

1 NEW YORK STATE SENATE

2 STANDING COMMITTEE ON ELECTIONS

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Public Hearing in the Matter

4

Regarding Voter Registration

5

and

Election Reform

6 -----

7

Senate Hearing Room
250 Broadway - 19th Floor
New York, N.Y.

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April 24, 2009
Friday

10

10 a.m. to 1:30 p.m.

11

PRESIDING:

12

JOSEPH P. ADDABBO, JR.

Chairman

13

Senate Standing Committee on Elections

14 PRESENT:

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DAVID KOGELMAN

Counsel

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

2 SENATOR ADDABBO: Good morning,
3 everyone. My name is Joe Addabbo. I have
4 the privilege and honor of chairing the
5 Elections Committee for the State Senate and
6 I look forward to a great conversation this
7 morning.

8 Let me do a little housekeeping first.
9 First, let me thank everyone not only for
10 being here, but I want to thank those who
11 put this hearing together and helped us so
12 everybody from Central, to my right here is
13 legal counsel for the Senate, David Kogelman
14 and again I thank everyone who helped put
15 this hearing together.

16 We are doing the first of many
17 hearings, a series of which will take it
18 throughout the State and just get some
19 street feedback, a good conversation of some
20 of the election issues that we are taking up
21 in the committee. Yesterday we were in

22 Buffalo on our first hearing, as we take
23 this on the road show, so to speak, and it
24 went very well, as we had a great

1 conversation up there, when I was given the
2 privilege for being the Chair for the
3 Elections Committee.

4 One thing I wanted to do is figure out
5 how we can make the process better, how we
6 can take the process from voter registration
7 to the process of voting, how can we make it
8 more easy and equitable for people and
9 that's the process that we find ourselves in
10 now so I appreciate you being part of that
11 journey.

12 We are going to hear a number of pieces
13 of legislation and I will mention them to
14 you in a bit and we are looking for a good,
15 constructive conversation, the pros and cons
16 and I know some of you may have problems
17 with the seven pieces of legislation and I
18 want to hear the issues that you may have
19 with the seven pieces of legislation, but I
20 hope it is constructive criticism, not
21 directive.

22 I want to hear ideas, I want to hear
23 alternatives, I want to hear what
24 alternatives, what ideas, what kind of plans

1 you may have or think that we can take up
2 here in the Election Committee for the State
3 Senate so, hopefully, your ideas and your
4 insights are backed with substance and facts
5 by facts and findings so we can work on it.

6 I look forward to working with all of
7 you as we go through all of these hearings
8 and take down the barriers that really
9 separate our people, our qualified voters
10 from voting. So again, I thank you all for
11 your participation today.

12 We are going to discuss generally, the
13 seven pieces of legislation. Yesterday's
14 hearing in Buffalo brought up other issues
15 other than these seven of pieces of
16 legislation, it brought up issues such as
17 redistricting and campaign finance reform,
18 but generally speaking, these hearings are
19 centered around these seven pieces of
20 proposed legislation.

21 The first, Senate Number 1616, allows

22 voters to register on Election Day, to
23 register and vote on Election Day through a
24 Constitutional Amendment.

1 Senate Bill 3372 would actually do the
2 same, allow voters to register and vote on
3 Election Day once the Constitutional
4 Amendment -- well, once the Constitution has
5 been amended.

6 S4317 Senate Bill reduces the deadlines
7 for changing party enrollment to 25 days
8 prior to an election for unaffiliated voters
9 and 90 days for all those who are already
10 registered to a party.

11 Senate Bill 3996 reduces the deadline
12 by which a registration must be received,
13 from 25 days to 10 days before an election.

14 Senate Bill 3995 provides an additional
15 opportunity for new registrants to indicate
16 party of choice where the original choice
17 was omitted or void.

18 Senate Bill 1266 educates the
19 incarcerated and those released, but serving
20 sentences, about their voting and absentee
21 ballot rights. It provides assistance in

22 registering and voting by absentee ballot.

23 And lastly, Senate Bill 4035 requires

24 that the State Board of Elections address

1 the forms to local county boards and
2 boarders, download the registration of forms
3 from the website.

4 Again, those, generally speaking, are
5 the seven bills that we are entertaining
6 today. These are not bills written in
7 stone. These are proposed pieces of
8 legislation that again, we are looking to
9 have a good, constructive conversation about
10 and again, I appreciate your participation.

11 Before I call our first panel, I would
12 just like to remind everyone that we are
13 here until one o'clock or thereabouts and we
14 want to get everyone in so I'm going to ask
15 that we're going to try to keep the speakers
16 to roughly, five minutes, all right? No big
17 buzzer is going to go off, no electric shock
18 in the chair, unfortunately, but now, try
19 and keep your thoughts and comments concise
20 so that we have an opportunity for questions
21 and answers after your statements and then

22 we do get through each and every panel.

23 So for our first panel, we have one

24 person, Douglas Kellner. Mr. Kellner is the

1 Co-Chair of the New York State Board of
2 Elections. Mr. Kellner, good to see you.

3 MR. KELLNER: It's good to see you.

4 SENATOR ADDABBO: Good morning.

5 DOUGLAS KELLNER

6 Co-Chair, NYS Board of Elections

7 MR. KELLNER: Senator, I want to
8 start by applauding you for holding these
9 hearings. I think this is a great
10 development, it's wonderful to bring
11 together the election community so that we
12 can have this conversation and I thank you
13 for doing that.

14 SENATOR ADDABBO: Thank you.

15 MR. KELLNER: Addressing just the
16 issue of voter registration, rather than
17 read my testimony, I'll just quickly
18 summarize it, is that I certainly support
19 the proposals that have been generated by
20 the Brennan Center and others, changing the
21 mode to a concept of universal voter

22 registration and that means that we should
23 probably start thinking outside of the box,
24 that we have a voter registration system

1 that is almost two centuries old in its
2 concept and it doesn't really work the way
3 it was originally intended to, that now it's
4 in many ways, a barrier to keeping
5 substantial numbers of people from voting or
6 having their ballots actually counted in an
7 election and what we should do is reverse
8 the presumption.

9 It should be a presumption that every
10 citizen who is over 18 years of age and who
11 is not serving time for a felony conviction
12 should be able to vote and if a person
13 presents himself or herself to vote, then
14 the burden should be on the government to
15 come up with a reason why the ballot should
16 not be counted, rather than the current
17 system now, where the burden is really on
18 the voter to satisfy the technical
19 requirements of voter registration.

20 And I support all of the legislation
21 and thinking that would lead towards having

22 a greater participation and making it easier
23 and not having registration as a barrier for
24 people to vote.

1 I point out that one state, North
2 Dakota, has no voter registration,
3 whatsoever. We have ten states now that
4 have same-day voter registration and there
5 do not appear to be any significant problems
6 arising from the same-day voter
7 registration.

8 Yes, as the New York City Board of
9 Elections points out, there are paperwork
10 issues that come up, but those are paperwork
11 issues for the administrative agencies, for
12 the election officials to resolve and again,
13 the presumption should be that we want votes
14 to count and not use the registration laws
15 as a barrier so I'm in favor of same-day
16 voter registration.

17 Also, there are a number of states that
18 have taken away the job of voter
19 registration from election officials and
20 given it to the Department of Motor Vehicles
21 or have combined it within the Secretary of

22 States in some states that have multiple
23 functions so that there's a single State
24 identification process and that saves the

1 efficiency, instead of having Board of
2 Elections keep a registration list, DMV
3 keeping a motor vehicle list, Social
4 Services, the Department of Labor or
5 Department of Tax keeping separate lists, if
6 those lists can be combined into a single
7 agency, everybody saves money and I point
8 out that the voter registration system in
9 New York now costs more than \$50 million a
10 year to maintain so that there are
11 substantial savings that can be achieved if
12 we think outside of the box on voter
13 registration.

14 Now, of course we are all aware that
15 there's a State Constitution requires
16 registration 10 days in advance so I support
17 your proposed Constitutional Amendment to
18 provide for same-day voter registration.

19 I also support the legislation that
20 you've drafted that, at least, makes it as
21 simple as the current Constitutional

22 provisions would allow, by changing the
23 early day from 25 days to 10 days, which is
24 the Constitutional minimum.

1 I also point out that we could broaden
2 the transfer of registration provisions that
3 are provided under the National Voters
4 Registration Acts so that if somebody is
5 registered in another county, because we
6 have a state-wide voting database now, it's
7 feasible that that person should be allowed
8 to vote without having to -- by transferring
9 the registration, without having to
10 re-register in the county to-wit, which
11 they've moved.

12 I also point out Assemblyman Farrell's
13 bill, A.6726, that would provide that an
14 affidavit ballot would serve as a voter
15 registration form. This is a particular
16 bugaboo to me, Senator, because most of the
17 counties in the State do provide that, that
18 the affidavit ballot, the affidavit ballot
19 serves as a voter registration form, if it
20 should be found invalid.

21 The Republicans at the New York City

22 Board of Elections have stopped the New York
23 City Board from doing what most of the other
24 counties in the State do and Assemblyman

1 Farrell's bill, which has passed the
2 Assembly many times, would apply that
3 provision to New York City and I would urge
4 the Senate to pass that over to you.

5 And finally, Senator Montgomery's bills
6 on giving additional duties to the Division
7 of Parole, I applaud that it would not be
8 that difficult for the Division of Parole to
9 provide a voter registration form to persons
10 who are completing their maximum sentence
11 and who are, therefore, eligible to
12 re-register to vote.

13 So thank you, again and I look forward
14 to the new leadership in the Senate.

15 SENATOR ADDABBO: Mr. Kellner, just a
16 -- one quick question. We are mindful that
17 some of the bills that we proposed in the
18 Elections Committee does have an element to
19 which it would affect the Board of
20 Elections, possibly more work and so forth
21 and we don't intentionally mean to

22 overburden the Board of Elections,
23 certainly, and that's why it's important
24 that we have these conversations.

1 So my question is this: On the
2 same-day registration or Election Day
3 registration, two full questions: Do you
4 think, number one, it would create a great
5 burden to the Board of Elections to deal
6 with that issue and secondly, unrelated to
7 the Board of Elections to an extent, do you
8 think there's any -- do you think it's a
9 major issue where ineligible voters would be
10 -- have the opportunity to vote those, and
11 again, that may not have citizenship, those
12 that may not be a resident of the area so
13 the idea of voter fraud and the idea of,
14 again, the role that the Board of Elections
15 would play with same-day elections.

16 MR. KELLNER: Senator, I'll answer no
17 to both of those questions. I have read the
18 memo proposed by the City of New York and
19 they are correct there will be a marginal
20 additional benefit -- additional
21 administrative burden on them, but it is not

22 an insuperable burden. After all, we
23 already have the affidavit ballot process in
24 place and if we, if we do same-day

1 registration the same way other counties do
2 of using affidavit ballot forms as voter
3 registration forms, the additional work is
4 minimal, that the same-day voter
5 registration would be processed just as we
6 now process affidavit ballots. And on the
7 fraud issue, I would -- you point out that
8 the same way we do have affidavit ballots,
9 you would still have an opportunity to
10 challenge in the post-election canvas
11 process, the new registration so in a very
12 close election, I'm sure we would see
13 exactly what we are seeing now in the 20th
14 Congressional District where the lawyers
15 pour over each voter's record and if they
16 think that the proposed new registration is
17 improper, they would have an opportunity to
18 object before the ballot is actually
19 canvassed.

20 As I say, we have ten states now that
21 already have same-day voter registration and

22 there are no serious problems in
23 administering that in any of those states.
24 SENATOR ADDABBO: And Mr. Kellner,

1 just a point of information, when we spoke
2 about affidavit ballots also being voter
3 registration forms, one of the pieces of
4 legislation that I was the prime sponsor of,
5 Senate Bill 1057 was passed by the Senate --

6 MR. KELLNER: Thank you, Senator.

7 SENATOR ADDABBO: -- so we're hopeful
8 that it gets closer to the Governor signing
9 the bill. I do believe that, again, why
10 not? If an affidavit ballot, you know,
11 should be found not to be found valid for
12 whatever reason, why cannot it be a
13 registration form. So again, Mr. Kellner, I
14 appreciate your time here and I look forward
15 to working with you in the future as well.

16 MR. KELLNER: Thank you, very much.

17 SENATOR ADDABBO: Thank you, very
18 much. Our second panel, a panel of two,
19 Steven Richman and George Gonzalez.

20 Mr. Richman is the General Counsel for
21 the New York City Board of Elections.

22 Mr. Gonzalez is Deputy Executive
23 Director for the New York City Board of
24 Elections.

1 Gentlemen, good to see you again.

2 GEORGE GONZALEZ

3 Deputy Executive Director

4 NYC Board of Elections

5 MR. GONZALES: Chairman, Board

6 appreciates the invitation extended by this

7 Committee to appear this morning and offer

8 our comments on the bills that you are

9 considering today.

10 Also here at today's hearing, I want

11 to welcome Commissioner Judith Stop

12 (phonetic) the Commissioner from the

13 Chairman's home county of Queens and also,

14 John Owens, the Director of Campaign Finance

15 Enforcement.

16 The Board shares your desire to assure

17 the people that they will be able to

18 participate in the most fundamental

19 processes in our democracy and instill

20 confidence in the voters that their votes

21 and voices matters. This is what we seek to

22 do everyday at the Board of Elections here
23 in the City of New York. We note that the
24 Chair is most aware of the responsibilities,

1 abilities and challenges that face the City
2 Board following your distinguished service
3 on the City Council Committee overseeing our
4 operations.

5 The Board also wants to take this
6 opportunity to publicly express its sincere
7 appreciation to the Chair, for your kindness
8 and courtesy during our recent annual
9 Education and Information Day in Albany.

10 You were most generous with your time for
11 our commissioners and staff, you graciously
12 co-hosted the luncheons and members of this
13 Committee and your colleagues from New York
14 City.

15 With your permission, we want to share
16 some information with the Committee that may
17 add a certain perspective to your
18 deliberations and underlines our concerns
19 with the proposed legislation under
20 discussion this morning.

21 In 2008 the Board conducted four

22 election events that collectively saw more
23 than 4,000,000 voters cast their ballots
24 here in the City. In addition, the Board

1 processed 200 percent more voter
2 registration forms in 2008 than it did in
3 2007 and it was more than just record
4 turnout registration activity that made last
5 year unique. It also marked the first time
6 that the full scale deployment of the ballot
7 marking device took place in every poll site
8 in the City. The federal court mandate
9 resulted in the Board having to perform
10 double the number of tasks we usually do,
11 since we had to set up the election twice,
12 once for the lever machines and once for the
13 BMD's. This placed an enormous burden on
14 the same BOE staff members with even greater
15 limitations.

16 While this would have been a challenge
17 under any circumstance, it was made
18 considerable worse due to lack of adequate
19 funding of the Board's operations and legal
20 obligations. Although, almost everyone
21 anticipated historic activity and voter

22 participation, the key decision makers were

23 also aware of the U.S. District Court's

24 order, the Board's budget was cut for the

1 fiscal year ending June 30th by over \$7.6
2 million. Together with the special election
3 we have conducted to date in this fiscal
4 year and we anticipate about two more before
5 the end of June in the Bronx, the Board
6 faces a budget shortfall of more than \$14
7 million.

8 For the next fiscal year, which will
9 include this September's primary election
10 and likely, city-wide runoff election two
11 weeks later and the November general
12 election for all municipal offices, the
13 Mayor's preliminary budget and subsequent
14 changes to date, seek to reduce the Board's
15 budget by an additional \$31 million and that
16 doesn't include the estimated \$13 million
17 required to conduct a runoff, if required.

18 There appears to be little reason to be
19 optimistic that this critical underfunding
20 will be addressed in the coming weeks.

21 It is within that context that the

22 Board now turns to the specific measures
23 before you. The Board takes no position on
24 the proposed Constitutional Amendment, but

1 with respect to S.3372, the Board has
2 several concerns if the bill is drafted.

3 First, imposes an additional obligation
4 on poll workers while they are trying to
5 conduct the initial election. The civic
6 minded \$200 per day per diem poll workers
7 will be asked review the sufficiency of
8 identification offered to determine the
9 identity and residency of each new Election
10 Day registrant. The City Board is concerned
11 that this obligation cannot be properly
12 effectuated, given the current level of
13 staffing at our poll sites. It would
14 clearly require additional training for all
15 poll workers and probably additional poll
16 workers to provide these services at each
17 poll site with their attendant costs. The
18 bill does not provide supplemental funding
19 to cover these costs. In fact, the
20 introducer's memorandum in support
21 incorrectly states there are no fiscal

22 implications.

23 In addition, Section 5-210(9) of the

24 Election Law, directs the Board to process a

1 voter registration application including
2 verifying the identity of the applicant
3 using the information provided in the
4 application and the appropriate DMV or
5 Social Security records within 21 days.
6 Upon the completion of that process, the
7 Board is required to notify the voter of
8 their status. And also it requires the
9 State to assign a unique identifier when the
10 information is transmitted to the State
11 Board of Elections. I believe these
12 provisions should be amended as part of this
13 legislation to avoid an unintended ambiguity
14 with respect to poll site registrations.

15 Now, the language in the bill does not
16 address what happens to the current
17 statutory framework. The City Board does
18 not have the capability to conduct such an
19 instant check, as now required from the poll
20 sites. To accomplish this task, the Board
21 would need to acquire additional

- 22 communications capabilities, such as, cell
- 23 phones and/or laptop computers with remote
- 24 Internet capability. Obviously, significant

1 additional planning, training, and resources
2 are required to implement this change.

3 Finally, it appears that if this bill
4 is enacted, a person who seeks to register
5 prior to Election Day in accordance with the
6 current statutory requirements, is subject
7 to greater scrutiny than a person who
8 registers at a poll site on Election Day.
9 Enhanced communication capability would be
10 required to avoid multiple registrations by
11 the same person at different poll sites.

12 With respect to S.3996, the Board
13 wishes to advise the Committee of the
14 significant practical problems of
15 implementing such legislation, as well as
16 the costs involved.

17 As we have reported, during the last
18 two weeks before the 2008 registration
19 deadline, the City Board received and
20 processed over 200,000 voter registration
21 application forms. In order to process this

22 huge volume, and you should note that during
23 the prior nine months of 2008 the Board
24 received and processed a half a million

1 forms and have the information in the poll
2 lists on Election Day, it requires the Board
3 to put staff on 12 hour shifts around the
4 clocks, we had a higher additional temporary
5 employees for which funding was not and has
6 not yet been provided and for the first
7 time, we printed supplemental poll list
8 books in many election districts concerning
9 those additional registrations. The
10 Committee should be aware that these
11 supplemental poll list books created other
12 problems at certain poll sites on Election
13 Day.

14 If this bill is enacted, none of those
15 late arriving registrations would, if valid,
16 appear in the poll list book. Those persons
17 will have to vote by affidavit ballot, which
18 then would have to be processed,
19 post-election, again involving significant
20 additional staff and costs. In addition to
21 the to hand processing of these of affidavit

22 of ballots, mailed notifications are sent to
23 each voter who voted by affidavit ballot
24 advising the voter whether their vote was

1 counted.

2 With the current staffing levels, these
3 last minute voter registrations may not even
4 be processed by Election Day. Our staff
5 multi-tasks, and in the days before an
6 election, the preparations for the actual
7 conduct of the election take precedence.
8 Therefore, the canvassing and processing of
9 affidavit ballots will be delayed until all
10 these last minute voter registration
11 applications are processed, entered into the
12 City Board's system and identities verified
13 through the Statewide Voter Registration
14 List.

15 Enactment of the bill would clearly
16 require additional BOE staff work with its
17 associated costs and once again, this bill
18 does not provide supplemental funding to
19 cover those costs. Once again, the
20 introducer's memorandum incorrectly states
21 that there are no fiscal implications with

22 this bill.

23 With respect to S.3995, the bill would

24 require the Board of Elections to include in

1 it's notice of acceptance of a voter
2 registration application information as to
3 the party enrollment choice made, and if the
4 registrant did not seek a party, then the
5 voter is not eligible to vote in a party's
6 primary election.

7 The bill also mandates that the form
8 include a postage paid card addressed to the
9 local BOE on which the registrant can enroll
10 in a political party.

11 The Board notes again that the
12 introducer's memorandum in support
13 incorrectly states there are no fiscal
14 implications. The cost of the return
15 postcard is only one of an additional
16 unfunded cost that's placed on the local
17 Board of Elections in a time of continued
18 under funding.

19 In addition, the bill is not clear of
20 what is the effect of a registrant
21 indicating on the original voter

22 registration application, his or her intent

23 not to enroll in any party.

24 With respect to S.1268, the City Board

1 notes that this amends Section 8-407 of the
2 Election Law and its enactment will increase
3 the work load and costs to conduct in person
4 absentee balloting in designated facilities.
5 The bill lowers the number of absentee
6 voters from 25 to 15, which required the
7 presence of a bi-partisan team of inspectors
8 in the limited period of 13 days before the
9 election and a day before the election to
10 conduct absentee voting. It also mandates
11 and adds that the Board has to conduct in
12 person absentee voting at correctional
13 facilities. This will require the hiring of
14 additional inspectors either on a permanent
15 or temporary basis.

16 Once again, at this time and in the
17 current budgetary situation that all Board's
18 face, the City Board clearly does not have
19 the fiscal resources to implement this
20 legislation if enacted. The Board once
21 again, recommends that the enactment of

22 legislation that requires the expenditure of
23 additional funds be accompanied by the
24 dollars necessary to effectively meet the

1 obligations imposed.

2 With respect to S.4035, the City Board
3 supports this proposal, since it will
4 improve our ability to receive and process
5 in a timely fashion, voter registration
6 applications, by reducing the numbers of
7 forms that are sent first to the State Board
8 of Elections and then be transmitted to the
9 City Board for processing under the Election
10 Law.

11 Mr. Chairman, this concludes the
12 prepared remarks on behalf of the Board of
13 Elections for the City of New York. We
14 thank you for providing us the opportunity
15 to offer our comments and we will be happy
16 to respond to any questions you have.

17 SENATOR ADDABBO: Mr. Richman, again,
18 thank you, very much for your time and
19 testimony today. I appreciate meeting you,
20 Mr. Gonzalez, thank you, very much.

21 And let me again state that I stated

22 yesterday in Buffalo as well, we appreciate
23 the work you do year 'round, not just during
24 the Election Day. I am of the firm belief

1 that any staff member of the Board of
2 Elections does work all year 'round so we
3 appreciate that.

4 Again, I appreciate your opinions on
5 the bills. Just so you know, for point of
6 information, when it says, "no fiscal
7 implications," it means, technically for the
8 State. So when we do our pieces of
9 legislation, for the most part, it might not
10 have any fiscal implications to the State,
11 but certainly, to the local Board of
12 Elections, it might and certainly, we
13 appreciate your input and certainly, your
14 point is well taken.

15 The big picture, and we'll get to these
16 other pieces in a second. New York City
17 lags behind other states in voter
18 participation so that's the big picture.
19 How do we seek, maybe aside from these
20 pieces of legislation, what ideas do you
21 have about increasing voter participation.

22 If these are maybe too onerous and too
23 burdensome currently, because of fiscal
24 situations for the Board of Elections, what

1 are the other alternatives. What direction
2 can we go into to increase voter
3 participation?

4 STEVEN RICHMAN

5 General Counsel

6 NYC Board of Elections

7 MR. RICHMAN: Senator, my personal
8 feeling is we have to increase civic
9 education starting in the elementary schools
10 and working its way up so that it's --
11 people are comfortable and recognize that
12 they have obligations, as well as rights and
13 responsibilities to participate. The City
14 Council and you will then help pass the bill
15 requiring every high school student in the
16 City to get a registration form. The
17 Department of Education distributes them.
18 It's the old proverbial, you can lead the
19 horse to water, you can't make it drink. I
20 know that last year the City gave out over a
21 million registration forms through the

22 Department of Education. I'm pretty sure
23 that we only got a fraction of those back.
24 I think that's one way to do.

1 It think the other way is to encourage
2 other means of public education and
3 information. Very frankly, the Board used
4 to do a major advertising campaign each year
5 to remind people of the deadline for
6 registrations for both the primary and for
7 the general; however, over the last several
8 years, as a result of the reduction in
9 funding, that was a program that we had to
10 cut. It was more important that Major
11 Election Day runs well than trying to
12 encourage, but again, I think that a lot of
13 these do, will require some money and we
14 know what the situation we're facing. A way
15 to do it, I don't know if people can ask for
16 public service announcements on the fact of
17 freebees, but if not, we've got to get the
18 information out.

19 SENATOR ADDABBO: Another issue
20 related to the process is early voting, an
21 issue that's come up and conversation that

22 has increased in the State Senate. Now
23 you're agreeing to and obviously,
24 implementing early voting. Would that

1 process of early voting alleviate some of
2 the pressures your poll workers have on one
3 given Election Day?

4 MR. RICHMAN: It may make the lines
5 on Election Day shorter and creates other
6 problems. This year -- last year in the
7 Presidential Election, given all the natural
8 attention to early voting, people started
9 showing up in our borough offices seeking
10 absentee ballots in droves several weeks
11 prior, to the point that at least in
12 Brooklyn and Manhattan, we requested the
13 assistance of NYPD to keep order and many
14 people disappointed when we said, this is
15 the form that you have to fill out, they
16 would argue with us and say that, well, I'm
17 not going to be out of town, I just want to
18 vote now. Again, how it's designed, I think
19 it involves some cost as well. I happened
20 to be in North Carolina the weekend before
21 the election and in early voting they have

22 lines around the block when the deadline was

23 Saturday at five o'clock.

24 When you are opening up additional poll

1 sites, you are required to do early voting.
2 How we accounted for that, there are
3 administrative problems, but again, with
4 sufficient resources, all of those problems
5 can be resolved.

6 SENATOR ADDABBO: Okay. Well, like I
7 said, this is a start to a conversation that
8 we are going to have to have, you know,
9 regarding these pieces, these pieces of
10 legislation, in which we can, hopefully, see
11 where we can bend or possibly go forward
12 with this with everybody on the same page,
13 but this certainly opens the door to
14 communication and I appreciate your time and
15 testimony today.

16 MR. RICHMAN: Thank you.

17 SENATOR ADDABBO: Thank you, very
18 much. Our next panel, Susan Lerner, the
19 Executive Director, Common Cause/NY and
20 Steve Carbo, Program Director.

21 Thank you both for being here today.

22 MS. LERNER: Thank you, Senator.

23 MR. CARBO: Thank, you Senator.

24 SENATOR ADDABBO: Please state your

1 name for the record and give your testimony.

2 MS. LERNER: We are going to let --
3 we talked and Steve's going to go first.

4 SENATOR ADDABBO: Okay.

5 STEVEN CARBO

6 Senior Program Director at Demos

7 MR. CARBO: My name is Steven Carbo,
8 as Senior Program Director at Demos. We are
9 a national nonprofit organization that, with
10 a democracy program, among others, that
11 focuses on working with policy makers,
12 election officials and advocates around the
13 country in developing and implementing ways
14 to remove barriers of political
15 participation and increase voting.

16 One of the issues that we have done a
17 lot of work on over the last almost ten
18 years now, is Election Day registration or
19 same-day registration and in addition to the
20 -- my testimony today, I submitted for the
21 Chair's consideration, for the Committee's

22 consideration, three additional reports that
23 we have recently done and one talks about
24 the effects of Election Day registration in

1 the November election, another one is the
2 results of a survey of local election
3 officials in Election Day registration
4 states, which offers a number of best
5 practices on how same-day registration can
6 be effectively and efficiently implemented,
7 and the third piece is a piece by a
8 professor from Barnard College, Professor
9 Lorraine Benito, which addresses and
10 verifies the fact that there are virtually
11 no voter fraud in Election Day registration
12 states.

13 There are -- as it's been said, there
14 are currently nine states, actually, that
15 offer same-day registration. New York
16 adopted S.3370 will become the tenth.

17 The primary reason why we support
18 Election Day registration, why it's been
19 gaining momentum and interest around the
20 country and New York is to increase voter
21 turnout and it's for a very simple reason.

22 The pre election day voter registration
23 deadlines in today's America are unnecessary
24 and they are unnecessary, they are clearly

1 unnecessary, because we know that the nine
2 states allow individuals after the close of
3 the voter registration deadlines to register
4 and to vote and they have not experienced
5 any chaos in those states and in fact,
6 they've experienced increased voting. So in
7 the last Presidential Election, the states
8 with Election Day registration had a 7
9 percent higher turnout than the rest of the
10 country, which is consistent with the
11 turnouts we've seen over time, and in fact,
12 the top five turnout states in '08, in
13 November '08, were all Election Day
14 registration states.

15 And it increases turnout for several
16 clear reasons. One, we have a very mobile
17 society, 35, 36 million people moved up in
18 from 2007 to 2008 to go up and find
19 themselves on the register and their new
20 addresses and their new jurisdiction when it
21 comes to Election Day.

22 The second problem is Americans tend to
23 focus on the elections, on the candidates,
24 on the choices the closer you get to the

1 elections, at the very same time New York
2 and the other states are closing the door to
3 voter registration. So there's an up curve
4 in terms of closeness to the election when
5 people are focusing on these issues and
6 there's a down curve in terms of their
7 opportunity to register and vote, an
8 important mismatch.

9 And the third and very important reason
10 to adopt Election Day registration or
11 same-day registration is it appreciably and
12 sharply cuts down on a need for affidavit
13 ballot. In the instance of someone who
14 shows up at the poles, their name isn't
15 on the poll book and they are issued an
16 affidavit ballot. Instead of that
17 transaction, same-day registration space
18 just allows them to register anew at the
19 polls, cast an official ballot, the ballot
20 counts and you don't have hundreds of
21 thousands of, tens of thousands, not

22 hundreds of thousands of affidavit ballots
23 to process in the constricted post-Election
24 Day time period. And we know we had a lot

1 of affidavit problems, I would note, in 2008
2 here in New York City. There are were
3 100,000 voter registration applications that
4 were sent to Albany instead of the
5 particular counties in the voter
6 registration drive. The State Board of
7 Elections had a hell of a job to try to sort
8 out and forward the applications to the
9 appropriate counties and it was a news
10 report that 3,500 of those arrived in New
11 York City at the Board of Elections after
12 Election Day. These are folks that if
13 Election Day registration was available,
14 would have been able to register to vote and
15 participate.

16 And we know that there are recurring
17 problems in New York and other states as
18 well, with people who timely registered to
19 vote at DMV's, but their registration forms
20 don't get accounted for in the election in
21 time to be processed in the actual election.

22 North Carolina and Iowa are the two
23 most recent states to adopt the same-day
24 registration and had perfect results in the

1 '08 election. In North Carolina there were
2 253,000 individuals who were able to
3 participate in the last important
4 Presidential Election because of same-day
5 registration. It was particularly
6 beneficial, I should note, for the African
7 American community there. African Americans
8 make up 21 percent of the voting age
9 population, 36 percent of their people use
10 same-registration. It really helped boost a
11 segment of that state's population, most
12 states' population that historically
13 participates at lower rates. With same-day
14 registration, North Carolina had the biggest
15 jump in Presidential voting since the 2004
16 election of any state in the country.

17 In Iowa there were 46,000 people who
18 were able to use Election Day registration
19 and were able to participate, that
20 otherwise, would not have been able to
21 participate.

22 I note one recommended recommendation
23 to the Chair for amending and improving
24 S.3372. As I read the bill, it's only

1 available to individuals who register, who
2 are unregistered elsewhere in the State, who
3 are registering their vote for the first
4 time in this State. That would cut out the
5 benefit that all -- the other Election Day
6 registration states offer to people who are
7 registered elsewhere in the State, they
8 move, they are not duly registered in the
9 new county in the popular election.

10 Among North Carolina's 253,000 people
11 who used same-day registration in November,
12 about 143,000 of those were people who had
13 moved from county to county so over half of
14 the people who enjoyed the benefits of
15 same-day registration in North Carolina last
16 fall, would, under New York, under the
17 scenario that it's currently drafted in
18 3372, would not be able to take advantage of
19 same-day registration if it's only
20 restricted to people who are newly
21 registering in the State of New York.

22 I want to make a couple comments about,
23 we have done a lot of work with local
24 election officials and Election Day

1 registration around the states to try to
2 understand how they are effectively and
3 efficiently administered and how they've
4 implemented reform. We regularly ask
5 questions about valid collection integrity,
6 about costs. Some of the answers are
7 provided in the reports appended to my
8 testimony.

9 I would note that uniformly, the local
10 election officials in some states report
11 that there are incremental costs with
12 Election Day registration to be minimum. In
13 fact, there's a lot of cost shifting.
14 Instead of processing an avalanche of voter
15 registration applications right before the
16 deadline passes and all the staffing and
17 costs required to do that, what they have is
18 -- are people registering instead of on the
19 polls on Election Day, their voter
20 registration applications are processed
21 after elections. So you have people who

22 become interested in participating late in
23 the process. Typically, that leads to a
24 surge in voter registrations towards the

1 registration deadline that creates staffing
2 problems, cost issues or accounting for the
3 Board of Elections. A lot of those folks
4 are going to register at the polls to
5 process those voter registration
6 applications after the elections instead of
7 before so for many of the Election Day
8 voters, in terms of the staffing demands on
9 the counties, it's a wash.

10 I would note that in Iowa, again, a new
11 Election Day registration, the state spent
12 37,000 additional dollars to implement EDR.
13 In November the county spent about \$200,000.
14 The one cost that may be incurred with
15 same-day registration is, in larger
16 jurisdictions adding an extra poll worker
17 who is able to receive voter registration
18 applications on Election Day.

19 And I'll close with saying that I think
20 the record is -- I don't think, I know the
21 record is clear that offering Election Day

22 registration does not lead to increased
23 voter fraud. There have been numerous
24 reports, some I referenced, some done by the

1 State of New Hampshire, by other states that
2 show there is not an increase in voter fraud
3 if you open up the system to registration on
4 Election Day. I'll be happy to answer
5 questions.

6 SENATOR ADDABBO: Ms. Lerner.

7 SUSAN LERNER

8 Executive Director

9 Common Cause New York

10 MS. LERNER: Thank you, Senator. I'm

11 Susan Lerner, I'm the Executive Director of

12 Common Cause New York, which is a

13 nonpartisan advocacy organization founded to

14 serve as a vehicle for citizens to make

15 their voices heard in the political process.

16 We have long fought to ensure that all

17 eligible New Yorkers are provided with

18 adequate opportunity and exercise their

19 Constitutional right to participate in the

20 electoral process and I want to thank you

21 for the opportunity to address you today and

22 to commend the Chair and the Committee for
23 holding these series of hearings, which I
24 think that tremendously important.

1 Certainly, the topic of elections is of
2 substantial interest, not only to the
3 public, but obviously, to the Legislature,
4 because in our review, we have found that as
5 of last night, over 250 bills have been
6 introduced in this session that deal with
7 the conduct of elections so it is definitely
8 the topic of the moment.

9 In looking at registration and other
10 issues that deal with Election Day, we
11 believe, as the Chair stated, that it's
12 essential to start from the premise that
13 voting is a right, not a privilege or a
14 luxury that could be withheld for those who
15 are deemed unworthy, such as persons with
16 felony convictions or those who cannot
17 overcome arbitrary obstacles. With that
18 principle in mind, for us, the ultimate goal
19 should be universal voter registration, as
20 Commissioner Kellner mentioned and indeed,
21 there's a bill that's currently pending,

22 A5265, which would set up a universal
23 registration, an automatic voter
24 registration.

1 We believe that -- while we are working
2 towards universal registration, we believe
3 that there's another idea which should be
4 looked at to help facilitate the
5 registration process. We don't have the
6 complete procedure for it yet, but we do
7 believe that New York State should and this
8 committee should be looking at registering
9 voters through the Internet. There are
10 three states that currently use Internet
11 registration. They are Arizona, Washington,
12 and California has just adopted it, but
13 hasn't started to use it.

14 Now, the challenge here in New York, is
15 that unlike those three western states, we
16 have only about half of our population here
17 in New York City who have drivers licenses.
18 The way the system works, is that when the
19 potential voter goes on the Board of
20 Elections website and seeks to register to
21 vote, they are then connected to the State's

22 DMV records, which gives you a way to verify
23 right away that the person is who they say
24 they are, and in Arizona your license has to

1 be issued post 1996, because they've
2 captured the signature digitally so they can
3 even produce the voter poll out of the DMV
4 records to ensure that the person who shows
5 up to vote on Election Day is indeed, the
6 holder of that license by checking the
7 signature, as is the common way to ascertain
8 identity.

9 As I said, here in New York that's not
10 going to be a perfect system. Our concern
11 is that if the Internet registration here
12 were tied only to drivers licenses, that it
13 would disadvantage communities which
14 traditionally have had a hard time
15 registering. Those who are communities of
16 color, communities which are economically
17 disadvantaged so we are looking to see if
18 there are other State databases that could
19 be linked as well, that would allow for this
20 reform and in talking to election officials,
21 they love Internet registration.

22 The largest county in Arizona said that
23 they were able to save the costs of eight
24 full-time employees that they normally put

1 on in advance of election, simply to end-key
2 in the registration data. 70 percent of
3 people registering to vote in Arizona in
4 2007 used the Internet to do it and a side
5 benefit is also that those registrations are
6 accurate. You don't have a problem that
7 somebody has to read an unfamiliar
8 handwriting or a name from a different
9 culture, that they misspell or that they get
10 wrong or that they invert letters. So the
11 accuracy of the voter rolls has, as a
12 positive consequence, increased as well. So
13 we think that's an idea that definitely
14 should be looked at and there's a bill
15 pending in the Assembly, A4799, that would
16 just tie it to the DMV so we don't think
17 that bill's really ready to move, but it's
18 the beginning of the discussion we are
19 beginning to have on how to do it right for
20 New York, because it's a win win, I think,
21 for everybody.

22 We support same-day registration,
23 obviously. My colleague Steve Carbo has
24 talked about that at length. So we

1 basically, agree with the position that he's
2 taking, including the need to look at
3 modifying your bill, Senator, 3372, to go
4 beyond simply allowing first-time voters.

5 One of the areas that we are very
6 concerned about and that we believe New York
7 is strikingly behind other states in terms
8 of how it deals with pre election
9 activities, is in the information that it
10 actually provides voters. It provides
11 virtually no information to voters and all
12 that is required to go out is one card in
13 the summer, which sometimes, because of the
14 necessities of scheduling and the location,
15 tracking, don't even contain information for
16 the voters as to where their polling place
17 is going to be. We believe that this notice
18 is way too far in advance of the election
19 and the important information which it
20 contains, the AD and the ED of the voter, is
21 not something which the voter retains in

22 their memory and it causes long lines at the
23 polls, we've found, for the voters not to
24 have that information.

1 Other states provide full voter guides
2 and at a minimum, if a voter guide is not in
3 the offing because of cost concerns, they
4 provide notification in the immediate month
5 to six weeks before an election with a
6 postcard that reminds the voter that the
7 election is coming up and gives them their
8 actual poll location for that particular
9 election and we think that that is an aid to
10 turning out for people. And of course, a
11 voter guide also is an aid to increasing
12 voter participation and it has a side
13 benefit of moving people through the process
14 more quickly, as would providing sample
15 ballots and there are bills pending which
16 would do that.

17 We believe that the voter needs to see
18 a sample ballot before going into the voting
19 booth in order to know what their choices
20 are, to be familiar with ballot and
21 particularly, where their's State proposals,

22 not to under vote those proposals because
23 they didn't realize it was on the ballot,
24 they weren't familiar with it and they can't

1 figure out the like language to decide how
2 they want to vote so voter guides,
3 notification to the voter of an election
4 coming up where they vote and a sample
5 ballot, we believe, would significantly
6 increase beneficially, the information which
7 voters have.

8 And we are strong proponents of a
9 felony re-enfranchisement. You and I were
10 on a panel last week and certainly, I agree
11 with the comments of the attorney from the
12 NAACP LDF that felony disenfranchisement is
13 a vestige of an antiquated system of racial
14 segregation. It has unnecessarily racial
15 implications as it ends up being
16 administered and I believe we should do away
17 with it entirely, but while we have that
18 long conversation about whether we should or
19 should not have felony disenfranchisement, I
20 believe that the bill, which has been
21 introduced, the Voting Ranks Notification

22 and Registration Act, S1266, is a very
23 positive step and it's one that Common Cause
24 New York strongly supports.

1 And finally, we definitely, as we work
2 towards universal registration and
3 electronic registration, we believe that the
4 bill that you've introduced that would allow
5 voters to register closer to the election
6 deadline is definitely a positive step, but
7 there is one bill that we do have some
8 concerns about and that's S3995, which you
9 are the principal sponsor.

10 Our concern is that with limited
11 resources, that this may not be the most
12 productive way to urge people to actually
13 sign up for a primary have-a-party
14 affiliation and we believe that moving the
15 time in which a individual can -- let's see,
16 what's the term that I'm looking for -- in
17 which they can change their enrollment to a
18 date much closer to the election and allow
19 that enrollment to be changed before. I
20 think the bill pending in the Assembly would
21 say 20 days before an election and have it

22 be immediately effective, I think, would be

23 a very significant step to helping people

24 make party determinations. I think people

1 are most interested in enrolling in parties
2 when there's a primary coming up and I think
3 that the bill also requires that you can't
4 have multiple re enrollments in a given year
5 and I think that might be a more effective
6 way to encourage more people to participate
7 in party primaries.

8 SENATOR ADDABBO: Ms. Lerner, thank
9 you very much. Mr. Carbo, thank you, very
10 much and I want to thank you both through
11 Common Cause and most respectfully, thank
12 you, very much.

13 An issue that came up in yesterday's
14 hearing in Buffalo was with same-day voter
15 registration, which would be if same-day
16 voter registration was to be implemented,
17 that some people might feel, why register
18 throughout the year, I'll just wait for
19 Election Day and therefore, causing a
20 greater increase in lines on Election Day.
21 What is your opinion about that mentality of

22 that thought?

23 MS. LERNER: Well, I think that the

24 mentality is exactly that there are a

1 variety of human responses. Whether the
2 deadline is registration day or the deadline
3 is Election Day, there are always going to
4 be a majority of people who get their tax
5 returns in, in advance because they don't
6 like that last minute hustle and I think the
7 same thing is true of voter registration.
8 There will be a distribution, but the same
9 people who now wait until the 22nd day to
10 try and register are the same people who are
11 most likely to use the voting, the same-day
12 registration. On the other hand, they will
13 still be able throughout that period to mail
14 in so I think that we are not going to see a
15 significantly different human behavior
16 around, just because we moved the deadline
17 back a bit. I think we're still going to
18 have plenty of people who want to be sure
19 they they're registered and they're not in a
20 line waiting to show their documents on
21 Election Day.

22 MR. CARBO: I would add while some
23 may people decide to wait 'til Election Day
24 to register versus the voter registration

1 deadline, the record shows that most people
2 in Election Day registrations don't do that.

3 There's information provided in their
4 voter's report that I provided to the
5 Committee that shows that the number of
6 voters -- the percentage of voters who are
7 using Election Day registration in Election
8 Day registration states tops out at about 18
9 percent. So that means 72 percent -- and 18
10 is high -- 72 percent of the folks are not
11 registering at the polls on Election Day.

12 MS. LERNER: And of course, if you
13 have Internet registration, I think that
14 percentage will go down because it's a
15 convenience factor and if you can get
16 on-line at one o'clock at night when you
17 think about it, at your home computer and
18 register two weeks in advance, you'll do it.

19 SENATOR ADDABBO: I appreciate
20 bringing up Internet registration. That is
21 my next question to both of you. With

22 Internet registration, certainly, our
23 technology allows us to so in these states,
24 obviously, the State requirement of ID

1 becomes an issue and it's obviously, one of
2 the major hurdles when we talk about
3 Internet registration. If we can expand a
4 little bit more the conversation, what are
5 your ideas of how do we address the ID issue
6 with regards to Internet registration?

7 MS. LERNER: Well, see, that's why I
8 think the key for us here in New York is
9 finding an additional database or databases
10 that we can link to. The DMV database is a
11 wonderful place to start because it has a
12 tremendous amount of identifying information
13 and often captures the signature of the
14 citizen. So the trick is finding an equally
15 useful database that underserved,
16 disadvantaged communities would be reflected
17 in so that they are not eliminated from this
18 convenience.

19 MR. CARBO: We have not taken a
20 position on Internet voting, per se, so my
21 only comment might be that New York and the

22 United States are about the only of state,
23 country that is looking at Internet voting,
24 I think we can learn a lot from the

1 proposals that are being considered abroad,
2 but we, of course, generally support, as
3 technology advances, ways to get more people
4 involved in the political process and I
5 think Internet voting, while it may present
6 some challenges at face value, I don't think
7 they are anymore insurmountable than
8 Election Day registration.

9 SENATOR ADDABBO: Again, thank you
10 both for your time and testimony and again,
11 we look forward to working with you.

12 MS. LERNER: Thank you.

13 SENATOR ADDABBO: Our next panel is a
14 panel of two, Zoe Segal-Reichlin of the
15 Election Protection Lawyers Committee for
16 Civil Rights Under the Law and Renee
17 Paradis, the Counsel for the Brennan Center
18 for Justice. Thank you, very much, both of
19 you. Please state your name.

20 ZOE SEGAL-REICHLIN

21 Election Protection

22 Lawyers Committee for Civil Rights Under Law

23 MS. SEGAL-REICHLIN: Thank you,

24 Senator. My name is Zoe Segal-Reichlin and

1 I'm here today as a representative of
2 Election Protection, the nation's largest
3 nonpartisan voter protection effort.
4 Election Protection is led by the Lawyers'
5 Committee for Civil Rights Under Law, and
6 we're supported by a diverse network of
7 local and national coalition partners, many
8 of them are in the room today, and over
9 10,000 legal volunteers across the country,
10 of which I am one.

11 The cornerstone of our program is the
12 1-866-OUR-VOTE voter services hotline, which
13 ran for many months last year and which may
14 of you may have heard about. Last year we
15 had over 240,000 voters, including 17,000
16 voters here in New York State, who called
17 the hotline seeking our assistance with a
18 variety of election related problems. We
19 also had mobile legal volunteers out in the
20 field, including here in New York City,
21 assisting voters.

22 It's our experience running these
23 programs, which gives Election Protection a
24 front row seat to the problems voters face

1 here in New York State and throughout the
2 country, that's the experience that I -- and
3 the data that we've collected that I'm going
4 to draw on today in my testimony.

5 Based on our data, there's no question
6 that you've picked the right topic for the
7 first of the series, series of hearings on
8 election reform and we commend those
9 efforts.

10 By far and away, the voter registration
11 problems were the number one reason that
12 workers called the Election Protection
13 hotline last year, contributing to 56
14 percent of our call volume and the next
15 problems that we saw came in around 20
16 percent, it was a surprising lift in
17 numbers. The most troublesome of those
18 calls to us were calls that came from voters
19 who believed they actually had registered to
20 vote and yet, who were not finding their
21 names on the list come Election Day. These

22 are people who wanted to vote, who were
23 otherwise qualified to vote, and who took
24 the proactive steps necessary to vote, but

1 who ultimately, were not allowed to vote on
2 Election Day. Many were denied the right to
3 cast a ballot because of the defect in our
4 complicated and antiquated election system.
5 Easing registration barriers and in
6 particular, adopting Election Day
7 registration in New York will be a
8 tremendous step in addressing this pervasive
9 problem.

10 I want to give you an example of one of
11 our callers to illustrate this problem.
12 Court M. from Westchester County called us.
13 She's a good example of why these reforms
14 are needed. Courtney moved to New York six
15 months before last year's Presidential
16 Election. She promptly went to the
17 Department of Motor Vehicles, as they
18 encourage New Yorkers to do, to update her
19 license, as well as to register to vote and
20 understandable, she thought that's it,
21 that's all she need to do and now she's

22 registered. When she arrived at the polls
23 on November 4th, she learned her name did
24 not appear. To make matter worse, a poll

1 worker inappropriately denied her the right
2 to sign an affidavit ballot so Courtney
3 ended up leaving that day without voting and
4 called us quite frustrated, as I'm sure you
5 can understand.

6 Courtney was only one of the many who
7 reported similar problems to Election
8 Protection. My written testimony describes
9 these problems in more detail, you've also
10 hear it from some other people here today.

11 Among other issues, we know that each year
12 many voters like Courtney who register at
13 the DMV, as well as other social service
14 agencies, as they are allowed to do under
15 the Motor Voter Act, the National Voter
16 Registration Act. They never see their
17 names materialize on the rolls for some
18 reason. We heard also last year from
19 hundreds of voters who mailed registration
20 forms to the State Board's, but who
21 discovered only days before the election

22 that they were still not registered. As you
23 heard previously, the State Board, when they
24 receive these forms, is supposed to send

1 these along to the local boards. For some
2 reason, which we still have not quite
3 figured out, the local boards had no records
4 of receiving many of these forms and in
5 other cases, they received the forms, but
6 after the election had already passed. Our
7 volunteers were able to help many of these
8 voters obtain orders from judges on Election
9 Day which allowed them to vote. I have to
10 say, as a civic participant in our
11 elections, it was incredibly encouraging to
12 see how many people actually came to seek
13 our assistance and were willing to stand in
14 government officers for hours on end waiting
15 to see election judges in order to obtain an
16 order, then go back to their poll sites to
17 vote. It was wonderful, but voters
18 shouldn't have to clear such hurdles to
19 exercise this fundamental right, that's why
20 we think it's so important that Election Day
21 registration become law here in New York.

22 The registration that you propose would
23 allow voters to both register and vote on
24 Election Day, rather than stand in line to

1 see a judge or just give up all together,
2 which is what Courtney did. People like
3 Courtney would have a renewed chance to cast
4 their ballots.

5 We commend you for your efforts to pass
6 this legislation. We would also like to add
7 our voices to the ones you put here today,
8 encouraging that the bill that is presently
9 before the Senate be amended. The current
10 language is vague and it may be a drafting
11 issue, but at the moment, it reads as if it
12 might mandate that only people who are new
13 to the State or perhaps, turning 18 and have
14 never registered before would be able to
15 take advantage of Election Day registration.

16 As you heard from Steve Carbo, often
17 people who are seeking to register are
18 people who are moving within the State.
19 Some concerns that people, if they -- this
20 was not just a drafting error and instead,
21 was deliberate, I can imagine, that some of

22 the concerns might be that people who are
23 already registered in the State may be they
24 are seeking to register again on Election

1 Day may be double dipping, trying to vote
2 twice. Just to alleviate that concern, as
3 Mr. Carbo said, in other states we don't see
4 any evidence of that kind of fraud and I
5 remind you that these people also have to
6 sign an affidavit saying that they are
7 qualified to vote here and they are not
8 voting anywhere else. They could be subject
9 to serious fines, as well as prison time, if
10 it's later discovered that that's not true
11 and this would all be subject to an audit
12 that you can make public to people, let them
13 know, if you do this, you are going to be
14 caught.

15 Election Day registration is an
16 important step and one we fully support, but
17 like many of the other people in this room,
18 we also think that we need to start taking
19 necessary steps to modernize our voter
20 registration system to one that is both
21 automatic and permanent, creating a system

22 where all eligible voters, upon turning 18
23 or becoming naturalized citizens are
24 automatically added to registration rolls to

1 insure that no New Yorker is disenfranchised
2 because of clerical errors, mistakes, or
3 missed registration deadlines.

4 To preserve the Legislature's future
5 authority to enact automatic registration,
6 as well as other reform matters, such as
7 verbally voting, as we talked about earlier,
8 we encourage of the Senators to broaden
9 Senate Resolution 1616 to amend the State
10 Constitution in a way that would give the
11 Legislature the most flexibility in enacting
12 much needed reforms. We are happy to
13 discuss these proposals with Senator, in
14 more detail at your convenience.

15 I should emphasize here that Election
16 Protection is made up of lawyers from many
17 of the largest law firms in the City and we
18 would be delighted to volunteer our time and
19 resources to help crafting any of these
20 reforms. Please do not hesitate to call us.

21 We understand that amending the State

22 Constitution is a difficult process so in
23 the -- until that day comes, we support
24 Senate Bill 3996, and in the interim

1 measure, that Act would reduce the voter
2 registration deadline from 25 days before an
3 election to 10 days, giving voters
4 additional opportunity to register and make
5 changes or correct errors before the
6 deadline. We also support giving local
7 boards of election the research that they
8 need to meet this expedited time line.

9 Lastly, Election Protection strongly
10 supports Senate Bill Number 4035. This is
11 the bill that would require the State Board
12 of Elections to automatically address forms
13 to local county boards of elections when
14 voters download these forms off the State's
15 website. This is a simple change that will
16 ensure that voters get, the voters forms get
17 where they need to go efficiently and
18 expeditiously.

19 We do want to note, however, that many
20 voters will still continue to send their
21 national registration forms to the State, as

22 they did last year and as they are legally
23 entitled to do. As already discussed, last
24 year, many of these forms never made it to

1 their ultimate destination. We recommend
2 that the Committee use its oversight and
3 powers to investigate this matter and help
4 the State Board and local boards develop
5 protocols to prevent this problem going
6 forward.

7 Again, thank you, very much for having
8 me here today.

9 RENEE PARADIS

10 Counsel, Brennan Center for Justice

11 MS. PARADIS: Thank you, for having
12 me here today, Senator. My name is Renee
13 Paradis, I'm Counsel with the Democracy
14 Program, Brennan Center for Justice. I'm
15 here mostly to testify on Senate Bill 4317.

16 I did want to note I got a new driver's
17 license four weeks ago and I'm still not on
18 the rolls in Brooklyn so I have a personal
19 interest in registration form, as well.

20 I've done extensive work on voter
21 registration reform generally, and the

22 Brennan Center certainly, supports automatic
23 registration and has done extensive work to
24 develop policy proposals and is always open

1 to working with states. We're interested in
2 figuring out how to amend that state's
3 processes to get automatic registration, but
4 again, until then, we certainly support EDR
5 and shorter registration deadlines, but to
6 turn to Senate Bill 4317, this is the bill
7 that would shorten the enrollment deadlines.

8 We, at the Brennan Center are a
9 continual advocate for more open voter
10 registration processes and we believe a key
11 part is shortening over-long party
12 affiliation and enrollment deadlines that
13 serve to bar voters from participating in
14 primary elections, in particular.

15 Now, it is true that most states have
16 affiliation or enrollment deadlines before
17 from voters can participate in a particular
18 party's primary, but only nine states have a
19 party affiliation or enrollment deadline
20 before the regular voter registration
21 deadline and New York is one of only five

22 states that require that deadline to be met,
23 even by people who are not currently
24 affiliated with the party. If you register

1 and you are unaffiliated, you still have to
2 meet this deadline and New York's deadline
3 is the longest in the country. It's the
4 voter registration deadline prior to the
5 previous general elections. That means, in
6 October, you have to change your affiliation
7 if you happen to register unaffiliated in
8 order to participate in a primary election
9 the following September so New York has,
10 quite simply, the longest, the most arduous
11 enrollment and affiliation deadlines in the
12 country and so, you know, we advocate making
13 these enrollment and affiliation deadlines
14 shorter in these nine states that have
15 advanced deadlines for many of the same
16 reasons you've heard that Election Day
17 registration makes sense, news coverage and
18 public attention can intensify in the weeks
19 before an election. Voters simply aren't
20 aware in October that they are going to have
21 to change their affiliation if they want to

22 vote in September.

23 Actually, I went and looked at what the

24 news stories were on October 12th last year

1 -- two years ago with respect to the
2 Presidential race. I thought, you know, if
3 you are a voter who didn't -- you know
4 wanted to, to -- is going to want to vote in
5 this Presidential primary, but wasn't
6 affiliated when you signed up, what are you
7 going to see on October 12 in these papers
8 and you are not going to see any of them
9 tell you that the affiliation deadline is
10 that day and you're going to see a story
11 that tells you that Rudy Giuliani and
12 Hillary Clinton are the likely major party
13 nominees, which just points out a simple
14 reality, voters missed this deadline because
15 nobody is thinking about the primary at that
16 point in time and this is even more acute
17 for the September primaries where, again,
18 you are talking about, essentially, a year
19 in advance.

20 The classic defense for these long
21 affiliation deadlines and the one that's

22 been used in court cases to challenge them

23 is that they are necessary to prevent party

24 rating, where if I'm actually, a member of

1 the Green Party and I want to, you know,
2 mess up the Conservatives, I'm going to go
3 vote in their primary for the person who I
4 perceive to be the weakest candidate, but
5 every study that's looked at this has found
6 that party rating simply is a not a problem.
7 The malicious cross-over voting does not
8 exist and these studies have been done, not
9 on states like New York that have post
10 primaries, but on open primary states,
11 states where I can just walk in that day and
12 say, give me a Conservative ballot. So the
13 idea that not only an advance affiliation
14 deadline, but a year-long advanced
15 affiliation deadline is necessary to prevent
16 party rating is simply incorrect. You know,
17 last year we saw this incident of threatened
18 party rating called Operation Chaos, where
19 Rush Limbaugh told everybody, go, all the,
20 you know, Republicans once McCain was the
21 nominee, go vote in the Democratic primaries

22 to vote for Hillary Clinton so you prolong
23 the, you know, primary election and Obama
24 will be bloody, which, you know, obviously,

1 didn't work on a global scale, but it also
2 didn't work on an individual scale. There's
3 a political scientist who took a look at all
4 of the numbers and he said, there's just no
5 evidence that more people, more Republicans
6 voted in these primaries than they did in
7 previous ones and there was no evidence that
8 it was malicious. So there's just, there's
9 no evidence that partying rating is this
10 problem -- is a problem and perhaps, the
11 most useful evidence is that there are 41
12 other states that allows voters to register,
13 to affiliate with a particular party up
14 until the registration deadline or have open
15 primaries where no advance affiliation is
16 necessary and of course, none of these
17 states have parties that have been brought
18 to their knees by malicious cross-over party
19 rating. So for these reasons, we believe
20 that a change to this deadline is overdue.

21 We do support Senate Bill 4317 because

22 it's a change for the better, but we would
23 caution that it's still, you know, not to be
24 too blunt, but it takes New York from the

1 worst state in the country to being the 10th
2 worst state in the country. It changes the
3 party enrollment deadline to 90 days before
4 a primary for voters who are already in a
5 party and 25 days prior to a primary for
6 voters who are not already enrolled in a
7 political party and it additionally adds
8 this one enrollment per year change limit,
9 but this means that New York would have an
10 enrollment deadline for affiliated voters
11 longer than 45 other states. It would be the
12 only state in the Union that imposes this
13 one per year switch and again, we continue
14 to believe that if you have a party
15 affiliation deadline that's in advance of
16 the voter registration deadline, voters will
17 miss it because, as we've heard, voters are,
18 are -- already find it sometimes difficult
19 to meet the voter registration deadline.
20 When you add an additional deadline that's
21 an advance, but receives no publicity, you

22 basically, set them up to fail so we support
23 Senate Bill 4317, but we look forward to
24 working towards bringing New York closer to

1 the mainstream.

2 SENATOR ADDABBO: Thank you, both,
3 again, for your testimony, for the work that
4 you do.

5 Initially, it might have come up, I
6 believe Zoe might have mentioned it and it's
7 a conversation that we've had at the State
8 Senate level and it's that of automatic
9 voter registration. Mere discussion,
10 there's no bill and it's that when somebody
11 turns 18, there's an automatic voter
12 registration.

13 The issue that I brought up with that
14 that's a concern of mine is, you know, the
15 right to vote is the right if you opt in to
16 vote, if you want to register. We always
17 promote the idea of registering, but again,
18 if somebody doesn't want to register, they
19 don't have to. How will you deal with that
20 issue, that a person, you know, still might
21 have that right to opt out?

22 I mean, I think it's -- all of the
23 proposals of the Brennan Center has made and
24 I think any proposal anybody has made has

1 allowed them to opt out and the Supreme
2 Court has quite clearly said that voter
3 registration is, is a choice and the
4 question is, do you make people opt in or do
5 you allow them to opt out and we believe
6 allowing them to opt out adequately protects
7 the interests of people who may not want to
8 be registered, while at the same time,
9 providing that the vast majority of
10 Americans who, you know, would be happy to
11 be registered to vote, are, are registered
12 to vote, are able to participate.

13 SENATOR ADDABBO: Zoe, last question:
14 Of the 17,000 calls that you had gotten in
15 New York with the hotline, what was the most
16 popular issue or problem?

17 MS. SEGAL-REICHLIN: The absolute
18 largest issue is people who thought they
19 registered and couldn't find their names on
20 the list. Now, sometimes that actually
21 ended up being a voting day problem and I

22 understand at the next hearing we'll be
23 discussing voting issues and we were able to
24 solve the issue, but frequently, way too

1 frequently, they just didn't appear.

2 SENATOR ADDABBO: Again, thank you
3 both for your testimony. Have a great day
4 and thank you for being here.

5 Our next panel, a panel of two, Jerry
6 Goldfeder, Chair of the New York City Bar
7 Association Committee on Elections and
8 Lawrence Mandelker, Chair of the Election
9 Law Committee for the New York Democratic
10 Lawyers Council.

11 MR. MANDELKER: County Lawyers.

12 SENATOR ADDABBO: New York?

13 MR. MANDELKER: County Lawyers
14 Association.

15 SENATOR ADDABBO: All right. County
16 Lawyers. Gentlemen, thank you, very much.
17 State your name for the record, please.

18 MR. GOLDFEDER: My name Jerry
19 Goldfeder and I'm very pleased to be here,
20 Mr. Senator. I'm glad to see Counsel
21 Kogelman sitting by your side. You take his

22 sage advice. Everything I was going to say
23 has just been said very well by my colleague
24 and counsel from the Brennan Center. I was

1 here to support Bill Number 4317. I think
2 it's critical to change the enrollment
3 dates. She gave all the reasons so there's
4 no need for me to replicate what she said,
5 but as long as I'm sitting here, I might as
6 well take 30 seconds to suggest to, to you,
7 Mr. Senator, that although, you have a
8 circumscribed topic today, the Election Law
9 Committee of the Bar Association and the Bar
10 Association itself, has taken a position
11 that is of critical importance to the people
12 of the State and to those who participate in
13 elections relating to the creation of a
14 replacement system for when there is a
15 vacancy in the Lieutenant Governorship.

16 As I say, I know this is not a subject
17 for you today, but I would encourage you to
18 not only evaluate various provisions of the
19 Election Law, but the Public Officers Law as
20 well. We have submitted a proposal to the
21 Governor's Office, I will give you today a

22 copy of our letter and I will send it to the
23 speaker as well, and I think that you need
24 to look at it with the Federal model in

1 mind. In the mid 1970's, up through the
2 1970's when there was a vacancy in the Vice
3 Presidency, that vacancy continued until the
4 amendment to the Constitution now, you know,
5 is an appointment. I think we ought to
6 adopt that model in the State of New York so
7 when we have a situation, as we just lived
8 -- are living through with a vacancy in
9 Lieutenant Governor, the Governor appoint a
10 new Lieutenant Governor to be approved by
11 the Legislature and I think that the
12 circumstances of this year also highlight
13 the situation of vacancies in the United
14 States Senate and we will be -- the Election
15 Law Committee has passed a resolution and
16 will be issuing a report in the very near
17 future, within the next month, to join
18 several other states in the Union. There
19 are, unfortunately, only four that require
20 special elections, rather than appointments.
21 I will send you that as well and I encourage

22 you, Mr. Senator and your Committee, to look

23 into those issues.

24 Thank you, for the opportunity and I'm

1 sure you are going to hear sage words from
2 my friend and mentor, Larry.

3 MR. KOGELMAN: Thank you, very much,
4 Jerry. You are a friend, you are a scholar
5 and the author of a very, very informative
6 book on Election Law and procedures and I
7 invite everybody to purchase it. Don't take
8 it from the library, purchase it, I get a
9 small commission.

10 (Laughter.)

11 LAWRENCE MANDELKER

12 Chair, Election Law Committee
13 NY Democratic Lawyers Council

14 MR. MANDELKER: Thank you, Mr.
15 Chairman. Not only for the good work and
16 leadership you are doing on this issue, but
17 also for the good work and leadership you
18 did during the budgetary process. I was
19 there, I was there, your work and leadership
20 was noticed and is very much appreciated.

21 Thank you are for inviting me to

22 participate in this important hearing.
23 Although, I presently served as Chair of the
24 Election Law Committee of the New York

1 County lawyers Association, the testimony I
2 offer today represents my personal views and
3 not the views of the Association or the
4 Committee.

5 I have been registered to vote since
6 1962 and enrolled as a Democrat from then
7 until now. I say that, because many think,
8 people think I'm an enrolled Republican, but
9 I've never been an enrolled Republican. I'm
10 a former for Co-Chair of the New York County
11 Democratic Law Committee and a former
12 retained outside counsel to the Republican
13 State Committee. I regularly represent
14 Democratic and Republican candidates for
15 City wide, State wide, and national office.
16 These various experiences, together with my
17 prior service as one of Jerry's predecessors
18 as Chair of the New York City Bar
19 Association Election Law Committee, inform
20 my testimony.

21 I favor saying same-day registration

22 and thus support S1616, the proposed
23 Constitutional amendment as written.
24 I favor the concept of S3372, which

1 would amend Section 5-210 of the Election
2 Law to allow same-day registration, but
3 suggest certain technical amendments.

4 The proposed legislation would require
5 -- would allow people to, to register by
6 providing acceptable forms of identification
7 containing proof of residence, as determined
8 by state law, implementing HAVA. I would
9 add that they should also provide proof of
10 citizenship as, well as residence, as
11 determined by state law representing HAVA.

12 The proposal would also require the new
13 registrant to fill out a statement, an
14 instrument done under penalty of perjury
15 stating that to the best of the registrant's
16 knowledge, he or she is a qualified voter
17 having resided at such and such an address
18 and I would add the requirement that the
19 statements say that he or she is a citizen
20 of the United States and a qualified voter.
21 I also think that the statement should

22 contain a statement, not only that it is
23 given under penalty of perjury, but that it
24 is a crime to provide false information to

1 the Board of Elections in this statement.

2 It's very important as a deterrent to
3 fraud, that that be in there and doesn't
4 any, it doesn't disrupt any election
5 proceedings and it, it makes the statement
6 have value, particularly, if it is retained
7 by the Board of Elections, as it should be,
8 in order to be a registration record.

9 Although, I doubt that masses of people
10 would abuse this system by falsely
11 registering at a time when election
12 officials have no ability to verify the
13 registrant's statements. In a close
14 election, a handful of false registrations
15 could be critical. The best deterrents
16 would be to word the instruments so that an
17 applicant's knowing false statement would
18 subject him or her to prosecution and a
19 warning to that effect right on the
20 statement. The Board should be required to
21 verify the statements post election, if they

22 could do it on Election Day and until the
23 technology permits verification on Election
24 Day, I think everybody who registers on

1 Election Day should vote by affidavit
2 ballot.

3 Will this proposal require more poll
4 workers? Last year voters at many polling
5 places throughout the country waited hours
6 to vote. Did same-day registration play a
7 role? That's a question worth asking. It's
8 worth listening to the Board of Elections
9 about costs, but I have one caution and that
10 is, if this is an important right, we have
11 to find the money to do it and we have to
12 find the procedures to implement it and
13 while I'm sympathetic to Board officials who
14 work very, very hard and particularly, in
15 New York City where there is this back and
16 forth between the Office of the Mayor and
17 the Board of Elections on financial issues
18 and it's a real back and forth, that's
19 really -- that's not the horse that drives
20 this process. What drives this process is,
21 we want people to -- we want to make it easy

- 22 for people to register, easy for people to
- 23 vote and government judgment needs to figure
- 24 out how to do it and how to pay for it. It

1 doesn't mean you ignore it, but you figure
2 out how to do it.

3 Bill 43 -- Senate 4317 would allow
4 unenrolled voters to vote, to enroll in a
5 party 25 days prior to an election and
6 enroll voters to change their enrollment 90
7 days prior to an election.

8 Section 5-304 of the Election Law
9 characterizes these transactions as changes
10 of enrollment and I will refer to them as
11 change of enrollment. Under the present
12 Subdivision 3, changes of enrollment
13 received after the 25th day before the
14 general election, do not take effect until
15 the first Tuesday following such general
16 election; in other words, seven days after.

17 This is a huge issue. What is the role
18 of a political party? Is it an incubator of
19 ideas and philosophy that seeks out
20 candidates to further its members political
21 philosophy or is it just a vehicle by which

- 22 candidates can obtain access to the ballot?
- 23 Do party members attract candidates or do
- 24 candidates attract the party members? Are

1 those who join a party in the summer because
2 a candidate is running in the fall primary,
3 are they not qualified, should they not be
4 qualified to vote in the primary? Are they
5 less pure than the base? Political
6 consultants urge their clients, "play to
7 your base." How's that working out? What a
8 Barack Obama who attracts a new generation
9 of voters to the party? The answers to
10 those questions will affect whether you
11 support this bill or whether you oppose this
12 bill and remember, I represented the
13 Organized Democratic Party and the Organized
14 Republican Party so I understand how
15 sensitive this is as a party issue, but some
16 things are more important than political
17 parties; however, there's one caveat and
18 this bill could potentially compromise the
19 Wilson-Pakula Law. Under the Wilson-Pakula
20 Law, for those who are not familiar and I
21 know the Chair and Counsel are, one who is

22 not enrolled in a political party may not
23 participate in that party's primary, unless
24 the candidate receives the permission of the

1 political party. We just observed Mayor
2 Bloomberg going through this type of
3 political process with the Republican and
4 Independents' Party. Under this bill,
5 unless we take into effect -- take into
6 account the effect on Wilson-Pakula, Mayor
7 Bloomberg could have enrolled as a
8 Republican and been designated as a
9 candidate for the primary without having to
10 obtain the consent of party leaders. He
11 might even have chosen instead, to enter the
12 Democratic Party or the Working Families
13 Party primary.

14 To me, there is a difference between
15 increasing the opportunity of voters to
16 enroll in a party and opening up the ability
17 of a non enrollee to qualify for party
18 designation. So unless you mean to, you
19 should make sure that this bill isn't meant
20 to overrule Wilson-Pakula. Now, if that's
21 what you mean to do, then say it and do it.

22 I favor the rest of the bills as they
23 are written. Again, there are, there are
24 fiscal implications in all of them and

1 Government just needs how to figure out how
2 to fund them and implement them.

3 One last thing that I would like to
4 add, it was a question that the Chair
5 addressed to one of the earlier speakers
6 about early voting. I have a problem with
7 some early voting and it comes from the
8 years I spent trying cases. The last
9 instruction or the instruction that's given
10 to every jury in every case, whether it's
11 criminal or civil, is don't discuss the case
12 before, don't take test votes before, wait
13 until all the evidence is in before you
14 start to deliberate. Elections are like
15 jury trials. The electorate is the jury and
16 I think that people should be voting all at
17 once and making the decision on the same
18 basis.

19 On the other hand, I see a great
20 advantage in early voting, but I would do
21 early voting only on paper; in other words,

22 by absentee ballots. I happen to like
23 absentee ballots, but it's -- it should be
24 the last absentee ballot that counts; in

1 other words, if we had universal absentee
2 voting and I wanted to put in an absentee
3 ballot, let's say, October 15th, and then
4 something happened November 1st, I should be
5 able to put another absentee ballot in and
6 the first one gets discarded and if I want
7 to put the last one in the day before
8 Election Day, you count that and you
9 disregard all the others. That's how you do
10 it in proxy voting for corporations. That's
11 how you do it to make sure that the people
12 are voting on the basis of all the
13 information that's available. Yes, it's a
14 cost; yes, it's more paper processing; yes,
15 it's more personnel, but you've got to
16 figure out how to do it and hopefully, the
17 more you can do it by paper earlier, the
18 less burdensome Election Day is for the
19 workers, for the voters, etcetera, etcetera.

20 Technology is going to solve a lot of
21 this. As we become more digitized, a lot of

22 this is going to happen anyway, but we are

23 on a journey toward that. Thanks.

24 SENATOR ADDABBO: Mr. Mandelker,

1 thank you, very much for your comments and
2 your ideas. I agree with you to an extent,
3 that obviously, we need to go forward, we
4 don't want to be overburdensome on our
5 Election -- Board of Elections throughout
6 the State so we are mindful of that, but we
7 do need to address these issues and we do
8 need to go forward and we intend to do so.

9 Mr. Goldfeder, again, thank you, very
10 much. I look forward to your information
11 regarding the Lieutenant Governor issue and
12 the U.S. Senator issue. If you would
13 forward that, I would greatly appreciate
14 that. Thank you, very much, Gentlemen.

15 Our next panel is a panel of two, Dick
16 Dadey, Executive Director of Citizens Union
17 and Heather Smith, Executive Director of
18 Rock the Vote.

19 While these individuals are coming
20 forward, let me just run through the future
21 hearings for this Committee. In May we will

22 be entertaining the issues of casting a
23 ballot and poll sites issues. We'll be in
24 Albany and in Syracuse on those issues.

1 In June we will be doing basic Board of
2 Elections oversight and that will be in
3 June. For June we will be back here in New
4 York City, as well as in Albany,
5 tentatively. This is all said tentatively.

6 So for September we will be doing
7 Election Code Reform and in November we will
8 be doing Election Oversight. So those are
9 some the tentative subject matters and
10 agendas that this Committee will be doing
11 throughout the State.

12 I want to thank our two individuals
13 here for their time today. Please state
14 your name for the record and give your
15 testimony.

16 HEATHER SMITH
17 Executive Director of Rock the Vote

18 MS. SMITH: My name is Heather Smith,
19 I'm the Executive Director of Rock the Vote.

20 Rock the Vote is a nonpartisan,
21 nonprofit organization. We are were founded

22 in 1990 and our admission is to engage and
23 build political cancel for our young people
24 in order to obtain change in our county. We

1 work with 45 million 18 to 29 year-olds in
2 America who want to step up and claim their
3 voice in the political process.

4 For the past 19 years we've taken an
5 active role in protecting voter rights for
6 all Americans and on behalf of Rock the Vote
7 and particularly, the young New Yorkers, we
8 want to thank the Committee, and you,
9 Chairman, for convening today's hearing on
10 election reform and voting.

11 The most significant barrier to
12 becoming engaged in our country's democracy
13 in the political process is voter
14 registration. Young people are particularly
15 susceptible to this barrier, in that, they
16 are new to the mechanics of voting, they are
17 highly mobile, and they are often
18 discouraged by the confusing voter
19 registration process that has strange
20 nuances and rules and deadlines and varies
21 from state to state.

22 Yet, from our work we've learned that
23 young people will register when the process
24 is made simple and they are asked. We at

1 Rock the Vote have programs to do that
2 asking, but we need the State to ensure that
3 the registration process itself in New York
4 is as clear and seamless as possible.

5 Once registered to vote, young people
6 will overwhelmingly participate in this
7 fundamental process of choosing political
8 representatives. In 2008, according to the
9 most recent Census numbers that came out
10 about two weeks ago, 83.5 percent of
11 registered young people cast a ballot. The
12 processes of getting them registered was the
13 barrier. There's about 40 percent of the 18
14 to 29 year-olds that never got registered.

15 For this reason, Rock the Vote believes it's
16 an absolutely imperative for our democracy
17 in this country to work to break down the
18 barriers of voter registration, for it is
19 the critical first step in fostering a
20 lifetime of political engagement for these
21 young citizens.

22 Here in New York State, we have a
23 particular stake in the outcome of this
24 process in this Committee's decisions. In

1 2008, Rock the Vote allowed voters to
2 download voter registration forms from our
3 website. We've been doing this every year
4 for the past decade. Voters fill out that
5 registration form, then have to print it,
6 sign it, and send it in. In New York we had
7 more than 250,000 New Yorkers fill out that
8 registration form on our website and we had
9 130,000 of them fill it out in the month
10 prior to the registration deadline. They
11 then printed, it signed it, and sent it in.

12 Unfortunately, many of these applicants
13 were delayed in getting on the voter files
14 and many of them never showed up. I want to
15 just echo and commend Zoe and Renee who were
16 on, I guess, two panels prior, because the
17 majority of those 17,000 phone calls that
18 they fielded were from registrants who came
19 to the application process through Rock the
20 Vote's website and they did an amazing job
21 of supporting them and ensuring that their

22 right to vote was cast, was upheld, but
23 actually, highlighted huge problems in the
24 way the registration runs here in the State.

1 We found out that not only were there
2 still -- were there delays in getting the
3 registrations on the rolls, but then some
4 never made at all, in part, because though
5 they intended to register, some of these
6 voters never mailed their forms in and in
7 part, because once they did mail them in,
8 they were not processed.

9 The voter registration system used here
10 in the State and many states around the
11 country is simply archaic and it doesn't
12 favor the voter. It's slow, it's error
13 prone, it relies on massive amounts of human
14 labor, processing of paper forms and then
15 data entry of handwritten applications. Not
16 to mention, it's very time intensive, as
17 well as cost intensive for the State and
18 counties and inconvenient for voter.
19 Shouldn't we be making it easier to vote?

20 We believe that voter registration
21 should be automatic and permanent. As an

22 eligible citizen, you should be able to go
23 to a polling place and cast a ballot. This
24 is a basic right granted to all Americans,

1 one that you should be able to opt out of
2 and not be forced to opt into. Obstacles
3 for practicing this right; namely, this
4 adding the step of opting into a voter
5 registration process are wrong.

6 Short of automatic and permanent
7 registration, however, Rock the Vote
8 applauds any efforts to simplify the process
9 as it stands. In particular, in your
10 proposal, we are strongly in favor of
11 Election Day voter registration. Studies
12 have shown repeatedly that allowing voters,
13 particular, young voters to register at the
14 polls, dramatically increases their
15 participation rates. We've seen rates go up
16 as much as 14 percentage points in states
17 where young people are allowed to register
18 at the polls. For the these first-time
19 voters who are unclear about the process, it
20 makes it simple. Also, if there are data
21 entry errors or supposed registrants not on

22 the rolls, for whatever reason, it's a
23 safety net, protecting their right and
24 raising their confidence in the system.

1 Second, we support the proposal to
2 narrow the registration deadline. As it
3 stands now, obviously, individuals must
4 register 25 days prior to the election.
5 Narrowing this window will increase the
6 number of people who register. As the
7 elections near, attention to Election Day
8 increases causing more people to register to
9 vote. It's shown, in fact, by the simple
10 fact that of the quarter million people we
11 helped to register this year, 130,000 of
12 them came in the four weeks prior. We
13 actually had another tens of thousands who
14 downloaded and filled out forms, but were
15 unable to actually submit it because it was
16 too close to the election date.

17 And then finally, in terms of
18 submissions of forms, rather than
19 eliminating an option of where a form can be
20 submitted to, we recommending looking into
21 on-line voter registration as a way to

22 eliminate potential for delay, the loss of
23 forms, and data end error, time, and cost.
24 We encourage the Committee to consider this

1 approach. Multiple states from Arizona to
2 Washington, Oregon, Colorado have either
3 passed or are considering legislation that
4 will allow a voter to fill out a form on the
5 Board of Election's web site or in the
6 County Board's web site and partner sites
7 like Rock the Vote, then submit the form
8 electronically, rather than being asked to
9 print, sign, and send. This works where
10 there is an electronic signature of that
11 voter already on file, whether through the
12 DMV or the State tax system and this
13 modernization of the voter registration
14 system could potentially revolutionize the
15 process of submitting registrations here in
16 this state.

17 So in conclusion, we applaud the
18 Committee's efforts to reform the current
19 registration process. We look forward to
20 working with you on this process. We have
21 over a quarter million members here in New

22 York State and many people who would to like
23 to see registration made easier, simpler,
24 and more modern. We are happy to activate

1 them with this process and are eager to
2 partner to ensure that these young people,
3 who are newly engaged in the political
4 process, continue to be engaged and at this
5 moment, we have the opportunity to foster
6 real democracy here in this country, we
7 support it. Thank you, for your time.

8 SENATOR ADDABBO: Thank you, very
9 much.

10 DICK DADEY

11 Executive Director of Citizens Union

12 MR. DADEY: Good morning, Senator
13 Addabbo. My name is Dick Dadey, the
14 Executive Director of Citizens Union, an
15 independent, nonpartisan civic organization
16 of New Yorkers that promotes good government
17 and advances political reform in our city
18 and state. For more than a century,
19 Citizens Union has served a watchdog for
20 public interest and an advocate for the
21 common good. I am joined here today by my

22 colleague, DeNora Getachew, CU's Legislative

23 Counsel and Director of Public Policy.

24 I would like to thank the New York

1 State Senate Standing Committee on Elections
2 and you for holding this important hearing
3 regarding how to increase citizens'
4 opportunities to register to vote and to be
5 educated about elections.

6 I think this is the first time that
7 we've have had an opportunity, actually, to
8 attend a public hearing and to testify on
9 these important issues that we have long
10 advocated and so I commend you for this
11 first, what I will assume, be opportunities
12 for you and the State Senate to hear from
13 citizens about these issues.

14 Citizens Union would also like to
15 commend Senate Majority Leader Malcolm Smith
16 and you, Election Chair, for taking some
17 important first steps this week toward
18 addressing reform issues that for so long,
19 have been left unaddressed and open. We are
20 encouraged by your first acts toward
21 enacting some legislative rules reform and

22 look forward to working with you and your
23 colleagues to accomplish meaningful reform
24 on elections, campaign finance, ethics, and

1 other reform issues during the rest of the
2 this session.

3 We believe that the Committee's hearing
4 on improving voter registration is important
5 because of the institutional barriers that
6 exist within New York, that restrict voters'
7 ability to cast easily, their ballot. It's
8 time for New York to take measurable steps
9 to modernize and streamline the voting
10 experience. Removing barriers will allow
11 and in fact, encourage voters to participate
12 in greater numbers.

13 With advances in technology and a
14 greater capacity to allow voters to
15 participate through different processes,
16 approaches aimed at boosting voter
17 participation should be explored.

18 Instituting Election Day voter
19 registration, reducing the deadline for
20 receipt of new voter registrations,
21 educating eligible voters with felony

22 convictions regarding their right to vote,
23 and allowing voters to register on-line to
24 vote, will all accomplish the important goal

1 of easing voters' access to the election
2 system, but also, will increase New York's
3 standing in comparison to other states that
4 have instituted more friendly voting
5 measures.

6 We believe that creating a system that
7 allows people to more easily participate in
8 the fundamental level of voting, not only
9 will increase turnout, but also encourage
10 their greater involvement in other areas of
11 the elections and government.

12 As discussed in greater detail in my
13 testimony, Citizens Union supports
14 instituting EDR, supports granting voters
15 additional time to register and vote prior
16 to an election, as long as they do so within
17 the 10 day limit set forth in the New York
18 State Constitution.

19 We also support creating a common sense
20 voter education plan for inmates and easing
21 voter registration by creating an electronic

22 voter registration form.

23 Let me address my first set of comments

24 to the EDR issue. As you know, the

1 Constitutional statutory deadlines for voter
2 registration have a significant impact on
3 the ability of eligible voters to
4 participate in elections, especially, using
5 innovative methods like EDR. Section 5,
6 Article 2 of the New York State Constitution
7 currently requires registration to be
8 completed by 10 days before each election;
9 moreover, Section 5-210 of the State
10 Election Law places an even more onerous
11 requirement on voters, that their voter
12 registration form must be received by the
13 Local Board of Elections 25 days in advance
14 of the election. The statutory requirement
15 is not only prohibitively restrictive in
16 allowing citizens to participate in
17 elections, but also takes away 15 important
18 registration days from the Constitutional
19 requirement.

20 In practice, these restrictive
21 registration deadlines meant that in the

22 2008 general election, the voter had to be
23 registered by October 10th. A registration
24 deadline one month prior to the election

1 presents a large and mostly unknown barrier
2 for voters interested in registering in
3 voting nearly a month later, especially, for
4 those potential voters who become interested
5 in the election late in the process or are
6 frequently mobile.

7 CU is a strong proponent of EDR, and
8 especially, because of its ability to ensure
9 participation by late-interested voters and
10 because it is a forward thinking idea needed
11 to address New York's notoriously low voter
12 turnout, which continues to rank among the
13 lowest in the nation. In the 2004
14 Presidential Election, New York ranked 46 in
15 voter turnout across the nation. Since 1960
16 New York's turnout rate has fallen from over
17 60 percent to just over 50 percent and it's
18 been below the national average since 1972.
19 In the last five Presidential Elections, New
20 York State voter turnout failed to exceed 51
21 percent of the voting age population, while

22 the State's population continued to

23 increase.

24 Nine states across the State -- across

1 the country have currently implemented EDR,
2 including Maine, Minnesota, and Wisconsin.

3 In these three states, specifically,
4 voter turnout has seen large increases over
5 the national trend and at times, even when
6 voter turnout across the country decreased.
7 Only once has voter -- Wisconsin's voter
8 turnout rate dropped below 60 percent since
9 1976 when EDR was first implemented and all
10 three states exceeded 70 percent
11 participation in the 2004 election.

12 Citizens Union Foundation's, Citizens
13 Union Foundation's report in 2005, entitled,
14 "Election Day Registration Simplifying the
15 Voting Process and Increasing Voter Turnout
16 in New York City," builds upon the research
17 and experience in other states with EDR to
18 outline not only why New York would
19 substantially benefit from implementing EDR
20 but provides detailed alternatives for how
21 New York State can securely and efficiently

22 institute this practice. CUF's report shows
23 that amending the Constitution will remove
24 the 10 day voter registration requirement as

1 proposed by S1616 and A3734, sponsored by
2 Senator Valesky and amending statute to
3 implement EDR as contemplated by S3372,
4 sponsored by you, would bring New York in
5 line with other states that have this
6 practice and allow first-time voters to
7 register and vote on Election Day. EDR can
8 help also facilitate greater participation
9 among late interest, recently mobile voters
10 who may have moved between counties who fail
11 to timely transfer their registration who
12 may have had moved between counties and who
13 failed to timely transfer the registration
14 and address marginally interested, or make
15 available to those who are marginally
16 interested and incorrectly registered.
17 Based on our research and analysis in our
18 report, EDR in New York State would
19 streamline the registration and voting into
20 a single process, diminishing administrative
21 burdens associated with registration

- 22 procedures and affidavit ballots; allow
- 23 eligible voters with uncertain registration
- 24 status to re-register, therefore, decreasing

1 the number of provisional ballots cast;
2 eliminate confusion and uncertainty of a
3 registration status, and generally
4 enfranchise and turn out more citizens to
5 vote.

6 While some of the typical concerns that
7 opponents of the EDR highlight, such as
8 voter fraud and increased errors,
9 administrative burdens on the staff and the
10 financial costs associated with its
11 implementation, other states that have
12 instituted EDR, however, have shown that
13 precautionary measures can be implemented to
14 safeguard the ballot.

15 Citizens Union supports the approach
16 taken in S3372 to prevent against alleged
17 voter day fraud; namely, the bill would
18 require voters registering on Election Day
19 to present acceptable forms of
20 identification containing proof of address,
21 as well as execute an affidavit in attesting

22 to their eligibility as a qualified voter in
23 such districts, because of their residency
24 in the districts for 30 days prior to such

1 elections and that have not been legally
2 disqualified from voting in the election.
3 To the extent that the voter cannot meet
4 these requirements, we believe that it is
5 appropriate to have the voter complete an
6 affidavit ballot.

7 Citizens Union also recommends the bill
8 be amended to provide, if a person cannot
9 meet the statutory requirements to register
10 and vote on Election Day and is, therefore,
11 given an affidavit ballot, said affidavit
12 ballot should serve as the person's voter
13 registration so that the person does not
14 need to re-register in the future, a 5014
15 and S1057 sponsored in the Senate by you,
16 would allow the for these affidavit ballots
17 to serve as a voter registration. We also
18 recommended, though, you seek stiff
19 penalties for those who violate the law is a
20 strong deterrent to any possible fraud.

21 With respect to concerns regarding

22 EDR's potential to overburden the Board's
23 staff, CU recommends that one look to the
24 experience of some states that have

1 introduced greeters inside the polling place
2 to direct voters and those wishing to
3 register to the appropriate locations.
4 Placing one or more poll workers at each
5 site solely assigned Election Day
6 registrants, may also be another option.
7 With an increased of number of poll workers,
8 voters can submit their registration forms
9 under the supervision of election officials,
10 reducing mistakes and in turn, decreasing
11 the resources needed to follow and correct
12 erred forms.

13 Now, as many of you know, Citizens
14 Union has over the last number of years,
15 recruited interested citizens who do want to
16 serve as poll workers. We have been
17 fortunate to provide the City Board of
18 Elections here with over 15,000 New Yorkers
19 since 2002 to participate in administering
20 elections on Election Day. There are
21 concerns, however, that New York City in

22 particular, would have a difficult time
23 implementing EDR because of the size of our
24 electorate. In order of preference, helped

1 us identify an available approach that the
2 City can utilize to implement EDR, as well
3 as the advantages and the disadvantages of
4 each approach and I have a copy, several
5 copies of that report and can make that
6 available to you and the Committee and the
7 rest of the Senate.

8 Election Office EDR and voting. Voters
9 can register and vote we would suggest that
10 you look at this option of voters
11 registering and voting under an election
12 office instead of their assigned polling
13 place. New York City allows voters to vote
14 by absentee ballot in advance by visiting
15 their board borough office within a
16 specified time period before the election.
17 Voters would not only have to go to one
18 place to register and vote -- excuse me,
19 voters would only have to go to one place to
20 register and vote; however, the borough
21 office may not be convenient for all voters

22 wishing to vote on Election Day.
23 Precinct level EDR similar to that
24 utilized in Idaho, Minnesota, New Hampshire,

1 Wisconsin and Wyoming, where voters can
2 register to vote in an election at their
3 local polling site. This would require one
4 to two additional poll workers per poll site
5 to assist in voter registration, but would
6 provide the most convenient method for
7 voters to register on Election Day.

8 Election Office EDR, which is utilized
9 in Maine. Voters can register at their
10 local borough office and would then travel
11 to their local polling location and cast a
12 ballot after registration. While this
13 system would allow registration to take
14 place in a centralized location and minimize
15 the need to hire additional poll workers, it
16 also would require voters to register and
17 vote in separate locations, which is not
18 ideal, but an acceptable alternative to
19 start the practice. EDR also can be
20 beneficial in eliminating affidavit ballot
21 errors and administrative burdens associated

22 with voter registration. The implementation
23 of the state wide voter database, which is
24 intended to make verifying voters easier and

1 a process to address ballot security
2 concerns, coupled with EDR, may reduce that
3 some of the administrative errors that
4 prevent people from voting and remove
5 onerous steps for various voting groups.

6 EDR also has the potential to reduce
7 the number of uncounted affidavit ballots,
8 which demand increased time and effort to
9 verify and may indicate inefficiencies in
10 election administration.

11 According to the Election Assistance
12 Commission's Election Day survey,
13 provisional ballots in New York in 2004,
14 accounted for 4 percent of the ballots cast
15 and 1 percent of ballots counted. 4 percent
16 of the ballots cast and 1 percent ever
17 ballots counted, an unacceptably high
18 number. Over half of the provisional
19 ballots cast, 144,457 were not counted, yet
20 in a state like Wisconsin with EDR, the
21 percentage of provisional ballots cast was

22 0.01 percent. By eliminating this extra
23 step of registering before Election Date,
24 New York State can provide all citizens with

1 the opportunity to participate in elections,
2 no matter when they become engaged in the
3 process. EDR, however, cannot be
4 implemented in New York without a
5 constitutional change that eliminates this
6 requirement that registration be completed
7 at least 10 days before each election, which
8 is why we support both pieces of
9 legislation.

10 This has been done in previous sessions
11 when the Assembly under the leadership of
12 Speaker Silver, which unfortunately, never
13 passed the Senate, we urge the Legislature
14 to act promptly to pass this Constitutional
15 amendment and we would also recommend that
16 3372 be amended to ensure that first-time
17 registrants, as well as recently mobile and
18 incorrectly registered voters benefit from
19 EDR.

20 SENATOR ADDABBO: In the interest of
21 time, can we --

22 MR. DADEY: Yes. In terms of the
23 other bills, we do support the bills
24 sponsored by you on the deadline for receipt

1 of voter registration, in lieu of taking the
2 constitutional steps just outlined here, for
3 many, we reduce the deadline for mailing
4 voter registration forms to 15 days before
5 the election and received by the Board by
6 the tenth day.

7 In terms of party enrollment, status
8 for new registrants, we think it's a
9 laudable issue that needs to be explored.
10 We have not yet taken a full position on
11 that, but doing first, the Senate, to take a
12 look at this issue.

13 In terms of voting rights and
14 notifications for eligible inmates and prior
15 felons, we do applaud and support the
16 Senate's idea of considering this important
17 legislation. We support all reasonable
18 efforts to increase voters' understanding of
19 their rights and how to vote. We support
20 this piece of legislation because we think
21 it takes common sense and reasonable

- 22 approach to creating a State voter education
- 23 program to ensure inmates are aware of their
- 24 rights while awaiting sentencing and

1 ex-felons are aware of their rights after
2 completing their maximum sentence.

3 Citizens Union supports S.4035, as
4 well, sponsored by you, which would amend
5 the Election Law to require the State Board
6 to replace electronic voter registration
7 forms on its website so that applicants are
8 allowed to complete such forms
9 electronically for easier completion and
10 mailing to the local Board.

11 I think that I've hit the high notes of
12 my testimony and would like to conclude and
13 thank you again for the opportunity to do
14 so.

15 SENATOR ADDABBO: Okay. Thank you,
16 very much, and again, for the work that you
17 do in the Citizens Union.

18 In an earlier panel, Ms. Lerner, I
19 believe of Common Cause had mentioned public
20 education, what's out there and referendums
21 and she mentioned the voter guide, of

22 course, I always think of the Citizens Union

23 voter guide, so we appreciate your efforts

24 in educating our voters.

1 And Ms. Smith, thank you for your
2 efforts. Rock the Vote probably the hardest
3 segment of our population to energize with
4 voter of participation, is our younger
5 residents. Certainly, we appreciate your
6 efforts with that and any ideas that you
7 have as far as increased voter
8 participation, especially, the younger
9 residents, we would like to, you know, get
10 that information to them.

11 MS. SMITH: I would be happy to share
12 and I just did some quick math for you, but
13 with on-line submission of forms there would
14 have been at least 50,000 additional
15 registrants on the rolls in the 18 through
16 29 year-old age group through Rock the
17 Vote's website alone in New York State, so
18 -- but I'm happy to pass on more
19 information.

20 SENATOR ADDABBO: Thank you, very
21 much. Thank you both for your time.

- 22 Our next panel, a panel of three, Erika
- 23 Wood, Deputy Director of Democracy Program,
- 24 Brennan Center; Glenn Martin, Vice President

1 of Public Affairs for the Fortune Society
2 and Leonard Marks, Retired Bureau Chief on
3 the New York State Division of Parole.

4 Good afternoon, everyone. Just as a
5 reminder, I'm not really timing everyone,
6 but we want to hit everyone and we do have
7 four more panels after this one so if you
8 could keep your remarks brief, I would
9 greatly appreciate it.

10 ERIKA WOOD

11 Deputy Director

12 Democracy Program, Brennan Center for Justice

13 MS. WOOD: Good afternoon, Mr.
14 Chairman. I'm the Deputy Director of the
15 Democracy Program of the Brennan Center for
16 Justice NYU School of Law and I'd like to
17 thank you and your committee for holding
18 this hearing and inviting us to testify this
19 morning.

20 The Brennan Center for Justice is a
21 nonpartisan public policy and law institute

22 that focuses on fundamental issues of
23 democracy and justice. As part of our
24 mission to advance voting rights for all

1 Americans, we lead a national campaign to
2 restore the vote to people with criminal
3 convictions. Today my testimony will focus
4 on restoring voting rights to people on
5 parole and Senate Bill 1266, the Voting
6 Rights Notification and Registration Act.

7 Just after a bit about the national
8 landscape on this issue. The right to vote
9 forms the core of American democracy. Our
10 history is marked by successful struggles to
11 expand the franchise, to include those
12 previously barred from the electorate
13 because of race, class, or gender. There
14 remains however, one significant blanket
15 barrier to the franchise. 5.3 million
16 American citizens are not allowed to vote
17 across this country because of a felony
18 conviction in their past. As many as
19 4,000,000 of these people live, work, and
20 raise their families in our communities, but
21 because of a conviction, they are denied the

22 right to vote. In New York, over 122,000
23 people are barred from voting, nearly 56,000
24 of whom are people on parole living in the

1 community.

2 The felony disenfranchised laws vary by
3 State. The current law in New York
4 disenfranchises people in prison and while
5 on parole, while people on probation are
6 allowed to vote. Fifteen states and the
7 District of Columbia currently already allow
8 people on parole to vote.

9 Felony disenfranchisement laws in the
10 United States are deeply rooted in the
11 troubled history of American race relations.
12 In the late 1800's these laws spread as part
13 of a larger backlash against the adoption of
14 the Reconstruction Amendments. Criminal
15 disenfranchisement laws were enacted right
16 alongside poll taxes and literacy tests as
17 part of an organized effort to prevent
18 African Americans from voting.

19 The history of New York's felony
20 disenfranchisement law is consistent with
21 this national narrative. In a few weeks the

22 Brennan Center will be releasing a report
23 that traces the history of New York's law.
24 In New York, criminal disenfranchisement

1 provisions were created in tandem with other
2 provisions such as literacy tests and
3 property requirements that sought to exclude
4 African Americans from participating in the
5 political process.

6 At the second Constitutional Convention
7 in 1821, delegates met specifically to
8 address Black suffrage. Based on their
9 belief in Blacks' unfitness for democratic
10 participation, the delegates designed new
11 voting requirements aimed at stripping
12 African-American citizens of their right to
13 vote. The result was Article II of the New
14 York State Constitution, which contained new
15 discriminatory suffrage restrictions,
16 including unusually high property
17 requirements, specifically for African
18 Americans, as well as the criminal
19 disenfranchisement provision. That felony
20 disenfranchisement provision of Article II
21 remains intact today.

22 The disproportionate racial impact of
23 disenfranchising laws also continues to this
24 day. Nationwide, 13 percent of

1 African-American men have lost the right to
2 vote, a rate that is seven times the
3 national average. Given current rates
4 incarceration, three in ten of the next
5 generation of African-American men across
6 this country can expect to lose the right to
7 vote at some point in their lifetime.

8 The disproportionate rates of
9 incarceration have caused New York's
10 disenfranchised population to be
11 overwhelmingly composed of people of color.
12 64 percent of those disenfranchised under
13 New York's law are African-American and 33
14 percent are Latino. In contrast,
15 probationers in New York, who never lose
16 their right to vote, are nearly 50 percent
17 white.

18 Laws that continue to disenfranchise
19 people after release from prison often lead
20 to widespread confusion among both election
21 officials and the public. This is certainly

22 the case in New York. Thousands of eligible
23 New Yorkers with felony convictions have
24 been illegally denied the right to register

1 and vote because of confusion and
2 noncompliance on the part of elections
3 officials. A 2006 Brennan Center report
4 revealed that one-third of all counties
5 refused to register people on probation,
6 even though they never lose the right to
7 vote, and another third of New York counties
8 illegally required individuals to show some
9 type of documentation or proof of their
10 eligibility status. Laws that continue to
11 discrimination to people much after release
12 if prison lead to wide suppress this is
13 certainly the case in New York.

14 Because of this persistent
15 misinformation, many New Yorkers with
16 criminal histories do not know whether they
17 are eligible to vote. In 2005, researchers
18 found that on of half of New Yorkers
19 surveyed, incorrectly thought they were
20 ineligible to vote while on probation and
21 about 30 percent believed that they lost

22 their right to vote if they had only been
23 arrested, but not convicted. Nearly 30
24 percent of people with criminal convictions

1 surveyed in New York thought that they would
2 never be eligible to vote again. The
3 widespread confusion among impacted
4 individuals and state officials suggests
5 that there is a need for a simplified voting
6 systems with easier eligibility rules and
7 proper notification procedures.

8 Senate Bill 1266, the Voting Rights
9 Notification and Registration Act, will make
10 significant strides towards eliminating this
11 widespread and persistent confusion. Among
12 other things, this bill would require the
13 Department of Corrections and probation and
14 parole offices to provide individuals with
15 written information about their voting
16 rights and voter registration forms and to
17 offer assistance with voter registration.

18 But the shameful roots of our current
19 law and its continuing discriminatory impact
20 on communities of color, as well as the
21 widespread and persistent confusion it

22 creates among elections and criminal justice

23 officials and the public, will not be

24 eliminated until the law is changed to

1 restore voting rights to people on parole.
2 This would create a simple bright-line rule:
3 If you are out of prison, you can vote and
4 it would give a voice to the predominantly
5 poor and minority communities that are
6 severely impacted by the current
7 disenfranchisement law.

8 Thank you and I'll welcome any
9 questions.

10 GLENN MARTIN

11 Vice President of Public Affairs

12 Fortune Society

13 MR. MARTIN: Good morning and thank
14 you, Chairman for holding this hearing and
15 the opportunity to testify today.

16 My name is Glenn Martin. I'm the Vice
17 President of Development and Public Affairs
18 at the Fortune Society, a criminal justice
19 advocacy center and an alternative to
20 incarceration and reentry service provider
21 that works with over 3,500 people annually

22 who are involved in the criminal justice

23 system.

24 I would like to focus this afternoon on

1 Bill Number 1266. In addition to working to
2 removing other barriers to reintegration,
3 including restrictions around education,
4 housing and employment, the Fortune Society
5 has focused much of its attention and scarce
6 resources on the issue of removing
7 counterproductive practical and statutory
8 obstacles to voting facing those with felony
9 convictions.

10 Nowhere is New York's shortcoming in
11 the struggle for advancing civil rights more
12 apparent than in how we cling to archaic
13 felon voter disenfranchisement laws, which
14 disproportionately bar low-income Black and
15 Hispanic voters from full participation in
16 our democracy. Additionally, clients have
17 reported to us that election officials have
18 repeatedly failed to comply with existing
19 felon disenfranchisement laws, leading to
20 the de facto disenfranchisement of thousands
21 more eligible minority voters. This issue

22 disproportionately affects people of color
23 in New York State, as evidenced by the fact
24 that our state prison system is

1 approximately 50 percent African-American
2 and 34 percent Hispanic, while our general
3 state population is only 15.9 percent
4 African-American and 15.1 percent Hispanic.

5 In addition, the majority of Fortune's
6 clients live in seven communities that
7 account for the majority of the City's
8 correctional admissions:

9 Bedford-Stuyvesant, Brownsville, Crown
10 Heights, East Harlem, East New York, South
11 Bronx, and South Jamaica.

12 These communities, which have
13 predominantly African-American and or Latino
14 populations have come to be defined by low
15 social capital and high crime.

16 Many of Fortune's clients lost their
17 right to visit the polls when they were
18 convicted of a felony and served time in
19 prison, but they automatically regain the
20 right once they have served the maximum
21 prison sentence or have been discharged from

22 parole. Unfortunately, many of our clients
23 continue to stay away from the polls because
24 they are confused by the law and mistakenly

1 believe they have lost their right to vote
2 permanently. In fact, internal
3 questionnaires reveal that 43 percent of
4 Fortune's clients think they can never vote
5 if convicted of a felony, 72 percent believe
6 they cannot vote if on probation, and 81
7 percent said that no one had ever provided
8 them with information regarding their voting
9 rights. According to surveys conducted by
10 the Brennan Center in 2003 and 2005,
11 approximately half of New York's county
12 election boards illegally prevent
13 probationers from voting or improperly ask
14 for special documentation from formerly
15 incarcerated people before allowing them to
16 register. Even after advocates in this area
17 have collaborated, using their scarce
18 resources to train all county boards, print
19 and distribute materials and fliers, provide
20 model scripts for telephone hotlines and
21 websites, and provide accurate information

22 to post on websites and phone lines,
23 officials continue to misinform eligible
24 voters.

1 Fortune staff members, over half of
2 whom are formerly incarcerated, are always
3 reminding our clients of the importance of
4 engaging in volunteer efforts and activities
5 that will help them to form connections with
6 their communities. The State can send no
7 stronger message to formerly incarcerated
8 people about their value in society than to
9 bar them from the most fundamental right in
10 our democracy, the right the vote.

11 In 2003, when I registered to vote
12 within weeks of being discharged from
13 parole, I was told by the Bronx Board of
14 Elections, in direct violation of New York
15 State Election Law, that I needed a
16 certificate of relief and a letter from my
17 former parole officer. I remember feeling
18 as though there was an inherent hypocrisy in
19 a system that asked me to remain at liberty,
20 seek and maintain employment, pay taxes,
21 etcetera, only to deny me the opportunity to

22 be engaged in the political process.

23 By automatically restoring voting

24 rights to people who have been released from

1 prison or parole and are living in the
2 community, New York State policymakers can
3 enhance New York's democratic system, ease
4 the administrative burden that currently
5 leads to confusion and misinformation,
6 promote broad public safety and successful
7 reentry, and establish a fair voting process
8 that includes all citizens who have served
9 their prison time. Senate Bill Number 1266
10 begins to address this issue by providing
11 clear and systematic notice to individuals
12 of their voting rights as they complete
13 their maximum prison sentences or are
14 discharged from parole. It will also
15 require criminal justice agencies to provide
16 assistance with voter registration and
17 voting by absentee ballot, and will assure
18 that corrections and elections agencies
19 share the data necessary to verify voter
20 eligibility. The Senate should pass Bill
21 Number 1266 as a first step in the right

22 direction.

23 Thank you for your time and support in

24 the matter of this proposal.

1 LEONARD MARKS

2 Retired Brooklyn Bureau Chief

3 NYS Division on Parole

4 MR. MARKS: Good afternoon, Mr.

5 Chairman. My name is Leonard Marks. I want

6 to thank the Elections Committee for

7 inviting me to testify today. I would like

8 to speak in support of restoring voting

9 rights to people on parole and Senate Bill

10 1266, the Voting Rights Notification and

11 Registration Act.

12 I retired from a 30-year career with

13 the New York State Division of Parole in

14 2004. The last 14 years of my career, I

15 served as a Chief in the Division's Brooklyn

16 region. While Bureau Chief, I created and

17 ran the Division of Parole's only Domestic

18 Violence Program, I ran the Division's

19 Women's Program, Stabilization Program, and

20 Family Orientation Program. Since retiring,

21 I have worked as a consultant to the New

22 York City Department of Probation, as a
23 member of the New York Appellate Division's
24 Law Guardian Program and as a

1 psychotherapist.

2 I believe that voting and civic
3 participation are critical components of
4 full integration into a democratic society.
5 During my years working for the Division of
6 Parole, I supervised thousands of parolees.
7 One of the greatest challenges focusing,
8 facing those who are coming out of prison is
9 the transition from the focus on one's self
10 as an individual that is central to the
11 prison experience, to a focus on one's self
12 as a member of a community that is the
13 reality of life in our democratic society.
14 Having the right to vote and learning how to
15 exercise that right gives one a voice and a
16 stake in the community. It promotes
17 positive behavior and serves as a powerful
18 conduit for making the transition from
19 criminal to becoming a law abiding member of
20 the community.

21 I believe education about voting rights

- 22 is consistent and essential to the central
- 23 mission of parole and community supervision.
- 24 The core mission of community supervision

1 should be to support the successful
2 transition from prison to the community.
3 Affirming an individual's value to the
4 polity helps rebuild his ties to fellow
5 citizens that motivate law-abiding behavior.
6 Someone who has had a stake in the
7 community, who sees himself as a member of
8 that community, is less likely to offend the
9 community.

10 For these reasons, I support restoring
11 voting rights to people who are out of
12 prison and living in the community, even
13 while they are under supervision. I also
14 support Bill 1266, which would require
15 probation and parole officers to provide
16 information about voting rights, make voter
17 registration forms available to people who
18 are on probation and being discharged from
19 parole and provide assistance with voter
20 registration. These responsibilities would
21 not create an undue burden on probation and

22 parole offices, indeed, they are essential

23 to their central mission.

24 I am not alone in my belief. Several

1 national criminal justice and law
2 enforcement organizations publicly support
3 restoring voting rights to people who are
4 out of prison and living in the community.
5 For example, the American Probation and
6 Parole Association, the Association of
7 Paroling Authorities International and the
8 National Black Police Association have all
9 issued resolutions in favor of restoring
10 voting rights to people on probation and
11 parole. Currently 15 states and the
12 District of Columbia allow people on
13 probation and parole to vote.

14 I urge member of the Committee to
15 restore voting rights to people on parole
16 and to pass Bill 1266.

17 Thank you and I am happy to answer any
18 questions you might have.

19 SENATOR ADDABBO: Thank you, Mr.
20 Marks. Thank you all for being here.

21 Yesterday's hearing in Buffalo, one

22 person gave testimony, the most riveting of
23 the day was a gentleman who had been in jail
24 30 years, for over 30 years and for the rest

1 of his life he will be on parole, and
2 therefore, obviously, will not have the
3 right to vote, as currently exists. He's an
4 outstanding member of the community now. He
5 donates blood, he has a job, he really
6 integrated himself back into the community
7 and I told him, he speaks for many, for
8 wanting to get back into the community in a
9 full way by retaining or regaining that
10 right to vote so I appreciate your point of
11 view on Senate Bill 1266 today. Thank you,
12 very much.

13 Our next panel, a panel of two, Robert
14 Donovan, Co-Chair of the New York Democratic
15 Lawyers Council and Debra Cooper, Chair of
16 the Minority Voting Rights Committee,
17 Democratic Lawyers Council.

18 Good afternoon, everyone.

19 MS. COOPER: Good afternoon.

20 SENATOR ADDABBO: Please State your
21 name and give your testimony.

22

ROBERT DONOVAN

23

Co-Chair, NY Democratic Lawyers Council

24

MR. DONOVAN: Name is Robert Donovan.

1 Senator Addabbo and City Counsel Kogelman,
2 thank you for holding this important hearing
3 and for granting me the privilege to address
4 it.

5 My name is Robert Donovan and I am a
6 Co-Chair of the New York Democratic Lawyers
7 Council, the voting rights project of the
8 New York State Democratic Committee and the
9 Democratic National Committee. The NYDLC is
10 a coalition of lawyers and other voting
11 rights activists dedicated to fostering
12 universal participation and trust in the
13 electoral process by ensuring that all
14 eligible persons can register to vote
15 easily, that all registered voters are able
16 to vote simply, fairly and without
17 intimidation, and all votes are counted and
18 all voting systems are open and reliable.

19 We count several thousand New Yorkers
20 from across the State among our ranks and
21 our membership is open to any and all

22 lawyers, law students, and other voting
23 rights activists who share our commitment to
24 voting rights. I emphasize the others there

1 because, though, I am one of the
2 organization's leaders, I am not an
3 attorney. I do, however, have extensive
4 experience in political organizing and
5 election monitoring, including having
6 participated in or led 21 election
7 monitoring efforts in the United States and
8 overseas. As a member of the NYDLC, I have
9 organized election monitoring activities in
10 municipal, county, congressional and
11 state-wide elections in rural, suburban, and
12 urban communities across New York State.

13 Any experience monitoring the polls on
14 Election Day will quickly bring one to the
15 conclusion that some problems at the polls
16 are better solved through prevention
17 beforehand, than through intervention on
18 Election Day or thereafter. In recognition
19 of this fact, the NYDLC has formed a number
20 of committees in which members research and
21 investigate Election Law related issues,

- 22 such as implementation of the Help America
- 23 Vote Act in New York State, the Minority
- 24 Voting Rights Committee, and the Countering

1 Deceptive Practices Committee. We believe
2 it is important to advocate for voting
3 rights and where necessary for reforms to
4 the conduct and administration of elections
5 between the cycles, to prevent the
6 recurrence of problems identified on
7 Election Day.

8 In that vain, I appear before you today
9 to speak in support of several of the
10 measures being considered by the Committee.

11 S1616 introduced by Senator Valesky and
12 co-sponsored by Senators Kruger,
13 Oppenheimer, and Savino, and S3372
14 introduced by you, Senator Addabbo, would
15 amend the New York State Constitution and
16 provide the basis for voter registration to
17 be carried out at the polls on Election Day
18 and voters so registered to vote on that
19 same day, commonly referred to as "Election
20 Day registration."

21 In support of S3396 introduced by

22 Senator Addabbo, which would lengthen the
23 period during which voters may register to
24 the constitutionally allowable maximum, 10

1 days before a general or special election.

2 S4035, also introduced by Senator
3 Addabbo, which would require that the State
4 Board of Elections provide on its website,
5 downloadable voter registration forms, which
6 select and print the address of the proper
7 county board of elections based on the
8 address of the registering voter.

9 These bills will facilitate the
10 registration process, improving access to
11 elections and the machinery of democracy for
12 all those eligible to vote, and thereby,
13 strengthening our democracy.

14 In speaking in support of these bills,
15 I draw on my organization's experience
16 monitoring elections in New York State,
17 research my organization has conducted on
18 laws, practices and results in other states,
19 as well as my own experience in observing
20 those practices on Election Day in New York
21 State and in other states.

22 The NYDLC applauds and supports

23 measures which expand access to the

24 electoral process and encourage

1 participation. Election Day registration is
2 an important reform in this respect. Nine
3 states, Idaho, Iowa, Maine, Minnesota,
4 Montana, New Hampshire, North Carolina,
5 Wisconsin, and Wyoming allow Election Day
6 registration. One additional state, North
7 Dakota, has no registration requirement at
8 all. Ohio has a window in which people may
9 register to vote and vote early on the same
10 day. Research by other organizations cited
11 by some of the previous panelists, has
12 demonstrated that states with Election Day
13 registration typically produced voter
14 participation rates that are substantially
15 higher, we believe the average is 7 percent
16 higher overall than those states where there
17 is no Election Day registration.

18 What's more, our own experience
19 monitoring elections here in New York State,
20 shows that problems with the registration
21 process are common stumbling blocks to

22 electoral participation. Even with the
23 requirement that voters be allowed to vote
24 in New York by affidavit ballot, we

1 routinely receive reports of registered
2 voters being denied the right to cast a
3 ballot. This past November, 21 percent of
4 all Election Day problems reported to our
5 voter-protection effort state-wide, involved
6 problems with voter registration. The
7 majority of those were voters who could not
8 find their names in the books. While some
9 of these voters were simply uncertain of
10 their registration, they included voters who
11 had registered recently, voters who had
12 voted at the same polling place in prior
13 elections, and voters who claimed to have
14 received registration cards from the boards
15 of elections instructing them to vote at the
16 very polling place where they could not find
17 their names. And in this context, I refer
18 the Committee to the report on our 2008
19 election monitoring observations from this
20 past November submitted as an exhibit to
21 this testimony.

22 Establishing a mechanism whereby voters
23 meeting the standards of proof of identity
24 outlined in S3372, would be able to register

1 on Election Day, would lower this barrier to
2 participation and remove uncertainty around
3 the voter registration status of those
4 eligible to vote.

5 The experience of other states, as well
6 as my own personal observation of elections
7 in Iowa and New Hampshire, where Election
8 Day registration is permitted, leads me to
9 conclude that the process can be implemented
10 in a fashion that minimizes disruption to
11 the voting process and maximizes electoral
12 participation. A review of the research on
13 this topic, some of which has been cited by
14 previous panelists, leads to the conclusion
15 that the higher standards of proof of
16 identify required for Election Day
17 registration often prevents fraudulent votes
18 from being cast and that the end result of
19 Election Day registration is an increase in
20 participation rates.

21 However, the New York State

22 Constitution requires that voter
23 registration be completed no less than 10
24 days prior to the date of a general -- of

1 the election, and S1616, which would amend
2 the Constitution to allow Election Day
3 registration, must be passed in two separate
4 sittings of the Senate. While we support
5 working toward this goal, it precludes the
6 introduction of Election Day registration
7 before 2011 at the earliest.

8 In the meantime, we support S3996,
9 which expands the period for voter
10 registration to the constitutionally
11 allowable maximum, for the same reasons we
12 support Election Day registration, to
13 increase access to elections by reducing
14 barriers to registration.

15 And finally, we support S4035, which
16 would require the New York State Board of
17 Elections to address forms to local county
18 boards of election when voters download
19 registration forms from the State Board of
20 Elections website. This legislation
21 responds to the need for voter registration

- 22 forms to be submitted to the Board of
- 23 Elections in the county in which an eligible
- 24 voter is seeking to register to vote.

1 Currently, the registration form available
2 at the Board of Elections website lists all
3 67 county boards of election, and requires
4 the registering individual to submit the
5 form to the correct county board. In
6 practice, many voters submit the form to the
7 improper county or to the State Board of
8 Elections. These misaddressed forms must be
9 sorted and forwarded, burdening boards of
10 election, complicating the timely processing
11 of voter registrations. No doubt this also
12 contributes to lost or late voter
13 registrations. In fact, this past November,
14 as the previous panelist detailed, the
15 experience was trying to register through
16 Rock the Vote, the form used to drive
17 registrations was addressed to the State
18 Board of Elections, requiring the State
19 Board to sort and forward some 100,000 voter
20 registration applications. Requiring the
21 State Board of Elections to provide easily

22 downloadable, automatically addressing voter

23 registration forms, would improve the

24 ability of voters, civic engagement groups

1 and all entities seeking to register voters
2 to do so in a more efficient manner.

3 In conclusion, I speak in support of
4 S1616 and S3372 to enact "Election Day
5 Registration," in support of S3996 to
6 lengthen the period during which voters may
7 register to the constitutionally allowable
8 maximum, 10 days before a general or special
9 election, and S4035 to require that the
10 State Board of Elections provide on its
11 website, downloadable voter registration
12 forms which select and print the address of
13 the county board of elections corresponding
14 to the address of the registering voter.

15 Each of these measures would be a
16 significant, welcome contribution to
17 enhancing the accessibility of the electoral
18 process in the State of New York, lowering
19 barriers to participation, and strengthening
20 our democracy.

21 Thank you.

22 SENATOR ADDABBO: Thank you, Mr.

23 Donovan. Ms. Cooper.

24 DEBRA COOPER

1 Chair of Minority Voting Rights Committee

2 New York Democratic Lawyers Council

3 MS. COOPER: Good morning, Senator

4 Addabbo. Good morning, Senator Addabbo,

5 Counselman Kogelman. My name is Deborah

6 Cooper and I'm the Chair of the Minority

7 Voting Rights Committee of the New York

8 Democratic Lawyers Council.

9 I want to thank the Senate Committee on

10 Elections and Chairman Addabbo for giving me

11 the opportunity to testify today and to

12 Senator Montgomery, my Senator Tom Duane,

13 and the other co-sponsors of S1266 for

14 introducing this important legislation about

15 which I will testify.

16 My committee, the Minority Voting

17 Rights Committee of the NYDLC addresses

18 voting rights issues that have a high impact

19 on minority communities, particularly those

20 racial and ethnic groups that have

21 previously experienced or are currently

22 experiencing disenfranchisement, to ensure
23 that minority voters, including new
24 citizens, are granted fair access to the

1 polls, and to ensure preservation of the
2 principles of the Voting Rights Act.

3 Just briefly, before I talk about 1266,
4 several people mentioned in their testimony
5 about the importance of public education and
6 NYDLC and our committee strongly support
7 that effort and we also, for the past
8 election developed a Voters Bill of Rights,
9 generally applicable for New York State, but
10 particularly here towards the needs of
11 minority communities and we would be happy
12 to share that as well, that's helpful in
13 terms of furthering voter education.

14 I also want to acknowledge the earlier
15 panel's testimony on 1266, which you recall,
16 which was excellent. I hope that my
17 testimony will further strengthen to support
18 this legislation.

19 S1266, which enacts the Voting Rights
20 Notification and Registration Act, is
21 critical legislation and we commend the New

22 York State Senate for proposing it and
23 strongly encourage its passage. As lawyers
24 and legislators, we know that the rule of

1 law is an essential element of a functioning
2 democracy. For there to truly be rule of
3 law, it is necessary not only that statutes
4 exist, but that they are fairly and
5 effectively implemented, and that the people
6 whom they govern, know their rights under
7 those laws and how to exercise them.

8 This bill reflects progress toward that
9 goal by mandating notification of an already
10 existing right to vote to those completing
11 felony incarceration and parole, and
12 assisting them with registration, as well as
13 requiring correctional officials to, at
14 designated times, inform those inmates who
15 remain allowed to vote, of that right and to
16 facilitate the procedures for exercising it.
17 While it importantly includes notice upon
18 felony conviction and sentencing of loss of
19 the right to vote until the end of the
20 sentence, this notice should also make clear
21 that one can vote upon completion of

- 22 sentence, and must re-register to do so.
- 23 The bill significantly requires corrections
- 24 agencies to notify boards of elections

1 within a specific time frame of people's
2 changed status of eligibility to register
3 and vote, and mandates that the boards
4 update that status accordingly, and it
5 requires boards of elections to educate
6 officials across the criminal justice
7 system, as well as the public, which is very
8 important, as several people discussed,
9 about the rights and requirements of the
10 Act.

11 From my own experience and that of my
12 colleagues, many people, especially in
13 minority communities where conviction and
14 incarceration rates are high, are confused
15 about or unaware of the rights they legally
16 have now. They believe or hear rumors that
17 if they or family members have ever been
18 convicted of or even arrested for a felony
19 or a misdemeanor, they can never vote again,
20 as several people have already described.
21 Seriously compounding this problem is the

22 misinformation sometimes provided by
23 election officials about the right to vote
24 after criminal conviction, to those who are

1 actually able to make the effort to learn
2 their rights and abide by the rules. Such
3 provision of wrong information can
4 effectively disenfranchise many more people
5 than the law actually bars. It is critical
6 that all election and criminal justice
7 officials, as well as lawyers and others,
8 know, understand and properly convey the
9 law.

10 Historical and societal context make
11 this bill's importance even more clear, and
12 again, this was described earlier. Felony
13 disenfranchisement laws originate from the
14 Jim Crow era, have no legitimate purpose,
15 and they continue to have a vastly
16 disproportionate affect on African-Americans
17 and other minority populations. These laws
18 remove a right of citizenship in addition to
19 the criminal sentence and have broad, long
20 lasting and detrimental societal impacts.

21 Such laws remain in effect today, to

22 varying degrees, in almost every State in
23 the US. The United States imprisons and
24 disenfranchises increasing numbers of

1 people, more than any other country, and
2 this disenfranchisement disproportionately
3 affects minority communities. As mentioned
4 earlier, more than five million Americans,
5 including one in seven African-American men,
6 which is seven times the national average,
7 are currently or permanently
8 disenfranchised, and one-third will likely
9 lose their right to vote at some point
10 during their lives.

11 As do many other countries, Maine and
12 Vermont allow incarcerated felons to vote,
13 never depriving any citizen of this right,
14 while some states permanently deny the right
15 to vote to anyone convicted of a felony or
16 erect virtually insurmountable barriers to
17 their lawful re-registration. New York
18 State falls in the middle of this spectrum,
19 denying voting rights to anyone incarcerated
20 or on parole for a felony. It is vital that
21 we take the step provided in this bill to

22 inform our citizens of the law that their
23 voting rights are automatically restored
24 upon completion of this sentence. We ask

1 these citizens to follow the law and punish
2 them for not doing so. Certainly, it is
3 incumbent upon us to inform them of their
4 rights, as well as responsibilities, under
5 the law.

6 Voting is fundamental democracy and is
7 equal for all people and civic participation
8 is an important element in rehabilitation
9 and reintegration into the community.

10 There's also, by an earlier panelist, it is
11 also a significant factor in encouraging the
12 next generation of voters to participate.

13 Especially, in these times of budget
14 concerns as well, the simplified process of
15 restoring the right to vote by providing the
16 timely notice provided for in this bill, is
17 also cost-effective in reducing the number
18 of government agencies involved in the
19 re-enfranchisement process.

20 Also, civic engagement and reduced
21 costs are important to the increasing number

22 of law enforcement officials, including the
23 American Correctional Association, in
24 addition to the other bodies mentioned

1 earlier, that believe that voting connects
2 people to their communities, which helps
3 them become productive citizens and
4 according to at least one study, might
5 reduce recidivism, thus saving law
6 enforcement resources.

7 With increased attention and
8 understanding of its implications, national
9 momentum on this issue is, in various ways,
10 leading more states to ease restrictions on
11 both the right to vote and the ability to
12 claim that right. According to our
13 committee's research on U.S. state laws
14 conducted by my colleagues, Eric Frazier and
15 Priscilla Steward, and is attached as an
16 exhibit, about 10 states currently require
17 some sort of notice, most in the northeast,
18 where New York lags behind. North Carolina,
19 where my experience with voter protection
20 indicated a need for much improvement,
21 provides notice and I note with interest

22 that the State of Alaska requires written
23 notice prior to completion of sentence to a
24 person being discharged, with a copy of that

1 notice sent directly to the Director of the
2 Division of Elections. Both of these
3 elements, the written notice and the direct
4 notice to the elections officials would be
5 very beneficial to New York State law as
6 well.

7 In conclusion, New York State has the
8 opportunity to be a national leader and more
9 importantly, to stand up for what is just
10 and fair, in respecting the rule of law, by
11 passing this legislation.

12 And Thank you again for the opportunity
13 to express our support for this bill.

14 SENATOR ADDABBO: Thank you, Ms.
15 Cooper. Thank you both for the work that
16 you do through the Democratic Lawyers
17 Council. Thank you, very much.

18 Our next panel -- we have three more.
19 Our next panel, a panel of two is Rima
20 McCoy, the Voting Rights Coordinator for the
21 Center of Independence of the Disabled and

22 Neal Rosenstein, Election Specialist for

23 NYPIRG.

24 RIMA McCOY

1 Voting Rights Coordinator
2 Center for Independence of the Disabled
3 MS. McCOY: Good morning, Senator. My
4 name is Rima McCoy and I'm the Voting Rights
5 Coordinator for the Center for Independence
6 of the Disabled, New York. CIDNY has a
7 thirty year history of helping to break down
8 barrier barriers that prevent people with
9 disabilities from participating fully in
10 mainstream life. Our Voting Rights and
11 Education Project helps voters with
12 disabilities learn about their rights,
13 access polling sites, we help people with
14 disabilities register to vote and understand
15 new voting laws.

16 Our advocacy efforts are based on the
17 poll site accessibility surveys that we have
18 conducted for every primary and general
19 election since 2003, as well as on
20 individual voter surveys.

21 I appreciate this opportunity to give

22 comments. My comments are actually about
23 using voter registration forms as means to
24 remove barriers that people with

1 disabilities face in terms of voting. CIDNY
2 proposes that voter registration forms have
3 a space on them where people who are blind
4 or visually impaired can request notices
5 about voting in alternative accessible
6 format such as Braille, large print, audio
7 cassette, maybe even a telephone call. We
8 also think there should be a space on voter
9 registration forms for people to request
10 accommodations at their polling sites. So
11 for example, some of them might want a sign
12 language interpreter or even to request
13 interpreters in languages other than in
14 English.

15 We conducted an individual voters
16 survey during the 2008 Election and one of
17 the questions that we asked was, did you
18 receive any materials from the Board of
19 Elections about the ballot marking device
20 before the election and one respondent
21 wrote, quote, "Actually, I don't know if I

22 received materials because if I did and it
23 wasn't in an accessible format, I couldn't
24 read it." End quote. In our survey, among

1 those who reported receiving materials from
2 the Board of Elections, 25 percent said it
3 was not useful because it was not in an
4 accessible format. One of the respondents,
5 I spoke with her on the phone, she's an
6 elderly woman who died. She told me that
7 years ago, she tried very hard without
8 success to get voting notices in accessible
9 formats. She tried the library, she tried
10 the Mayor's office for people with
11 disabilities, she tried the Board of
12 Elections, League of Women Voters, and she
13 said she went to Albany and spoke with
14 senators who told her that what she wanted
15 should be available, but no one every got
16 back to her.

17 According to the ADA, this material is
18 required to be available, but there's no
19 mechanism in place for people to know it
20 exists, they have a right to it, and how
21 they can get it. Making accessible formats

22 available through voter registration forms

23 let's the public know that they are

24 available and provides a means to obtain

1 them.

2 Now, I want to take just a minute. I
3 have hardly like a minute to go, but I want
4 to point out some precedents that support
5 this proposal and one of them, Mr. Chairman,
6 your sponsor of Senate Bill 3252, which
7 would allow voters to request notices by
8 e-mail on voter registration forms so this
9 is a perfect opportunity to allow voters to
10 request notices in alternative accessible
11 formats as well.

12 And Mr. Chairman, you also sponsored
13 Senate Bill 4192, which would require
14 utility companies, telephone companies and
15 cable bills to -- cable companies to provide
16 an opportunity for consumers to receive
17 billing statements in large print so why not
18 also allow people to request large print
19 notices on their voter registration forms.

20 Another precedent I want to point to
21 you is the State Board of Elections, I think

22 a couple of months ago at a meeting,
23 indicated that when the current stock of
24 voter registration forms runs out, they are

1 going to add a space for people to become
2 organ donors on their voter registration
3 forms and my thinking is, that if boards of
4 elections can promote or can facilitate the
5 removal of people's organs on voter
6 registration forms, why not facilitate the
7 removal of barriers to voting on voter
8 registration forms?

9 Another thing that is attached to my
10 testimony on the last page, I don't know if
11 you have it in front of you, but I put a
12 copy of Wisconsin's voter registration form
13 and I circled number 10, which actually,
14 provides a space for people to indicate if
15 they need an accommodation at their poll
16 site. Now, they give the example of
17 wheelchair access, which would not make
18 sense for New York State, because every
19 polling site is supposed to be wheelchair
20 accessible, but I propose that maybe the
21 example will say something like "language

22 interpreter."

23 SENATOR ADDABBO: I'm sorry, do you

24 know if they offer that in Wisconsin?

1 MS. McCOY: I'm sorry?

2 SENATOR ADDABBO: Do you know if they
3 offer that in Wisconsin?

4 MS. McCOY: Oh, I don't know that, no.
5 But I could try to ask somebody and get back
6 to you on that.

7 SENATOR ADDABBO: Go ahead.

8 MS. McCOY: So, I guess my -- in
9 conclusion, I just want to say that as new
10 voting legislation is being considered and
11 as the previously panelists said, there are
12 hundreds of bills being considered, I would
13 like to urge this committee to address the
14 accommodation and access needs for full
15 participation by voters with disabilities
16 who are also under represented in terms of
17 getting out to vote.

18 CIDNY urges you to ensure that voters
19 with disabilities can access information in
20 the format that they need, as required by
21 the ADA to exercise their right to vote.

22 SENATOR ADDABBO: Thank you.

23 NEAL ROSENSTEIN

24 Election Specialist, NYPIRG

1 MR. ROSENSTEIN: Good morning. My
2 name is Neal Rosenstein. I am the Reform
3 Coordinator of the New York Public Interest
4 Research Group.

5 I would like to start by commending the
6 Chair for holding this whole set of hearings
7 and we look forward to many long and delayed
8 election reforms, finally seriously being
9 considered and implemented here in New York
10 State.

11 In addition to our advocacy efforts on
12 election reform, NYPIRG has hands-on
13 knowledge of the working and shortcomings of
14 the State's current registration policies.

15 For example, our hands-on registration
16 efforts in 2008 totaled more than 29,000 New
17 Yorkers and that included more than 10,000
18 applicants desperate to complete forms in
19 the final week before the deadline.

20 It's clear and we've heard testimony
21 that New York lags far behind the vast

22 majority of states in registration turnout
23 at the polls. Ones that haven't come out,
24 is that our voting eligible turnout was a

1 dismal 58.6 percent from the last year's
2 Presidential Election. Of the 39 states
3 that made it currently available, 32
4 registered higher VEP turnouts, only six
5 states fared worse than New York.
6 Minnesota, for example, experienced a voter
7 eligible turnout of 78.5 percent and that
8 really illustrates just how timely and
9 important these hearings are.

10 The usual opposition to increasing
11 registration opportunities is a claim that
12 will facilitate voter fraud and threatens
13 the integrity of the election process and
14 people debunk that. I also want to say, we
15 support strong safeguards for protecting the
16 integrity of elections. But all too often,
17 this fraud argument is just a bugaboo,
18 advanced by opponents who clothe their
19 positions as a defense of patriotism, but
20 who are in reality promoting policies that
21 are antithetical to democracy and

22 enfranchisement. The real voter fraud are
23 the barriers that needlessly limit
24 participation in the political process, many

1 of which you are addressing today. For this
2 reason, we strongly support S1616 and S3372.
3 There are few reforms that could have as
4 dramatic an impact on enfranchising eligible
5 voters in the state as Election Day
6 Registration. EDR states consistently
7 experience the highest turnout of eligible
8 citizens.

9 We do urge, however, that S3372 be
10 amended, however, to allow voters who have
11 move between counties to also take advantage
12 of the EDR. Under the bill, EDR's benefits
13 should not only be limited to first time
14 voters. With the safeguards created by the
15 establishment of the statewide database of
16 voter required under the HAVA, we think
17 there's no reason we should be clinging to
18 this old notion of count control, the count
19 control the boards have over the
20 registration process. We have a statewide
21 database now, it's taking a look, trying to

22 identify and eliminate duplicates. We
23 should be looking at EDR to fully
24 enfranchise and allow voters to transfer

1 intra-county in this process.

2 We also strongly support S3996. The
3 process of adopting EDR, as you mentioned,
4 is a lengthy one. In the interim, New
5 York's unnecessarily long registration
6 deadline should be shortened to 10 days.

7 Unfortunately, also, the promise of the
8 National Voter Registration Act has not been
9 fulfilled or even addressed for many
10 potential voters. For that reason, we
11 support 1266, which would extend voter
12 participation efforts, the Division of
13 Parole and county probation departments. My
14 assumption is when NVRA passed, it was just
15 assumed to be too much of a hot potato
16 issue. They didn't want to deal with them.
17 It was a great victory that adds or
18 facilitates disability agencies, but it's
19 time to look at more broadly, including the
20 criminal justice system as well under this
21 provision.

22 The Committee has set up an ambitious
23 agenda for changes in the State's antiquated
24 system of registering voters. But there are

1 many additional pressing reforms needed and
2 we urge the Committee to consider the
3 following additional changes to State
4 Election Law:

5 One, we think State law should clearly
6 specify that an individual's registration
7 and voter status not be challenged solely
8 because the students registering from their
9 colleges.

10 Current State law still allows for a
11 subjective interpretation of student's
12 residency by local county Boards of
13 Elections and the stalling or rejection of
14 registrations by sanctioning that
15 intimidating questionnaires can be required
16 from students before they are registered.

17 We urge the Senate to pass legislation
18 clearly prohibiting the selective targeting
19 of students attempting to register or vote.

20 This is an ongoing problem of the students
21 last year in the State Senate race at SUNY

22 Albany, Dutchess County, even in this
23 month's special election to fill the House
24 seat vacated by Senator Gillibrand.

1 Similar to the notion of EDR, we think
2 a voters registration should follow them
3 from county to county, not only for first
4 time voters using EDR, HAVA's creation of
5 the state wide database, we think, has
6 created a new conception of what election
7 jurisdiction is and should be in New York
8 for the creation of the state wide list.

9 It's now time for Election Law to play
10 catch-up and allow voters who have moved
11 from county to county, to vote. This is the
12 same right that voters moving within a
13 county currently enjoy and there's no reason
14 for this continuing disenfranchisement.

15 Additional forms, I'll just highlight,
16 many of which have been already spoken about
17 in the hearing are the universal voter
18 registration, examining Internet
19 registration, and we also have hesitancies
20 about the demographic breakdown.

21 New York City has the lowest drivers

22 license holders rates of any county in the
23 entire country, including non DMV, rate
24 about 53, 54 percent. We have to look at

1 other databases.

2 And in the interim, there's no reason
3 to say well, even if we have a secure system
4 to allow voters to update their
5 registrations on the Internet and that way
6 you don't deal with the possibility of
7 demographic favoring one class or the other
8 and you can actually sign up to vote on the
9 Internet.

10 As mentioned, the Legislature should
11 amend the voter registration form to allow
12 voters the option of providing an email
13 address that would not be shared with any
14 source. The State and Local Boards of
15 elections should then be required to email
16 information on election dates and times,
17 voters right, poll site locations and sample
18 ballots to those voters. Voters should be
19 able to update their contact information
20 online through the use of a PIN, in the
21 event their email address changes.

22 Computers now, you have their e-mail
23 address and you should be able to see where
24 they're poll site is. Tell them, you know

1 here's ID number. Eventually, this is what
2 your sample ballot is and we hope that that
3 will be taken up as well, at least with
4 complying with updating the Motor Voter Law.

5 And the last specific one I want to
6 talk about is ending unnecessary ID checks
7 at the polls. And unfortunately, this is a
8 technical one, when the state's
9 implementation statute eventually passed, it
10 extended the ID requirement to forms that
11 were hand delivered to Boards of Elections
12 offices. That wasn't the case. When HAVA
13 was passed nationally, some of the
14 implementation of the statute dealt with
15 Public and State Senate ID Penal Law that
16 extended the ID requirement that classes the
17 voters. We think it's time to go back to
18 the standard only envisioned by the federal
19 law. This will lessen the verification cost
20 and burden on local boards, reduce poll site
21 confusion and lines resulting from

22 unnecessary ID checks and reduce the
23 potentially disenfranchising impact of the
24 ID requirement. Basically, HAVA says if you

1 mail in the forms, you have to have the ID
2 check, collect forms like ours and many
3 others and hand them in etcetera.

4 In concluding, there are a host of
5 promising forms in other areas that we are
6 looking forward to the Committee addressing
7 this session in your upcoming hearings, from
8 providing comp time to State employees to
9 work at chronically understaffed polls, to
10 investigating early voting, to ensuring that
11 the State use some certified voting systems
12 for poll sites and requiring meaningful
13 audits after elections, the need for action
14 is great. We are encouraged by this initial
15 agenda and look forward to working with the
16 Committee.

17 SENATOR ADDABBO: Thank you, very
18 much. Thank you for all the work that
19 NYPIRG does throughout the City. Thank you,
20 very much.

21 Ms. McCoy, quick question. Do you have

- 22 any idea or any data that CIDNY, does
- 23 anybody have any data about how many people
- 24 might need assistance inside the State which

1 might need, you know, larger print forms or
2 Braille forms? Do you have any idea.

3 MS. McCOY: I don't know, offhand, but
4 I know where I can turn to get that date.

5 SENATOR ADDABBO: If you can forward
6 that, that would to be helpful. As we work
7 with the Board of Elections throughout the
8 State, we might figure out what important
9 resources they might need in order to
10 comply. That would be helpful. Thank you,
11 very much, both of you. Have a good day.

12 Our next panel, a panel of two,
13 Esmeralda Simmons, Director of the Center
14 for Law and Social Justice, Medgar Evers
15 College and Jeanne Felker of The League of
16 Women Voters.

17 Thank you, very much for being here.

18 ESMERALDA SIMMONS
19 Director, Center for Law and Social Justice

20 Medgar Evers College

21 MS. SIMMONS: Thank you. Thank you

22 for the invitation.

23 SENATOR ADDABBO: My pleasure. I

24 just want to remind you, that you speak

1 loudly and clearly into the mike. I would
2 appreciate it.

3 MS. SIMMONS: Good afternoon. My
4 name is Esmeralda Simmons. I serve as the
5 Executive Director of the Center for Law and
6 Social Justice at Medgar Evers College, City
7 University of New York. The Center for Law
8 and Social Justice is going into its 25th
9 year and from our first year we have been
10 strong advocates on minority voting rights,
11 for minority voting rights in New York City.
12 In our testimony, we give a history of how
13 we have been advocates in that, in that
14 venue and let you know that we will continue
15 to be strong advocates now that the Senate
16 Select Committee on Elections has joined in
17 with the advocates to see about real change
18 in the New York State election process.

19 We currently have a Don't Lose Your
20 Vote project, which is aimed at preventing
21 vote disenfranchisement before it occurs,

22 but here today we wish to speak on Senate

23 Bills 1616, 3372, 3996, and 1266.

24 Let me first say, that these bills are

1 notable steps towards enabling full
2 democracy in New York State. The most
3 important ways to enable democracy is to
4 make the voter registration process and the
5 ballot casting processes as easy and
6 accessible to New York voters as possible.

7 New Yorkers live in the information age
8 where we conduct most of our important
9 business electronically. We bank, stay in
10 touch with friends and family, pay bills,
11 make purchases, follow current events and
12 get the weather on-line. Indeed, New York
13 State encourages us to even file our New
14 York State tax returns on-line and receive
15 tax refunds via electronic transfers. It's
16 time to move our precious electoral
17 franchise as New Yorkers and United States
18 citizens into the 21st Century. With this
19 backdrop, the voter is reforms that are
20 envisioned by this package will make this
21 become more possible.

22 In summary, Senate Bills 1616 and 3372
23 will allow voters to register and vote on
24 Election Day, albeit after the New York

1 Constitution is amended. Senate Bill 3996
2 reduces the deadline by which voter
3 registration forms must be received from 25
4 to 10 days and Senate Bill 1266, the Voting
5 Rights Notification and Registration Act,
6 among other things, educates citizens who
7 accused, incarcerated, or released, but
8 serving sentences, about their voting and
9 absentee ballot rights. It also provides
10 them with assistance in registering and in
11 voting by absentee ballot. Although, there
12 is much to be done to truly reform and
13 modernize New York State voting systems and
14 procedures, each of these proposals
15 represents a necessary step toward real
16 election reform.

17 In particular, Senate Bills 1616, 3372,
18 and 3996 seek to reduce the frustration and
19 understandable anger of voters who arrive on
20 Primary Election Day to find that they are
21 unable to vote on the machine. So as you

22 know and has been testified previously,
23 several states already allow same-day
24 registration that these bills seek to

1 legalize and it's past time for New York to
2 join them by starting a constitutional
3 amendment process for this purpose.

4 S3996 is a step in that direction, but
5 does not require a constitutional amendment.

6 It could be called the Last Minute
7 Voter Registration Act, because it reduces
8 the time span between the mailing and
9 receipt of a new voter registration and
10 actual election to the minimal currently
11 constitutionally allowed.

12 The need for this change is crucial;
13 for example, in last year's election over
14 100,000 voters cast affidavit ballots. In
15 the Presidential Primary Election on
16 February 5th, which the Center for Social
17 Justice monitored, over 40,000 of those
18 ballots were cast in Kings County alone in
19 the Democratic and Republican primaries. I
20 know that because I sat there in monitoring
21 those eight ballots when they were, quote,

22 being checked by the Board of Elections. Of
23 that total figure, the majority was cast in
24 the Democratic Party Primary, while only

1 12,672 were actually counted in a Democratic
2 primary. In the general election in
3 November, the Board of Elections report
4 says, 82,000 plus voters city-wide cast
5 affidavit ballots, including 33,000 plus in
6 Kings County. The reason why eight ballots
7 are cast varies, and I won't go through all
8 of them because most of the people here
9 know, but I will say, that there seems to be
10 a tremendous discrepancy between what people
11 think they put on their voter registration
12 card and what winds up eventually in the
13 voter or the party affiliate books at the
14 polls.

15 Once the affidavit ballot is cast, we
16 all know that the Board of Elections are
17 required to check those records and I did a
18 test case, unfortunately, and I will say,
19 unfortunately, it's very embarrassing for
20 me. My husband re-registered and his voter
21 registration never went through. I actually

22 delivered it myself. I can't explain that
23 but I will say, he did get a nice letter
24 from the Board of Elections asking him to

1 register again. So I will say that there is
2 something wrong when voter registration
3 forms are hand-delivered and somehow, the
4 person never winds up in any voter
5 registration reform.

6 The progressive legislative voter
7 registration reform that you are now
8 contemplating, I see that and we see that as
9 a series of improgression. We applaud 2869
10 for its sufficiency of process and respect
11 for voters' intentions, time, and effort
12 because it allows for next election voting.
13 It also sets up a progression of voter
14 registration time efficiency. Next election
15 progression from 2869, 3996, 15 days before
16 election, mail in registration and asks 1616
17 and 3372 to same-day registration. That is
18 definitely to be commended and I think it
19 will ease in the State, obviously I would
20 like to see that the State, better
21 registration tomorrow, into the reality of

22 what is possible and will hopefully,

23 eliminate some of the fears.

24 Finally, on Senate Bill 1266, we give

1 our biggest you hurrah. The Center for Law
2 and Social Justice is one of the litigants
3 in the currently Hayden versus Pataki case,
4 federal case before the Second Circuit Court
5 of Appeal at this present time, in which
6 litigated to have all persons, those who are
7 incarcerated and are on parole, to allow
8 them to exercise their citizens enfranchise
9 to vote.

10 I would like to move ahead in my
11 testimony and point out something that we
12 urge you to consider that's not currently in
13 legislation in the Senate. It is, however,
14 Assembly Bill 05256 and A5949 and that is,
15 to have a Senate bill, have a Senate bill
16 corresponding to those Assembly bills that
17 would require that prisoners held Upstate,
18 people who are incarcerated Upstate be
19 counted as being -- for the Census purpose
20 and election purposes, as being downstate in
21 their home communities. This has -- because

22 they are now counted Upstate in rural
23 communities, it has the effect of diluting
24 Black and Latino voting strength, because

1 the counties in which they reside get to
2 count them, not so similar from the original
3 three fifths of a man count in the first
4 Constitution before amended and counts them
5 for redistricting and for reapportionment
6 purposes. It also means their federal and
7 state funding is determined by the Census,
8 follows them Upstate, even though they do
9 not benefit from those funds Upstate.

10 In closing, I would like to thank you
11 for the opportunity to appear before you
12 today and say that this is a tremendous
13 breath of fresh air for all of us who have
14 been laboring in the voting rights field for
15 decades to see the State Senate become a
16 major party in this State in not only
17 listening to our pleas, but also moving to
18 an actual enactment of a bill. I
19 congratulate you on your most recent bill
20 that passed in the Senate.

21 SENATOR ADDABBO: Thank you.

22

JEANNE FELKER

23

League of Women Voters

24

MS. FELKER: Good afternoon, Senator

1 Addabbo. My name is Jeanne Felker and I am
2 a member of the Legal Women Voters of New
3 York City. I am here to present testimony
4 prepared by Aimee Allaud -- should I repeat
5 what I --

6 SENATOR ADDABBO: No. Continue.

7 MS. FELKER: Okay. I'm here to read
8 or to give testimony prepared by Aimee
9 Allaud, who is the Elections Specialist of
10 the Legal Women Voters of New York State and
11 this -- the League of Women Voters applauds
12 your decision to hold these public hearings
13 around the state on some of the outstanding
14 election reform issues, which can be
15 addressed through legislation.

16 The League of Women Voters is a
17 multi-issue, nonpartisan political
18 organization which encourages informed and
19 active participation in government and
20 influences public policy through advocacy
21 and education. The league believes that

22 voting is the fundamental citizen right and

23 must be guaranteed.

24 The testimony I have been given is

1 wrong and I will not attempt to read it,
2 except for snatches here and there. I want
3 to say that the League of Women Voters is
4 supports -- strongly supports same-day
5 Election Day registration and in lieu of
6 that, should that not come about because it
7 requires, I believe, a constitutional
8 change, we do also favor shortening the time
9 between registration cutoff and Election
10 Day. The League in general, is in favor of
11 making it -- making voting more accessible
12 to all American citizens.

13 Now, I will read a bit that deals with
14 the legislation that is before the Senate.
15 The League of Women Voters of New York State
16 believes that the three Senate bills which
17 propose changes in the voter registration --
18 I'm sorry, in the voter registration
19 deadlines, would have a positive effect on
20 voter participation. We support their past
21 issue, which I already mentioned.

22 The Senate bills which would expand
23 opportunities for voters to affiliate with
24 political parties, are consistent with

1 general enfranchisement goals, which the
2 League supports. With the establishment of
3 the New York State voter, NYS Voter, the
4 interactive state-wide voter registration
5 database, a tool has been created which
6 prospective voters should be able to use to
7 maximize their ability to accurately
8 register with their county boards of
9 elections. Therefore, the League can
10 support the Senate's bill which requires the
11 NYS Board of Elections, that's New York
12 State Board of Elections, to add features to
13 a New York State voter, which would enable,
14 enable registrants to obtain a preprinted
15 vote registration form with the name and
16 address of their county board of elections.

17 The league also supports the provisions
18 of the Voting Rights Notification and
19 Registration Act, which expand the number of
20 State agencies mandated to inform and assist
21 eligible citizens with voter registration to

- 22 those with jurisdiction over and contact
- 23 with convicted felons, who will be eligible
- 24 to register and vote when they complete

1 their sentences; in other words, the League
2 of Women Voters favors information given, be
3 given to felons, information as to when they
4 will be able to again have their right to
5 vote restored.

6 There are two issues that I would like
7 to mention that have not been brought up by
8 any of the panelists -- well, actually one,
9 there was a slight mention of one by the
10 NYPIRG representative, but this one is that
11 although the announcement of a Senate
12 hearing identifies several, several bills
13 specifically for comment, the League would
14 like to ask your consideration of another
15 election reform measure which is needed in
16 order to clarify the definition of residence
17 and to make more specific, the criteria by
18 which a Board of Elections may determine a
19 voter's qualifications to vote at a specific
20 election district.

21 Now, special clarification is needed in

22 the case of college students who wish to
23 vote in the locality in which they are
24 studying. I understand that that presently,

1 that a right is interpreted differently by
2 different boards of election. Therefore, it
3 would be good if the Senate would consider a
4 law that would clarify these matters, making
5 it clear that college students may, indeed,
6 register to vote where they are attending
7 college. By making this difficult, we are
8 disenfranchising young people who are eager
9 to vote, but we make it too difficult in
10 many cases.

11 The other matter that has not been
12 brought up at all, relates to the National
13 Vote Registration Act of 1993, which
14 specified that public agencies, government
15 agencies, and bureaus should have available
16 voter registration forms to give to clients
17 when they came. And at first, this seemed
18 to be, working. There were not a lot, but
19 there were registrations that came by this
20 means, but this seems to have dropped off
21 considerably so we would like to see

22 enforcement of that provision requiring that

23 public agencies have voter registration

24 forms available and that they make them

1 available to their clients. And in regard
2 to this, the President of the League of
3 Women Voters of New York State, Mary G.
4 Wilson, has written a letter to Senator
5 Schumer, who chaired the committee on the
6 rules and administration in the U.S. Senate
7 and this letter, a copy should be with the
8 testimony, I didn't check --

9 SENATOR ADDABBO: It is.

10 MS. FELKER: They are. Good, good.
11 So that, I hope you will read also and due
12 to the lateness of the hour, I am going to
13 conclude and thank you, very much for this
14 opportunity to testify.

15 SENATOR ADDABBO: Thank you, Ms.
16 Felker, and again, thank you for your two
17 ideas worked hard to do, we'll definitely
18 take a look at that.

19 Ms. Simmons, again, thank you for your
20 ideas. Always, as well, it was pleasure
21 sitting on a panel with you at CUNY Law

22 School the other week, you were the
23 moderator, you did a fine job so it's a
24 pleasure seeing you again. Thank you, very

1 much for your time and testimony.

2 Our last panel for today is Teresa
3 Hommel, Elections Advocate and Jonathan
4 Negler, a professor in politics at, and this
5 will be the last panel today.

6 TERESA HOMMEL

7 Election Integrity Activist in New York City

8 MS. HOMMEL: My name is Teresa Hommel
9 and I'm an election integrity activist in
10 New York City. I would like to make two
11 comments that are not in my written
12 testimony. In regard to universal voter
13 registration, a friend of mine lives in
14 Canada and says that in her town, a team of
15 government employees go door to door and
16 wherever someone is not registered to vote,
17 they knock on the door, offer them a form
18 and ask them why they are not registered, if
19 there's some problem. So if we really want
20 everybody to be registered, maybe there's
21 some way of doing something tied to the

22 Census, piggy backed on the Census or some

23 other process like that.

24 In regard to increasing turnout, I urge

1 the Senate Election Committee to work
2 together with the Education Committee to
3 brainstorm together to come up with ways to
4 engage our young children in thinking about
5 the role of government in their lives from
6 kindergarten on up and to expose government
7 officials to the -- to have the children
8 meet government officials by having the
9 government officials visit classrooms and
10 also having the children visit government
11 offices and observe open meetings of
12 governmental bodies, to have classes work on
13 class projects related to government,
14 researching some issues. We are talking to
15 officials about the issue.

16 I would like to dispute, the same as
17 maybe an earlier speaker, that the major
18 obstacle to participation is voter
19 registration problems. Without minimizing
20 voter registration problems, I would like to
21 say that that is a minimal definition of

22 citizen participation in a democracy and we
23 seem to be treating ignorance of government
24 and lack of civic participation as a norm

1 that can't be addressed and I think that
2 Senator Addabbo, with you as the head of the
3 Senate Election Committee, I have great hope
4 that some imagination can come into this
5 area of our government and that these
6 problems can be addressed in, in some way
7 for the education of our youth from the
8 beginning and not wait 'til kids are 18
9 years old and then hand them a voter
10 registration form when they haven't got a
11 clue, you know, about it.

12 In regard to the bills, in regard to
13 the bills that these hearings are touching
14 on, I would like to suggest, I'm not going
15 to read my testimony, I would suggest this
16 committee perhaps, send a letter to our
17 county boards of elections to formally
18 request them to submit estimates for the
19 costs that may be associated with these
20 valuable changes that the Committee is
21 looking at.

22 I'm very happy to have heard your
23 explanation that the fiscal limitations
24 paragraph that says, "None," means no cost

1 to the State, but I would also like to
2 suggest that there should be a cost at the
3 State level government, if the State level
4 is going to put, you know, going to impose
5 requirements on some counties, then to also
6 look ahead as to whether there's any fiscal
7 resources to deal with that.

8 In regard to the suggested instrument
9 for Election Day voter registration form, I
10 urge that the statement include an
11 attestation that the person is a citizen and
12 I urge this to avoid confusion, because the
13 voter registration form already mentions, "I
14 am a citizen" in three different areas of
15 the form and you might think that after
16 people fill out that form and see the
17 mention of citizenship three different
18 times, that they might get it, that
19 citizenship, that citizenship is a
20 requirement, but when they have to sign this
21 formal statement attesting to their

- 22 eligibility, the fact that it's not listed
- 23 there can cause confusion and I'm just
- 24 simply saying that we should avoid something

1 that's confusing and avoid disputes that
2 might arise. I would also emphasize that
3 I'm not suggesting that registration require
4 proof of citizenship.

5 The last paragraph of my testimony,
6 which today I added this morning so it's not
7 in the testimony that I submitted earlier
8 this week, I would like to say that in
9 collaboration with another activist that
10 just completing a study of lever machine
11 replacement costs in New York City and as of
12 today, our estimates of first year costs
13 range from a low of 25 million to a high of
14 40 million and the annual costs thereafter
15 range from 3 million to 13 million per year
16 and when the HAVA implementation legislation
17 passed again, the bill fiscal implications
18 in both one House said, "None" and in the
19 other House said, "To be determined," but it
20 is a problem at this time to look at the
21 costs that are boards are facing and in

22 addition, the smaller costs that these
23 legislation changes will require, because
24 our boards of elections, particularly here

1 in the City, don't have the money and in the
2 copies of the testimony I submitted, I
3 attached something that was in the public
4 documents distributed this week at the Board
5 of Elections at their public meeting showing
6 their shortfalls for this year, and
7 projected shortfall for next year and so I'm
8 hoping the State can figure out some way,
9 given the lack of funds at the State level,
10 as well as the City level, come up with some
11 equitable way not to place the entire burden
12 on the county board of elections. Thank
13 you.

14 SENATOR ADDABBO: Thank you.

15 JONATHAN NEGLER

16 Professor of Politics, NYU

17 MR. NEGLER: Thank you for giving me
18 a chance to testify. I'm going to focus on
19 the -- basically, on the effect of Election
20 Day registration and the effect of reform on
21 actual net turnout and so after listening to

22 three hours of testimony, basically, I just
23 emphasize that these really matter. The
24 Election Day registration will increase

1 turnout, based off of all of the evidence that
2 we have and much of my testimony is going to
3 be based on a report making voting easier
4 Election Day registration in New York, which
5 you should have access to, I think that Mike
6 Alvarez and Catherine Wilson prepared this
7 report in 2004, the most requested time and
8 I'm a professor of politics in New York
9 University. I've had lots of experience
10 studying voter turnout. I've been doing
11 this for a long, long, long time, over 20
12 years and pretty much know what's out there.
13 So briefly, let me, let me tell you what our
14 findings were from New York and then I'll go
15 into detail and what other people have found
16 because again, we are not operating in the
17 dark here. Again, a lot of states have EDR,
18 a lot of states have had it for a long time.

19 We looked at New York and our estimate
20 was that New York could see turnout go up by
21 as much as eight and a half points in

22 Presidential Elections. It's a lot. It's
23 not going to make us look like Sweden, but
24 it's a lot and that's not going to be

1 distributed eventually across the
2 population. Basically, EDR helps some
3 groups more than others. We estimated about
4 over a 12 percent increase for young voters,
5 18 to 25 year-olds. We looked at almost a
6 little bit more than average, a 9.8 percent
7 increase for people with grade school
8 education or less and for some minority
9 groups we did larger, in particular, we
10 estimated an 11 point percentage increase
11 for Latinos.

12 It also tends to help, not
13 surprisingly, people who have moved so we
14 estimated about, you know, we're going to
15 get about a 10 percentage point increase for
16 people who moved in the last six months.

17 So briefly just before getting into
18 some of the EDR specifics, when we wrote
19 this four years ago and what's happened
20 since then is, New York has sort of
21 continued to fall further behind other

- 22 states in voting laws and voting
- 23 registration laws and that lots of other
- 24 states in particular, have adopted early

1 voting and absentee voting.

2 I want to point out those reforms don't
3 have the demonstrated impact on voter
4 turnout that EDR does. You can't find
5 evidence those have actually raised turnout,
6 but what they do, do is make it easier for
7 people to vote, that people seem to --
8 people like it. They substitute those sorts
9 of voting activities for Election Day
10 voting, but the EDR is a report where we've
11 got a reform and we've got evidence that
12 works and basically, that evidence is over
13 25 years old at this point, and it's looked
14 at in a book called, "Who Votes," by Raymond
15 E. Wolfinger and Steve Rosenstone remembered
16 over 25 years ago and basically, they found
17 there are a lot of reforms you can look at
18 to increase turnout. What they found is the
19 biggest one was the more you can reduce the
20 waiting period, the closing period for
21 registration, the closer you can move the

22 registration deadline to Election Day, the
23 more you are going to increase turnout and
24 their estimate was if you would just move,

1 move it to zero, you know, make Election Day
2 registration everywhere, you get about a six
3 percentage point increase.

4 Back in 1992 I did a study with Van
5 Leakley that confirmed those findings and
6 since then, there have been works that look
7 exclusively at Election Day registration.
8 In an article in 1994, Fenster looked at the
9 three early adopters, Minnesota, Maine, and
10 Wisconsin and they basically, compared what
11 happened in the turnout of those states post
12 adoption to what happened to everybody else.

13 And this is sort of the nice thing
14 about EDR. We can do that. We can say,
15 what happened afterwards, what happened
16 before and what Fenster found was that those
17 three states post '72 had about a three
18 percent increase and everybody else was
19 going down about 1.7. So you put the two
20 together and you see EDR is about five
21 points. And that's what the estimates have

22 looked like since then, essentially. The
23 only thing we argue about among, among
24 academics and people who look at the net

1 impact is, how much is it? Is it three
2 points? Is it five points? But we know
3 it's, it's there and again, that the
4 estimates mentioned earlier, we think that
5 New York is bigger than that because of the
6 certain demographics for New York and
7 because we have so far to go.

8 We are sitting here with this 25 day
9 window for registration and so if we can
10 move that closer, we've really got,
11 essentially, a lot of non voters to be
12 converted to voters.

13 I'll mention one more study, I believe,
14 by Knack in 2001 basically confirmed the
15 Fenster estimate in a little bit more detail
16 because, maybe Fenster's is a little low,
17 maybe it's a little bigger, but again, the
18 argument is all just exactly how much is the
19 impact.

20 I want to have briefly touch on one
21 thing that gets into the political debate,

22 the partisan composition and the electorate
23 change after you have EDR. And the answer
24 seems to be no, because there was a study by

1 Willinger and Davis and basically, they
2 looked at it extensively and find that
3 really, it pretty much looks like the EDR
4 states, the non EDR states, you don't get a
5 different composition partisan wise of
6 voters. This is, this is frightening off
7 the people, but frankly, it's just the
8 arithmetic of U.S. parties and everybody
9 knows that Democrats do better among poor
10 voters than Republicans vice versa, but the
11 bottom line is both parties were out from
12 all across the demographic spectrum and so
13 we just don't, don't expect any substantial
14 change in the partisan composition based on
15 EDR.

16 And so again, just to repeat the
17 findings, you know, we think it's worth
18 about eight and a half points overall in New
19 York and also, just to emphasize, it's
20 pretty much, not a question of will, will
21 Election Day registration increase turnout

22 in New York, will changing the closing day
23 from 25 days to 10 days increase the
24 turnout. The only question is how much it

1 will increase turnout, but all the evidence
2 says this will, this will work. And thank
3 you again.

4 SENATOR ADDABBO: Thank you and I
5 appreciate the facts and figures an EDR and
6 we looking forward to working with you.

7 Ms. Hommel, a lot of the issues that
8 you brought up with the Board of Elections,
9 they are mindful of their, their role that
10 they play and the concern that they may
11 have. We're going to be picking up here
12 tentatively on June 5th, we're back here
13 doing a hearing on Board of Elections
14 oversight. A number of the issues you
15 brought up, we'll probably will just hear on
16 June, June 5th.

17 MS. HOMMEL: Senator, I forgot to put
18 into to the public record --

19 SENATOR ADDABBO: You did, did you?

20 MS. HOMMEL: Yes. That I wonder if,
21 if your office could work directly with some

22 of the good government groups that have been

23 testifying here today and come up with

24 suggestions for how to get voter

1 registration forms to be turned in promptly,
2 because I know that these organizations and
3 many others do a very valuable service by
4 going out into the community by getting the
5 registration forms filled out, then often
6 they are not turned in so a group might do a
7 voter registration drive in July or August
8 and not turn them in until the end of
9 October and I wonder if there could be some
10 incentive built into that process to get
11 their forms turned in, in a timely fashion
12 and these groups are in a perfect position
13 to advise you how to make that come into
14 being so that people don't hold, you know,
15 for example, 200,000 forms from the summer
16 until the end of October when it creates a
17 greater crisis and the need for more
18 extensive temporary help to enter the forms.

19 SENATOR ADDABBO: Right. We are, we
20 are attempting to do that by making
21 affidavit ballots, also voter registration

22 forms and allowing the Board of Elections to
23 preprint the address on the website forms so
24 we are moving in that direction.

1 Let me also, I am corrected, the Board
2 of Elections hearing here in New York City
3 is in September, not June, September. In
4 June we will be doing campaign financial
5 reform, also another big issue.

6 I want to thank all -- let me see here
7 -- we had, we had 11 panels so I want to
8 thank to all 11 panels, all the participants
9 for again, constructively going through
10 these important pieces of legislation and
11 other election-related matters. I want to
12 thank all the participants. I want to thank
13 all who have put this hearing together. A
14 lot of work goes into this. I want to thank
15 everyone here: David Kogelman, again, the
16 Counsel, Bernadette Oliver from my office.
17 Thank you all for participating and have a
18 great weekend. Meeting adjourned. Thank
19 you.

20 (Thereupon, the Meeting was
21 adjourned. Time noted: 1:30 p.m.)

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24

