

NEW YORK STATE SENATE
STANDING COMMITTEE ON ELECTIONS

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To Address Election Law Issues

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P R O C E E D I N G S

SENATOR ADDABBO: Good morning.

We're going to get the hearing started.

Please find a seat.

And thank you.

Good morning, everybody.

Welcome to the New York State Senate's Committee on Elections. My name is Joe Addabbo. I have the privilege of chairing this Committee, and I want to welcome you all here for what is hoping to be a very good discussion about election issues.

Just to do a little housekeeping and thank a couple of people who have put this hearing together and are with us today.

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To my right here is the legal counsel for the Committee, Mr. David Kogelman.

I want to thank Allison Kelrick, who is here today.

Now, Allison is going to be very important. Because we have a lot of people who want to speak and we want to hear from everyone, we are going to limit the testimony to five minutes. So if you have a long written testimony, I'm going to ask that you summarize it.

Allison will hold up a yellow card when there's one minute left and then a red card when you're out of time. And a big buzzer will go off and an electric shock.

(Laughter.)

SENATOR ADDABBO: Just, please, we would appreciate your adhering to Allison's colored cards. So yellow for a minute and red for out of time.

But, again, I want to thank Allison for being here.

My own staff, Vicki Clark, Frank Scaduto. With me today is Ms. Pat McCabe. Again, I want to thank all the Senate staff who helped us get this

hearing up and running.

And, again, I welcome you all here.

Today's the fourth in a series of Committee hearings that this Committee has had over the past year, which started in April and will go towards the end of the year.

We've been in Rochester and Buffalo, in Syracuse, in Albany, and, of course, here in Manhattan. And this past Monday we were in Yonkers.

And we've had a great discussion regarding legislation and issues on how to make the voting process, the procedure, and everything related to elections, a more easier, more facilitated process for our voters and, again, improving the transparency of what to do in the State Senate.

Again, these hearings are an opportunity to have a good conversation.

And from these hearings sometimes we do get ideas and these ideas formulate sometimes into legislation or administrative changes.

So, again, we hope to have a constructive hearing today.

Today we will be speaking about a host

of issues: ballot access, the next generation of voting machines, lever machines, voter intimidation.

There is a Senate bill, a proposed bill, by State Senator Andrea Stewart-Cousins, that has to do with voter intimidation and fraudulent information that is given out during campaigns. And as of now, it is not a crime to do so, and hopefully with Senator Stewart-Cousins bill it will be a crime someday in the near future.

So, again, we look forward to having a great conversation and I welcome you all here.

And I am about to call the first panel.

So the first panel today would be Robert Brehm, the Executive Director of the New York State Board of Elections.

Mr. Brehm.

Good morning and welcome.

And knowing this is a new position for you, I wish you all the best.

EXEC. DIR. ROBERT BREHM: Thank you very much.

First, I would like to apologize for co-chairman Commissioner Doug Kellner who was scheduled

to be here this morning, but his work has taken him to other avenues today. He sends his best and is sorry that he could not be here personally.

He has presented written testimony so I would rather summarize in lieu of the time that we have. But mostly we would like to highlight the issues related to certification of new voting equipment.

And by way of summary, the legislation in 2005, the Election Reform and Modernization Act, which we affectionately refer to as ERMA, had several items that were very important: transparency, accuracy and verifiability of the voting systems. And we take those very seriously.

The regulations that we adopted also had several positive features, one that is probably the highlight for any new voting system that has been implemented throughout the country, is we are the first state that requires that the voting equipment meet the voluntary voting system guidelines that the EAC has adopted in 2005.

That's important mostly because throughout the State election administrators at the State level, at the county level, at the city level, have been

uniform in our position that we not follow the path taken by other states and that we have testing, rigorous testing, of our equipment.

That's both been positive and we've had some pitfalls. But we believe that the testing that we have undertaken has pretty much reassured our commitment to the groundbreaking testing that we require.

Reaffirmed, because those delays showed that there were major flaws in the Federal testing program. The methods that the Federal testing protocol had in place really had many shortfalls that we proved out during our testing. It causes delays, but I think we have a better process now.

The EAC pretty much has adopted many of our testing procedures and modernized and have pretty much used New York as the gold standard for the testing throughout the country.

And that has several benefits for all of us. We know that we'll have strong testing and we will serve as a beacon once again for the rest of the country.

Our certification program is nearing completion. There are several tests that still need to be done over the next month. But we believe from what

we've heard so far that there are no showstoppers that have come to our attention yet.

We remain committed to full compliance. So should there be any issues that come up between now and when we anticipate our testing to be completed in the middle of December, we certainly will require that all of the necessary modifications are put in place. But right now we don't anticipate that there will be a major showstopper.

So that by the middle of December we should be in a position to certify the ES and SDS 200 and the Dominion ImageCast.

One other issue that our Commissioners felt that there would be an advantage for New York State -- it was our plan all along before we were visited in Federal Court by the Department of Justice and we have a Consent Degree -- that we wanted to have a phased-in approach.

We were able to do a voluntary pilot program this fall. There were many advantages we thought to a voluntary pilot program.

Forty-seven of the counties opted to participate in the pilot program for this fall. It started

in the primary. Thirteen of the counties did not have primaries so they will join us in the general election pilot.

But we have very positive reaction to the pilot program. We required regular functional testing, logic and accuracy testing, auditing, additional auditing requirements from those that we had originally proposed, to make sure that those machines that we used in the pilot brought correct and accurate results.

And we are happy to report that the pilot program so far has proved successful for what we wanted it to accomplish. It helped us to focus in those areas, the introduction of new voting equipment, to be able to bring a beacon as to the changes that we need and open everybody's eyes to the best practices that we can all adopt before we roll this out statewide.

The good news is that there were no significant machine malfunctions during the pilot program and, indeed, the comments we've heard from the county election commissioners, and they're still giving us input, was that they had more problems with the lever machines in a primary that we've come to expect than they did with the new scanning equipment.

One of the widespread comments that we heard from many people was additional efforts to assure voter privacy. We are in the process of reviewing the comments and getting a recommendation out to the pilot program counties to redouble their efforts to ensure that the poll workers understand how to -- the proper placement of the voter privacy for the voting equipment and the privacy sleeves and the path of travel issues actually in the polling place to guarantee that everybody has a private experience during that vote.

Another key issue that we continue to examine with the counties is all of the new equipment dealing with the chain of custody, the security seals and the documentation.

So we put out a recommendation to the counties. We are continuing to evaluate those procedures so that we can come out with any necessary adjustments as we go forward.

We also conducted on-site visits on primary day. We had four teams of people out throughout the State. Mr. Kogelman joined us, Commissioner Kellner and I at four of the counties in Central New York, and I think we found that the people -- we had an opportunity

to talk to both poll workers, the county officials and also the voters, and they all gave us positive recommendations and comments on how it was functioning.

We also observed some best practices that we brought back, especially in the area of security. It was one that was already in our recommendation, but the new voting machines have seals that throughout the day are required to be opened when you start the day in some instances, in others only to be opened in the case of a programming issue.

So they had color-coded the seals in a way that -- as an example, red are the ones that only the county technicians touch and blue are the ones that the inspectors touch. We thought that was a -- it was already in our recommendation, but when we were out visiting with the counties, it really served as a reassurance to the poll workers who do this on an occasional basis a good practice for training, so that they knew red don't touch, blue was okay.

But issues like that we continue to work with everyday.

We look forward to the general election pilot program. We believe, as in any instance, there will

be more activity for the general election, and that it probably was good for us. We had a good trial run, pilot project in the primary, and we will be that much more ready for the general election.

One thing that's clear with the movement to optical scan balloting is most of the areas of the New York State Election Law were written over time by the fact that we had used lever machines, and the restrictions as to how many people can vote on a lever machine, the size of election districts was pretty much geared to that, the number of voters.

And we recommend that we look at the staffing issues surrounding poll sites. Right now it's geared to each election district rather than the district itself, and there are certain restrictions that need to be modernized as we go forward.

So we are working with the election commissioner community to make recommendations in the fall that you can consider next year.

And if you have any questions.

SENATOR ADDABBO: I have a couple.

And, again, I thank you very much for your time and testimony today.

The line of questioning is basically, you know, from conversations I have had with people on this issue and actually some of the issues that came up at our previous hearing again this past Monday in Yonkers.

First, with the cost involved. We obviously are going through some difficult times in the City and the State, throughout the State, fiscally. And there's a major concern about the timing of compliance with the HAVA requirements and ERMA and the new next generation of machines.

Given that the Board of Elections' budget has not been -- I should say governments have not been so kind to the Board of Elections' budgets as they've seen drastic cuts in the past.

So as the responsibility of Board of Election workers throughout the year increases, there has been a decrease in funding.

And now we have the additional increase of the responsibilities and duties with the possible new machines for next year.

Is this cost a factor? Is there a concern for the Board of Elections?

EXEC. DIR. ROBERT BREHM: Well, it's

certainly a concern that we have.

And one of the issues that I think we will need to look at is staffing the poll sites as an expensive proposition, and the fact that on a lever machine it could handle pretty much one ballot style so an election district had a machine.

But depending on a vote center where you may have two or more election districts at the same center with an optical scan system, the poll workers just need to give the voter the correct ballot that that voter is entitled to, but the scanner can write multiple ballot styles.

So we are looking at ways that probably can economize either through the size of a poll site and the staffing level that needs to come forward to run that system because there are certain inefficiencies there as we go forward with the new technology that may help us all.

But we also need to look at issues that have somewhat become outdated, that cost money, certain publications, that in the day of publishing things to the Internet might be an easier way.

But certainly there is still a

significant amount of the Help America Vote Act money available. New York State just received in the last week their 2008 and 2009 HAVA requirements payment from Washington. It's the first time that they have supplemented the initial HAVA money in a long time. So we received \$14.1 million.

That money was largely made available by the Legislature last session for use by the counties in implementing the Help America Vote Act.

And currently Congress is considering -- the House has an additional appropriation of \$100 billion -- excuse me, \$100 million, and the Senate has \$50 million.

So to the extent that the people are concerned about the fiscal situation, it would be a good time to lobby their congressional representatives because, once again, they never fully funded the Help America Vote Act.

SENATOR ADDABBO: Again on the issue of cost, so that I am clear, you mentioned additional staffing obviously at the poll sites may be an issue.

What other costs would come out of the Board of Election's budget?

We do know that there is Federal money and HAVA money available. But what costs will come out of, you know, individual board of elections or State Board of Elections' budgets? For instance, training costs.

What particular costs would be the responsibility solely from the budget of the Board of Elections?

EXEC. DIR. ROBERT BREHM: Well, it's hard to answer that because until they make all of their machine purchases, HAVA requires that New York State certify that we've met the four key issues of HAVA. And we've met three of them.

We had to have a statewide voter registration list.

We had to have fail-safe voting, which we had originally with affidavit voting.

We had to have an administrative complaint procedure.

All of those have been completed.

We also need to replace the voting equipment.

And until we certify all four of those parts, the money is dedicated to the four items that are

key in HAVA.

Once we meet that threshold, the State and, in turn, the counties are free to use the remaining HAVA requirements payment for the additional issues related to adjustments that they may have needed to make for security, for training, for policies and procedures, for warehouse upgrades, staff training issues.

But certainly until we get to the end, we won't know how much of that will be able to be covered by HAVA. That's why it's important to fully fund HAVA to take that burden away from the local government.

But also there are changes in the way that the equipment is stored and moved and supervised from a chain of custody. And that is going to require a greater path of travel, life custody record, that many of the counties will need to put in place. And it's one of the items that you want to make sure that that documentation is pretty much from the time you purchase and take possession of the equipment until the time it is decommissioned as something that we can use.

SENATOR ADDABBO: So, again, just to sum up the issue of cost and budget for the Board of Elections, any shortfall -- when you run out basically

of the Federal money, any shortfall has to be made up of money from the budget of the Board of Elections.

EXEC. DIR. ROBERT BREHM: That's correct.

SENATOR ADDABBO: Let's go to compliance because another issue that has come up is that the compliance for HAVA and ERMA, we may have already satisfied the requirements by having at least the one machine there and still maintain the lever machines.

Your position about have we already satisfied possibly the requirements by having the one machine there that can accommodate all voters?

EXEC. DIR. ROBERT BREHM: We have heard those concerns also. We have, when we've been asked for our opinion prior to receiving a resolution, we've shared it. When we do receive a resolution, we pass it on also.

It is our opinion that the lever voting machines do not meet all of the requirements currently of the Help America Vote Act. The U.S. Election Assistance Commission had issued an advisory opinion in 2005 that there were four categories that the lever machine fails to meet.

The first category is a verifiable record that each voter can verify before they vote, and should the machine malfunction, that you could use to do a recount to know what that total should be. The lever machine does not provide that.

It does not -- it has not been tested for the error rate requirement of the Help American Vote Act.

It does not, they feel, meet all of the Voting Rights Act language display needs because of their difficulties with the lever machine for space, et cetera.

One area that is a deficiency I do believe, the ballot marking device, and that's an accessible voting experience for voters with disabilities.

So that one, that fourth panel I think we meet with our ballot marking device. But the other three I think the EAC has said that the lever machine would need to overcome before it could be used in any election for Federal office after 2006.

SENATOR ADDABBO: Do you see that as an issue of interpretation because, if I'm not mistaken,

the HAVA requirements and any other requirements, do not specifically mention lever machines? They just mention that we have to have a certain type of machine available to the voters.

And, again, since we have one, at least one, in the polling site, that that would satisfy the requirement. You know, anybody can go to that one machine.

EXEC. DIR. ROBERT BREHM: The requirement -- again, I agree. The Help America Vote Act does not ban the use of lever machines. It bans the use of punchcard ballots.

But it does set the requirements of what a voting system must meet. And it must meet those four criteria that the EAC identified the lever does not meet.

So we have only satisfied one of HAVA's requirements with a system of a lever with a ballot marking device.

During our litigation in Federal Court, our counsel for the State Board of Elections, as well as the counsel for the Attorney General's Office, consistently advises us that the only way we can continue to use lever machines is that Congress amends the Help

America Vote Act to permit them.

SENATOR ADDABBO: You had mentioned in your testimony the pilot programs going on in the general -- and they went on in the primary and, of course, in the general and the audits.

Certainly this Committee intends to do a hearing right after the general right before hopefully you certify just as an oversight hearing to see how the general elections went with the pilot programs, the new machines, and the audits, and if any -- you know, again, if there is any tracking of any issues that occurred throughout the State.

That being said, is it true that there is only -- of the audits of the machines being used, that really only three percent of the machines being used during the general elections will be audited?

EXEC. DIR. ROBERT BREHM: The requirements that is in the Federal court order is to:

First, follow the statute, 9-211 of the Election Law;

Second, our proposed Regulation 62-1018, which are posted on our website and they are also pending before the Department of State;

And the third item that we put in as an added requirement is if the difference between the winning and losing candidate is within one percent, that they have to do a one hundred percent hand audit.

That did occur in certain areas of the State during the pilot program.

So our regulations presently as proposed - they're not adopted yet - the proposed regulations that are part of this pilot program require an initial three percent of the voting systems and the additional requirement that at least one voting machine for each different ballot style for public office.

So that is what the requirement was. So it's not just three percent of the machines. It's that additional grouping depending upon your situation.

SENATOR ADDABBO: There's been issues brought to my attention regarding -- again with the use of technology as we've seen in the past decades with tampering within computers and hacking into computers -- that there is a rising concern with these new machines being tampered with or hacked into during an election cycle, election date, progress going on.

Do you have a similar concern?

EXEC. DIR. ROBERT BREHM: Well, certainly, we have required a chain of custody from pretty much the point of taking the voting machine into possession, for the storage of the voting equipment, for the transportation of the voting equipment.

We require hash code checking at prequalification before every election to ensure that the code that's on the equipment matches the certification hash code that we have provided.

Certainly it's a concern, but we have identified several procedures and we are continuing to monitor compliance with those procedures to ensure that nothing has gone astray.

And also part of the pilot program and our evaluation is should we need to make any other adjustments. That's part of the reason why, as a phased-in pilot program, we are looking to do that also.

But from what we believe we have covered through the testing, the hash code checking, the seals, that if they identify that a seal has been tampered with, that machine is taken out of -- it isn't started with in the morning. They go get a different machine.

And the benefit of the paper ballot

is that they use the emergency ballot until the other machine shows up.

SENATOR ADDABBO: We all know that the lever machines are independent of each other. One does not have the affect on another.

There has been, again, another growing concern - and again part of these hearings is to get out the factual issues hopefully - there is a concern that with the next generation of machines that the system is interconnected so that, therefore, if something happens to the main computer or the main processor, that other machines are affected within, again, either an ED or within the system.

Is that true?

EXEC. DIR. ROBERT BREHM: Well, New York law, prior to ERMA, already had a ban on any modem or connectivity from one system to another. They're closed systems.

The only -- so that remains. It's one of the examinations that we do. We don't look to see if it's turned off. We look to see if it is -- when it's banned, it just can't be there. So any connectivity issues during our testing that we're doing is to ensure that

the voting systems do not have those on them.

The computer systems for programming also require them to be closed. So you're not on a network system with your other board of elections' networks to conduct your business. They are closed systems.

We do allow a limited network of multiple computers that are programming for communities large like New York City. The larger boards had indicated that if they had to do all of their programming on one PC, it would be very difficult.

But it's still only connected to the EMS of a couple of systems. It's not connected to any other programming. It's not connected to any other system.

SENATOR ADDABBO: And, again, just so I am clear, each individual optical scanner is separate and apart from any other?

EXEC. DIR. ROBERT BREHM: That's correct.

SENATOR ADDABBO: Do you foresee as people sometimes have fear of the unknown, they don't like change, and so they see the lever machines go, do you see a rise in absentee ballots possibly?

EXEC. DIR. ROBERT BREHM: I think

generally if the amendments to the absentee no-fault bill passes, yes, I see the absentee increasing.

But, generally, it's an education issue. Part of our pilot program in the pilot areas of the State, we are doing a radio and television commercial. We have a voter educational website, www.vote-ny.com, where individuals can go, select their county, learn the voting equipment that is being used in their county, and also view the videos. There's video, there's audio, there's close-captioning. It's a fully accessible system. People can go and learn what -- experience with the new equipment.

If you're a BMD county, the BMD information is there.

If you're a pilot program, it's there.

So we are reaching out to a broad spectrum of people with the resources that we currently have to make sure that they have an opportunity for education.

The counties are doing it in the pilot program.

What we have heard from the people we've had a chance to talk to so far is they were afraid

it would be harder than it really was. And that's what we've heard so far. We look forward to the general where there will be more people and it will be a larger ballot for more comment.

SENATOR ADDABBO: Executive Director Brehm, I thank you very much for your time.

EXEC. DIR. ROBERT BREHM: Thank you.

SENATOR ADDABBO: I look forward to working with you.

And certainly as I get the concerns of people, I will certainly refer them to you. I will ask you to, again, confirm or expand on anything that we've spoken about today.

And just as a note, Steve Richman there has been very helpful to this Committee and we've been working closely with him as well.

So I thank you both for being here.

EXEC. DIR. ROBERT BREHM: Well, we thank you for the meeting and I look forward to staying and listening myself today.

SENATOR ADDABBO: Okay. Thank you very much.

Our next witness -- someone is going

to have to check the men's room, I think.

We are going to call our next witness. Our next witness is a former colleague of mine, a really, really good Councilmember - here he is now - a former colleague of mine and a current candidate for Public Advocate, Mr. Bill de Blasio.

COUNCILMAN BILL DE BLASIO: Thank you, Mr. Chairman.

First of all, you were very kind.

And second of all, as I always say, we miss you at the New York City Council. And it's a pleasure to be with you.

I have submitted written testimony. With your permission I'll simply summarize. I think brevity is a good thing in government.

SENATOR ADDABBO: You've learned over the years. This is true.

COUNCILMAN BILL DE BLASIO: All right.

And I thank your colleagues on the Committee and the Committee staff for the opportunity to be here.

Mr. Chairman, as you know, a few months

ago, I experienced unfortunately some of the worst of what we have in our New York State Election Law in my opinion, when my campaign for New York City Public Advocate was for five days suspended and I was literally taken off the ballot because of what can only be described as a typo in the cover sheets of my petitions.

You know, the process for qualifying for the ballot I think we all agree has been about showing seriousness and showing public support, and I had an obligation to provide 7,500 valid Democratic signatures from across the City. I came in with over 125,000.

Yet because of literally a single math error on the cover page and one that was generated unfortunately by a previous error by the New York City Board of Elections, I was literally off the ballot. There was no immediate jurisdictional or procedure, I should say, way to resolve the matter without going to the full Board or potentially the court.

And I think it was shocking to, a lot of people observed, to see just how arcane and difficult our election laws remain despite some of the reforms that clearly have been made over the years.

So I committed at the time and, again,

with the good news I think overall was there was finally a resolution in a relatively speedy time, but one that did take up a lot of time and energy and might have gone the other way for all we know and might have resulted in a prolonged court case and we understand the financial ramifications of that.

And I just want to say before I offer some very clear suggestions that I think underlying all of this is the problem that once any candidate might have to go into the court system, there are huge complexities but also huge costs involved.

And there is something wrong in our democratic system if a valid candidate might not be able to complete the process of qualifying for the ballot simply because cost becomes the prohibitive factor.

And you and I both know that, you know, a prolonged court case can run into the tens of thousands of dollars of legal fees easily in this State.

So the resolution in my case was good but it easily could have gone a different way based on the current laws and practices.

I also just want to note that I think some of the solutions that need to be achieved are very

much tied up with a need for a larger reform - and I know you're very committed to that - but basic work that we still have not done enough of in this State of making it easier for people to vote, making it more compelling, getting more information out, looking at all of the other reforms that would help ensure the sanctity of the vote but also the availability and the interest in voting.

And I am certain with your leadership we'll finally get to some of those changes. And, also, but -- some of those changes have to happen at the State level, but I've also said some of the changes I believe need to happen at the City level.

One of the things I've suggested is looking at some kind of, in effect, legal assistance program for candidates who are legitimate and do end up in court. I think it would be the City's obligation at the City level to find ways to get legal assistance for folks who might not be able to afford it but are valid candidates, almost in the same fashion as, or perhaps, you know, using the methodology of legal firms that offer pro bono services.

But the core points that I want to make to you today, just three. And it's in the testimony.

I think we need to lower the barriers for candidates by considering requiring fewer signatures and/or allowing more opportunities to correct what I have said are insubstantial errors in the first instance.

There is no magic number of signatures that suggests someone is legitimate or not. I think it is about the effort and the need to go out and show organization and ask for support.

A lower number would simplify the process and would lead to fewer legitimate candidates having these difficulties and, bluntly, less time being put into something that isn't about the substance of the election. There's certainly value in petitioning, but what we would like to see more of, I think, is candidates talking about the issues and talking to the voters about their needs.

And I think what's happened more and more is people end up spending time in qualifying for the ballot and fundraising and so many other things that aren't about the substance of the election.

And so I think a lower barrier. And, again, reflecting on my case, if an insubstantial error occurs, it not be a one-time-and-out dynamic as I

experienced. If you couldn't solve the error in the first instance, you're now into a much bigger procedure.

I think we should try and find a way of getting to yes rather than getting to no. If there are insubstantial errors that are not solved in the first instance, make sure that the various parties involved are trying to resolve them. And only if they believe they are not resolvable without a larger process, then move on.

I think a reform that would allow for essentially a second look and a second immediate opportunity to resolve would be helpful.

Secondly, I think we should consider a system that many cities and states use across the country that doesn't think of qualification in terms of signatures, but thinks in terms of a modest filing fee.

Again, in the eye of the beholder what would be a fair amount? But I think it's fair to say maybe that is a fee in the hundreds, maybe it's in the low thousands. I don't have a particular recommendation.

But I think it's worth looking at because if it's something that requires a candidate to show seriousness and commitment, but again is accessible

and attainable, certainly the kind of level that they would have to attain to be a legitimate candidate in general, but simplifies the process and allows them to get back to the work of actually talking to the constituents on the issues, I think there's a lot to be said for that.

I think also it would simplify the work of the election officials and allow them to get back to the work that I mentioned at the outset of improving the overall electoral system and the accessibility of the desire of the electorate to be involved.

So, in effect, I think despite everything we've seen and felt since particularly the year 2000 in the State of Florida and all the impulse that came out of that for reform, election officials all over the country have been caught up having to deal with the day-to-day while simultaneously trying to work on a larger reform. Perhaps it would reduce some of that pressure, make the day-to-day easier. We could get on to the work of bigger reform.

Finally, another alternative that I think that's very much worth looking at, and I respect the work that a lot of good people do in the Board of

Elections at the City level, at the State, but I think there's an argument to think about the question of petition signatures, having them reviewed by a more objective authority, one that is not involved in the partisan process.

For example, in the State of California the Secretary of State's Office reviews signatures to verify their authenticity.

So, in a sense, separating that piece of the process and giving it to a purely governmental entity might again, might be more effective and it might streamline the situation, and certainly offers the possibility of reducing the need for folks to end up in court which I think should be regarded as the worst possible outcome in every sense.

And I just would focus on that, that I think any time a situation like this ends up in court we've effectively done something wrong as a system because of the cost, because of the time, because it's not allowing the candidacies to move forward.

And I think we should try and work towards a system where that's the rarity, much rarer than it is at this point.

So, finally, you know, just to sum up, I think the State of New York and the Legislature and your Committee in particular are in a position to finally move the reforms that we've needed for a long time.

I think if we do it right, we are going to see much more participation in the democratic process. We are going to see more people willing to come forward as candidates.

You and I both know how difficult it is to be a candidate in today's environment. And a lot of people demure, a lot of people, who are good people who want to serve, choose not to. I think this could be part of making it a better experience and encouraging anyone who wants to serve to come forward.

And certainly if these reforms are done right, it will also reiterate the integrity of our electoral process and I think that will add faith for the public and encourage them to come out and vote in greater numbers.

And so I appreciate the opportunity to be with you.

Those are just some broad suggestions, but, again, I did not want my experience, which was a

very troubling one, to not have a productive outcome.

And I would love to work with you going forward on trying to take that example and others and turn them into action, and I look forward to being your partner in that.

SENATOR ADDABBO: Thank you,
Councilmember de Blasio.

You know I do look forward to working with you on this issue. You know, in a year that experienced many issues regarding ballot access, this year we've seen a lot of them, yours and a couple of others really raise the awareness to the public. And I think that is very important.

And, obviously, you know, in the legal realm of things there's the intent of the law and then there is the, you know, language or explicit language or intent of the law to be compared.

And I think that's what we have here. We have to see what was the intent of the petitions and the signatures. And to your point, you know, getting the process done is one thing, but you had a mathematical error that you were given the opportunity to correct.

How long did it take your campaign and

you personally to correct this process?

COUNCILMAN BILL DE BLASIO: It was about five days overall. But the -- just one moment on the chronology because I think it's instructive.

When the smoke cleared and the final meeting of the full Board of Elections resolved the matter, it became clear what happened was a previous math error by the staff of the Board had resulted in a call to my attorney asking him to come in and correct the, literally the number of, the demarcation of the number of volumes we had.

And then my attorney made a new math error. So an error led to an error.

If all had been done correctly, the Board's original count would have been accurate. In fact, we had presented exactly what we said we did. And this never would have happened.

But once the mistaken error was identified, and then we unfortunately amplified it, five days played out. And my point is not only did that lead to five days in a, you know, well into a campaign where it was hard to move forward with the work of the campaign, but there were no guarantees that that Board hearing would

result in a completed process and a resolution.

And so we were preparing to immediately go to court. And we knew by definition that could mean weeks. And it's very disruptive to the ability not only to be effective in a campaign, but to continue a constructive public debate because that's what -- you know, all the attention goes to the immediate procedural question rather than the issues of the day.

And I think you and I would both say there's a bigger problem in the electorate system and in the media coverage of elections, that it's harder and harder to air out the issues and the impact on people's lives and so people get alienated. Why would they want to engage in elections that aren't about them?

So I would just say the fact that, you know, I had very good professional people helping me, that this took five days to begin with, but could have taken weeks more is cautionary.

SENATOR ADDABBO: Again, you've raised the awareness and others about the issue. Certainly you've raised the awareness of this Committee.

Your suggestions are appreciated and certainly we will consider some of them, if not all of

them, and go forward that way.

So, again, we look forward to working with you, again, in an attempt to strengthen a process, obviously with the interest of the people at mind. We don't mean to water down or diminish any part of the process, but to make it a more fair and equitable process and a more efficient process.

So with that in mind I certainly look forward to working with you.

I know you're a busy person these days. So I appreciate your time and testimony today and certainly your suggestions.

COUNCILMAN BILL DE BLASIO: Thank you for the chance to be with you.

SENATOR ADDABBO: Our next witness, another former colleague of mine and friend, Councilmember Robert Jackson.

COUNCILMAN ROBERT JACKSON: Well, good morning, Chairman Addabbo, my former colleague.

And let me just say I'm very proud of you and the work that you are doing as the Chair of this Committee.

I thank you for the opportunity to

address you this morning.

And let me just correct something before I begin. My staff submitted by testimony which included the remarks that I'm going to make this morning along with a copy of the resolution that City Council passed along with the testimony of Bruce C. Funk that was given about the concerns about the whole machine process.

But what we do in my office is we recycle paper. And so if you notice on the back of his testimony, it happens to be prior testimony from State Assemblyman Denny Farrell concerning a local issue.

So I ask you -- that's what we do. We recycle.

SENATOR ADDABBO: Disregard it.

COUNCILMAN ROBERT JACKSON: So that

--

SENATOR ADDABBO: I hear you.

We appreciate the recycling.

COUNCILMAN ROBERT JACKSON: Yes. It's important.

And so if you look and just note that is the case and disregard that if you don't mind.

SENATOR ADDABBO: Noted and thank you.

COUNCILMAN ROBERT JACKSON: But I thank you for the opportunity to address you this morning on an issue that is fundamental to sustaining, and given the problems of our 2000 and 2004 presidential elections, some would say fundamental to restoring public confidence in our election process.

Three years ago, the Council of the City of New York unanimously passed Resolution 228-2006 that urged reasonable criteria to guarantee a successful implementation of voting machine reform.

I was the lead sponsor of Resolution 228 and I'm speaking from my perspective as a New York City legislator.

I continue to be concerned about our future elections because to date, Mr. Chair, most of the prudent measures advocated by Resolution 228-2006 have not been followed in New York.

From day one, cost has been a concern as you so indicated in questioning the individuals that were here in front before. To date, only independent citizens have produced cost analyses for New York City.

And these analyses show that our counties will not be able to afford to conduct elections properly without diverting significant resources from other essential needs.

For example, the New York City fiscal year 2010 budget now includes lever replacement authorizations with the first-year cost of over \$92 million above and beyond the \$21 million HAVA funds earmarked for this purpose.

In these times of diminished resources and declining tax revenues, is it responsible to earmark on a particular path for HAVA compliance without a comprehensive cost study of alternatives? I think not.

I mean if you look at today and read the papers and listen to the news, New York State is facing a budget deficit of some say \$18/\$20 billion over the next couple of years. And right now in this fiscal year, as you know, our Governor Paterson has taken measures to close the current budget gap in this fiscal year.

And I truly believe that after the November general election in New York City, whoever the Mayor is, will be making announcements concerning the budget situation in New York City.

So it's tough times ahead for all of us.

So I urge you to work with the New York State Comptroller to quickly produce and publish a comprehensive cost analysis and to identify sources of funds to cover the cost of electronic elections before allowing our counties to proceed with replacement of our accurate and affordable lever voting machines.

Besides, of course, Mr. Chair, there is the issue of confidence. Government must be credible. We cannot tolerate an electoral system where who counts the votes is more important than who cast them.

Resolution 228-A recommended a public demonstration of county board of elections' ability to independently perform all tasks - and I reiterate all tasks - relating to running an election with its chosen new equipment, from programming the ballots to canvassing votes and tabulating final tallies.

In addition, Resolution 228-A asks for such a demonstration to show that counties will be able to confirm that tallies, activity logs and even logs are accurate.

The pilot use of new equipment in the

2009 primary and general elections this year would not accomplish this objective since verification of tallies, logs, et cetera is not part of the pilot.

I urge you to mandate the State Board of Elections to conduct such a demonstration of proficiency.

I urge you to ask the State Board of Elections to conduct a public hacking test on each scanner system being tested for certification.

Can you point to a method by which a county board of elections can verify that its delivered equipment consists solely of legal components that have passed State certification tests and contain no other components including hardware, software, firmware, operating system, antivirus software, firewall, drivers and all other types of components?

Can anyone verify that?

My concern about the probability of illegal supplemental software is influenced by the experience of whistleblower informer County Clerk Bruce Funk -- who I referred to his testimony was written, copies on the back of recycled paper -- from Emery County, Utah, who, upon inspection, found that none of his electronic

voting systems contained only legal software, or put it differently, all contained illegal software.

His testimony is compelling and is supplemented by findings in California of illegal and unexpected software in its electronic voting systems.

Key here, Mr. Chair, is that the State of California made inspections. Although New York State law and regulations prohibit communications capability in electronic voting systems, there is no provision in our State law requiring inspections.

Do we just have to trust that there is no incentive to subvert an accurate tally?

I believe that as stewards of the public trust, you and I, just as the ability to create an audit trail means nothing without the impetus of an actual audit, I urge you to mandate inspection for illegal components.

I further urge you to mandate the State Board of Elections to devise a method of inspection by which a county board of elections can verify that delivered equipment consists solely of legal components.

New York City counties are currently able to conduct cost effective and accessible elections

generally trustworthy results by using existing lever voting machines supplemented by the new accessible ballot marking devices that were purchased and deployed in 2008.

Let's seize the obstacle of high cost of electronic voting and transform it into an opportunity to create an accurate, efficient and economically justifiable 21st century election infrastructure.

Let me just say that my experience with the Board of Elections, as an elected official, as someone that has run for public office, someone that has been there at the close of when polls close, and seeing the county by our election staff members, as someone that has experienced that in my election and other elections throughout the years, I have absolutely actually witnessed myself where the inspectors have cracked open the seals of the machines, have counted, and I have had no problem in me looking over their shoulders and listening to them call out the tally, and then the machines being then closed and sealed for independent verification later on, I have not had a problem with that.

And, quite frankly, and as someone that uses technology, and I walk around with two Blackberries, one personal and one business, and one that has used laptop

computers for over fifteen years, I say to you that I don't trust the system. I don't trust the system.

And I say that, Chairman Addabbo, based on everything that I've heard, I've read, that I've listened with respect to the 2000 election and 2004 election.

And personally myself I was in one electoral presidential cycle. I volunteered my own time and with my own expense I went to Ohio to work on the presidential campaign to get out the vote for the Democratic nominee at that time.

And I listened to the results and whathaveyou. And personally I thought the results of the election were something that I could not trust. It's something that was not verifiable, something that I believe was not the right result.

But, you know, until we can actually prove it and verify it, then I'm going to hold forward to my belief.

But, Mr. Chair, let me thank you for the opportunity to testify in front of you and your Committee. And I hope that we, as a State, that, whatever direction we go into, that until we find the type of

machines that everyone can verify independently and have legal components and not have so many people and advocates and other individuals question the integrity of the process, I would urge you to let's continue what we have until we find the right machines, the right -- you know, all of the things that we need to do to make sure that everyone can be pleased.

And I know that you and I and everyone else says you can't please everyone. But if all of the advocates can be pleased, I think we are doing a good job.

Thank you, Mr. Chair.

SENATOR ADDABBO: We appreciate the work that Councilmember Jackson has done with the resolutions.

Ladies and gentlemen, although I truly appreciate your enthusiasm on these issues, I am going to ask that you please refrain from clapping until the end of the speaker, then you can whoop and holler all you want.

But certainly while they're speaking, if you could refrain, I would greatly appreciate it.

Our next panel is a panel of three:

Juan Carlos Polanco, Commissioner in
the Bronx, New York City Board of Elections;

Marcus Cederquist, Executive
Director; and

Steve Richman, General Counsel.

Also on the panel is Ms. Pam Perkins
and we appreciate her being here as well.

DEP. EXEC. DIR. GEORGE GONZALEZ: Good
morning.

Chair Abbaddo and members of the New
York State Senate Standing on Elections.

I want to thank you for giving the Board
of Elections in the City of New York the opportunity to
share with you the challenges we face in effectively
implementing a HAVA-compliant voting system for the
September 2010 primary election.

My name is George Gonzalez and I'm
Deputy Executive Director of the Board of Elections.

I am joined here today by our
Commissioner, J.C. Polanco, Steve Richman, the General
Counsel, and our Pamela Perkins, the Administrative
Manager for the Board of Elections.

For your information, the City Board

conducted a citywide primary election on September 15th and a citywide runoff primary election for the Democratic candidates for Public Advocate and Comptroller on September 29th.

We anticipate certifying those results of that runoff next Tuesday.

Extensive preparations are underway to conduct the November 3, 2009 General Election where the voters of this City will elect the next Mayor, Public Advocate, Comptroller, five Borough Presidents and all the Members of the New York City Council, in addition to District Attorneys in Brooklyn and Manhattan, and members of the judiciary.

There is a common and pervasive misperception where people confuse the fact that voting is a fundamental right with the fact that elections cost money.

No board of elections controls the level of activity required by law, court order and executive proclamations. Unlike many other agencies, virtually all of the Board's duties, responsibilities and activities are prescribed by Federal, State and local law.

The Board does not have the discretion to delay or cancel an election based on municipal budget shortfalls, nor can it delay processing voting registration forms or providing language assistance to voters.

The Board began this fiscal year with a structural deficit of over \$30 million. This has been the case in the last few fiscal years.

Critical legal obligations, such as the September 29th runoff primary or the collective bargaining salary increases for our unionized employees, are not funded.

Attached to this testimony is a chart describing in greater detail the persistent and chronic underfunding of electoral administration in the greatest City in the world.

Given the compressed electoral calendar, conducting three citywide elections in eight weeks, the City Board determined that it could not participate in the pilot program using optical scan voting machines during this election cycle.

However, the City Board continues its intensive efforts to completely revise how elections are

conducted in this City for the 2010 elections, using optical scan voting machines.

As you know, the State Board of Elections has not yet certified any new voting system for use in New York State. The City Board hopes that the State Board successfully completes that process in accordance with the schedule they submitted to the U.S. Department of Justice and the United States District Court in Albany. Under that schedule, the City Board will make its choice shortly after the State Board certifies the new voting system or systems, which is projected at mid to late December 2009.

To date, the most significant challenges we have identified as we seek to effectively implement the new HAVA-compliant voting system is the lack of sufficient resources, particularly adequate funding to make a successful transition.

As we move forward with more detailed planning, we are certain to identify with great specificity additional requirements, the costs of which will need to be covered. Without adequate funding, it will be virtually impossible to successfully make this dramatic change.

For the current fiscal year, the Board sought to implement important changes to our poll worker recruitment and training programs as well as poll site management and operations that would have assisted in the transition to a new voting system.

We projected these to cost approximately \$4.6 million, none of which was funded by the City of New York.

I want to take a moment to briefly highlight what the City Board believes has to be done if we are to successfully change the way we vote here in the Big Apple.

Poll workers are obviously an essential part of the voting experience. This Board has asked the City on numerous occasions for support to ensure that it has the resources to adequately train the poll workers.

Unlike some of the changes that have occurred in voting and election administration over the years, which have been evolutionary in nature, the introduction of a new voting system for the whole City will, in fact, be revolutionary, not only for the Board's more than three hundred and fifty permanent staff and

more than 30,000 election day poll workers, but also for the 4.6 million registered voters in New York City.

The implementation of an entirely new voting system will have a tremendous impact on the administration of elections in New York City.

Poll workers will need extensive training to properly assist voters on election day and the voters themselves will need to be educated so that they understand the changes in voting well in advance of being confronted with an entirely new way of voting.

In reviewing the Board's poll worker operations and comparing it to other jurisdictions nationwide, the Board has identified numerous recommendations to enhance the agency's ability to recruit and train the large number of qualified poll workers that are needed.

Among our recommendations:

One, raise the pay for attending training classes from \$25 to a more realistic \$100. The new voting system requires a longer training class and greater hands-on trainee participation.

Two, increase the performance award paid to certain poll workers from \$35 to \$100. The award

is paid as an incentive for poll workers to attend training class, pass the test, and ensure that they work the two regular election events. The Board of Elections believes that increasing this award is a fair and more effective incentive for poll workers to complete all the criteria associated with the payment.

Three, increase compensation to poll site coordinators to \$100, \$50 for the primary election and \$50 for the general election, to participate in post-election debriefing sessions.

Coordinators are not eligible for the performance award described above but receive a mere \$25 for attending a debriefing session with the borough staff to discuss the recent election and any problems.

These sessions are vitally important for the Board's staff to address problems and plan for subsequent elections.

We believe that elevating the compensation will result in a greater rate of participation among the coordinators.

Four, raise the amount paid to privately-owned poll sites on each election day.

The Board has been losing many

long-time privately-owned poll sites over the last few years and finds it increasingly difficult to secure new ones.

There are 554 privately-owned sites serving approximately 1,600 election districts that the Board must rent in areas where no public facilities are available.

The current remuneration of \$70 per ED has remained unchanged for decades. Several property owners, who have leased space to the Board on election days past, have stated that the current amount is insufficient to cover their operating costs.

Increasing the compensation paid to privately-owned sites to \$165 per election district would help the Board retain private poll sites at a critical time when our space needs are increasing.

Educating the public about voting and accommodating their expectations is also a critical element of successful elections and a necessary component of a new voting system implementation.

The Board has retained the services of an established communications and outreach firm, Burson-Marsteller, to assist us in the design and

implementation of a public education and information effort.

The original comprehensive plan costs approximately \$16 million to implement. Today, as a consequence of City budget reductions, the Board will only be able to fund a considerably reduced effort that will cost \$6.7 million.

It is interesting to note that a mailing by the Board to all of the City's 4.6 million registered voters costs almost \$2 million in postage alone.

There are also challenges that we have anticipated. Once a new voting system is selected, the City Board expects that, as detailed analysis and review of the system begins, modifications to the system, including equipment and software changes, may be necessary to ensure that the needs and requirements of the City's voters are met.

The costs of such changes cannot be precisely predicted at this time, but, once again, we have not been given sufficient budgetary resources to address this anticipated contingency.

Further, there will be a dramatic

increase in recurring expenses like the cost of printing and distributing millions of paper ballots for each election event, as well as the cost of transporting the new optical scan voting systems and all the materials necessary to conduct elections in over 6,000 election districts spread out over 1,300 different poll sites.

In conclusion, we all recognize the fiscal challenges faced by all levels of government, but the conduct of fair, honest and open elections is a fundamental right in our democracy.

The lack of adequate funding to enable boards of elections throughout the State to perform their statutory duties and make a successful transition to a new voting system at this critical time puts our democracy in peril.

The City Board once again urges the State of New York to establish by law a mandatory minimum funding level for each board of elections within the State so that we are not beggars going up with cup in hand each year, but have the necessary resources and ability to ensure that the electoral process in the Empire State is one that we can all be proud of.

I thank you again for allowing me the

time to come before you. And as always, my colleagues and I are available to answer any questions you may have.

Thank you.

SENATOR ADDABBO: Mr. Gonzalez, a question, a general question.

Does anybody else on the panel have a statement?

Okay.

COMM. J. C. POLANCO: Senator Addabbo, if I may.

SENATOR ADDABBO: Sure.

COMM. J. C. POLANCO: My name is J.C. Polanco. I'm a Commissioner here at the New York City Board of Elections.

I want to thank you for having this hearing. We think the staff, the senior staff, does a fantastic job for over five million registered voters in New York City. So I want to thank them for being here as well.

If I may, Senator, one of the issues that a lot of our Commissioners have at the New York City Board is that of the funding, sure, but of the actual pay of our staff.

We strongly feel that there is a strong pay inequality at the New York City Board of Elections. And I think it's something that we should look at as New Yorkers.

Because the City Board of Elections, not only do we execute, we administer the laws that you put into place, Senator. We administer elections across the City for over five million New Yorkers.

Not only do we canvass but we also certify election results that directly impact New Yorkers.

And I think because we answer to the State and because not only do we answer and execute the laws that you make, Senator, but the City Council we provide our reports to every year as required by the New York City Charter, we take pride in the fact that we are an independent agency.

One of the consequences of being an independent agency and not answering to any one executive - as you can imagine, Senator, how dangerous that would be for a democracy for the people that canvass and certify elections to answer to one executive - one of the consequences is this pay inequality.

If you take a look at our senior staff, which are dedicated and hard-working people that work hundreds of hours in unpaid overtime, they are paid thirty percent less than their counterparts at other agencies that are, in fact, answering to one executive.

If you look at the Campaign Finance Board, their counsel, their executive director and many of the positions that are on par with ours at the City Board of Elections are paid thirty percent more. But they don't administer any elections. They don't execute elections. They don't execute the laws that you put forth, Senator.

And I think that that is something that we have to really take a look at.

And in order for us to retain these very, very talented people at the Board, we have to make sure that we pay them accordingly.

And because we don't answer to City Hall and the Mayor, I don't feel that -- we go up to them, as we've heard from Deputy Executive Director Gonzalez, as beggars with cup in hand asking for more pay year after year only to be rejected at the door.

And, Senator, I ask you to consider

strongly the recommendations made by Deputy Executive Director Gonzalez to not only have sort of minimum funding for each board of elections, but to make sure that the people at the City Board of Elections are paid on par with their counterparts at the different agencies.

And because we don't answer to the Mayor directly and his staff, I don't feel that we should suffer and our staff should be paid less than people that don't do not even close to the work that our hard-working people at the City Board of Elections do.

So I just wanted to make sure you know that we have held over twelve special elections in a matter of two years. The City Board of Elections continues to work very hard in educating the public on elections and we train our workers very hard to make sure that we assist every voter in New York on the ability to execute their right to work.

And one thing that I need you to understand, Senator, is that this last election cycle we had over 2.6 million New Yorkers come out to vote. We have over 400,000 new registered voters just in the last couple of weeks. And that's because of an exciting presidential election.

That took a lot of hard work by the people that work at the Board.

At any given election cycle, Senator, we have over 34,000 employees at the State Board of Elections, but we need managers that are going to be able to administer those elections.

And I want to make sure that the Senate considers the fact that our workers need to be paid and they need to be paid accordingly.

SENATOR ADDABBO: Thank you, Commissioner Polanco.

Let me go no further than at this point thanking the workers of the board of elections, not only of the City but throughout the State. We must realize that they do their work not just on primary day, not just on the general election day, but really all year round.

So we appreciate the work that all board of elections' workers do all year round.

What we've seen, as I mentioned earlier, what we've seen over the years is an increase in the responsibilities but not so much an increase in financial resources or pay. And, obviously, that's not there.

So we appreciate your time. We appreciate your suggestions and certainly we will look into those as well.

Mr. Gonzales -- I'm sorry, Deputy Executive Director Gonzales, you had mentioned earlier the money that is spent on certain elections. You mentioned runoffs.

DEP. EXEC. DIR. GEORGE GONZALEZ:

Correct.

SENATOR ADDABBO: It is the intent of Senator Bill Perkins and myself to start the legislative process to do away with the runoffs because the money that was wasted just this past runoff, upwards of \$15 million, that's money that could not have been spent or spent elsewhere.

And I think the antiquated system of a runoff is something that needs to be abolished at this point. We can save a lot of money that way.

DEP. EXEC. DIR. GEORGE GONZALEZ: That is correct.

SENATOR ADDABBO: So we are looking for ways to do away with runoffs, something that told us on the runoff day exactly what we knew on Primary

Tuesday in September.

So certainly I look forward to working with my colleague, Senator Bill Perkins, on that.

Again, it's important that we understand that we need to hear from the Board of Elections, maybe meet more often. What we implement on State and City governmental levels, what we do is implemented by the Board of Elections.

So, again, we need to work hand-in-hand because, again, we want to make sure that it's done efficiently, but that you're compensated well for it.

So certainly we will work together as we go forward in looking at the suggestions. And, again, we appreciate, at least I appreciate, the work that is done by the Board of Elections' workers all year round.

DEP. EXEC. DIR. GEORGE GONZALEZ:

Thank you, Senator.

SENATOR ADDABBO: Thank you very much. I appreciate this panel's time and testimony.

Our next panel: Mr. Dick Dadey, Executive Director of Citizens Union, and Rima McCoy, Voting Rights Coordinator for the Center for Independence of the Disabled, New York.

Ms. McCoy could not be here.

I take pleasure seeing you, Mr. Dadey.

EXEC. DIR. DICK DADEY: Senator
Addabbo, always a pleasure. Always a pleasure.

SENATOR ADDABBO: Please.

EXEC. DIR. DICK DADEY: So, good
morning.

Chairperson Addabbo, my name is Dick
Dadey, Executive Director of Citizens Union. I'm joined
here by Andrea Santino, our Program Associate. We're
pleased to have provided testimony to your Committee and
for the New York State Senate to conduct this hearing
on these many important election-related issues.

I want to address my comments to a
couple of areas that you've outlined: HAVA
implementation, increasing ballot access, and ending
deceptive practices.

If New York State continues to work
towards full HAVA compliance under court and Federal
government oversight, Citizens Union remains committed
to advocating for a transparent selection process for
any new voting systems that are purchased and when
selected.

A comprehensive and far-reaching and necessary public education campaign will be vital to the transition's success to these new machines.

While the selection process has experienced continued delays, implementation of new machines is inevitable and in the interim the organization encourages the New York State Board of Elections and Board of Elections of the City of New York to use the remaining time to ramp up voter education about the new machines, implement some of the common sense steps that the New York State Voter Coalition for Voter Participation in elections have been advocating for some time, such as placing sample ballots online and requiring all poll workers to complete training, modernizing the Board's use of technology to educate voters, and continuing to educate voters about the availability and use of the already implemented ballot marking devices.

After the implementation of the BMD statewide in 2008, the City Board now has had the benefit of several elections for which they can evaluate the success in usage of the BMDs and identify areas for improvement, including their visibility, setup and poll worker training on these machines.

According to Citizens Union Foundation's work, Citizens Union's sister organization, data prepared earlier this year based on the results of its 2008 poll worker recruitment program where it issued a self-selected survey to individuals who applied to be a poll worker, only fourteen percent of respondents of those poll workers received hands-on training on a BMD.

Now, mind you, this was the 2008 election.

And nearly one-fifth of the respondents that attended a training session received no BMD training.

Further, the organization's data showed that less than forty percent of respondents who worked on election day felt that they were knowledgeable regarding the use of the BMDs.

Unless extenuating circumstances prevent minimal training, Citizens Union believes that all poll workers should have some basic knowledge of the BMDs, what they are used for and how they operate.

Moreover, these poll workers that are tasked with assisting voters on BMDs, it is critically important that they are provided hands-on training in

order to ensure that they are equipped to assist voters on election day.

We do not have data for the recent primary election, but hope that the situation that we found in 2008 surrounding support for and use of the BMDS has improved.

This also will be true for any new voting system that is selected as the transition will require poll workers to teach voters how to use these new voting machines. In advance of implementing the new machines, Citizens Union strongly recommends that all poll workers be required to have hands-on training with the new voting machines since this seems to be something they did not have in the 2008 election, that only those who have completed a training be allowed to work on election day, the City Board obtain the best practices from counties that have participated in the pilot program regarding their poll worker recruitment efforts, and the City Board work with City elected officials to solicit technologically savvy and qualified poll workers to help with this transition.

Without a thoughtful and well-executed plan in place that now can be tested and approved, the

City will have lost a tremendous opportunity to ensure that poll workers and voters are prepared and educated about this new way -- this new way of voting.

I want to add that Citizens Union over the last number of years has assisted the Board of Elections by recruiting average citizens who were not connected to the political process and coming forward to work as poll workers, and have provided close to 10,000 New Yorkers in that process.

With regards to increasing ballot success, while Citizens Union does not have a formal comprehensive position on specific improvements that can be made to New York Elections Law to increase ballot access for a candidate, the organization has been a long time advocate for more competitive elections that will allow voters more choices in the ballot booth.

Some ways to increase voter choice are the implementation of an independent redistricting commission and gerrymandering and strengthening the State's campaign finance laws through a partial public matching fund system.

In the absence, however, of these sweeping reforms, reforming New York's ballot

requirements also has the ability to create immediate and meaningful positive changes to elections and candidates' abilities to participate in the electoral process.

New York's cumbersome ballot requirements have been repeatedly observed in the news and in reports as being a severe hindrance for many candidates, as we've heard even from Bill de Blasio today, especially since New York is only one of a handful of states that still requires all candidates to file petition signatures as the only way to secure their place on the ballot.

Writing for Gotham Gazette, our publication, Andrea Senteno and DeNora Getachew of Citizens Union explored New York's current ballot requirements and the difficulties they can pose for many candidates who may be unfamiliar with the law's intricacies and oftentimes find the system hard to navigate without the services of an experienced and at times costly election lawyer, which serves as a significant deterrent to promoting election competition and voter choice.

In addition, many candidates, who are

removed from the ballot due to what many see as draconian applications of the law, end up having to challenge the Board's determination in court.

These cases often remain unresolved until days before an election making it very difficult for the City Board to finalize the ballot which can lead to additional cost.

For example, in the February, 2009 special election in Staten Island in Council District #49, even though the voting machines were already prepared, the legal challenges were not resolved until the last minute because a court ruled at the last minute to reinstate a candidate who was not on the ballot.

Consequently, the election had to be held on all paper ballots.

More importantly, the State's election laws have had an even larger detrimental impact on voters who do not know who they will have an option to vote for until they are at the poll site on election day.

The fact that the petition process and the ability of others to aggressively challenge the validity of other candidates is used to discourage people from running for office, signals that there is a need

to study and analyze the effects and the application of New York's election law.

There are many ideas out there and you are beginning to hear some of them here today.

So along these lines, Citizens Union recommends that the Legislature, and specifically the State Senate, convene an Election Task Force of election lawyers, candidates who understand the system intricately and good government groups to study this issue in greater detail, including reviewing other states and cities' ballot access requirements, or combining a low signature requirement and a fee are often used, in determining whether any of these would serve as a model for New York.

Citizens Union is also planning to study this issue in greater detail internally, but would welcome the opportunity to work with the State Elections Committee and others to comprehensively review New York's ballot requirements and identify and suggest meaningful changes.

Lastly, our democracy depends on the ability of citizens to exercise their right to vote without unnecessary difficulty, misinformation or fear of intimidation or interference, which is consistent with

our work to ensure that New York has elections that are fair and as transparent as possible.

While Citizens Union has not fully studied this issue and adopted a formal position, the organization philosophically supports Senate 254-A, sponsored by Senator Stewart-Cousins, that is aimed at ending deceptive practices and voter intimidation by making these offenses a misdemeanor level of crime, as well as eliminating all barriers to voting, including the use of such deceptive practices.

Since Citizens Union has not yet studied this issue in full, but there is clear evidence of voter suppression and intimidation, the organization plans to take a look at this problem more closely.

Again, thank you for the opportunity to testify today and we look forward to working with you and others to make progress on these and other important election issues.

SENATOR ADDABBO: Mr. Dadey, thank you very much for the work that Citizens Union has done to advocate for good government, certainly transparency in government, which is, again is one of the focuses of hearings like this that we have done throughout the State

with the Elections Committee.

With regards to the training of workers for the board of elections, certainly we will pick that up again at our December oversight hearings after the general, hopefully before the certifications, to see if there is proper training.

You mentioned other issues that Citizens Union is interested in. It is a shared interest.

Campaign finance reform, I'm hopeful that this Committee can take that mantle up again next year.

The election task force, that's something else that we can consider.

So certainly we look forward to working with you in an effort to making, again, a more efficient and transparent government.

EXEC. DIR. DICK DADEY: Thank you, Senator, very much.

SENATOR ADDABBO: Thank you very much.

Our next panel:

Adrienne Kivelson, League of Women Voters.

Is Ms. Kivelson here?

And Nina Resnick.

Please step forward.

It's still morning so good morning.

MS. ADRIENNE KIVELSON: Good

morning.

MS. NINA RESNICK: Good morning.

MS. ADRIENNE KIVELSON: Good

morning, Senator Addabbo.

Thank you for this opportunity to testify.

My name is Adrienne Kivelson. I'm speaking today on behalf of the League of Women Voters.

For more than ninety years the League has been in the forefront of efforts to ensure voting integrity, to protect every citizen's right to vote and to encourage active participation in government and elections.

Today I want to speak a little bit about, summarize some of my comments about implementation of the Help America Vote Act.

With the passage of the Help America Vote Act in 2002, voting systems became subject to Federal

requirements and for the first time Federal funds were made available to secure new voting systems which would be accessible for people with disabilities, would offer voters an opportunity to review and change their votes, and have an auditable paper trail.

The National League of Women Voters subsequently resolved to support only voting systems which provide a voter verifiable paper record that is the official record of the voter's intent, allow the voter to verify this paper record while in the process of voting, allow verification of vote totals by an independent hand count of the paper record, and allow routine audits of the paper record in every election.

For the League of Women Voters of New York State it was apparent that our lever voting machines met none of these standards and would have to be replaced if we are to have a voting system which is both accessible and accurate.

After consideration of all of the options the New York State League endorsed a paper ballot precinct-based optical scanning system with inclusion of ballot marking devices.

We then joined with other voting

integrity organizations in asking the State Legislature to establish high standards for accessibility, security, certification of voting equipment and post-election auditing by local boards of elections.

The New York State Election Reform and Modernization Act, which we all call fondly ERMA, implements the Federal HAVA and goes beyond it to set a law that is the highest standards in the nation.

We still have some issues with HAVA, particularly concerning the audits which we believe should be broader and larger than the three percent established in law. We will continue to press for improved audit conditions.

We were very pleased when New York County chose the paper ballot scanning system in 2008. Although there have been delays in certification, we understand from preliminary reports from all representatives on the Citizens Advisory Committee that the first week of public testing, the public testing component of the certification process, went well. And that was last week.

As to the pilot project being conducted in forty-seven counties for the 2009 election, we had

and still have some reservations. While reports on the experience of the participating counties on a primary day are still quite sketchy, first impressions are that the problems which did arise were more involved with administration and poll worker training than with the optical scanners.

For example, there were repeated concerns about the correct placement of privacy booths which are new to most of New York State.

We have also heard that the amount of training on the new equipment varied from county to county and impacted on how well the election proceeded.

I have a statement on the pilot project itself, but I think Bob Brehm really talked about it.

The experiences during the general election with the new equipment should be documented by the Board of Elections through a survey and utilized by all counties in developing procedures for the 2010 election cycle.

A survey questionnaire which encompasses all aspects of voting, such as polling place, voting machine technology, ballot format and usability could be very important as we transition to the new voting

technology.

While the State Board of Elections continues testing, and whether we have pilot projects or full elections, the new technology is here. The Federal court is requiring us to replace all lever machines.

The State accepted money from the Federal government to do so and many of the counties have already purchased equipment.

The League advocated for the paper ballot marker system because with vigorous procedures in citizen oversight we believe that it is the most effective in assuring both accuracy and access.

A major obstacle still exists, and that's adequate funding. While the Federal government provided the bulk of the funds necessary to purchase new voting systems and some funds for education and training, the State and counties have new financial burdens as a result of the acquisition and maintenance of the new equipment and the implementation of the regulations and standards in our own State laws.

Dire as our fiscal health may be, it cannot be used as an excuse to deny adequate funding for our electoral system. Voting is the bulwark of our

democracy. It is not an ancillary service to be swept aside in bad economic times.

We should all be urging the Federal government to fully fund HAVA and we urge the State Legislature to assist the State Board of Elections and the counties with the funds necessary to assure that every voter has equal access to the polls and can be confident that their vote is secure and will be counted accurately.

Thank you.

SENATOR ADDABBO: Thank you, Ms. Kivelson.

MS. NINA RESNICK: Thank you, Senator.

And thank you for your intelligent concern over the voting equipment replacement, voting machine replacement.

I am giving very different testimony than my fellow witness.

New York can afford lever voting machines. We can't afford scanners.

My name is Nina Resnick.

Some of these numbers may vary, but they are all very scary. As of August, 2009 the New York

State budget has a \$2.1 billion hole and The New York Times reports that the deficit will be \$15 billion.

Governor Paterson has said that we continue to experience historic economic difficulties.

A spokesman for the Division of the Budget says we are facing the largest budget cuts in State history. We all know that budget cuts have been made in essential programs, and some of these numbers may vary but they are scary anyway:

\$24 million State Parks and beaches;

Major cuts in social services to the elderly and disabled;

\$68 million cut from preventive services;

School program cutbacks;

Layoff of teachers;

\$1 billion in cuts from State budgets for health care;

A multi-million dollar cut in Legal Aid making New York State one of only four states in the nation that provides zero dollars for important civic legal aid.

And we are now being told that New York

must honor the supplemental remedial order to convert to computer voting machines entered into before the state of our economy changed.

No governmental body has yet produced a financial projection of the cost of replacing levers and the continuing cost of running voter marked paper ballots and optic scanned elections.

The one strong indicator of the magnitude of the high cost we face is the fact that the New York City budget for fiscal year 2009-10 authorizes what I have read as \$97.2 million for the first-year cost above HAVA.

Councilmember Jackson quotes \$92 million, but it's still big.

The HAVA funds and that additional either \$92 or \$97.2 million will cover New York City's immediate costs: hardware, software, licenses, et cetera. But after the first year the continuing cost of replacing consumerable accessories would most likely fall to the City budget. Many of these associated costs, which continue from year to year, such as training, paper ballots, pre-election testing, et cetera, have not been estimated and many are not eligible for HAVA funds.

This is a huge and continuing financial burden in an extraordinarily bad economic time. Every one dollar of Federal HAVA funds that New York City receives for lever replacement could cost the City an additional four dollars in the first year alone.

Others, from General Motors to financial institutions to states such as California and New York itself, are changing or cancelling contracts and commitments because of increasing deficits and the dire state of the economy.

With these large and continuing costs it's fiscally irresponsible to continue with replacement of all statewide voting equipment.

We must plead to reopen and reconsider the supplemental remedial order based on extraordinarily new financial hardship which had not been anticipated when the ERMA requirements were enacted.

Many have been diligently working on a smooth transition to new voting machines and they don't want their work to be in vain. But I submit that our current and future economic circumstances must be our main concern.

While the use of new election machines

may be inevitable, it shouldn't be now.

SENATOR ADDABBO: I just want to say I appreciate both of your testimonies, and obviously the numbers are, you know, obviously something to be considered.

Also I want to appreciate the work of the League of Women Voters throughout the years, the work that they have done in terms of election issues.

The next panel is:

Myrna Perez, Senior Counsel for Brennan Center for Justice; and

Neal Rosenstein, Government Reform Coordinator, NYPIRG.

Good morning to both of you.

MS. MYRNA PEREZ: Good morning, Senator.

I'm Myrna Perez, an attorney at the Brennan Center for Justice.

The Brennan Center is a non-partisan public policy and legal advocacy organization that focuses on fundamental issues of democracy and justice.

The Center's Democracy Program promotes reforms that foster full and equal political

participation and responsive and responsible governance.

And on behalf of the Brennan Center for Justice I thank you, Senator, for the work that the Senate Standing Election Committee is doing in holding this hearing.

There are a number of topics that we've been discussing and there are a number of topics that can be discussed under the rubric of election reform.

My testimony today will focus on recommendations to the Senate for improving New York's election administration with respect to voting machines and voter registration.

I don't need to remind you, Senator, that the Senate's power to influence election administration can take the form of legislation and/or oversight and the Senate should robustly employ both. And this time should be used now to proactively resolve some of the predictable problems that will occur before the major elections that will occur in 2010.

The Brennan Center believes that, given the new machines we will be using and the pilot projects that are occurring, there should be much effort and emphasis placed on retooling and reviewing the

procedures that we have in place to ensure that the transition to the new machines is smooth and appropriately protective of voters.

Accordingly, the Board should be adequately funded so that they can make the necessary modifications to address the challenges and benefits that will occur as a result of the new machines.

There are three specific things that the State Board of Elections should be doing now in advance of the 2010 election in connection with the rollout of the machines.

One is to improve the design of New York's ballots. Poor ballot design frustrates voters, undermines confidence in the electoral process, and contributes to related election day problems.

Tens or hundreds of thousands of votes are lost or miscast in every election as a result of poorly designed ballots.

New York ballots violate a number of the basic principles of ballot usability. For example, crowding the ballot by including the party name and emblem inside the box with the candidate's name, the over and improper use of capital letters which has been

statistically shown to be difficult to read, and complicated instructions.

The State Board of Elections should work with usability and design experts to develop better and more usable ballots.

The State Board of Elections should also develop plans to conduct post-election audits to evaluate the new machines' performance. I was very encouraged to hear the remarks earlier today that such plans were in the works but there must be oversight on the part of the Senate to make sure that people actually review these post-election audits and learn from them and apply them and make the necessary changes as a result of what we were able to learn and obtain from these audits.

Finally, the State Board of Elections must provide uniform training to election officials and poll workers alike on how to use these new machines, specifically how to use all of the features of the machines, especially the accessibility systems.

Our understanding is that the State Board of Elections has prepared new training materials. The Brennan Center has not reviewed these materials, but we hope that they adequately explain what election workers

must do if a machine breaks down, how to comply with sound practices for chain of custody, where to find and safeguard needed materials, and how to assist voters with language barriers or disabilities.

The last issue is extraordinarily important. We know from past experiences in other states that if poll workers do not adequately understand the accessibility features of new machines, they're likely to discourage their use, thus depriving voters with disabilities or language barriers the accommodations and/or assistance they are entitled to by law.

The Senate should ensure again that the State Board of Elections adequately carries out these three tasks and provide the funding necessary to do so.

I want to move on to voter registration because I don't think it will be a surprise to anyone in this room that the New York voter registration system is in need of major reforms.

Some of the reported problems in the last few years have included:

60,000 to 70,000 applications not processed in time for the 2008 election;

Applications sent to the State Board

of Elections that weren't sent to the County Board of Elections in time to get processed; and

Improper purges of the tens of thousands.

A system, such as the one New York has, which relies on duplicative paperwork, overworked election officials performing data entry, and putting the onus on the voter to register is extraordinarily expensive and is not viable over the long term.

Instead, this body and election officials should take full advantage of its state-of-the-art statewide centralized database, the expertise of its election advocates, and the lessons from other states, and explore how automatic registration can work in New York.

Under an automatic registration system, the voter registration information of any eligible citizen who interacts with a designated government agency, say, for example, the Department of Motor Vehicles, Social Service agencies, and/or schools or universities, is automatically forwarded to election officials for inclusion in the voter rolls unless the individual elects to not be registered.

No forms, no data entry, no third party registration drives, no fuss.

This reform is unlikely to be implementable by 2010, but in the meantime election officials need sufficient resources both to conduct their elections and to examine in-depth registration systems that are actually sustainable, like automatic registration.

I go into this in greater depth in my written testimony and ask that you look at some of those resources because they provide some examples from other states about some of the lessons to be learned from other states.

And as always, the Brennan Center is eager to work with the Senate members on these issues and others.

Thank you very much for your continued oversight and for concern for effective election administration and for this opportunity to testify.

SENATOR ADDABBO: Thank you, Ms. Perez. Thank you.

Mr. Rosenstein, good to say you again.

MR. NEAL ROSENSTEIN: Same here.

Good morning.

My name is Neal Rosenstein. I'm the Government Reform Coordinator for NYPIRG. It's a pleasure to be here. I want to commend the Chair and the Committee for holding these hearings today.

Moving right into our testimony, central to any new voting system is that public confidence is critical to participation in a vibrant democracy.

New York State is in a significant -- in the midst of a significant change in the way that we cast our ballots. We've heard forty-seven counties have already begun to make the transition to optical scan.

And NYPIRG supports that move to optical scan. But for the change to be a success, far more needs to be done on the State and local level to assure that the changeover is successful.

This includes better audits. With the introduction of new voting systems, it is imperative that voters not only understand how to cast their votes, but also feel secure that their votes will be accurately counted.

Unfortunately, while well intentioned, the State's current audit language needs

to catch up with what we've learned about providing fair, accurate and efficient audits.

We've attached suggested language for a technical amendment to the Election Law, supported and drafted by experts in the auditing process and supported by a diverse coalition of civic groups in the State, that we believe will help promote confidence that voting systems have accurately tabulated election results.

And I would just also like to highlight NYPIRG's support for including provisions in audits that would allow candidates polling more than five percent of the vote total to select a limited number of EDs for inclusion in an audit. And we believe that this provision will greatly enhance public confidence in results by ensuring that those individuals who know the most about their districts, the people who are running will be able to see if there are any incongruous results or machines that weren't picked in an random audit, that we need to look at and make sure that the technology is working properly.

Elections, of course, need to be open and observable and good audits move towards that goal.

Undervotes; one of the main advances

promised by the new voting technology ushered in by HAVA was that for the first time voters could be notified if they have undervoted in a particular race. And both the systems marketed here in New York highlighted that feature.

Unfortunately, the State Board is engaging in what we think is a bait and switch, proposing to eliminate that protection. The rationale for undervote protections, particularly in a confusing full-faced ballot state like New York, is that voters' attention will be called to each individual unvoted race on the ballot helping to ensure that they consider to vote in each race.

It's an excellent tool for making sure that voters fully exercise their franchise.

A system that helps prevents voters from missing races they wish to weigh in on is a perfect example of how new technology can enhance voter participation.

Unfortunately, the State Board has temporarily gutted, it is proposing permanently gutting the requirement for undervote notification by seeking a permanent regulation turning off this feature on optical

scan tabulators.

The Board's intent seems to be an attempt to just speed up the voting process by removing the notification feature to voters directing tabulators to accept undervoted ballots without notifying a voter there might be a potential problem.

When it comes to voting, however, speed should not trump voter participation. A better option than the Board's proposal is allow the voter to fill in an intentional undervote or none of the above box for each particular race in which they choose to not cast a vote.

Alternatively, local boards should simply ensure sufficient numbers of tabulators and poll workers are present to ensure the timely submission of ballots. As an absolute minimum, the Senate considered earlier this year legislation that would require a voter check off a single box somewhere on the ballot indicating that any races left blank were done so intentionally.

We urge the Committee to weigh in opposing the State Board of Elections' effort to undermine undervote protections.

And I would like to add that we have

concerns and questions about whether such a change would pass the spirit as well as the letter of the law, of the Voting Rights Act, since protected classes historically have higher undervote rates.

Voter education, of course, will be key to successful implementation. We support the resources that are needed by local boards of elections, but also boards of elections have to think a little bit differently. This Board is always fighting here in the City with the Mayor. They stress their independence. But they have to get together. The City has offered perhaps the technical knowhow to put sample ballots online. They also have to stop their bickering and work together for the benefit of voters in New York.

We have other numerous problems with the State's pilot program. The use of uncertified systems we thought was just plain wrong. As mentioned already, the State's audit provisions are too weak. We believe that the pilot should have been limited to no more than ten percent of election districts in a particular county.

And concerns such as these makes the Committee's oversight all the more important and increases the need for transparency.

In regard to 2554-A, we must not tolerate attempts to damper participation through the dissemination of misleading information. For example, in this past presidential election there were numerous reports across the country of letters advising certain voters to cast their ballots the day after the election.

While such malfeasance might seem farfetched to some, experience has shown that it can and does take place. 2554 would make such communications clearly illegal here in New York, but also addresses suppression of voters.

And while generally supportive of the legislation, we do have some questions regarding the language and we are not sure in terms of free speech issues how this would treat, let's say, a religious figure exhorting certain folks in the interest of their own conscience not to vote in a particular race because they don't like any of the candidates, whathaveyou. And we urge you to check with First Amendment folks about that.

Regarding the State's ballot access laws, they need to be liberalized. The intention of the State's laws is to ensure that the candidates are able to demonstrate a certain minimum threshold of support

before qualifying to run for office. Unfortunately, they've been perverted all too often to use as a tool for tossing qualified candidates off the ballot.

We've heard from Public Advocate candidate de Blasio today with his run-ins. Other cases involved another Councilmember, Gerson, who was temporarily tossed off of the ballot because he misprinted his address on a form and failed to do the correction. There are some very simple ways of dealing with this.

The Senate should more clearly embrace the concept that the State's ballot access laws should be liberally construed and that applies to Boards of Elections. Candidates should be able to correct minor mistakes on their forms. We should look at reducing the number of petition signatures - this was talked about before - and perhaps in combination with filing fees.

We also think that the Senate should enact legislation discouraging frivolous challenges to candidate's petitions. Often these challenges, while unsuccessful, serve their purpose in tying up the candidate's time and resources.

One suggestion is to disallow the use of campaign funds in the event the challenge by one

candidate to another is unsuccessful and tossed out by the courts.

In concluding, we commend the Committee for holding these hearings and your actions in passing already important reforms this past session.

We look forward to working with you on instant runoff voting as well as in the future additional reforms as time comes by.

Thank you.

SENATOR ADDABBO: Thank you.

Mr. Rosenstein, I do have one quick question as you mentioned the issue of undervoting.

The notification to a voter when they do undervote, more specifically, should it be notification after each office and they've undervoted or the ballot in general?

MR. NEAL ROSENSTEIN: Well, if you look at the ballot marking devices, as well as the scanners, you know, basically they have a screen, and they have the ability to present that notification, here's the ballot and outlined in red on the ballot marking devices, here's the races you undervoted.

My understanding is that the scanners

will present - and they need a privacy screen obviously - here is the two races, here's the three races that you undervoted on. Do you want your vote to just be submitted into the scanner? If so, you tell the poll voter, they press a button, it goes right in. If not, the ballot comes out and the voter has a chance: Oh, geez, I forgot to vote for president or I forgot to vote for State Senate.

You know, a lot of these down ticket races, I realize that could be troubling to folks in the State Senate or Assembly or people boosting charter questions.

SENATOR ADDABBO: Yes, it could be troublesome, yes.

MR. NEAL ROSENSTEIN: It's the down ticket races.

So, you know, hopefully you don't view that as a threat that more people would be voting on State Senate races.

But people should be alerted to the fact if they missed those. And our full-face ballot has been shown to be confusing. This transition is going to be confusing particularly to people with cognitive disabilities, and we should be offering those folks the

opportunity to know if they missed a race.

SENATOR ADDABBO: Mr. Rosenstein, Ms. Perez, let me respectively thank NYPIRG and Brennan Center for their work with good government efforts throughout the years.

So thank you very much for your efforts and for your testimony today.

MR. NEAL ROSENSTEIN: Thank you, Senator.

SENATOR ADDABBO: Thank you very much.

Our next panel:

Dan Jacoby, Democracy for New York City; and

Sherry Rogers, Brooklyn-Queens NOW.

Mr. Jacoby and Ms. Rogers.

MR. DAN JACOBY: I'll go first.

My name is Dan Jacoby. I'm going to start by actually reading the testimony of Bruce Funk, which Councilman Jackson referred to, and then I've got a couple of comments of my own.

First, Mr. Funk's testimony.

You might ask why a twenty-three year

veteran election official from Utah would be concerned. I believe you can benefit from my experience with optical scan voting machines.

I want to make you aware of the vulnerabilities I witnessed and how it took away voter confidence.

These issues are applicable to any voting machine which counts votes or tabulates the results without public oversight.

The vendor of Utah's voting machines is Diebolt, later called Premier. They claim their software equipment and any documentation as privatized. That means they can lock out any official from investigating their software voting equipment, voter registration files, and any documentation.

In Utah, state laws were enacted, effective June 1, 2006, making it a felony to investigate a voting machine, its software or the tabulation software.

However, even if a state has full permission to examine voting equipment, if the state and counties do not examine equipment upon delivery and after maintenance, election officials, candidates and voters will not know how the votes are handled or if the votes

are counted as intended.

In February, 2006, I became concerned with the new voting machines which the State of Utah required to be implemented in every county in our state. It was obvious that I needed to bring in independent outside security experts to examine the machine's software.

The most serious security problem we found was that there were three password backdoors at three different levels in the software which allowed for malicious tampering.

We found that vote-flipping software could be added or activated by using the date. I personally found that the computer clock could be set for election day which would enable someone to add votes, and upon returning the clock to the real current date, there was no log of the changes that had been made to the clock or to the votes.

I also found that, upon concluding its work, the vote-flipping software removed itself.

We actually loaded new operating software on one machine replacing the original and there was no log of this in the computer.

A detailed document of my investigation is available at the website, blackboxvoting.org.

My work was incorrectly reported in the media which said, quote, it was obvious there was an attempt to hack the voting machines in Emery County, but because of the advanced security of the machines we were unsuccessful, end quote.

The public and election officials were misled.

As a result of my investigation, I was locked out of my office as an election official after twenty-three years.

I'm submitting this testimony to the Senate Election Committee of the State of New York in order to help you maintain honesty and integrity and voter confidence in your elections.

The most important issue in elections is transparency and public oversight of all election functions. If electronic machines are used to handle votes, you will lose transparency and the possibility of public oversight unless you can devise some way for election officials, candidates and voters to ensure that

every unit of your equipment counts the votes accurately on election day in some way that allows people to act as observers.

I personally do not know of any way to do this with paper ballots and scanners unless the paper ballots are manually counted immediately after the election.

If you can avoid switching your elections to electronic equipment, you will avoid the entire problem that electronic machines create.

Now, a story.

A friend of mine is a polling inspector here in New York City. She is certified on the new ballot marking devices. However, the class she took to get her certification ended with a test that she and the others in the class had to pass in order to be certified.

They were handed the test sheets and they were told to put their names on the test sheets and nothing else. Do not answer the questions, hand the blank test sheets back in. They did this. They were certified.

Before we switch to something we don't really know very well, I think it's incumbent upon us to make sure that every aspect of the system is fully

implemented properly.

We have great certification regs for the purchase of new machines. I know there is some question as to whether they are going to be followed. I hope they are. Because if they are not followed fully, they are just words on paper.

Machines, once they're purchased, have to be tested in every step of the way, including once the ballot styles are put on. And we've heard in testimony that sometimes that's done at nearly the last minute.

There must be a strong chain of custody for the ballots once they're cast to make sure that they are kept safe, that they are kept in the form in which the voters cast them.

And then the audits have to be much stronger than current law provides for.

Until this is all done, I highly recommend that we keep what we have because it works.

Thank you.

MS. SHERRY ROGERS: My name is Sherry Rogers. And I currently serve as the Secretary of the Brooklyn-Queens Chapter of the National Organization for Women.

We've been actively involved with an organization called whereisthepaper.org in monitoring New York State's process of selecting new voter technology, and we've been doing this since 2005.

Historically, suffragers have fought for many years to get the vote and we don't want to turn our votes over to electronic voting or vote counting systems for the reasons that I'm going to read in a statement that follows.

We urge you to take all possible actions now to keep the mechanical lever voting machines.

And what I'm now going to read is the resolution our board adopted on June 6th of this year.

The New York State and the New York City budgets are imposing cutbacks on services that are essential for our people, especially women and children.

This is a time for careful decisionmaking and we can not waste money on non-essential projects. We do not believe that replacement of our lever voting machines is essential. Our lever voting machines are working well. They can continue to do so with inexpensive maintenance for the next century.

We are outraged by the New York City

budget proposal to allocate \$97.2 million for new voting machines when that money could better be spent on firehouses, senior centers, children's after school programs, affordable housing, libraries, parks and other needs that directly affect people's everyday lives.

Women have fought for many years to get the vote. We don't want to turn our votes over to private companies, like Diebolt, who make electronic vote-counting optical scanners. The vendors of the scanners are loyal to profitmaking rather than to democracy.

We believe that our boards of elections should continue to use equipment that they fully understand and can prepare for elections and inspect without difficulty.

We urge Governor Paterson, the New York State Legislature, and Attorney General Andrew Cuomo and the current State Comptroller Thomas DiNapoli and our State Board of Elections to respond quickly to the current economic crisis by taking all actions necessary to enable our State to keep our lever voting machines.

We urge the New York City Council to quickly pass another resolution which supports all State

action that may be necessary to keep our lever voting machines.

And I too have a story.

I work with a networking group of people with retinal diseases. Some of our members work for the Board of Elections on election day. They were trained in how to use the optical scanners and were given a test. And as this gentleman testified, it was very flawed.

The woman who was given the page has macula degeneration. She could not read the test. She was advised to put her name on the paper. She was told the answers to the test verbally by the person conducting the testing, and then she turned in her paper.

On election day - this was for the primary - she noted that not one person used the optical scanner in her area. And when she asked about it, she was told, well, we're not really telling them that it's in the polling place.

So, you know, this is the problem that we are facing. And, you know, I just wanted you to be aware of it.

SENATOR ADDABBO: Thank you, Ms.

Rogers.

Thank you very much.

Mr. Jacoby, just for a point of clarification if you may, the testimony you read of Mr. Funk --

MR. DAN JACOBY: Yes.

SENATOR ADDABBO: -- from Utah, we have to be clear that neither Diebold nor Premier is being considered here in New York State. What we are raising is the type of machine in question; correct? I just want to be clear.

MR. DAN JACOBY: That's fine. Yes. This was his testimony. I was just reading it.

SENATOR ADDABBO: I understand that.

But I want to thank both of you for your time and testimony today.

Thank you very much.

MR. DAN JACOBY: Thank you.

SENATOR ADDABBO: The next panel: Howard Stanislevic, Founder of E-Voter Education Project; and

Jeff Merritt, President of Grassroots Initiative.

Gentlemen, good afternoon. Please have a seat.

MR. HOWARD STANISLEVIC: I just want to add something to the record before my testimony.

First of all, thousands of New Yorkers have signed petitions to keep lever voting machines and twenty counties have passed resolutions, and a large number of non-governmental organizations have also passed such resolutions.

And I just wanted them to be added to the record which I have talked about via e-mail. I also have another three hundred and forty-one signatures here that were mailed to me on hard copy. So --

SENATOR ADDABBO: Thank you very much, Howard.

MR. HOWARD STANISLEVIC: My name is Howard Stanislevic. Thank you for the opportunity to testify.

I'm founder of the E-Voter Education Project, a group dedicated to the demystification of electronic voting.

I wanted to talk to you today about the need to audit elections counted by computerized

electronic ballot scanners and how the State Board of Elections - and I thank Bob Brehm for coming today - the State Board of Elections and the election law have failed to meet the need to audit those elections.

We can't trust computers to count votes. In 2006, scientists at the National Institute of Standards and Technology, who are the same scientists that write our voting system standards including those adopted by New York, said that voting systems, testing voting systems with software-based voting systems to high degrees of security and reliability is practically impossible.

That means that the voting systems have to be software independent. And what that means is that you need to hand count enough ballots, independently of the software, to confirm the outcome of each election contest.

There is nothing in our election law or regulations currently that requires this.

Dependence on software is not just a problem for touchscreen voting machines. Dr. Ron Rivest of MIT, who wrote the book literally, wrote the book on software independent voting systems, told me that indeed

optical scanner elections are also at risk, thorough testing is not sufficient to provide strong confidence in election outcomes, and, if I may quote him, "testing is no more a guarantee of good behavior during an election than is good behavior before marriage a guarantee of fidelity afterwards."

And his testimony is in my -- appended to my written testimony and I would urge you to read it, because it's quite interesting, a personal communication from him.

Ballot scanners and touchscreens are both computers and they're programmed by other computers. So there are security issues.

In each county there's a, what's called an election management system which is basically a \$75,000 personal computer with election software and it is used to program every optical scanner or other voting device in the county.

If these machines were - I'm sorry - if these computers were people - all right? - and their memory cards were organs, we would be talking about a highly efficient way of spreading a sexually transmitted disease.

No internet connection or wireless connection is necessary to spread a computer virus. Malicious code can be introduced to every scanner in a jurisdiction to the memory cards because they are used to download the configuration of the scanner before the election and upload the results after the election.

New York has no procedures to mitigate this risk.

I mention a few such procedures in my written testimony, but I'll tell you they're complex, they're costly and they may even raise more concerns about election integrity depending on who implements them; for example, somebody on behalf of a partisan election official or whatever, like they do in Connecticut. They hack every memory card on behalf of the Secretary of State to see what's on the memory card. They have the University of Connecticut doing it, but they report to the Secretary.

Now, computer scientists agree, therefore, that the best solution is to rely on paper ballots. But New York will really not be doing that despite the claims made by some election officials. The reason is, the New York Election Law has no right to a full recount of all the paper ballots cast at the poll sites.

The Section 9-208 recanvass is not a recount. It's just a comparison of the computer-generated tallies to paper copies of the same tallies done after the election.

Obviously, this recanvass can neither correct nor detect erroneous or fraudulent ballot tallies generated by optical scanner software at the poll sites on election day.

Correcting such errors requires a hand count of all the ballots cast on the machine which is known as the post-election audit.

But the three percent of audit in Section 9-211 of the Election Law may not find a miscounted vote even if the winners of many elections are not correct. We call these unverified outcomes.

And we did a little math to determine what kind of audit we would need if we audited by an election district. And I'm going to just hold up a few graphs which you have probably.

The little red line on the bottom here -- there's a little red line on the bottom which is the three percent audit, which you can hardly see, but it's near the bottom.

And the blue bars are the amount of audits that are actually required to confirm the outcomes of these elections. Between 2002 and 2006 there were 14 out of 87 US House races, would not have been confirmed by the three percent audit of EDs.

In 2006, 32 out of 150 Assembly races would need more than a three percent audit.

And the State Senate, 7 out of 62 races would have been unconfirmed.

And I ask you, given recent events, to imagine the effect of 7 unverified election outcomes on the composition of the New York State Senate.

Even more unverified outcomes would result if we audited according to the Election Law which says to audit scanners instead of election districts. And the reason is the chance for detecting a problem depends crucially on the number of units audited, not the percentage or the fraction of units.

And because there are more election districts than there are scanners, if you audit smaller units like election district, you have a greater chance of finding a problem.

So we've underestimated the amount of

unverified outcomes.

Our Election Law also lacks provisions for larger audits of close races and has no provision for investigation of anomalous results in particular election districts.

The law says that a complete audit can be used to change the outcome or determine the outcome, the winner of an election, but there's no definition of a complete audit. So what happens? The State Board of Elections says a complete audit is an audit of one county. A complete audit of one county could, therefore, be used to determine the outcome of a statewide race according to the Election Law as interpreted by the State Board.

They also say that losing candidates should be going to court to get more than three percent hand counts.

But the three percent hand count may not be sufficient to even get evidence to bring to court to say we think there were some miscounted votes. So I'm not really sure that's going to work.

At least one courageous election commissioner has said that she will not certify a computer-counted election. And it's not Bruce Funk. It's

actually someone from upstate New York.

So do we really want the courts and the computers to be determining who wins and who loses elections on a regular basis, or should it be the will of the voters and the votes they actually cast.

I vote for the voters, Mr. Chair.

So, please, either fix the audit law or keep the lever voting machines. Experts are always available to help write appropriate legislation pro bono.

Thank you.

SENATOR ADDABBO: Thank you, Mr. Stanislevic. Thank you.

Mr. Merritt.

MR. JEFF MERRITT: Mr. Chairman, thanks for having me here today.

I hope that I won't disappoint anybody but I'm not going to talk about voting machines.

My name is Jeff Merritt. I'm the President of Grassroots Initiative. Grassroots Initiative is the nation's only not-for-profit election consulting firm. We are based here in New York and each year we help hundreds of candidates run for elected office.

We're a hundred percent non-partisan and we work with both incumbents and challengers.

Our mission is to make sure that public service is accessible and we do so by providing free technical assistance as well as low-cost resources, everything from voter lists to election analysis, printing and mailings.

During this 2009 election year here in New York, Grassroots Initiative was the most commonly-cited vendor among New York City candidates, only after the U.S. Postal Service and Staples, according to campaign finance records.

Now, I was asked to speak here today because our organization serves sort of a unique role in the election process. We work on the frontline helping candidates navigate our cumbersome election laws.

We've also worked on sort of the flip side, administering elections. Earlier this year, our organization managed New York City's Community Education Council Elections where over four hundred candidates competed for thirty-eight community and citywide boards.

As a result of sort of this dual-faceted work, I think we have a unique perspective

on sort of the challenges and the opportunities in an effective and open election system.

I'm going to try and keep my testimony brief and focus on ballot access issues that are related to the most recent elections here in New York City.

As I'm sure you are aware, we are in the middle of municipal elections where sixty-six public offices are being filled, in addition to countless party positions.

Roughly three hundred candidates filed designating and independent nominating petitions for these offices, which is, I think, a healthy number. It amounts to roughly four to five candidates per office.

Now, according to the New York City Campaign Finance records, these candidates spent over \$1.1 million just on that petitioning process. I think it's testament to the magnitude of this initial support test.

Now, if that were the end of the story, you know, I would be here praising our election process in New York. But, unfortunately, as each of you all know, here in New York the submitting of petitions is not the end of the ballot access process, it's merely the

beginning.

And we've managed to create an election process here in New York where, unfortunately, the success of candidates is more likely determined by the quality of their lawyer than maybe the caliber of their campaign or the degree of community support.

Of these roughly three hundred candidates that filed petitions this year, roughly half of them, more than half of them faced challenges to their candidacy.

According to Campaign Finance records, these candidates spent more than \$1.3 million on legal fees to defend their right for ballot access. And after weeks of hearings and court battles, which Councilmember de Blasio spoke of earlier, and as he said, which bear a tremendous public cost, one of three challenged candidates here in New York was removed from the ballot.

So with this in mind, I don't think that we should be surprised when we have elections like we did recently where we are setting new records for low turnout in New York. Should the hundreds of thousands of people that signed petitions for candidates that were then disqualified be excited about going to the polls?

I think not.

When the public choice in elections is undermined by court battles and legal minutiae, the public doesn't feel empowered. They feel marginalized, they feel disenfranchised.

In contrast, if you look at some of the really heavily-congested races in this City where candidates were able to avoid ballot challenges and stay on the ballot, voter turnout in some cases was nearly twice the City average.

So some of this blame, I think, lies in our election law and our State Constitution. Other blame can be placed on poor election administration. But regardless, these two things are intrinsically linked.

New York is one of only two states in this country where the Constitution of the State allows a role for political parties in state and local election administration. Anybody that thinks this is a wise and insightful decision probably hasn't spent much time down at our local boards of elections.

There's no question that we have some tremendous public servants there, as, you know, our colleagues from Board of Elections spoke earlier, and

I have no doubt that they are underpaid. However, our boards of elections are also bastions of patronage, inefficiency and incompetence.

As a result, there is no question in the minds of most candidates that if you have a question -- if you are trying to figure out how to run for office, the worst place that you could go to is the board of elections. Rather, these individuals more commonly come to non-profit organizations like mine, also the League of Women Voters.

So the obvious question is why.

Why is it that this one public institution that exists purely to facilitate elections is, in fact, becoming a major barrier to democracy in our State?

In my eyes, if you look at the election law, the answer becomes pretty immediately apparent. In the 547 pages of our election law there's not a single reference to the Board of Elections' role in assisting or educating the public about the process of becoming a candidate.

Now, the impact of this silence in the law is a complete avoidance of responsibility by the Board

of Elections in facilitating ballot access.

Instead, when a candidate goes to the Board of Elections and asks a question about the form they should be using or the steps they need to take, they are most commonly told that they will need to consult an election lawyer for help.

Now, by deflecting this responsibility for assisting candidates, the Board of Elections is furthering this culture of fear and paranoia where candidates feel that they must have a lawyer at their side at all times.

Meanwhile, as we -- in place of facilitating candidate participation, local boards of elections have more commonly adopted an alternative role where they take advantage of a loophole in the law that allows for the opportunity to create and enforce additional rules that limit ballot access.

Now, the particular line in the election law, for those who care, is 6-154. It states: "Each such officer or board is hereby empowered to make rules in reference to the filing and disposition of such petition, certificate, objections and specifications."

Although this may be seemingly

harmless on the surface, in practice it has transformed the role of the board of elections, particularly here in New York City, from one of being a facilitator to actually being an enforcement agency.

Now, when the board of elections' activities are more focused on denying ballot access than assisting ballot access, we obviously have a problem here. Just imagine for a second if there was a similar provision in the election law that empowered local boards of elections to limit voter registration or not to allow voters the opportunity to receive assistance if they have difficulty in voting. We would rightfully call this disenfranchisement.

Now, fortunately, the law does the opposite when it comes to voter registration and assistance. Section 3-212 of the law actually requires that county boards of elections prepare an annual voter registration action plan and that they designate a registration activities coordinator who is going to, quote, prepare, plan and implement voter registration programs to enhance electoral participation. It's great.

Section 8-306 of the election law is dedicated entirely to outlining the role and process for

assisting voters who have difficulty casting a ballot.

Now, in conclusion, I think that -- we have a tremendous opportunity to improve the election process in New York and to change the public's negative perception of our local boards of elections.

Addressing barriers to ballot access I think is paramount in this effort because there's no point in holding an election if voters don't actually have a real choice of candidates.

Now, I encourage the Committee to carefully look at the impact of partisan control of state and local administration and consider programs that would minimize or, ideally, end this flawed system.

I look forward to the day when the board of elections' staff is based on their commitment to democracy and their ability to serve voters and prospective candidates irrespective of party registration.

For the time being, I'll just keep hiring these individuals at my organization.

So, lastly, I implore the Committee also to consider action to amend the State Election Law to require that county boards of elections take steps

to educate and assist the public-at-large on the process of running for office in New York.

This could be a simple addition to that section that I mentioned before, 3-212, and could be combined with the county-level voter registration plans and has the potential to recover thousands of dollars in excessive hearings and litigation, some of which Councilman de Blasio spoke about earlier, and also to cure some of these inefficient, bureaucratic procedures.

I believe this is a critical first step in returning the Board of Elections to its rightful role as a facilitator of elections and renewing public faith in the institution.

I recommend consideration of New York City's Campaign Finance Board as an excellent agency and model that has been able to combine candidate education and assistance with enforcement very easily.

That's the end of my comments.

I thank you, guys, for having me here today. We're always happy to be of help and assistance as needed.

SENATOR ADDABBO: Thank you very much, both of you, for your time and testimony today.

Thank you very much.

Our next panel:

Janie Roberson, First Ward Leader; and
Carolyn De Paolo, United Hebrew
Trades.

MS. CAROLYN DE PAOLO: Thank you.

My name is Carolyn De Paolo. I'm the
Coordinator for United Hebrew Trades, which is the New
York Division of the Jewish Labor Committee.

And we have open meetings several times
during the year looking to assist many of the unions and
other organizations in the City, and we have regular
delegates and other interested members who come to our
meetings.

And we've been discussing for several
years now the possible change of the voting equipment.

We at our meeting last June passed a
resolution, a statement actually, which I would like to
read to you now. It was passed unanimously on June 4th
and it's a statement in support of returning Federal money
for the replacement of the lever voting machines and
keeping the lever voting machines.

The United Hebrew Trades urges our New

York and New York State officials to take action now to return the federal money that our State accepted for replacement of lever voting machines, and to keep our lever voting machines.

Lever voting machines have been used for over one hundred years with few problems. These machines are cost-effective, easy and inexpensive to maintain in nearly-new condition, secure, and perfectly designed for the work of counting votes cast in poll sites.

In contract, computers have never been a secure technology. Paper ballots are notorious for their history of tampering.

Our nation, State and City are facing an economic crisis, and we must make responsible choices for our limited resources. The cost of running elections with optical scanners and paper ballots will be much greater than what we now spend for superior elections with lever voting machines.

The Federal money New York State accepted for replacement of the lever voting machines will not cover the cost of transition or use of the new technology.

The Help America Vote Act of 2002 does

not require replacement of the lever voting machines, and New York is in compliance with the Federal mandate to provide equipment for voters with disabilities in each polling place.

For these reasons, the United Hebrew Trades urges our State to take all actions necessary to keep our lever voting machines, and to return the Federal money that our State accepted for replacement of these lever voting machines.

On a personal note, I'm an election inspector in Brooklyn, and I noticed that in many cases when we have to use the paper ballots for affidavit or emergency ballots, it takes considerably longer to explain to the voters how to use them and to set up and have them use, maybe wait for the privacy booth.

So at any rate a lot more education of the public is going to have to take place and of all of us who are workers, poll workers, as election inspectors. We're -- most of us that I've talked to over the past several years are very happy with the lever voting machines. We find that the voters seem to like them.

And at this point I'm all in favor of keeping that, on a personal note. Just the education of

the voters -- most of the voters that come in are not even aware that New York State is considering any changes. And there needs to be a lot more public information and training of poll workers, many of whom have never seen any type of electronic equipment, our seniors or our people who just simply have no computers or electronic equipment in their homes, have never used it.

And so a tremendous amount of education needs to be done. Nothing should be changed quickly until this education process is complete.

And I'm personally very happy with the lever machines and my organization supports keeping the lever voting machines.

SENATOR ADDABBO: Thank you, Ms. De Paolo. Thank you very much.

I just wanted to ensure that Janie Roberson, First Ward Leader, is not available.

The next panel would be:

Charlotte Phillips, Chairperson of Brooklyn for Peace; and

Bryan Lee, Voting Rights Coordinator, Asian American Legal Defense and Education Fund.

MS. CHARLOTTE PHILLIPS: Hi! I'm

Charlotte Phillips. I'm a resident in Brooklyn, in Senator Daniel Squadron's District, District 25.

I am speaking today on my own behalf. However, for identification I will mention that I am the Chairperson of Brooklyn for Peace.

I am also a practicing pediatrician. I work in the Bushwick neighborhood in Brooklyn with the New York City Health and Hospitals Corporation.

Brooklyn for Peace is a network of Brooklyn residents - parents, neighbors and educators - alarmed by the growing militarism of our society and its effect on our lives and our children's future.

We seek to inform ourselves and our community about issues of war and peace and to enable ourselves to respond effectively.

We hope to give our children a role model of active response to problems which easily lead to hopelessness, cynicism and despair.

And we are celebrating our 25th anniversary this year.

As a pediatrician, as well as a parent and grandparent, I frequently see young people in the challenging transition from adolescence to adulthood.

Registering to vote is an important landmark in the life of a young person.

And in encouraging my patients to do so, I can see how proud and happy they are to take this important step towards being contributing members of our democratic society.

Also, as I see many immigrant families from other countries, I am continually inspired by how much they appreciate the opportunity to vote and the importance of having their vote counted.

And for these reasons, I am deeply concerned about the way in which the new options for voting technology are creating a serious danger that our right to vote may be stolen from us in a subtle but nevertheless very real way.

Confirmed reports as well as suspicion of election fraud definitely lead to cynicism, despair and discouragement with participating in the democratic process. If a person feels that their vote is literally not counted, what is to motivate them to vote?

Having studied the new technology, I am convinced that the use of computerized electronic voting and vote-counting systems can compromise the

integrity of the electoral result and opens the possibility of electoral fraud.

Citizen oversight of the election process is crucial to assuring that tampering of the results does not occur. The fact that the software for electronic voting is secret, as well as the vendors' claim that it is a trade secret, is definitely very alarming.

How can we allow a trade secret to override the public's right to know how our election equipment works?

And additionally, we all know that no computer system can be guaranteed a hundred percent secure. Crucial computer systems of the Department of Defense, the FBI and major financial institutions have been compromised.

With regard to the option of voter-marked paper ballots with optical scanners to count them, I am also concerned that our State and City cannot implement the proper security procedures to protect the ballots.

County boards of elections have been notoriously reluctant to allow citizens to secure the ballots by continuous observation between the end of

election day and the certification of results.

In addition, our county boards of elections are reluctant to perform sufficient hand-count audits of the scanners to confirm the election outcomes are correct or to discover fraud or even innocent errors.

This has led me to conclude that the oldest is best. Although not free of maintenance problems and technical issues, the mechanical lever voting machines supplemented with accessible ballot-marking devices for voters with special needs provide a superior voting system technology with fewer problems. And this system has stood the test of time.

Lever machines and ballot marking devices can be more reliably kept secure and have not engendered the same level of suspicion of fraud that electronic voting and vote-counting equipment has engendered.

In addition, these machines are generally very well-built and require relatively inexpensive maintenance. And as others have said, in a time of economic crisis and cutbacks, why should we waste money on a new voting technology rather than choosing the cost-effective route of maintaining the technology

we already have.

Therefore, I urge this Committee and the New York State Legislature to rescind the requirement for counties to replace the lever voting machines.

And we also urge our State to return the Federal funds New York has accepted for the replacement of the lever machines, and that every county should retain, maintain and continue to use the present lever voting machines.

And I will also urge the New York City Council to pass a resolution to support such action by the State Legislature.

Thank you for the opportunity to speak. And I look forward to the outcome of these hearings and to your Committee's recommendations.

SENATOR ADDABBO: Thank you, Ms. Phillips.

MR. BRYAN LEE: Good afternoon.

My name is Bryan Lee. I'm the Voting Rights Coordinator for the Asian American Legal Defense and Education Fund, or AALDEF for short.

First, we would like to commend the State Senate for opening the discussion on improving the

electoral process in New York State to the public.

AALDEF is a thirty-five year old organization that protects and promotes civil rights of Asian Americans as well as voting rights. And for over twenty years we've conducted a multi-lingual exit poll survey of Asian American voters and monitored elections for anti-Asian voter disenfranchisement, as well as compliance with Federal, State and local election laws.

During 2008 in the Presidential Election, AALDEF surveyed 8,771 Asian American voters at forty-one poll sites in the Bronx, Manhattan, Brooklyn and Queens. During the last September 15, 2009 New York City Primary Election, AALDEF monitored twenty-seven poll sites and interviewed 790 voters.

We urge the Senate to support Senate Bill S.5988/6022 - they're both the same bill - and Senate Bill 2554-A to alleviate some of the recurring issues that obstruct Asian American voters every year in New York.

The first Senate bill I mentioned, 5988, provides for a dual affidavit ballot and registration form that allows a person casting affidavit ballots to register to vote if the local Board of Elections

determines that such person is not registered. This bill is currently pending in the Senate Rules Committee. The original Senate bill, S.1057, was passed on February 26, 2009, and the Assembly adopted a similar but amended companion bill, A.4015 in early July.

In every election, AALDEF receives complaints from Asian American voters whose names are missing from lists of registered voters. Voters reported to their assigned poll sites, or to poll sites where they have previously voted, only to find that their names are missing from voter lists.

HAVA requires that voters whose names are missing be offered affidavit ballots. Poll workers, however, denied some voters this right and simply turned them away. Indeed, voters had to make specific demands for affidavit ballots.

In the 2008 New York City Primary Elections, I witnessed a poll worker turning away an Asian American voter in Flushing, Queens, New York, because her name was missing, even though she complained that she had previously voted at the poll site. When she asked for an affidavit ballot, the poll worker responded, quote, what's an affidavit ballot?

Furthermore, AALDEF often finds that affidavit ballots are not consistently used to correct errors for voters.

In the 2008 Presidential Election, 151 Asian American voters filed complaints with AALDEF because of errors in poll books preventing them from voting on the machines.

We found the following in our post-election investigations of these complaints.

We organized it into five different groups.

Where forty-one voter names were not listed in poll books on Election Day and did not appear in the database of registered voters in the New York City Board of Elections.

Three voters whose names were not listed or incorrectly listed did not appear in the Board's database and they were turned away by the poll workers and didn't get a chance to vote at all.

Fourteen voters whose names were not listed or incorrectly listed in poll books appeared in the Board's database correctly, but the Board did not record their votes from affidavit ballots.

Eleven voters whose names were not listed or incorrectly listed in the poll books appeared in the Board's database incorrectly. However, the Board of Elections did not record their affidavit ballot or correct the voter's information in the database.

And then, finally, seventeen voters' names were not listed or incorrectly listed appeared in the Board's database incorrectly. Though the Board recorded their votes by affidavit ballot, the voter's information in the database wasn't corrected.

So you can see that it varies from time to time what they exactly do with the affidavit ballots.

So the accuracy of voter lists needs to be improved. When voters have taken all the necessary steps to register to vote, some error prevents -- but some error prevents their ballots from being counted, corrective measures must be put into place.

And so a dual affidavit ballot/registration form would prevent many of these issues Asian American and other voters in New York State experience with missing/incorrect poll book entries and affidavit ballot errors.

And, furthermore, AALDEF requests the

Senate to support Senate Bill S.2554-A to deter suppression of voters, including Asian American and limited English proficient voters, by biased poll workers and other individuals.

In every election, AALDEF receives complaints from Asian American voters who have problems accessing Asian-language materials and interpreters for designated poll sites here in New York City under Section 203 of the Federal Voting Rights Act.

We also receive complaints regarding poll workers who are hostile and make racist remarks towards Asian American and limited English proficient voters.

In the 2008 New York City Primary Election, I personally witnessed a poll worker say to me and other fellow poll workers "All Asians are dirty," quote, all Asians are dirty.

Minutes later she yelled, quote, speak English at an elderly Korean American voter who was at the time using the assistance of the official Korean interpreter at the poll site. And the voter was eventually turned away.

Another poll worker demanded that I

speak only in English when I attempted to ask a limited English proficient voter a question. The poll worker then shared with that, quote, voters who can't speak English shouldn't have the right to vote.

At one poll site in Brooklyn during the 2008 November Election, a poll worker remarked that Middle Eastern voters, quote, looked like terrorists to him, end quote.

At another poll site, a poll site supervisor challenged an Arab American voter saying, quote, we don't trust you, you're not voting. If you want to complain, go to the judge, end quote. The voter was unable to vote.

In Ozone Park, Queens, New York, a Sikh voter was made to vote by affidavit ballot because his last name, Singh, was very common and the poll worker, quote, couldn't figure out which one he was.

In Long Island City, Queens, a voter complained that a poll worker made her feel uncomfortable when the poll worker asked, quote, why do you have an American name? Are you Japanese? End quote.

And in Chinatown, Manhattan, a New York poll worker made comments complaining about Chinese

American voters and was inattentive when they arrived. The poll worker made an entire line of voters wait while he sent text messages on his cellphone.

So these are only a small sample of recent incidents of voter intimidation and suppression.

However, similar issues are reported to us in every election and more incidents likely go unreported.

By passing Senate Bill S.2554-A, another measure would be in place to protect voters, including Asian American and limited English proficient voters, from poll workers and other individuals who suppress or threaten to suppress such voters from lawfully exercising their right to vote.

Another complaint we commonly receive concerns the font size of Chinese characters on ballots. Chinese American voters in New York City, many whom are elderly and have poor eyesight, complain that translations on ballots are too small to read.

The Board of Elections provided new BMDs under HAVA to magnify the ballots for voters with impaired vision or anyone who wishes to use the device. BMDs are another helpful tool to assist voters who need

language assistance or who may have impaired vision or are differently-abled.

Unfortunately, poll workers did not direct voters to these machines or know how to use them. And as we've heard from earlier testimony, I can now understand why.

This issue may be outside of the scope of S.2554-A and S.5988, the two bills I discussed earlier. However, we ask that the Senate consider this problem in new election policy.

And if you have any questions, I'd be happy to answer them.

SENATOR ADDABBO: Again, Mr. Lee and Ms. Phillips, I appreciate your time and testimony today.

So thank you very much.

Our next panel:

Andy King; and

Heidi Harrison Chain.

Mr. King, good afternoon.

MR. ANDY KING: Good afternoon.

SENATOR ADDABBO: Is Heidi available?

(No response.)

SENATOR ADDABBO: Mr. King.

MR. ANDY KING: I guess I'm flying solo.

SENATOR ADDABBO: That's it.

MR. ANDY KING: Well, good afternoon, again, Chairman, and thank you for the opportunity.

My name is Andy King and I am coming from a different perspective altogether, as a candidate who just ran for City Council, so I've learned a lot of good information in this room today. And I would look forward to even having further conversation like this out in the communities so people actually learn about what's happening with the new poll machines that would like to be implemented.

I think there was a lot of good information. I want to thank all of you for allowing me to learn something from you guys today also. So thank you.

Again, my name is Andy King.

And I'm here to testify about my concerns and make suggestions on election reform.

As a former candidate for the New York City Council in 2009, I encountered some rules or laws

that I believe were not in the best interest of the voter.

First, during the campaign there were four candidates on the ballot. Their names were Jerome Rice, Sebastian Ulanga, Larry Seabrook and I. Although Jerome Rice and Sebastian Ulanga had both withdrawn from the race before the Democratic Primary Election, both names remained on the ballot. Jerome Rice withdrew the day before the election and Sebastian Ulanga approximately six weeks before the primary.

According to New York State election law, if you do not submit your declination within the time prescribed, usually within the five to seven days after the submission of your designating petition, you cannot be removed from the ballot.

I would like to see a system that will (a) allow candidates to have their names withdrawn from a ballot up to four weeks prior to Election Day, and (b) any candidate who does not meet the threshold to receive matching funds from the Campaign Finance Board the option to have their names removed from the ballot.

Allowing candidates' names to remain on the ballot after they have withdrawn from a race confuses and disenfranchises the voters.

Furthermore -- now, this is where the conversation of the day -- if the new computer-based voting machines are used, and as I'm hearing today - and I'm not trying to be funny, but I saw the movie "Man of the Year." And we want double b's to triple double o's, and, you know, trump double k's.

It's almost like if, whoever controls the computer system or the computer machines actually can control the vote.

Is that fair for the voter who in the course of American history has died and fought for their right to make sure that their vote is cast? I believe this is very sacred. And we, as leaders, and you, as the Chairman, should implement some type of checks and balances to make sure that voters' rights are protected.

Therefore, if these machines were ever to be implemented and allowed, I think it's a matter of software adjustment that will allow the Board of Elections to remove a candidate's name from a machine. And that should take place within prior up to three weeks before an election.

Secondly, since Election Day is a very long day, I think it would be in the best interest of

the poll workers and the voters that we may apply split shifts, an early shift from 5:30 a.m. to 1:30 p.m. and a late shift from 1:00 p.m. to 9:30. And those workers should receive approximately \$150 for eight hours as opposed to the \$200 that they receive for the day.

The reason for this suggestion is that poll workers become tired, less alert at times and sometimes impatient with the voting public.

Moreover, I believe that poll workers and additional staff should be hired seasonally to help out during election time. These workers should be hired and thoroughly trained on whatever they need to be trained on to be effective poll workers and Election Day workers by the Board of Elections.

Also, I would like to see these workers in each borough placed in a pool and receive assignments through this pool regardless of where they live in a particular borough twenty-four hours prior to Election Day. In my opinion this will prevent political patronage.

And, finally, on Election Day I would like to see the main office of the Board of Elections, I think it should be opened at 6:00 a.m. with early staff shift to address issues that may have occurred prior to

the normal business hours of 9:00 a.m.

One of the things that I incurred, we had issues from 6:00 a.m. to 9:00 a.m. and we had no one to call. You know, they give you a number to call, but, you know, no disrespect to the Board of Elections - I know they work hard, they're short staffed - but the voting public is the ones that miss out and lose out when these concerns can't be addressed in real time.

So with all that I've said, I want to thank you today for the opportunity to allow me to testify and hope that these suggestions can and will be utilized by the Board of Elections of the City of New York to help establish election reform.

I thank you, again, for your time.

SENATOR ADDABBO: Thank you, Mr. King. I wish you luck in the future. I appreciate your suggestion and certainly will take it under the Committee's consideration.

Just so you know, on the split shifts and half-day shifts, this is a piece of legislation that's currently pending at the State Senate and we are pushing it as part of one of our priorities.

We will also look to reduce the age

of poll workers, to increase the pool of possible workers and also increase the awareness of the election process to our younger residents.

So I appreciate your ideas as well.

So thank you very much, Mr. King.

MR. ANDY KING: Thank you.

And I'm willing to work with you in any aspect that I can.

SENATOR ADDABBO: Look forward to it.

MR. ANDY KING: God bless.

SENATOR ADDABBO: And be well.

I want to make sure that Heidi Harrison Chain is not in the room.

(No response.)

SENATOR ADDABBO: Okay.

The next panel is:

Eugene Myrick, please come forward;

and

James Wu, Political Director of the Asian American Democratic Association of Queens.

Mr. Myrick, good afternoon.

MR. EUGENE MYRICK: Good morning, again.

My name is Eugene Myrick. I was a candidate for Brooklyn Borough President.

Unlike Mr. de Blasio, I was unable to get back on the ballot once I was removed.

So I want to thank you for holding this hearing today.

I want to vent a little in my testimony, but I'm going to be respectful because the nonsense I saw with candidates trying to get on the ballot for the Democratic Primary was just downright ridiculous.

Voter suppression takes place before Election Day and it comes in many forms. I honestly believe that there was an attempt made to suppress votes in the 2008 Democratic Presidential Primary.

Why would I say this?

Because my mother, who lives in East New York, and has voted in the same place for over ten years, showed up to the polls only to find that her name was not listed in the book as a registered voter.

She then filled out an affidavit paper ballot. A few weeks later she received a notice in the mail stating that her vote did not count because she failed to initial a certain part of the envelope.

The really sad thing is there were several choices as to why her vote would not have counted, but they only checked one.

I told a few friends and family members about this and I discovered that three other people that I know went to their usual polling stations only to find that their names were also not in the book and they too had to fill out the paper ballots.

But magically, when my mother and others went to the polls to vote in the General Election, their names were back in the book.

There needs to be a thorough investigation into that matter as to why registered voters from East New York, Crown Heights and Brownsville, Brooklyn were removed from the books as registered voters in the 2008 Democratic Presidential Primary.

Additionally, voter suppression takes place when candidates are knocked off the ballot because of the ridiculous election laws that are in place. The way that the election law stands now, they create a new and improved poll tax, not a poll tax in the sense where if you can't pay, you can't vote, but a poll tax in regards to, if you cannot afford an attorney who can decipher

the nonsense that is our election laws, then you cannot afford to run for public office.

The incumbents, who are usually the ones looking to have candidates removed in order to suppress voter turnout, have the inside track because they have a hack lawyer by the name of Martin Connor. Connor isn't your typical hack representing the so-called county. He's a former State Senator whose been -- who was there for thirty years and he helped write the nonsense that is our election laws.

There's no way a candidate should have papers drawn up to bring another candidate to court prior to a court report being released. I thought that the way things are done now, these challenges from incumbents send a message to the Board of Elections to invalidate signatures from certain candidates.

I've brought some petitions with me. These are some of my petitions here today. When it was asked as to why I, a candidate who was running for Brooklyn Borough President, with no money and no name recognition, why was I being removed from the ballot, this hack named Martin Connor said my petitions were bad. He called me some names. And he accused me of being unethical.

However, when I had to personally face this hack in Supreme Court because the lawyers I was dealing with didn't want to face the, quote unquote, county, he changed his tune.

Connor then told Judge Schmidt that my petitions were actually pretty good for a first-time candidate. It was at that time that it became clear to me that the lies that were being told in the paper were nothing more than a cry for the Board of Elections to invalidate as many of my signatures as possible, which is what they did.

I attempted to argue in Supreme Court that over 7,000 of my signatures were being invalidated, but because of the tricky election laws, I was denied the opportunity to do a line-by-line.

I have a few suggestions on how they can be fixed.

If an incumbent wants a candidate knocked off the ballot, they should be required to pay all fees that trigger a line-by-line signature validation.

I suggest a \$2500 fee if they want signatures, less than 2500 signatures validated, a \$5000

fee for 5000 signatures, and \$7500 for anything above 5000 signatures. The fee should be paid by those who are issuing these challenges.

A young lady running for City Council in the 36th City Council District in Brooklyn was told that she was eighty signatures short. She went and found those eighty signatures.

The Board of Elections should face stiff penalties when they inform candidates that they don't have the necessary signatures, but then they have to spend money and fees going to court to find signatures.

Additionally, the petitioning process should be from May 1st to June 15th if we continue with the petitioning process.

Any challenges or court cases should be over by July 15th giving all candidates a minimum of two months to campaign because apparently it has become ethical for life-long candidates to lie and say anything to remove insurgents to suppress voter turnout.

Apparently New York politics is no longer about empowering the people. It is about keeping certain people in power.

Why am I adamant about having more

choices on the ballot?

Well, as I was sitting here, I wrote down some of my local elected officials.

My current City Councilman has been promising a new community center since 2005. It's approaching 2010.

My previous Assemblywoman is now a convicted felon serving time.

My new Assemblywoman is married to my current City Councilman who voted against a third term but will be serving one.

My Congressman has been in office for twenty-seven years and a large portion of the district is still considered the ghetto.

The few thousand people who vote for my State Senator are the only people who know who he is.

My Borough President continues to give land to our developers and bows down to our billionaire mayor, and now a large chunk of Brooklyn will be owned by someone from Russia who has never been there.

My Mayor's wealth has increased four times, from \$4 billion to \$17 billion.

Not enough elected officials have

stood up to protest his changes in the term limit law when he went against the will of the people.

We need as many choices as possible on the ballot because with politicians like these, I wish I had enemies.

No politician or any lawyer in any way should be offended by anything I had to say here today because, although I was angry and although I was hurt when I walked out of the Supreme Court, there were several people looking at me and smiling to say don't be mad, it's not personal, it's just politics.

So with that said, sir, I want you to thank your colleague, Daniel Squadron, for removing Martin Connor from the State Senate because the things that I've heard from this guy just make absolutely no sense.

And I thank you for your time today, sir.

SENATOR ADDABBO: Thank you, Mr. King.

Thank you for your time and testimony.

Our next panel:

Joe Nardiello; and

Glenn Diresto.

Mr. Nardiello, good afternoon.

MR. JOE NARDIELLO: Good afternoon.

Thank you, Senators and everyone participating in today's Elections Committee hearing.

My name is Joe Nardiello.

Yours today is truly important work, as I've seen up close as a first-time candidate.

I am running for the open New York City Council seat for Brooklyn's 39th District, which is one of New York City's most politically savvy, and has been one of New York City's most-watched Council races, in an area that stretches from Cobble Hill, Carroll Gardens through Park Slope, Kensington, Windsor Terrace and Borough Park.

We've run a modest campaign that has provided a unique perspective into the process. From walking the ballots myself and with a small but dedicated group of volunteers, then forcing the first GOP Primary in the history of our area versus the unusual way things were done, to gaining the ballot with a sense of accomplishment, only to have to defend versus challenges from my institutional GOP opponent before the Board of

Elections and State Supreme Court, to, of course, ultimately campaigning in that primary, a primary we've won on September 15th by encouraging Republicans out to the polls for the primary despite having no other umbrella races like Public Advocate or Comptroller, with seventy-one percent of the votes cast.

That was democracy in action. The people I'm meeting believe in what I stand for and why this is coming about, and I've seen it all up close.

Ours is a campaign with big ideas, that a private citizen can come forth against great odds, alone at first, and set out to beat the Republican Party with a small independent campaign.

Then, take on the entrenched Democratic and Working Families Party, their combined systems, nearly like a David versus Goliath story, but if Goliath had a bigger brother waiting and ready for a second fight.

Luckily, at the start we had good advice on the processes from gograssroots.org - that's gograssroots.org - because without that resource there's really no chance of doing this without someone behind you that's done it before. Now I know that.

While any other party has a process of walking streets or standing at subway stations, you cannot easily find a Republican to sign for you, even if you've got a walking list and set to ring doorbells on evenings and weekends across mid-June to mid-July, which is prime vacation time and for enjoying the good weather, especially that schools are let out for the summer within ten days of that time period.

So improvement number one I suggest. I'd start the balloting season, as we just heard a little while ago from someone else, earlier in the year.

I've walked ballots from my workday, after the workday, and on weekends. And it was pressured for that five percent.

Let's do this when the people are home and give independent candidates like myself more time for the process.

Our one party monopoly in New York, and you know who you are, starts campaigning and fundraising and organizing long before June and has the benefit of media attention for months before any second or third party even begins the process.

For a more equal footing for the

democratic process, open this from May to July.

Improvement number two: update voter registration and addresses more efficiently.

As an independent candidate, we walked petitions to the doorsteps of 1,400 Republicans listed as residing in our District - there's typically listed about 8,900. We went to 1,400 doors during the mid-June to mid-July period.

What we found, because we took great notes on our printed walking lists, was that a full twenty-seven percent of that 1,400 were incorrect, either by moving, deceased, changing parties or the building being razed.

My experiences may have been the stuff of a compelling new reality show if only I had the budget for a cameraman.

The process of gaining the ballot, even at the onset, is impeded considerably by voter registrations and information sold by the Board of Elections that is grossly out-of-date.

Men had changed parties decades earlier and voted in new party primaries for years. Houses were razed seven years prior and still the people and

addresses appeared on lists that were said to be updated to April, 2009.

Most moved away, and the process of a one-time postcard to update these lists doesn't seem effective if the person just doesn't live there anymore and the current resident simply tosses away the mailing.

I've met plenty of spouses and children of deceased by scores, including one widow of a man that's been dead for thirty-five years that has tried and phoned and mailed back postcards, and sadly has to face a question beckoning her husband to the door for a signature on a ballot every few years.

When I asked, she said, he doesn't live here anymore.

And when I had asked where he had moved, she said Greenwood.

And I asked "Greenwood Avenue?"

And she laughed: "no, Greenwood Cemetery."

Importantly to the process, we've wasted twenty-seven -- in this process you waste -- because of the 27 percent that weren't there, twenty-seven percent of my time or close to a third of my time was

wasted unknowingly before I would start out. This is crucial when you're a small campaign.

Improvement number three: the Board of Elections needs an investigative arm.

I've seen candidates swear before Commissioners that they live in the District, in Brooklyn and yet have their homes in Nassau County, complete with their business registered in one of those Long Island homes, cars and auto insurance, having no bills nor neighbors vouching for them in the least.

People cannot be made fools and this process mocked by bizarre behavior. Self-interest in politicians has to be stemmed from the start.

We have a two-term Councilman that changed his name officially just three years ago, readying for a larger race after living and running and winning twice on a pseudo-name.

Why allow rules to be broken and skirted and leave it to another candidate to police each other? I've got other things to do as a candidate in trying to get people to know who I am.

Improvement number four: levers outside voting machines subject to human error.

We need to train and inform workers about asking and being aware, because there's so many Democrats voting in Brooklyn, a Republican on Primary Day, for example, many times is faced with difficulty in voting, because the outside switch/lever has to be preset to Republican first, from Democrat, and this is many times forgotten.

If the voter themselves doesn't say something, they can and do simply walk away unknowingly and their vote wouldn't be counted.

I've learned this on Primary Election Day and I've heard thirty cases relayed to me personally if I'd heard one.

Again, this frustrates voters at a time when they should be encouraged to easily participate.

Improvement number five: video voter guide taped during business hours.

In August, I had two or three meetings that kept me from taping why I'd be a good candidate and why I was running. Therefore, no one can see me online or on public TV saying so. And why was that?

Because I have to pay rent and I work for a living.

What I discovered is that many candidates simply don't work even before they're elected. They don't have jobs. It doesn't seem to matter with the media that a candidate can say he's done this or that and not actually worked in two calendar years.

And yet the process of daytime events that have this level of impact has to be done after business hours. Let's make being a working man less of a disadvantage, please, in politics, and we'll get stronger candidates along the way.

Improvement number six: keep to the rules.

We're not -- and this is my last one -- we're not supposed to put posters on public light posts and signposts, yet four or five Democrats for citywide and local office did exactly that for both the Primary and Runoff Elections.

How is that unfinned and unmentioned?
Where is the penalty for ignoring regulation?

I'd like to know on that issue of having paper clutter intersections around schools across Brooklyn.

I can go on longer, but I realize that this was only five minutes.

Certainly I would like to petition the lowering and the capping of the six-to-one matching funds where we had a candidate Lew and candidate de Blasio spend \$1.4 million in public matching funds that would have kept a firehouse open and be able to pay a handful of police officers and educators for that same amount of money.

These are some of what I've seen and experienced thus far as I set out to be make a honest difference.

Thank you.

SENATOR ADDABBO: Thank you, Mr. Nardiello.

I appreciate your suggestions.

Thank you very much.

Our next and last panel:

Tyrrell Eiland from New Voice Party of New York City.

(No response.)

SENATOR ADDABBO: No? Okay.

Let me do this.

Let me thank everyone who has been here and for your enthusiasm during this hearing.

I want to thank the members of the Board of Elections who stayed throughout the whole hearing to hear everyone and I'm hopeful we can have a constructive conversation after this hearing regarding the testimony we heard today.

Certainly this conversation is not done. This Committee will have another oversight hearing sometime in December after the General Elections to pick up this issue and these issues once again.

But I want to again reiterate my appreciation for those who have participated and who were here with us today.

Thank you very much and have a great weekend.

Thank you very much, everybody.

(At 1:04 p.m. the proceedings were concluded.)

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