 we haven't complied and was the subject of a
6 lawsuit by the Department of Justice that
7 may, in fact, be prescient as we have seen
8 that the voting mechanisms, the electronic
9 voting mechanisms, specifically related to
10 polling, many of those which can be
11 implemented by other states have, in fact,
12 been decommissioned to voter fraud issues.

13 So it may be a good thing that we
14 haven't completely complied with HAVA,
15 because those states have seen big issues.
16 But I think we have to -- I think we need to
17 save that registration data base. I think
18 that's a critically important issue that is
19 an issue which has to be -- we have to have
20 such a data base both to prevent fraud and
21 to allow the adequate communication between

22 the county boards and state.

23 And finally, just as the senator

24 previously stated, a personal act isn't

1 quite as serious, but I think that no cause
2 absentee voting should be implemented sooner
3 rather than later. I went to my voting -- I
4 went downtown, not far from here, to request
5 an absentee ballot, because I was going to
6 be in Missouri on behalf of the Obama
7 campaign on the date of the election, and I
8 filled out my absentee ballot and left a
9 portion of it blank because they said where
10 are you going and what are you going to be
11 doing. And I guess, at that moment, I was
12 feeling a little petulant and decided that I
13 don't really need to tell these people where
14 I'm going or what I'm doing, it's none of
15 their business. So they sent it back and
16 said, well, you can't have your ballot, and
17 I had to go and I had a nice conversation
18 with a nice lady and they gave me my ballot,
19 but it does seem that that is an unnecessary
20 complicating factor.

21 I suppose it was inserted into the

22 absentee ballot provision to prevent every

23 -- what they explained to me was, if we

24 don't make you give us a reason then

1 everybody will want an absentee ballot.

2 Well, that's something to consider. If it's
3 easier for people to vote by not having to
4 go to their polling place, and I kind of
5 like making the weekend voting more
6 appropriate, those are all things which can
7 increase voter participation.

8 So I think that you're on the right
9 track. I think more needs to be done. I
10 think your biggest problem is going to be
11 finding ways to implement the changes. If
12 you have, say, same-day voting registration,
13 it can't be left to each county to implement
14 it. As it is right now a patchwork of
15 election, election bureaucracies, you have
16 to have top down organizations and
17 preparation. Otherwise, you are facing some
18 of the concerns which were raised earlier.

19 SENATOR ADDABBO: Mr. Housh, thank
20 you very much and Mr. Mesiah. Just on that
21 last note, we are looking at a piece of

22 legislation that has been introduced about
23 basically not giving the details of why you
24 need that affidavit or perhaps -- I'm sorry,

1 absentee ballot for security reasons as
2 well. So we are looking into that.

3 Gentlemen, thank you very much.

4 FRANK MESSIAH: Thank you, Senator.

5 SENATOR ADDABBO: Thank you. Our
6 next panel is a panel of three, Mike Kuzma,
7 Counsel, Buffalo Common Council President;
8 Jim Ostrowski and Peter Reese.

9 PETER REESE: Mr. Ostrowski is not
10 here today.

11 SENATOR ADDABBO: Gentlemen, thank
12 you very much for being here. Please state
13 your name for the record and give your
14 testimony.

15 MIKE KUZMA

16 Counsel, Buffalo Common Council

17 MIKE KUZMA: My name is Michael
18 Kuzma, K-U-Z-M-A. I'm a sole practitioner
19 here in Buffalo. In addition, I work with
20 council president, David A. Fronczak, here
21 in the City of Buffalo, and my remarks are

22 somewhat related to the issues that are on

23 the agenda today.

24 I wanted to talk about Article 6,

1 Section 132, and Article 6, Section 140 of
2 the State Election Law, these sections
3 having to do with the form of designating
4 independent nominating petitions. Both
5 Section 132 and Section 140 require a voter
6 who signs a candidate designating or
7 nominating petition to, among other things,
8 list his or her town or city on the
9 petition. So, for example, if you reside in
10 the Village of Sloan and you enter that on
11 the candidate's designating or nominating
12 petition, his or her signature will be
13 invalidated by the board of elections if
14 challenged. The Court of Appeals in 2002,
15 in a decision called Stop and Hault versus
16 Sweeney (sic), made it clear that the law
17 requires the voter to list his or her town
18 or city, listing one's village or hamlet is
19 not sufficient.

20 So I believe the state legislature
21 needs to amend these sections of the law to

22 ensure that voters aren't shut out of the
23 process merely because they list their
24 village or hamlet on a designating or

1 nominating petition. And I just had an
2 example in the Village of Sloan where a
3 gentleman ran as a Democratic Committee
4 person and someone objected to his petition
5 and he was knocked off the ballot merely
6 because he listed Sloan and not Cheektowaga.
7 So I think this is another area of the law
8 that the legislature and this committee
9 should look at, because it's a big, big
10 problem here in Buffalo, Kenmore and such.

11 Kenmore is another example. You list
12 that on the designating petition, someone
13 objects because they didn't put Tonawanda,
14 which is the town, and this is another way
15 that people are, you know, disillusioned
16 with the process and are less likely to
17 engage. But I thank you for letting me sort
18 of get off topic and I appreciate you coming
19 to Buffalo. Thank you very much.

20 SENATOR ADDABBO: Thank you.

21 PETER REESE

22 Election Lawyer

23 PETER REESE: Senator, my name is

24 Peter Reese. I'm a community activist. I'm

1 an attorney currently practicing, and I am
2 also an engineer with a computer background.

3 By way of a little personal experience,
4 I have been involved in many election law
5 matters for the last twenty-five to thirty
6 years. I've been involved in a lot of
7 campaigning. I've worked with production of
8 computer lists for people targeting voting,
9 doing analyses of who votes, et cetera. I
10 want to state today that I support all of
11 the bills which are being proposed, and I
12 certainly want to back up the statement made
13 by my Senator Thompson here today.

14 I believe that it is desperate that we
15 increase voter participation on elections.
16 I think it's a good idea, not just
17 generally, but to give you some idea as to
18 what we face locally with respect to the
19 voter participation. In almost every
20 election, if you do an analysis of who
21 votes, you will find that if women over

22 fifty vote for you, you will win handily.

23 Now, this raises the frightening possibility

24 that when elderly ladies die or move to

1 Florida from Erie County, we won't be able
2 to have elections anymore.

3 In the City of Buffalo, which is
4 heavily Democratic, it turns out that most
5 of the action is in the Democratic primary.
6 The real race and it comes from management,
7 for instance, is one candidate versus
8 another being Democrats. The city, I think,
9 is now close to seven to one Democratic, so
10 the general election doesn't mean much. We
11 typically get turnouts of around twenty
12 percent in Democratic primaries, which
13 essentially means that twenty percent of the
14 people are deciding who is going to have
15 office in the City of Buffalo. So I believe
16 it's desperate to increase voter turnout.

17 Now, if you analyze probability of
18 voting versus age, you will find out that
19 young people are just not voting, and I kind
20 of scratch my head. I've done formal
21 studies and I've asked a lot of people why

22 they're not voting. The general attitude
23 seems to be why bother, it doesn't make any
24 difference, and we don't really know what's

1 going on, we can't find out what's going on.

2 Well, a lot of that can't be addressed by

3 the legislature, but there are issues

4 certainly with respect to the campaign

5 finance reporting and disclosure.

6 Now, I hate to divulge war stories, but

7 we do have a hot button because we got a

8 school board election going on right now in

9 the City of Buffalo. Our election will be

10 May 5th and it's being hotly contested.

11 There are currently nine candidates with

12 three slots, including three incumbents who

13 are running. The disclosure reports in

14 school board elections are a little bit

15 different, they're covered by the education

16 law. And basically, one must file their

17 campaign finance disclosure reports with the

18 clerk of the school board.

19 Well, so far the clerk of the Buffalo

20 City School Board has refused to allow any

21 human being outside of the City of Buffalo

22 school system to view any of these. I have
23 a couple of articles here, which I will
24 leave. They're written by an investigative

1 reporter and associate editor of Artvoice, a
2 weekly paper, but the title of one is, and
3 it's in today's issue of this paper, Buffalo
4 public schools keep finance information
5 close to their chest, and there's another
6 one here saying who's paying for the at
7 large incumbent's campaign for the school
8 board. They're very informative. I am
9 directly involved in this, because I've
10 attempted to get these finance reports twice
11 and I personally have not been able to get
12 them.

13 It is my contention that our school
14 board is using loopholes in the Freedom of
15 Information Law to delay release until after
16 the election is over. We have got another
17 finance report due April 30th, and there is
18 no chance that anybody will see that if we
19 can't see the April 6th report at this point
20 in time.

21 The purpose of this law clearly was to

22 inform the voters and the citizens as to
23 who's spending what on what, who's
24 supporting them, et cetera. It wasn't

1 intended to keep the clerk of the school
2 board of the City of Buffalo informed, but
3 he certainly must be fairly well informed.

4 Now, to indicate the lengths to which
5 this has gone, I spoke to our school board
6 last night and pointed this problem out to
7 them, and said it was disgraceful and they
8 had to release these records immediately,
9 and the Buffalo school board voted five to
10 three last night not to release these
11 campaign finance reports.

12 As another indication and, you know, I
13 hate to divulge war stories again but, you
14 know, lawyers do learn from case studies.
15 Recently, a flier came out supporting the
16 incumbent candidates. It comes from a group
17 which is known as Buffalo Students First. I
18 have learned, through personal
19 investigations and investigations of the
20 people at Artvoice, that this is, in fact,
21 being sponsored by the Buffalo Niagara

22 Partnership which is, in effect, our Chamber
23 of Commerce. However, they filed no d/b/a.
24 They don't have a political committee, it's

1 not incorporated. And in essence, what we
2 have is large scale involvement in a very
3 low level campaign. These people make five
4 thousand dollars a year. I think that comes
5 out to -- well, one of the candidates said
6 that it was thirty cents an hour, but that
7 means he has to work every other day, and
8 that's not quite right, but the amount of
9 time that they put in is absurd. The amount
10 of effort that they have to put in to get on
11 the ballot is absurd.

12 They need a thousand signatures, you
13 need a thousand signatures, Senator. So
14 we're making it too hard for these people to
15 run, but we are also making it too difficult
16 for citizens and voters to find out what's
17 going on in the election.

18 Now, if the Chamber of Commerce is,
19 indeed, supporting these incumbents, I think
20 we need to know that. I would like to
21 personally see the reporting requirements of

22 the education law moved back into the
23 election law. I'd like to see that things
24 that are in the ed law put back in the

1 election law. And I can tell you that my
2 election law work is almost always entirely
3 representing outsiders and people
4 challenging the system. I only deal with
5 people keeping them on the ballot. I never
6 represent anyone to knock one off.

7 And I can tell you that it almost pains
8 me to say this, but Commissioner Ward, who
9 was here, and his counterpart the Republican
10 commissioner, Commissioner Moore, actually
11 run an excellent board of elections here.

12 And I can walk over there and get a campaign
13 finance report in ten minutes, and I have
14 been able to for decades. So this situation
15 is absurd, and it just seems that this is
16 something crying for an answer, and it is
17 right here now on our desk. Thank you.

18 SENATOR ADDABBO: Commissioner, thank
19 you very much. Mr. Kuzma, your point well
20 taken on the petitioning process. And
21 again, I know it's not pertinent to this

22 legislation, but nevertheless it is an
23 issue. I encourage you to do one thing, if
24 you can give us written testimony about your

1 issues and submit it to our office.

2 MIKE KUZMA: I certainly will. Okay.

3 Thank you so much.

4 SENATOR ADDABBO: Mr. Reese, on the
5 issue of same-day voter registration on
6 election day and registration, do you, in
7 your opinion, see a way of ineligible voters
8 voting, possibly those who should not vote,
9 voting? Do you see that as being a problem?

10 PETER REESE: I think the risks are
11 very much overstated. Obviously, the devil
12 is in the details. I need to know how one
13 will document identity and nationality. But
14 quite frankly, some of the comments that
15 I've heard today are certainly borderline
16 racism and xenophobia and, perhaps, full out
17 class warfare. I think we're talking about
18 a situation where poor people, who have to
19 move too often, because they need to move,
20 get discriminated against by the current
21 process. That's a fact of life here in the

22 City of Buffalo, certainly. So I just do
23 not see that as any major threat. But
24 again, I support safeguards like Mr.

1 Messiah, and I would support his comments
2 completely.

3 We have to have proper safeguards.
4 Obviously, we don't want voter fraud. But
5 once again, it is like the lightning strike,
6 and the problem is that it will be a front
7 page article if there's one person who can't
8 possibly influence the outcome of the
9 election, if that person voting does not get
10 to vote, it will be the headline on the
11 paper the next day.

12 SENATOR ADDABBO: You're right. Mr.
13 Reese and Mr. Kuzma, thank you very much for
14 your time. Thank you.

15 Our next panel, a panel of two, Aaron
16 Miller, project director, Center for
17 Community Alternatives, and Gerald Balone.

18 While these two individuals are coming
19 forward, I would just like to mention that
20 in May, again, as we take these committee
21 hearings around the state for public input;

22 in May, you will be talking about voting
23 access and that will be in Syracuse, as well
24 as in Albany. And in June, you will be

1 talking about the board of elections
2 oversight and that will be in Manhattan and
3 in Albany.

4 Gentlemen, thank you very much for your
5 participation today. Please state your name
6 and give your testimony.

7 AARON MILLER

8 Project Director

9 Center for Community Alternatives

10 AARON MILLER: My name is Aaron
11 Miller. I'm here on behalf of the Center
12 for Community Alternatives. We would like
13 to lend our support to Bill 1266, which
14 educates the incarcerated about their voting
15 rights.

16 GERALD BALONE: My name is Gerald
17 Balone and I'm here to speak about the same
18 issue.

19 AARON MILLER: When it comes to the
20 treatment of people who have criminal
21 records, America falls short of the

- 22 Democratic ideals that we are founded on.
- 23 Our disenfranchisement policy with regard
- 24 to people who have been convicted of a crime

1 resulted in well over five million people
2 losing their precious right to vote.

3 These policies originated after the
4 Civil War and as part of Jim Crow laws and
5 policies aimed at limiting the rights of
6 poor people and African Americans. Today,
7 race neutral reasons are offered as a
8 rationale for depriving American citizens a
9 voice in our government. Whatever the
10 underlying rationale for these laws, the
11 impact is undeniable. These policies impair
12 a person's successful reintegration into the
13 community after release from prison. Just
14 as significantly, because our criminal
15 justice system has a disparate impact on
16 people of color, disenfranchisement policies
17 result in a disproportionate number of
18 African Americans and Hispanics losing the
19 right to vote.

20 Many states in the United States,
21 including New York, refuse to allow those

22 who have completed their sentences the right
23 to vote. As a result, at least five point
24 three million Americans, two million of whom

1 are African American, are barred from having
2 their voices heard in our political process.

3 Nearly four million of these people are
4 released from prison, but still cannot vote.

5 Whatever the intent behind these
6 various disenfranchisement laws, there is no
7 question that they have at least two
8 significant negative consequences. First,
9 felony disen- franchisement laws impair the
10 ability of those returning from prison to
11 successfully reintegrate into their
12 communities. Being denied a voice in the
13 civic process, which is the most basic and
14 fundamental of all rights, conveys a message
15 to people returning from prison into the
16 community that their voice does not matter
17 and that they are second class citizens.

18 Secondly, felony disenfranchisement laws
19 disproportionately affect the communities of
20 color.

21 The proposed amendment set forth in

22 Bill 1266 is a critical first step in
23 ameliorating the negative consequences of
24 New York's disenfranchisement laws. There's

1 a great deal of misinformation about
2 disenfranchisement laws, and all too often
3 people mistakenly believe that once a person
4 has been convicted of a felony, he or she
5 has permanently lost their right to vote.

6 Research has demonstrated that in New
7 York this mistaken belief is common and that
8 even local board of election officials
9 misunderstand New York's felony
10 disenfranchisement laws in a manner that
11 mistakenly prevents eligible voters from
12 registering to vote. Thus, imposing upon
13 various state agencies the duty to educate
14 people about their right to vote and to
15 provide eligible voters with the voter
16 registration forms are important first
17 steps.

18 Our primary concern about Bill 1266 is
19 that it does not address the fact that for
20 individuals on parole obtaining a
21 certificate of relief from disabilities or a

22 certificate of good conduct restores the
23 right to vote. To fully educate people
24 about their rights, it is critical that

1 sentencing judges, the Department of
2 Correctional Services, the Division of
3 Parole and the board of elections inform
4 people that even if they are on parole, they
5 can vote if they have a certificate of
6 relief from disabilities or a certificate of
7 good conduct. The next step in this process
8 is restoration of the right to vote for
9 those who are released from prison,
10 regardless of whether or not they are on
11 parole.

12 For many years, many New York citizens
13 have been advocating for a change in the
14 election law to allow those who are on
15 parole to have the right to vote. This
16 sentiment was endorsed by the New York State
17 Bar Association's special committee on
18 collateral consequences of criminal
19 proceedings. And for that reason, the
20 Center for Community Alternatives endorses
21 legislation, such as the Federal Democracy

22 Restoration Act of 2008, which not only
23 educates the people about their right to
24 vote, as does Bill 1266, but also restores

1 the right to vote in federal elections,
2 regardless of parole or probation status, to
3 the millions who have been released from
4 prison and are living in the community.

5 SENATOR ADDABBO: Thank you.

6 GERALD BALONE

7 Private Citizen

8 GERALD BALONE: Good morning,
9 Senator. On August 14, 2007, I was released
10 from prison after having served thirty-seven
11 years. I had to appear in front of seven
12 parole boards before I was finally able to
13 convince them that I no longer posed a
14 threat to society or to anyone else.

15 During my incarceration, I was one of
16 the fortunate ones who was able to obtain an
17 education. I obtained two master's degrees.
18 I took every educational and therapeutic
19 program offered by the Department of
20 Corrections. Since my release, I have been
21 involved in almost every program in Buffalo.

22 I worked with alternative violence projects.

23 I worked with the weed and seed program.

24 I'm on the Western New York Prisoner

1 Re-entry Coalition. I'm on the task force
2 dealing with re-entry. I worked with the
3 Buffalo Urban League education opportunity
4 centers.

5 I'm going back into prisons to speak
6 about my transition from prison. I am in
7 the phase of the emerging ex-convict. I
8 have life on the end of my sentence. I will
9 be on parole for the rest of my life unless
10 I've been able to convince a recently passed
11 legislation that says I can apply and get
12 off parole after three years. But because
13 of my current status, I've been informed
14 that I'll never be able to vote, I'll never
15 be able to do anything, but yet I'm a
16 taxpayer.

17 I wrote a book. I started my own
18 business dealing with re-entry in trying to
19 show people that people -- not all people
20 coming out of prison are bad. I mean, when
21 I was young I made many mistakes and I did

22 many stupid things, which I'm truly sorry
23 for. I was able to convince a parole board,
24 parole commissioners, our senators and our

1 governor of the State of New York, who have
2 the best knowledge to determine whether I
3 still pose a risk to society, and the fact
4 that I'm sitting before you today, I was
5 able to convince them that I don't, and I'm
6 doing exactly what I said that I was going
7 to do. I've testified in front of the
8 senate review board when it came to Buffalo,
9 and I'm just going around trying to speak
10 about people such as myself who do want to
11 come out of prison.

12 We do want to rebuild our communities,
13 not all of us want to come out and commit
14 crimes or do the wrong things. And because
15 I'm -- I believe that I've earned the right
16 to vote. Yes, I did a serious crime but, in
17 retrospect, I did pay my debt to society.
18 Thirty-seven and a half years is a long
19 time, and I'm truly sorry for the crime that
20 I committed and I am trying to do everything
21 that I can to help restore our community.

22 When I leave this committee meeting,
23 I'm going to donate blood. I donate blood
24 every Tuesday. I, and many others like

1 myself, we are trying to do everything we
2 can in the community of Buffalo to prove
3 that we are eligible and we should be
4 granted the right to vote, and that's pretty
5 much it.

6 SENATOR ADDABBO: Well, Mr. Balone,
7 I wish you much luck and success in the
8 future. And tonight -- today, at this
9 hearing, you are the voice of many who we
10 are trying to advocate for, those who paid
11 their debt to society and Bill 1266. So I
12 appreciate your time here today. Again, I
13 wish you all the luck in the future.

14 GERALD BALONE: Thank you.

15 SENATOR ADDABBO: Good luck. Mr.
16 Miller, I appreciate your insight as well.

17 You do not feel -- as you had mentioned
18 previously, there's areas of concern with
19 this bill that you know those not eligible
20 to vote or those still incarcerated will now
21 be given that right to vote. You are

22 proposing that this bill doesn't do that,

23 correct?

24 AARON MILLER: Yes.

1 SENATOR ADDABBO: Again, Mr. Miller,
2 thank you.

3 GERALD BALONE: Thank you.

4 SENATOR ADDABBO: Our next panel is a
5 panel of two, Bob Volpe, executive committee
6 for Citizens for a Better New York, Mr.
7 Volpe, and Kevin Gallagher, Citizen Action
8 of Buffalo.

9 Gentlemen, thank you very much for your
10 time. Please state your name for the record
11 and give your testimony.

12 ROBERT VOLPE
13 Executive Committee
14 Citizens for a Better New York

15 ROBERT VOLPE: Good morning, Senator.
16 My name is Robert Volpe. I live at 1940
17 Highland Avenue in Rochester. Thanks,
18 Senator, for traveling to our state's
19 western border and hearing from those of us
20 who live closer to Toronto than to New York
21 City or to Albany, but we're very much

22 interested in improving New York's
23 governance and this hearing is that
24 opportunity. Thank you for coming here.

1 Thanks also for the opportunity to
2 speak today. It's a special occasion when
3 citizens can directly communicate with
4 legislators in a public setting. We hope
5 that your commitment to continuously improve
6 the legislative process will be sustained.

7 Please extend our thanks also to
8 Senator Malcolm Smith, it took a lot of
9 courage for Senator Smith to step up to the
10 challenges to his power that rules and
11 process changes like this open hearing might
12 imply. Having more committee hearings will
13 break the hold of the senate majority leader
14 and the assembly speaker on the legislative
15 process and will bring citizens back into
16 governing.

17 I am a member of Citizen's for a Better
18 New York, a volunteer not-for-profit
19 organization based in Rochester, with
20 members throughout the state. Our mission
21 is to advocate for the well-being of New

22 Yorkers. Our organization's vision is to
23 make our state's public structure more
24 effective and efficient. We seek these

1 improvements in our public structures
2 because we want a state where all citizens
3 can happily live, work, learn, play or
4 prosper.

5 People normally think of their public
6 structures as the highways, bridges, parks
7 and waterways that support our
8 transportation and recreation systems.

9 However, our public structures also include
10 our courts that assure a fair way to resolve
11 differences and our regulations that keep
12 commerce organized and functional. The
13 quality of life and economic success of all
14 New Yorkers depends on the public structures
15 we have all created.

16 At the heart of these structures is our
17 legislature. This is where all citizens are
18 represented in the process that decides on
19 the laws and establishes the framework and
20 allocates the financial resources necessary
21 to support all the activities that make a

22 healthy, prosperous New York. One of the

23 legislature's important roles is to look

24 after all of these public structures and

1 institutions and make sure that they're
2 doing their job. Conducting these hearings
3 and considering how changes to our public
4 structures having to do with improving voter
5 registration and voting are exactly the kind
6 of stewardship that the legislature should
7 practice.

8 Our members believe that the well-being
9 of New York's citizens can be enhanced if we
10 can accomplish what we call the four R's.

11 The first R is the rules changes in the
12 legislature; to restore representative
13 democracy to a legislature that has been
14 described as the most dysfunctional in the
15 nation. Just as an aside, obviously the
16 special or temporary committee reported out
17 significant changes on Tuesday that
18 hopefully the senate will take and carry
19 forward. Redistricting; to require an
20 independent, non-partisan commission to
21 establish competitive legislative districts

22 that make sense and ensure accountability.

23 Referendum and Initiative; establishes

24 checks and balances that give citizens a

1 greater voice for influencing public policy.
2 And reclaim fair elections; to implement
3 clean money/clean election laws that provide
4 public money for state election campaigns.

5 Three of our four initiatives relate to
6 the power of voting, so your committee's
7 work is important to us. I would first like
8 to comment on the bills you have identified
9 to be discussed at this hearing, and then
10 offer some additional comments about the
11 work that we think is important for you to
12 consider in the future. I'd also like to
13 add, Senator, some comments at the end, if
14 there's time, to talk about some of my
15 reactions to the testimony that's been
16 delivered here this morning, because I think
17 I might be able to add to that. You were
18 looking for input and positive things, and I
19 would like to add to that.

20 Regarding Bill numbers 1616, 3372, 3996
21 and 3392, they all change the deadline for

- 22 party enrollment wand are all bills that
- 23 have to do with changing the time period
- 24 that voter registration must be completed

1 prior to election. It seems to me that the
2 sponsors of these bills have the same
3 intention, that is, reduce the amount of
4 time between a registration and an election
5 to offer voters the greatest flexibility for
6 being able to vote.

7 Historically, time gaps were important
8 for completing the labor-intensive
9 administration needed to maintain voter
10 records. Given our current resources and
11 technology and precedent set by the states,
12 it is recommended that we allow registration
13 or change of party affiliation with no
14 waiting period up to and including election
15 day. This eliminates barriers to voting and
16 sends a cultural signal to voters that it's
17 easy to vote. I suggest that you, Senator,
18 and Senator Valesky consider reconciling
19 your proposals in committee and introduce
20 replacement bills that would allow
21 registering or changing party affiliation

22 with no waiting periods up to and including

23 election day.

24 Regarding Bill S3995, this effectively

1 offers registrants a second chance to
2 register in a party. This bill is quite
3 prescriptive about sending out a postcard to
4 registrants. I'd like to add another
5 option, this is add appropriate text to the
6 existing voter registration confirmation
7 document that is mailed to voters. This
8 will accomplish the intent of the bill and
9 reduce the workload of the boards of
10 elections.

11 And with regard to S1266 dealing with
12 communications about voting rights and
13 assistance with voting for people who are
14 incarcerated are additional positive steps
15 for voter registration, education,
16 participation and I think we're moving in
17 the right direction. Regarding 4035, this
18 is also a positive change that takes
19 advantage of current technology to assist
20 voters and local boards of elections.

21 These bills and the topics of the

22 series of hearings your committee plans to

23 hold from now until November are all

24 important and deal with administrative

1 voting issues. However, our organization
2 recommends that you begin to develop
3 legislation and plan a series of hearings to
4 be held next year that sets your sights a
5 little higher in the election process. We
6 recommend that you create independent
7 non-partisan redistricting and reform
8 campaign finance.

9 Regarding independent redistricting,
10 with the 2010 census already underway, the
11 timing of this issue is critical. The
12 current undemocratic partisan drawing of
13 legislative district lines by assembly and
14 senate leaders controls the legislative
15 districts and thus ensures that incumbents
16 are virtually always re-elected. This
17 current redistricting process results in
18 representatives choosing their voters rather
19 than voters choosing their representatives.
20 This discourages voter participation when
21 people see that their vote really doesn't

- 22 make much difference.
- 23 Your committee should pass legislation
- 24 amending the constitution that provides for

1 an independent redistricting commission with
2 specific rules to maximize the number of
3 competitive districts; configure districts
4 to be compact and contiguous; ensure that
5 districts comply with the federal Voting
6 Rights Act; ensure respect for communities
7 of interest and prohibit the use of voter
8 registration data, prior voting records or
9 incumbent's home address to establish or
10 change legislative districts.

11 Regarding campaign finance reform, the
12 largest contributors to New York State
13 legislative election campaigns are listed in
14 a report entitled quote, capital
15 investments, campaign contributions to the
16 New York State Legislature published by
17 NYPIRG earlier this year. In addition, a
18 couple of these groups ran scary ads, TV
19 ads, supporting their very biased views of
20 the consequences of the governor's proposed
21 budget cuts and new taxes earlier this year.

22 These groups are the special interests that
23 the media and others speak of. Campaign
24 finance reform should end the power of these

1 groups who don't vote and who don't pay
2 taxes and strengthen the voice of voters who
3 do pay taxes.

4 These suggestions describe a new game
5 where the playing field is level and the
6 rules are balanced so all interested New
7 Yorkers have an equal opportunity to
8 succeed. These process changes empower a
9 legislature that is better able to deliver a
10 tax burden that is closer to the average of
11 all other states, a quality health care
12 system that is accessible and affordable.
13 An empowered legislature is better able to
14 deliver a quality education system that sees
15 more young people graduate and an economic
16 environment that keeps and attracts
17 employers with good paying jobs.

18 We urge you not to continue to follow
19 in lock step the process controlled by the
20 two legislative leaders and a few special
21 interest groups like in the past. I

22 encourage all the legislators to step up and
23 lead. We hope that you will lead by
24 focusing on making redistricting independent

1 and reforming campaign financing. If you
2 make these changes, you will help move the
3 legislature to its rightful place as the
4 most effective and responsible public
5 structure in the state.

6 A couple comments, Senator, regarding
7 earlier testimony, a couple of things
8 occurred to me. As I was thinking about the
9 commentary about the process for voter
10 registration, I compare and contrast the
11 environment of the boards of elections and
12 the environment of what I perceive is a
13 significant makeover in the Department of
14 Motor Vehicles. At the state and county
15 levels, the DMV has gone through dramatic
16 changes. I can remember in the past having
17 to face the person in a cage in order to
18 deal with car registration or licensing
19 issues. When I think of the boards of
20 elections, I think they're underfunded,
21 understaffed and have the same kind of

22 issues.

23 I think in terms of a culture of a

24 state to encourage citizenship is what we're

1 talking about. We want people to
2 participate in the democracy. We need to do
3 that and we need to make it as simple as
4 possible. Some of the legislation that
5 you're talking about goes there, but we also
6 need to take advantage of technology. It
7 seems to me that the question that the
8 commissioners of elections posed as a
9 barrier to community site voting was that,
10 well, we have to have all these ballots.
11 Well, technology would allow a voter
12 registration data base to understand where
13 that person was coming from, and on-site at
14 that voting place print out the appropriate
15 paper ballot that could meet that person's
16 needs. So we wouldn't need to store a bunch
17 of papers on-site, they could simply have
18 something put on the computer.

19 I think early voting on scattered sites
20 is the appropriate thing. I wintered in
21 Florida and they have early voting, and it

22 was extremely popular and well covered in
23 the media. So the issue about election day
24 registration by spreading -- if we had early

1 voting, it would seem to me that -- having
2 the idea that election day is the period,
3 then we have a process that's continuous
4 that says you can take some time to vote.

5 I read the news recently that the
6 voting process in India, which is going on
7 right now, it's going to take a month. So I
8 think there are -- we need to have a
9 cultural shift in our views of the
10 importance of voting. I think some of the
11 things that we talked about, about barriers
12 and disenfranchising prisoners, go back to
13 the fact that in the past voting was
14 considered an automatic powerful franchise
15 and that we diminished it over time to the
16 point where that's why we have the low
17 participation. So those are my comments.

18 SENATOR ADDABBO: Thank you. Well
19 done. Mr. Gallagher?

20 KEVIN GALLAGHER
21 Citizen Action of Buffalo

22 KEVIN GALLAGHER: Good day. My name
23 is Kevin Gallagher. I live at 1973 Dublin
24 Road in Penfield. I am a peacetime veteran

1 and cherish participation in our democracy.

2 First, in the near future, I propose a
3 cash voting lottery where each voter is
4 entered with local and statewide winners.
5 Voting should be encouraged rather than
6 discouraged. Additionally, I believe those
7 that have served their sentence for a crime
8 should be allowed to vote because voting is
9 a valuable part of belonging to the
10 community and could also be a measure of
11 reintegration.

12 However, voting is just one part of a
13 representative democracy. In New York
14 State, almost all nineteen million residents
15 are partially or completely disenfranchised.
16 This is not because they are felons but
17 because of a broken system. The current
18 processes in our state isolate the deciders
19 from the people who suffer but may well have
20 the solutions. I'm not saying voting is not
21 important, however, the failed system trumps

22 almost every vote.

23 I hate to mention the culture of smarmy

24 underhanded, backroom dealings that

1 manipulate our public policy because they
2 don't deserve respect. However, it is
3 necessary to identify these failings so we
4 learn from them, correct them and don't
5 repeat them.

6 To heal this failing democracy we need
7 non-partisan redistricting, where voters in
8 a community can choose their representative
9 rather than party leaders drawing lines
10 around party members; comprehensive campaign
11 finance reform that removes the unfair
12 influence and corruption that poisons the
13 current system; referendum and initiative so
14 the people can create and implement
15 solutions at the polls when our elected
16 officials fail or refuse to act; legislative
17 rules reform to reconnect the needs,
18 knowledge and will of the people through the
19 representative process. Together these
20 reforms will restore trust in the system,
21 encourage understanding and collaboration

22 within our communities and reward

23 participation.

24 Our state is in crisis now. This

1 crisis was predicted and could have been
2 averted, but the deciders refused to act.
3 We cannot afford to put these issues off
4 'til later. Our state is headed for
5 disaster and we must change the course. I
6 don't want to say I told you so again, I
7 want to say we succeeded.

8 Is it possible that open dialogue,
9 debate, accountability and committees can
10 solve our problems? The founders thought
11 so, as do I.

12 I want our votes to count and our
13 representative's votes to count and New York
14 State to thrive again. For that to happen,
15 you have to tear down the machinations of
16 failure and roadblocks to success.

17 If you are serious about letting the
18 voice of democracy be heard, make it the
19 harmonic chorus of community success rather
20 than a million muted whimpers of failure.

21 What will be our legacy, silence,

22 hesitation, obscurity? How about faithful

23 sentinel to liberty? Will you please

24 promptly enact these essential reforms?

1 Shouldn't our votes count? Don't we all
2 deserve a vibrant representative democracy?

3 I ask that your reply not be in words
4 but in swift deeds. I await your response.

5 I also have another comment based on
6 what their -- I would like to compare the
7 voting right to the driving privilege. The
8 way the two sets of circumstances are
9 treated is completely reversed, we have to
10 go through due process to take someone off
11 the road, whereas we have to prove that
12 someone is eligible to vote and I believe
13 that's completely backwards. Thank you.

14 SENATOR ADDABBO: Okay. All right.
15 Thank you very much, Mr. Gallagher. You
16 know, both of you, Mr. Gallagher and Mr.
17 Volpe, brought up two additional issues and
18 I appreciate that. Non-partisan
19 redistricting and campaign finance reform
20 are obviously on the minds of many
21 throughout the state. Just so you know, the

22 committee will take up campaign finance
23 reform and will discuss that and it will be
24 intensifying as we go along. So that will

1 be taken up in due course and it will be
2 taken up by this committee and the elections
3 committee, and both issues there will be
4 taken up by this committee.

5 I thank you. Mr. Volpe, on your
6 testimony on page two, you had mentioned the
7 bills, you had one without a number. We do
8 now have a number for that.

9 ROBERT VOLPE: I thought I heard that
10 today and I wrote it down.

11 SENATOR ADDABBO: It's 4317.

12 ROBERT VOLPE: 4317, thank you.

13 SENATOR ADDABBO: Again, gentlemen,
14 thank you very much, not only for your time
15 and testimony, but for your input on other
16 suggestions and ideas. Keep those ideas
17 coming.

18 ROBERT VOLPE: Thank you, Senator.

19 SENATOR ADDABBO: Thank you for your
20 time.

21 ROBERT VOLPE: Thank you.

22 SENATOR ADDABBO: The last panel

23 signed up is Pastor James Giles and Jim

24 Ostrowski.

1 While these two individuals are coming
2 up, that is the last -- these two
3 individuals are the last two signed up for
4 testimony. Anybody that does want to give
5 additional testimony, please sign up.

6 Gentlemen, thank you very much for
7 being here. Please state your name and give
8 your testimony, please.

9 JAMES GILES

10 Pastor, Executive Director
11 Back to Basic Outreach Ministries

12 JAMES GILES: I'm Pastor James Giles.
13 I'm the executive director of --

14 SENATOR ADDABBO: Mr. Giles, can you
15 hit that button. There you go.

16 JAMES GILES: My name is Pastor James
17 Giles. I'm the executive director of Back
18 to Basic Outreach Ministries. I have been
19 actually putting on programs for the City of
20 Buffalo for the last fifteen years as
21 executive director as well as -- also part

22 of the Western New York Task Force dealing
23 with re-entry. I run a prisoner re-entry
24 program. Our specific design is to help

1 individuals acclimate back into society and
2 become productive citizens.

3 We've had some great successes in this
4 area. We're working with young men. I,
5 myself, have been considered a success, a
6 formerly incarcerated individual that has
7 come back to the City of Buffalo. And
8 during my time with the City of Buffalo, I
9 have worked at various programs to help to
10 improve the quality of life.

11 Why don't you go ahead and introduce
12 him, Mr. Ostrowski.

13 SENATOR ADDABBO: Why don't you go
14 ahead, Mr. Giles.

15 JAMES GILES: I am here for my own
16 organization in support of the bill that's
17 S1266 of the incarcerated -- educating the
18 incarcerated.

19 We, as individuals returning back to
20 society, we have a responsibility of
21 becoming productive members of that society.

22 In particular, when it comes to addressing
23 the totality for that someone who wants to
24 commit a crime, we actually commit a crime

1 against not only the society but certainly
2 New York State, because that's who
3 prosecutes. But upon our release, it is
4 said for us to come in and you must become
5 law abiding citizens. Not only that,
6 there's a particular responsibility beyond
7 the formerly incarcerated -- productivity
8 law abiding citizens. So things that they
9 may have been involved with previous to
10 their release, that becomes a thing of the
11 past.

12 The Division and Department of Parole,
13 their supervisory capacity suggested they do
14 that. Well, some of us, we gain employment
15 and we might pay taxes. We become with the
16 well-being of the community, such as myself
17 and brother Gerry Balone, who you also heard
18 testified at this thing -- at this hearing.

19 In becoming productive, we also become
20 concerned with the quality of life that's in
21 the city. We recognize our wrongs that we

22 at one time had committed and, you know,
23 being very sorry for that, we go back in to
24 try to make a difference in what's going on

1 in the community or present society. We try
2 to make a difference in a very positive way.

3 To deny us the right to vote or to be
4 concerned with or suggest that we are not
5 concerned with the representation that the
6 society has or that our community has is
7 particularly double -- placing us in a
8 double jeopardy. One, we paid for the
9 wrongs that we have done, and then now we're
10 continually being forced into a position.

11 You want us to be complete citizens, but to
12 be complete citizens also guarantees us a
13 right to vote. And during this period on
14 parole and some individuals are coming out
15 with just staggering amounts of time on
16 parole, they do have the ability to turn
17 things around.

18 For the most part, people that commit
19 crimes, some of them a very large number,
20 don't even want to be a part of the voting
21 process, but there are some that do and are

22 very much concerned with their life and
23 their livelihood. They come back to be
24 productive members with their families,

1 raising their children, paying taxes,
2 starting businesses.

3 As we have proven in the re-entry
4 programs, all of those individuals that are
5 a part of our program are very positive
6 individuals wanting to make a difference,
7 and has been a great help in reducing crime
8 from other elements, and they're operating
9 as mentors reducing crime and helping to
10 reduce crime. So we believe that they
11 definitely should have the right to vote
12 being just as concerned, if not more
13 concerned, with serving the representation
14 of a particular society, our particular
15 society.

16 SENATOR ADDABBO: Thank you. Thank
17 you, Mr. Giles. Mr. Ostrowski?

18 JAMES OSTROWSKI
19 President of Free New York

20 JAMES OSTROWSKI: Senator, thank you
21 for having this hearing and welcome to

22 Buffalo. It's a great city. Hopefully, you
23 can spend some time seeing the sights before
24 you get back.

1 I'm the president of Free New York.
2 It's a public policy research organization.
3 I'm here in a personal capacity because we
4 have restrictions on lobbying, no Free New
5 York money was spent, et cetera, et cetera,
6 et cetera.

7 I'm also an election lawyer. I was
8 down with Eric Songwell (sic), who was
9 knocked off the ballot in the special
10 election because one of his people who got a
11 lot of signatures put the PO address instead
12 of his actual address. I will skip over
13 that because I'm not sure that that's been
14 covered.

15 Our group has actually published three
16 studies and I have them attached.

17 We did a study and each of them they
18 are on FreeNewYork.org on eliminating
19 additional congestion, which I have been a
20 delegate of since I was nineteen. We wrote
21 a study and are aware of the candidates. I

22 have copies for you today, but let me focus
23 today on gerrymandering, which is a problem
24 and most important issue from our point of

1 view, and we do have copies of it and it's
2 called a simple proposal to abolish
3 gerrymandering.

4 Gerrymandering is one way that
5 incumbents stay in power in spite of the
6 wishes of the electorate. Gerrymandering is
7 the manipulation of redistricting for
8 nefarious purposes such as racial, religious
9 or ethnic discrimination or to protect
10 incumbents from challengers.

11 In a prior study, Free New York
12 identified gerrymandering as an important
13 means that incumbents use to discourage
14 potential challengers from running against
15 them. We used the 59th Senate District now
16 held by Dale Volker to illustrate the tactic
17 of geographic gerrymandering. We argued
18 that it would be difficult for any
19 challenger to muster support throughout a
20 district that snakes across four counties.

21 The result of the recent Republican

22 primary election between Dale Volker and
23 Leonard Roberto precisely illustrates and
24 confirms this thesis. In Erie County, where

1 Roberto is well known, he received
2 forty-eight percent of the vote. However,
3 he fared poorly in the three other counties
4 and was defeated sixty-three to thirty-seven
5 percent.

6 Even the results within Erie County
7 suggest that the less compact a district is,
8 the harder it is to defeat the incumbent.
9 In the more suburban parts of the district,
10 Roberto received an astonishing fifty-five
11 percent of the vote. He was obviously
12 outspent. In the more rural areas of the
13 county, which wrap around the more suburban
14 areas, he lost sixty-three to thirty-seven
15 percent. Roberto heavily advertised on WBEN
16 radio which is popular among suburban
17 commuters. He presumably lacked funds to
18 advertise on radio stations across the huge
19 district. In contrast, Senator Volker spent
20 nearly two hundred thousand dollars to keep
21 his seat.

22 Just to update you, at the last
23 election, people voted to knock off Dale
24 Volker proves all of this was correct.

1 As stated below, any reform of the
2 redistricting process must include some
3 notion of geometric compactness in its
4 formula. If Volker had been challenged in a
5 compact, predominantly suburban district
6 within Erie County, it is likely he would
7 have lost. Thus, gerrymandering converts
8 democracy from a system in which the voters
9 choose their representatives to one in which
10 the representatives choose their voters so
11 they can remain in power indefinitely.

12 Gerrymandering, from a technical point
13 of view, is not difficult to eliminate. The
14 problem is strictly political. That is, in
15 order to eliminate gerrymandering, those who
16 benefit from it must abolish their own
17 security blanket. While there is no easy
18 answer as to how to persuade them to do so,
19 it is worth outlining a proposal that would
20 eliminate gerrymandering if they were so
21 inclined.

22 Here is a simple proposal to eliminate
23 gerrymandering. Mandate that districts may
24 not be drawn on the basis of racial,

1 religious or ethnic considerations or party
2 affiliation or the residence of incumbent
3 office holders or their potential
4 challengers, or any other political factor.

5 Two, mandate that districts must be
6 based on neutral mathematical or geometric
7 principles such as compactness or the
8 shortest split line algorithm.

9 Mandate that every bill to redistrict
10 one house of the legislature originate in
11 the other house, and that the house voting
12 on its own redistricting plan may only
13 approve or disapprove the plan and not
14 modify it. If it is rejected, it must go
15 back to the originating house for
16 reconsideration.

17 Four, allow any citizen to have
18 standing to challenge in court a plan that
19 violates any of these principles.

20 Five, the burden of proof would be on
21 the plaintiffs but the presumption of

22 constitutionality should be removed.

23 Point four, standing, appears to be a

24 restatement of current law. However, the

1 potential positive impact of citizen court
2 action has often been a truly nebulous
3 concept not susceptible of precise
4 definition. Hence, we propose to abolish it
5 for present purposes.

6 The other reason why citizen suits have
7 been fruitless is the sheer complexity of
8 present redistricting rules such as rules
9 related to keeping counties and towns
10 intact. The more complex the redistricting
11 rules, the more likely gerrymandering is to
12 occur and the more likely it is to be upheld
13 by courts based on deference to the
14 legislative balancing of competing and
15 complex rules. In contrast, the great
16 virtue of the present proposal is its sheer
17 simplicity. This will make gerrymandering
18 more difficult and court challenges more
19 likely to succeed.

20 The most geometrically compact shape is
21 the circle. The problem with circles is

22 that they do not fit together with other
23 circles. And quoting, of all of the regular
24 polygons, there are only three that will fit

1 together perfectly: The equilateral
2 triangle, square and regular hexagon,
3 because theirs are the angles that divide
4 evenly into three sixty. Of the three, the
5 hexagon is the most compact. We can expect
6 compact districts to be roughly hexagonal in
7 shape and I have a diagram.

8 Using geometry to redistrict eliminates
9 the possibility of racial or other insidious
10 discrimination. Such discrimination has
11 generated numerous and expensive lawsuits as
12 well as ill will and distrust among
13 minorities.

14 Some reform proposals involve the
15 creation of an alleged non-partisan
16 commission to do the initial redistricting
17 work. There are several problems with this
18 approach. First, it is a futile attempt to
19 remove politics from the process. However,
20 all such commissions are appointed by
21 politicians so this proposal does not

22 eliminate the politics, it just disguises

23 it.

24 Second, under our form of government,

1 elected officials are responsible for such
2 decisions and the commission concept is
3 really designed to remove that
4 responsibility from elected officials who
5 can be held accountable in elections and
6 give it to unelected officials who are not
7 accountable to the public in any way.

8 Third, commissions involve unnecessary
9 expense, legal complexity and delay.

10 Fourth, the how of redistricting is
11 more important than the who. If we
12 precisely define how redistricting is to be
13 done, it matters less who does it,
14 particularly since court review is
15 available.

16 Note that our proposal does not
17 guarantee that counties, cities, towns and
18 villages would be wholly within state
19 legislative districts. However, given the
20 guiding principle of compactness, this
21 would, in most cases, turn out to be the

22 case anyway. The problem with mandating
23 such a result in advance is that it allows
24 too much discretion to creep into the

1 system, opening the door to the very
2 gerrymandering we are trying to abolish.
3 Complexity equals discretion equals
4 gerrymandering.

5 Undoubtedly, defenders of districts
6 such as Volker's would claim they are the
7 result of the Constitution's complex rules
8 for keeping counties intact. Counties,
9 however, unlike towns and cities, are not
10 shaped around organic communities, but
11 rather are artificial and administrative
12 creations of state law. Who really cares if
13 counties remain intact in state legislative
14 districts? How has that served the
15 interests of real citizens?

16 It is no doubt true that even a system
17 based on mathematical principles is subject
18 to manipulation. Different mathematicians
19 could conceivably apply similar principles
20 in different ways to achieve different
21 results. But at least such disputes would

22 be restricted to battles over math rather
23 than battles over race, party affiliation
24 and politics.

1 Gerrymandering must be abolished if we
2 are to have true representative government
3 and truly competitive elections in New York
4 State.

5 We hope that this proposal stimulates
6 further discussion of this important issue
7 throughout the state. Thank you very much.

8 SENATOR ADDABBO: Thank you, Mr.
9 Ostrowski. Certainly, you know that this
10 committee is going to take that up next year
11 as we prepare the 2011 redistricting. So,
12 therefore, you should keep in touch with
13 that this year and as you go through the
14 process next year. So thank you very much.

15 James Giles, I thank you for the work
16 that you do at the Back to Basics Outreach.

17 I do have a question. As you assist
18 those coming out of incarceration, have you
19 found it to be a successful formula, and do
20 you have help in reregistering and getting
21 them reregistered going into the population?

22 JAMES GILES: Yes, we do. Even
23 considering the restrictions placed on them,
24 we do want them to become complete citizens

1 and do much to restore a good name for
2 themselves as possible, and that voting is
3 very key to encouraging them to be part of
4 the significant process in the community.
5 So the work that they do when they come up
6 helps us in terms of stopping individuals
7 committing crimes. The voting process is
8 truly significant for them.

9 SENATOR ADDABBO: It's a good point.

10 I want to wish you all of the best in the
11 future, as well in the work that you do.
12 Thank you very much.

13 There being no other individuals to
14 give testimony, I want to thank all of you
15 who participated today, and again, those who
16 put this together. Please do not be the
17 first and the last to speak. Hopefully,
18 this will be the first of many that we are
19 conducting as we go throughout the process
20 that relate to voter registration and the
21 election process.

22 I look forward to continuing
23 conversation, be it e-mail, regular mail,
24 fax, phone call, whatever it takes, to

1 contact us as the election committee so we
2 can work on behalf of the people throughout
3 the state.

4 Once again, for a person from the
5 southern part of New York, Queens County and
6 southwest Queens, it's a pleasure to be here
7 in Buffalo.

8 I look forward to being back and thank
9 everyone for being here. Have a great day.

10 Meeting adjourned.

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