

1 NEW YORK STATE SENATE

2 STANDING COMMITTEE ON ELECTIONS

3 -----

4 Public Hearing in the Matter

5 State's Regulations Law and

6 Regulations Governing Casting a Ballot

7 and Polling Places

8 -----

9 Syracuse Common Council Chambers

233 East Washington Street

10 City Hall - 4th Floor

Syracuse, New York

11

May 14, 2009

12

Thursday

10 a.m.

13

14 BEFORE: Senator Joseph P. Addabbo, Jr.

Chair

15

PRESENT: Senator Joseph Griffo

16

Senator Antoine Thompson

17

Senator David J. Valesky

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1 PROCEEDINGS

2 SENATOR VALESKY: Okay. I think  
3 we'll call this public hearing to order.

4 This is a public hearing of the Senate  
5 Standing Committee on Elections. I am not  
6 Senator Addabbo, the chair of the committee.  
7 He is on his way, his flight has landed and  
8 he'll be here momentarily, but we have a  
9 number of speakers who wish to present  
10 testimony today and so we're going to begin.

11 While I'm not on the committee, I'm the  
12 host senator here so I'm delighted to  
13 welcome first my colleagues, to my left  
14 Senator Antoine Thompson, who's joining us  
15 from Buffalo, Senator Joe Griffo, who is  
16 joining us from Utica today.

17 When the chairman gets here, I'm sure  
18 he'll have some opening comments of his own,  
19 but I'll very briefly for those who are here  
20 and for the record share with you that this  
21 is a one in a series of five public hearings

22 that are taking place around the state  
23 involving the issue of reform of our  
24 election laws, Albany, Syracuse earlier, and

1 later in June, September and November around  
2 the state.

3 Our task is to consider various pieces  
4 of legislation and hear testimony on pieces  
5 of legislation regarding reform of the  
6 election process and reinvigorating  
7 participatory democracy.

8 And I appreciate again my colleagues  
9 who are here. I'll note also for the record  
10 that Senator Griffo is the former chairman  
11 of the election law committee in his first  
12 term in the senate, and so I'm delighted to  
13 have him here both in that role and as a  
14 member of the committee itself.

15 Before we call our witnesses -- and  
16 what we will do is just call them forth to  
17 come to the table in front of the dais.

18 We'd ask that you try to keep your remarks,  
19 I guess, limited to around five to ten  
20 minutes. And we'll have an opportunity for  
21 comments. We do have, I think, 15 or 16

22 individuals who have signed up to speak so  
23 try to keep things moving along as quickly  
24 as possible.

1           And the camera here is an indication  
2           that we are web casting this hearing as we  
3           are doing with many, if not all, the public  
4           hearings. And what is it, nysenate.gov?  
5           Anybody know? Nysenate.gov, okay, very  
6           good.

7           Opening comments from Senator Thompson?

8           SENATOR THOMPSON: Yes. Let me just  
9           say I think this is excellent. I just want  
10          to commend you and the committee as well for  
11          having this public hearing, in addition, all  
12          the folks that have come out.

13          I'm just really impressed about how  
14          many people have come out from this region.  
15          I think it's great because, you know, the  
16          goal here is to make voting easier but also  
17          secure and protecting the vote. So I'm  
18          really excited.

19          I'm a big voting rights person, and so  
20          I'm really glad to be able to just drop in  
21          for a few minutes and say that this is an

22 awesome turnout and that hopefully we'll  
23 have some great dialogue and help make  
24 voting easier but also more secure as well.

1           SENATOR VALESKY: Thank you, Senator  
2 Thompson. Senator Griffo?

3           SENATOR GRIFFO: Thank you, everyone,  
4 for being here today. Share also the fact  
5 that it's so important to have many of you  
6 here to provide your input and to be  
7 involved in this process.

8           As we heard, this is so essential to  
9 our democracy so we want to make it easier  
10 to vote.

11          We also want to make sure that we  
12 preserve the integrity of the voting system,  
13 so there are a number of pieces of  
14 legislation that are being considered and  
15 your input will help us make that decision.

16          And I also want to echo what Senator Valesky  
17 said, that if you come up... I know that  
18 you'll be filing testimony... if you can  
19 summarize your statements and give us an  
20 opportunity to interact would be more than  
21 -- I think that is something that would be

22       beneficial for all of us involved.

23             So thank you for being here.

24             SENATOR VALESKY: Thank you, Senator.

1 First we'll hear from Ed Ryan, the  
2 elections commissioner, democratic elections  
3 commissioner here in Onondaga County. Ed.

4 COMMISSIONER RYAN: Do you want  
5 copies of this?

6 SENATOR VALESKY: Please. Tom, if  
7 you want to collect them.

8 COMMISSIONER RYAN: Right or left?

9 SENATOR VALESKY: Whichever you  
10 prefer, Commissioner.

11 ED RYAN

12 Democratic Elections Commissioner

13 COMMISSIONER RYAN: Thank you. Well,  
14 I want to thank you for inviting us here.

15 And I respect your ability to ask these  
16 people what they're thinking because you're  
17 going to get a wide variety of opinions here  
18 on this.

19 And I come at it from a couple areas  
20 because I was a former legislator and I know  
21 the -- obviously, what we do at the

- 22 legislature, money is a key issue and
- 23 obviously we have significant problem there.
- 24 So some of these things are going to impact

1 the budget at the county level. And we have  
2 a wonderful legislature that has been very  
3 helpful to us to do what we need to get done  
4 and they've been very supportive. But we're  
5 getting to the point now where they're  
6 looking at some numbers, and we need to make  
7 sure that they give us the dollars we need  
8 to support some of the things that are  
9 coming down.

10 So what I'd like to do is start and I'd  
11 like a little comment. I started looking at  
12 this and my remarks with Helen Higgins are  
13 based on these one-liners, so, if I  
14 interpreted the resolution incorrectly, stop  
15 me, because we did it on, you know, one  
16 sentence and not reading the full bill. I'm  
17 not sure what the impact of the full bill  
18 is.

19 So we'll go with early voting. We'll  
20 start with that one. This would create a  
21 need for additional personnel. Our staff is

22 on overtime at this period between printing

23 poll books, creating and testing,

24 setting up the polling places and

1 fine-tuning 2,000 inspectors, many of who at  
2 the last minute will tell us they can't  
3 work.

4 With 65 different ballot codes this  
5 year, it must be handled with extreme care  
6 for someone handing out a ballot code at the  
7 Board of Elections, knowing the right one to  
8 give these people.

9 In my view, this is an unfunded mandate  
10 that we would be pressed into, that we will  
11 have to hire additional people with  
12 experience to do this, because this could  
13 get expensive and we absolutely want to make  
14 sure that we have the right ballot code in  
15 the right voter's hands. And that's a big  
16 concern to us.

17 The no-excuse absentee, it takes  
18 approximately five minutes for our staff to  
19 process an absentee voter start to finish,  
20 between the time they call in, when we mail  
21 things out and we bring it back. We had

22 13,142 absentee ballots last year, and we  
23 sent out 15,653 ballots that had been sent  
24 out. Our costs per ballot was about \$3.26

1 per voter. To process a regular absentee  
2 voter in a presidential year, we now have  
3 spent over \$3 million to accommodate all  
4 voters with a new voting system, and now you  
5 are going to another direction which will  
6 incur additional cost on our part.

7 As a county representative, it's  
8 another expense I've got to go to our  
9 legislature and ask them to bear this on the  
10 tax, on the property tax. This could be a  
11 problem.

12 Now, Oregon has absentee ballots. You  
13 know, if we went all that way, well, then  
14 that would make sense. Just send a ballot  
15 out to every voter and have them mail it  
16 back. That probably would be the easiest.  
17 But when we have two and three and four  
18 different ways to vote here, mistakes get  
19 made, ballots get handed out the wrong way  
20 and the personnel that we have running it  
21 gets very hairy trying to get all this done

22 when you've got four different directions to

23 vote.

24 The next one is the affidavit ballot.

1 If a voter is allowed to vote at any poll  
2 site, they would be well -- be voting for  
3 candidates who will not be representing  
4 them. If I read this correctly, that you're  
5 asking that -- and this is the one I'm very  
6 unsure of. The way I read it is if you want  
7 to go to a polling site in your county, that  
8 you can just go to that polling site and  
9 vote, whether it's your particular voting  
10 district or not. And I may have  
11 misinterpreted that, but that's the way I  
12 interpreted it.

13 If that's the case, you know, we try to  
14 get all the voters in their voting  
15 particular district because we want them  
16 voting for the right candidate. Say two  
17 state senators split the county down Main  
18 Street. You know, one senator has an  
19 opponent, the other one doesn't. Friends  
20 and family of the other one slide over to  
21 the other affidavit, vote over on the other

22 side for people who aren't going to  
23 represent them, and then we have to ferret  
24 out whether or not they're in the right

1 polling place or voting for the right  
2 representative there.

3 So that should be a concern if that's  
4 the way we interpret this, that if you can  
5 vote an affidavit ballot anywhere in the  
6 county, we're going to spend a lot of time  
7 making sure that the people they voted for  
8 are, in fact, the people that represented  
9 them if they live over on the other side of  
10 the street. I don't know how we're going to  
11 manage that in a timely fashion.

12 The next one, 1058, we spend a great  
13 deal of time right now making sure  
14 everything is accessible, and we have made  
15 permanent adjustments to polling places and  
16 temporary fixes to polling places to make  
17 them adjustable.

18 We have a team of two people out  
19 looking at all these sites, revisiting them,  
20 because this year with the new ballots and  
21 we're trying to do a Pilot Plan A, some of

22 these areas don't have enough room because

23 we have to have tables, private polling --

24 or voting booths.

1       So we're trying to accommodate everyone  
2       with the spaces that are available, and I  
3       think all of you are aware that getting  
4       accessible polling places for 16 hours in a  
5       particular day in particular areas are  
6       difficult especially in the city where a lot  
7       of the older places are not handicap  
8       accessible. But we've been doing that, and  
9       we've eliminated the ones that are not  
10      handicapped accessible.

11      Split shift, this very well could work.  
12      What -- we run the risk of not having enough  
13      inspectors. Right now we train about 2,500  
14      inspectors and we hope to have 1,800 to  
15      2,000 at the end of the day after some of  
16      them go through the process and quit before  
17      they get there.

18      We could also have a problem with  
19      mistakes because if you had a group coming  
20      in at 6:00 a.m. and leaving at 2:00 and then  
21      another group coming at 2:00 to 9:00, what

22 do we do if the group coming in in the  
23 afternoon chooses not to come in. Then  
24 we're forcing that person who is expecting

1 to be there a half a day to stay. That's  
2 something that has to be thought through so  
3 it's a workable situation.

4 SENATOR VALESKY: We'll just pause  
5 for just a moment. Thank you.

6 COMMISSIONER RYAN: Good idea.

7 SENATOR VALESKY: Chairman Addabbo is  
8 here, Senator Joe Addabbo, who is chairman  
9 of the Senate Elections Committee. Welcome,  
10 Chairman.

11 COMMISSIONER RYAN: Do you want me to  
12 start again?

13 SENATOR VALESKY: Actually, we're  
14 okay; right?

15 COMMISSIONER RYAN: You can read?

16 Okay, good. All right.

17 So, I mean, the idea of a split shift,  
18 it could possibly work, but there's got to  
19 be some caveats on there because we have  
20 trouble right now in certain areas getting  
21 enough democratic inspectors in certain

22 areas getting republican inspectors, and,  
23 unless we get younger people in here and  
24 more people involved in it, then this isn't

1 going to work. And we struggle every year  
2 to get quality inspectors, especially when  
3 we go to the new machine and you're talking  
4 about affidavits, handing out the right  
5 ballot code.

6 We have 65 ballot codes this year, and,  
7 if you have inept inspectors and they're  
8 handing out wrong ballot codes to people,  
9 we're in for a lot of problems. So getting  
10 2,000 qualified people to be inspectors and  
11 now going to 4,000 is a yeoman's task in  
12 order for that to be done and done properly.

13 There is the voting in the proper  
14 place. You've asked here on 2443 that the  
15 poll worker can instruct people to go to the  
16 right polling place. We have 204 polling  
17 places, we have 459 polling districts, and  
18 we have people that you're asking to tell  
19 them where their polling place is in another  
20 town or even on the other side of the  
21 county. It would be absolutely impossible

22 for us to arm the 2,000 polling inspectors

23 with all the maps and polling districts to

24 tell these people exactly where they're

1 going to go. People get confused we when  
2 you have polling places that are split by  
3 the middle of the street much less five or  
4 six towns away.

5 There is a software system out there  
6 for it. It's called Ask Ed. And it does  
7 work. It would cost us \$45,000 to purchase,  
8 and obviously there's updates on that 'cause  
9 it's a software system. And I'm not sure we  
10 have the ability to get that through our  
11 county legislature to get enough of these  
12 hand-held devices to tell them how to get  
13 there. It's \$45,000 first year and then all  
14 the upgrades on it. So, again, like  
15 everything else in town, it comes down to  
16 money. We'd like to do it all, but yet how  
17 much do we do it.

18 The form of a paper ballot, absolutely  
19 agree. If there's anything on any of these  
20 things you should do, this is the absolute  
21 first one you should do. Having someone go

22 into a polling booth and bullet vote for  
23 somebody or vote for half the people 'cause  
24 they don't know the people down the end and

1     have that paper come back to them because  
2     the machine is spitting it back 'cause  
3     they've undervoted, if they check this box,  
4     it goes through, it will save a lot of  
5     frustration. So we agree that should go.

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

8             SENATOR ADDABBO: First, Mr. Ryan, I  
9     want to thank you very much for being here  
10    and again participating in these hearings  
11    we're taking throughout the state. And  
12    certainly we are mindful that the elections  
13    committee, as it turns out legislation, that  
14    this legislation does have an impact on the  
15    Board of Elections throughout the state, and  
16    we want to be mindful of that because  
17    obviously we need to work together as we  
18    implement these pieces of legislation.

19            One thing we don't want to do is do  
20    legislation that's going to put an undue  
21    burden on the workers of the Board of

22 Elections, which again I've said at all  
23 these public hearings, the Board of  
24 Elections workers work throughout the year,

1 not just on an elections year or just on  
2 Election Day; we work throughout the year.  
3 And I appreciate the workers that you have  
4 at the Board of Elections.

5 So we have to be mindful of that. You  
6 know, we want to work with the board  
7 elections to make sure that when we do a  
8 piece of legislation that there are not  
9 unfunded mandates, that they work very well  
10 with the Board of Elections. And so we hope  
11 to increase the amount of communication with  
12 the Board of Elections throughout the state,  
13 so again I appreciate your input here.

14 Certainly this opens a door. Obviously  
15 the communications don't have to be said at  
16 a public hearing. They should be whenever  
17 you feel that the elections committee should  
18 take up an item, should take up an issue or  
19 address an issue or currently is addressing  
20 an issue that is of concern to you. So I  
21 please welcome your input as well.

22 Do any of my colleagues have questions?

23 Senator Griffo.

24 SENATOR GRIFFO: Hi, Commissioner,

1     how you are?

2           SENATOR ADDABBO:   Wonderful. How are  
3     you?

4           SENATOR GRIFFO:   Good. As a former  
5     county official, I totally understand some  
6     of the concerns that you've expressed, and I  
7     think actually that you all have to play an  
8     important role in any of the legislation  
9     that is developed and as it evolves because  
10    your input is very valuable and it's  
11    important to understand the impact it would  
12    have on the actual operations and costs  
13    associated with the conduct of elections.

14           The last thing you talked about with  
15    the undervote, I want to make sure I just  
16    understood. You said you thought that  
17    should be a priority. At the last hearing,  
18    some people expressed some concerns about  
19    additional lines and singling out people who  
20    may have not voted. Then they would know  
21    that some of these people may have voted

22 intentionally not to -- for a particular  
23 race may have purposely not voted. So  
24 you're not indicating that we should force

1       them to vote in every race, are you, if  
2       their choice is not to?

3           COMMISSIONER RYAN:  Absolutely not.

4       You know, there's probably 30 percent of the  
5       people that don't vote the whole ballot, you  
6       know, because they don't know names and  
7       they're there for a few.  If I'm  
8       understanding the resolution correctly, is  
9       if you want to vote for three people out of  
10      ten, you know, there are ten races, you're  
11      checking and say I understand I've  
12      undervoted on this ballot but that is in  
13      fact all the people I want to vote for, so  
14      the machine will accept it rather than send  
15      it back to them and then they got to push  
16      more buttons to say I understand it and send  
17      it through.

18           We're talking about a lot of people who  
19      are not computer savvy that are going to be  
20      frustrated when that comes back to them and  
21      now they're going to feel, okay, now that

22 somebody's watching me, I've got to go back

23 and vote for these people even though I

24 don't want to. This is a training exercise

1 for a lot of people that is going to be  
2 difficult for some of the seniors to get  
3 involved with once they hit that machine and  
4 try to -- it keeps spitting it back to them  
5 'cause they didn't do something right.

6 The other -- you know, just as an  
7 aside, you know, we're all running out this  
8 pilot program, we're all trying to get this  
9 done right, and I think this is one thing  
10 that I think is scaring the hell out of a  
11 lot of us here is ... and I just talked to  
12 the voter for verification over here ... is  
13 if you go to a hundred percent man counting,  
14 and I wanted to just to leave these numbers  
15 with you. We're going to try to do three  
16 towns that have a single ballot code,  
17 because that would be easy just in case  
18 we're forced to do a hand count. We have 65  
19 ballot codes in Onondaga County this year,  
20 so that's 65 different ballots that went to  
21 make sure get in the right hands of the

22 right people.

23 We had our two deputies take a look at

24 -- two years ago they pulled out a hundred

1 absentee ballots and hand counted them, and  
2 I want to leave you these numbers 'cause  
3 this is money. This is money. If you and I  
4 were running against each other, it would  
5 take about three minutes to count the  
6 hundred ballots. If it was two out of the  
7 four of us, it would take 15 minutes. If it  
8 was three out of six of us, it took 45  
9 minutes. And if it was four out of eight,  
10 it took an hour and 20 minutes to make sure  
11 every vote was counted in the right place  
12 and they actually had the votes between  
13 them. So on that particular ballot, which  
14 was, you know, unusual 'cause we had best  
15 out of two, best of three, best out of four,  
16 it took two hours and 20 minutes to count a  
17 hundred ballots, and that's two people.

18 Now, last election, there was only --  
19 there was twice as many ballots, but they  
20 were all single. That would be a lot  
21 simpler. So the idea of it and the

22 practicality of how it works you have to  
23 understand. So, if we got two hours and 20  
24 minutes by two people and we have 110,000

1       ballots, that's a lot of time and a lot of  
2       dollars on the backs here, so there's got to  
3       be a better way to double-check this.  
4       You've got to put something in Face Book  
5       about it too. It's got to be a close race,  
6       it's got to be something, because -- again,  
7       we are blessed here in Onondaga County  
8       because our legislature has been more than  
9       adequate funding what we need to do, what we  
10      need to do. Some of the smaller counties  
11      that you'll hear from, they're struggling to  
12      keep up right now without anything else. So  
13      I don't speak about us so much; it's some of  
14      our neighboring counties are going to have a  
15      very, very difficult time funding some of  
16      these things 'cause they don't have the  
17      resources to do what they're supposed to do  
18      now.

19           SENATOR ADDABBO: Commissioner Ryan,  
20      one last quick question. Briefly, can you  
21      state how much the Onondaga County Board of

22 Elections budget is currently and how that

23 compares to last year's budget, up or down?

24 COMMISSIONER RYAN: Well, we're up a

1 couple hundred thousand dollars, and we put  
2 that in there because if we went to Complete  
3 Plan A -- and our budget's about \$3.3  
4 million. If we went to Plan A, which means  
5 we would have to, under the new rules, make  
6 330,000 ballots, because we have about  
7 287,000 voters and you're supposed to make  
8 110 percent ballots, even we know in an off  
9 election year we are only going to have 35  
10 percent of the people voting. So we are  
11 predicate -- we're looking to see how do we  
12 get a local printer or some printer that can  
13 make them as we need them, 'cause last year  
14 -- well, we put in a couple hundred thousand  
15 dollars, to answer your question, that we  
16 may not use. But if they make us use Plan  
17 A, then we have to go out and print these  
18 ballots that are costing about \$200,000.  
19 And that's -- we're not expecting to use it,  
20 but if a judge tells us we have to use it  
21 it's there.

22           So that's in there.

23           SENATOR VALESKY: Commissioner, just

24           one question. In regard to the first bill

1 that's been proposed and for which we're  
2 seeking comment in regard to early voting --  
3 and I imagine a number of our speakers to  
4 come, as they continue, will address the  
5 issue, particularly perhaps Professor Reeher  
6 and Professor Spitzer, can talk about  
7 national trends -- my understanding is 32  
8 other states now have gone to a system of  
9 early voting for all sorts of reasons.

10 I hear your concern in regard to the  
11 fiscal issue and I sympathize with those  
12 concerns, but, leaving those concerns aside,  
13 from the perspective of the Board of  
14 Elections do you have any opinion in regard  
15 to a movement toward early voting as many  
16 other states have done? If -- again leaving  
17 aside the fiscal concerns that you obviously  
18 have.

19 COMMISSIONER RYAN: Well, allowing  
20 people to vote obviously is what we need to  
21 do. We need to get -- I mean think about

22 it. You go to some other countries, they  
23 stand in line for an hour and a half, they  
24 walk two hours, people -- where America says

1 'I want it and I want it now and I don't  
2 want to wait five minutes for it,' you know,  
3 and anything can be done as long as you can  
4 afford to do it. And that's -- there is the  
5 problem. We would have to hire a couple of  
6 people that are honed in and know, when I  
7 give you this ballot, it's the right one, I  
8 just didn't grab it and give you a ballot  
9 and you're voting for somebody that's not  
10 going to represent you.

11 And you're going to get your busy times  
12 and slow times, and I don't know what time  
13 period you got but, you know, last year we  
14 were working for three and a half weeks  
15 twelve hours a day Monday through Friday and  
16 ten hours on Saturday, and we didn't have  
17 early voting. Now we have early voting.

18 That could bring in another 5 or 6,000  
19 people that we have to take care of in a  
20 timely fashion and space to do it in.

21 So, all those things. We're running

22 around like chickens, you know, trying to

23 get this done...you know, can be done --

24 anything can be done, but we'll need the

1 bodies to do it.

2 SENATOR VALESKY: Thank you.

3 SENATOR ADDABBO: Commissioner, again

4 thank very much for your time. Just one

5 thing, I look forward to continuing a

6 conversation with you on these bills.

7 COMMISSIONER RYAN: Good.

8 SENATOR ADDABBO: So thank you very

9 much, Commissioner.

10 Our next individual to give testimony,

11 Edward Szczesniak, former elections

12 commissioner of Onondaga County Board of

13 Elections.

14 While Mr. Szczesniak is coming here,

15 let me first formally say thank you for

16 being here. And it's a pleasure being here

17 in Syracuse. What this committee is doing

18 is going throughout the state having these

19 public hearings on issues that are coming

20 through the elections committee on ideas

21 that we hope to work in the future on. So,

22 again, it is a pleasure to be here.

23 Let me just do a little housekeeping.

24 I want to thank all staff who has helped put

1 this together, everyone for being here and  
2 working on this. It's a pleasure being in  
3 Senator David Valesky's district, so again,  
4 Senator Valesky, thank you very much and  
5 your staff as well.

6 Senator Griffo, good to see you again  
7 and thank you for being here as well. I  
8 want to thank Baye Muhammad, who helped also  
9 put this together. Again I'd like to thank  
10 him.

11 To my far right, David Kogelman is the  
12 legal counsel for the elections committee,  
13 and again I want to thank David for his help  
14 on this hearing as well as Bernadette Oliver  
15 from my office for putting this together.

16 In short, ladies and gentlemen, you  
17 know, whether we talk about, you know,  
18 voters in my district from the southwest,  
19 Queens and New York City, or whether we talk  
20 about voters here in Syracuse, the concerns  
21 are the same. It is one New York, and we

22 are looking to basically look at the process  
23 of voting from registration all the way up  
24 and to the actual voting process, trying to

1 make it easier and facilitate the process  
2 for all qualified voters. So that is the  
3 idea that we have here.

4 We are dealing with that in terms 32 of  
5 legislation and administrative decisions  
6 that have to be made, and so, therefore,  
7 your input is rather important. So again I  
8 appreciate your time and participation here  
9 today at this hearing.

10 I'm going to ask now from here on  
11 future speakers to try and keep their  
12 comments to roughly three minutes if we  
13 could. We don't have a buzzer or any type  
14 of electric shock treatment going on here to  
15 stop people from talking three minutes, but,  
16 in order to give the list...and we have a  
17 pretty extensive list of speakers...to give  
18 everybody the opportunity to speak and time  
19 for questions and answers, I'm going to ask,  
20 even if you have written testimony, if you  
21 can briefly summarize it to an extent and

22 keep your comments to roughly about three  
23 minutes so that we can get through the whole  
24 list while our time is here.

1           So again, welcome, Commissioner  
2           Szczeniak, a pleasure, and thank you for  
3           your testimony.

4           COMMISSIONER SZCZESNIAK

5           COMMISSIONER SZCZESNIAK:  Senators,  
6           Mr. Chairman...I don't know what to you call  
7           you, Senator Valesky.

8           SENATOR VALESKY:  Friend.

9           COMMISSIONER SZCZESNIAK:  Friend,  
10          there you go.

11          I want to thank you all for the  
12          opportunity to share my thoughts on some of  
13          this proposed election law reform.  And I am  
14          following Eddy.  I'm an election  
15          commissioner light, I guess you could say at  
16          this point in time.

17          What I'd like to do, that I'll try to  
18          briefly touch on, the various acts as was  
19          presented with a few thoughts in mind on  
20          each of them, the first one being the Early  
21          Voting Act.

22           To me, the fact that early voting would  
23           make participation easier for citizens who  
24           cannot make it to the poles on Election Day

1 is obviously a positive thing. However, I  
2 believe this is better addressed by allowing  
3 these voters to use the absentee ballot  
4 process without the current restrictions on  
5 accessibility to absentee ballots as is  
6 addressed by another of the resolutions.  
7 Election Day breakdowns are adequately  
8 addressed, I believe, with the affidavit  
9 ballots.

10 We're in the four-year cycle, and even,  
11 however, in the years of presidential  
12 elections when we may get 78 percent turnout  
13 here in Onondaga County, very seldom are  
14 there significant waiting times to vote.

15 The issue of a person in one centralized  
16 location also would not be a convenient  
17 piece of countywide voters -- for countywide  
18 voters.

19 Registration and voting data would have  
20 to be made available at the centralized  
21 site, and that's why you almost need the

22 centralized site.

23 You should also be aware that many

24 village and other elections are not

1 currently conducted by the County Board of  
2 Elections, so they have an outlying town  
3 asking those folks, who happen to be having,  
4 say, a primary election, to come out and  
5 vote at the centralized -- here in the  
6 center of Syracuse is truly not a convenient  
7 opportunity for these folks.

8 And then, of course, there would be a  
9 need to have a tracking system created so  
10 people don't vote early and then, of course,  
11 again at their regular polling place.

12 I guess what I'm really saying about  
13 that particular bill is I think there's a  
14 better way to bite the apple, and also  
15 there's more fiscal implications than just  
16 printing more absentee ballots. Like to  
17 just stress that.

18 In terms of Senate Bill 5028, the  
19 absentee voting constitutional amendment,  
20 that is something that election  
21 commissioners across the state have been

22 lobbying for umpteen years, and so I think  
23 that would be a major asset. Of course,  
24 it's the difficult hurdle of changing the

1 constitution that presents its real problem.

2 In terms of Senate Bill 2868, absentee  
3 voting election law amendment, that's just  
4 changing election law, I agree with -- a  
5 hundred percent with the justification that  
6 was presented with the bill.

7 In terms of Senate Bill 1701, counting  
8 of affidavit ballots, this I have difficulty  
9 agreeing with. Administrative error on the  
10 part of inspectors, I agree, should not be a  
11 basis not to count a vote. On the other  
12 hand, federal as well as New York State case  
13 law is dictating otherwise saying that a  
14 voter must be in the correct polling place  
15 to be able to count that affidavit ballot.

16 The other considerations really are  
17 inspectors could be required to determine if  
18 the voter is in the current correct polling  
19 place. But, as Eddy already testified, once  
20 you get beyond your own location and you  
21 start expanding as to where a voter should

22 vote throughout the county, very, very

23 difficult thing to do.

24 And probably the most critical piece

1 and why I suspect that the courts have ruled  
2 that you have to be in a correct polling  
3 place is that that's the ballot you have.  
4 The other polling place, you're going to  
5 have different versions of the ballot, and  
6 if somebody even within here, say, the City  
7 of Syracuse comes in and they're on the east  
8 side of the city in a particular county  
9 legislative district and they're in the  
10 wrong place but even though they're  
11 currently an active voter, a registered  
12 voter, their county legislators are in a  
13 total different contest and they're not  
14 going to have that ballot at that location  
15 as well; so they may vote on that ballot,  
16 sometimes forgetting who the candidates are  
17 for their real ballot and think they've  
18 walked away voting in a proper vote, and  
19 they really haven't voted for anybody.  
20 Requirement for a -- Senate Bill 1058,  
21 requirement for all polling places to be

22 accessible to physically disabled voters,  
23 obviously the federal law requires that,  
24 mandates that. To me, the issue truly is

1 understanding what accessible means. Boards  
2 of elections are not experts in evaluating  
3 accessibility standards. These may be  
4 better evaluated by building code  
5 enforcement officers who deal with that type  
6 of activity on a regular basis.

7 Also, boards of elections use polling  
8 places normally only two or three times a  
9 year. Many of these are government and  
10 school facilities that are federally  
11 mandated to meet these same accessibility  
12 standards year-round but don't. They use --  
13 as in some educational locations, they use a  
14 -- their own equivalent of a waiver by  
15 saying that 'Oh, we have all our disabled  
16 students go to just one of our ten school  
17 locations, therefore we make sure that one  
18 is' -- 'accessibility is there,' but the  
19 other ones don't have it. Yet when it comes  
20 to voting, everybody has to have it.

21 So it seemed more appropriate just to

22 enforce the standards across the board for  
23 all the public facilities that we normally  
24 use as polling places that are there all

1 year-round.

2       Finally, the commitment of time for  
3 training, conducting site evaluations,  
4 ensuring adjustments are made to ensure  
5 accessibility, purchasing and distributing  
6 the temporary items such as ramps and then  
7 documenting all these changes, all these  
8 surveys, et cetera, and paying for many of  
9 these adjustments far exceed what's in the  
10 bill, limited local fiscal implications, so  
11 there are some real dollars involved in  
12 doing that type of accessibility.

13       Senate Bill 5112, voting in the proper  
14 polling place, again the concept is fine;  
15 however, requiring poll inspectors to be  
16 prepared to consult a map, street-finder, et  
17 cetera, for all election districts, for all  
18 polling places in the county is a major  
19 challenge. Remember, poll inspectors work  
20 one or two days a year in this role. Their  
21 pay is more geared toward being a volunteer

22 than an election law and countywide  
23 geography expert. Polling places change  
24 every year. A lot of misinformation can be

1 given by ill-informed part-time inspectors.

2 I know we have all good inspectors and  
3 some are even a little better than others,  
4 but they are part time and they're not  
5 necessarily compensated to a degree that  
6 would warrant them becoming the experts that  
7 we'd like them to be.

8 It's better to have the voter call the  
9 Board of Elections, as we do now, by giving  
10 them this like white little card that we've  
11 been doing for years; they call the board  
12 and we tell them proper place to go to. And  
13 overall that's been a pretty good system.  
14 Sometimes we get backed up with those type  
15 of calls 'cause we only got 30, 40 lines out  
16 on a particular Election Day to be able to  
17 respond to those type of calls, but at least  
18 they're the getting the correct information,  
19 they go to the right polling place, they'll  
20 have the correct ballot for them to be able  
21 to complete.

22           The last item was Bill 5112 and, that  
23           goes to the form of paper ballots. And  
24           there's an interpretation of what was meant

1 by somebody checking off either at the  
2 beginning of the ballot to say, A, I know  
3 I'm going to undervote, or if it was -- I  
4 don't know where it was going, but it was  
5 just an added requirement and they were  
6 still going to have the machine kick out  
7 each time they undervoted to me is just  
8 superfluous and probably a time- consuming  
9 thing that didn't need to be.

10 I think that's the last specific thing  
11 that I had. The one thing I would just make  
12 as a general observation, a lot of what we  
13 talk about in this type of bill has to do  
14 with people, and there's no system that's a  
15 perfect system, no matter whether we're  
16 looking at various voting systems or as  
17 we're dealing with these various issues  
18 we're talking about this morning. It's the  
19 people, in this case, the representatives of  
20 the boards of elections, are those  
21 inspectors out for all those different

22 polling places. And too many times we think  
23 in terms just as an extension of staff, and  
24 so they're very qualified, very well-trained

1 and everything else. And in reality, it is.  
2 Two or three times a year they're just doing  
3 this, and, as much as they want to do it  
4 well, remembering from year to year, even  
5 what the updated watchings have been have  
6 become a challenge for them as well.

7 So those are the things. I guess maybe  
8 one last thing I would say, and this came up  
9 when I was with the elections assistance  
10 commission group at the federal level, that  
11 some of this seems to go to another trend  
12 that I heard about in different states where  
13 they're doing super election districts,  
14 really trying to combine wider geography,  
15 wider geographic areas into one location.  
16 And that just seems to go against or is  
17 contrary to what has been the thrust here in  
18 New York State, to make elections convenient  
19 as much as possible to the voters. And in  
20 the Upstate counties in particular, the time  
21 distances can be substantial as opposed to

22 New York City where you may have  
23 congressional districts in five blocks or  
24 something like that. And so it's just a

1 different world in terms of time/distance,  
2 so convenience is a relative factor.

3 And I would end my specific comments  
4 that way unless there's some questions.

5 SENATOR ADDABBO: Commissioner  
6 Szczesniak, thank you very much. One quick  
7 question I have for you and if you answer  
8 briefly I would appreciate it.

9 Earlier on you mentioned early voting  
10 and then you spoke about absentee ballots.  
11 There is a piece of legislation proposed  
12 that says we would like to remove the  
13 reasoning for absentee ballots thus creating  
14 a situation where more absentee ballots may  
15 be available to voters. Do you have any  
16 objection to that if you say that you'd  
17 rather see absentee ballots instead of early  
18 voting?

19 COMMISSIONER SZCZESNIAK: Yes, that's  
20 what I mentioned early on. I felt the  
21 justification was there. I'm supportive of

22 that. They have limited inhibitions, if you  
23 will, on why people should be able to use an  
24 absentee. And I know there's some of the

1 election law stuff you're correcting in some  
2 of this, if something goes to the state  
3 constitution, and that's just a bigger  
4 challenge to get to but I think we ought to  
5 take the challenge and just make it more  
6 accessible.

7 SENATOR ADDABBO: Thank you very  
8 much. Any questions?

9 SENATOR VALESKY: One quick question.

10 SENATOR ADDABBO: Sure, Senator  
11 Valesky.

12 SENATOR VALESKY: Ed, thank you for  
13 your testimony. One bill that has been  
14 introduced as part of this packet and I'm  
15 not sure if you addressed it or not, Senator  
16 Klein has introduced a bill that would allow  
17 local boards of elections to utilize  
18 elections inspectors for half-day shifts. I  
19 imagine in your many years of experience you  
20 would say that it's been getting more and  
21 more difficult to have election inspectors.

- 22      Would half-day shifts help the situation?
- 23      Would it make it even more difficult, in
- 24      effect, perhaps have doubled the number of

1 inspectors necessary?

2 COMMISSIONER SZCZESNIAK: My thoughts  
3 on that go to the following. I think there  
4 are times when it would have been very  
5 beneficial to have the law allow us to have  
6 half-day shifts. I think we would still  
7 prefer to try to get people that are willing  
8 to be there the whole day, but, whether it's  
9 just a challenge of getting adequate numbers  
10 of folks or whatever the reason to have  
11 half-day shifts, could be a doable a  
12 project.

13 I think the issue there...and Eddy  
14 tried to address it a little bit...is there  
15 are some consequences when you're going to  
16 change, especially if you did everybody. If  
17 everybody worked from 6:00 a.m. to, say,  
18 1:00 and then a second shift came in, you  
19 lack the continuity of what happened at the  
20 beginning of the day versus the end of the  
21 day. Part of what we're doing normally with

22 the inspectors is saying: We want you to  
23 check those machines, make sure everything  
24 was zeroed out, everything was correct.

1           And so, anything that happens during  
2           the day, you're going to have been there and  
3           seen. At the end of the day, you're going  
4           to verify that those are the numbers that  
5           voted, et cetera. When you break at midday,  
6           you're going to have different folks. They  
7           don't know what happened earlier in the  
8           morning. And whether that's going to be a  
9           critical element or not, I think it could be  
10          at some particular times.

11          Particularly as we go to a lot of even  
12          the absentees, et cetera, another issue but  
13          as we get to close elections, all of a  
14          sudden everybody wants to dot the I's and  
15          cross the T's, that becomes much more  
16          critical having had somebody there all day  
17          long that watched the whole process and with  
18          credibility say: Nothing went wrong over  
19          here, I know the problems we had on the  
20          machines, that's why we had so many  
21          affidavit ballots, there shouldn't be any

22 more, shouldn't be any less.

23 SENATOR VALESKY: Thank you.

24 SENATOR ADDABBO: Commissioner, thank

1     you very much. Again thank you for your  
2     time and testimony.

3           COMMISSIONER SZCZESNIAK: Thank you.

4           SENATOR ADDABBO: We're going to  
5     start calling individuals in teams of two.  
6     They can be unrelated to their testimony,  
7     but again it's just a two-person panel. So  
8     the next two are Preston Fagan, president of  
9     the NAACP of Syracuse, and Frank Pannisi,  
10    South Tier Independence Center.

11           PRESTON FAGAN

12    President of NAACP of Syracuse

13           MR. FAGAN: I want to say thank you,  
14    Mr. Chairman. My name is Preston Fagan. I  
15    am the president of the Syracuse Onondaga  
16    County NAACP. On behalf of our officers,  
17    executive committee, membership,  
18    constituents and colleagues, I want to thank  
19    the committee for the opportunity to address  
20    one of the important issues that are of the  
21    utmost concern in election reform.

22 I'm going to speak regarding Senate  
23 Bill 2443. As you may know, in Syracuse  
24 election districts and undoubtedly in other

1 districts across the state, there is an  
2 ongoing problem of potential voters arriving  
3 to vote at the wrong polling place and  
4 finding that they are not registered in the  
5 polling book.

6 This is a common problem and one that  
7 is traditionally treated in different ways  
8 at different districts. For example, if a  
9 potential voter is unknown in the district  
10 but appears to belong, she or he will  
11 usually be accorded the full courtesy and  
12 respect of election inspectors. On the  
13 other hand, if that individual appears  
14 different in any way, she or he is likely to  
15 be treated less courteously and, in some  
16 cases, with outright disrespect, often  
17 causing an individual to leave the polling  
18 place in frustration or anger and give up  
19 going to the polls at all.

20 The solution to this is simple,  
21 although not necessarily easy from a fiscal

22 point of view. To begin with, election  
23 inspectors should be trained to treat  
24 everyone with respect, and every polling

1 place should be spot-checked at spontaneous  
2 intervals by the Board of Election observers  
3 to be sure that voting policy -- board  
4 policy is carried out.

5 Secondly, a computer with appropriate  
6 software listing every polling place in the  
7 county should be placed at every polling  
8 site so that potential voters can be told  
9 not only where their polling site is but can  
10 also be given a map printout that shows  
11 where they are now with clear-cut directions  
12 to the correct site, where they need to go.

13 In this way, election inspectors can  
14 perform a positive service for potential  
15 voters and may even encourage them to  
16 actually go the extra mile to the correct  
17 voting place and vote.

18 Perhaps the state could fund this  
19 initiative by using stimulus monies to  
20 provide the computers, software and  
21 training. The state could also develop a

22      prototype to track voter participation in a  
23      longitudinal study conducted over a short  
24      term or midterm to determine the success of

1 this extra effort by election officials to  
2 increase voter participation.

3 The simplicity of this strategy is that  
4 only one computer needs to be available at  
5 each site, even if more than one district is  
6 housed at the facility, since voters can be  
7 assisted on a first-come first-served basis,  
8 and the actual assistance given should take  
9 a minimum of time and effort if inspectors  
10 are properly trained in the use of the  
11 software.

12 That is the end of my testimony for  
13 today, and I thank you for allowing me.

14 SENATOR ADDABBO: Thank you, Mr.  
15 Fagan. Thank you.

16 Mr. Pannisi.

17 FRANK PANNISI

18 Southern Tier

19 Independence Center in Binghamton

20 MR. PANNISI: Yes. I'm Frank  
21 Pannisi. I'm from the Southern Tier

22 Independence Center in Binghamton, New York.

23 We work with people with disabilities. I'm

24 here today largely to recommend quick

1 passage of 1058 and 1386. 1058, which would  
2 make polling places accessible, we have been  
3 trying to get such a bill passed for more  
4 years than I can count.

5 A lot of people with disabilities have  
6 not been full participants in the election  
7 process because, number one, they couldn't  
8 get into the polling place; number two, if  
9 they could get in, they couldn't use the old  
10 lever machines. Now we've got the  
11 accessible machines, but there's still too  
12 many sites that are inaccessible so the  
13 person who needs to use the machine can't  
14 get in to use it.

15 I've been working on this issue for 25  
16 years. I started in my home county in  
17 Broome in 1984. I campaign to make all  
18 polling places accessible. We did it. We  
19 were the first county in the state to do it,  
20 but it took six years. And what finally  
21 pushed it over the edge was in 1990 my

- 22 county board refused to grant any waivers.
- 23 Four polling sites were moved very quickly;
- 24 two were modified. I mean we're talking a

1 three-inch step and a six-inch step.

2 So it wasn't a big deal, but the  
3 refusal to grant waivers is what finally did  
4 it. The waiver process is what is standing  
5 in the way of accessibility throughout the  
6 state.

7 I'm one of the lucky ones. I've got  
8 incredibly cooperative county boards of  
9 elections throughout the years. I've talked  
10 to my colleagues around the state and I hear  
11 their county is 10 percent accessible or 5  
12 percent accessible or even 3 percent  
13 accessible, and I've heard of waivers being  
14 granted in the 1980's and '90's that are  
15 still considered to be viable today even  
16 though they're supposed to be reapplied for  
17 every year.

18 So the waiver is a problem. It's been  
19 misused, it's been abused, over the years as  
20 far as accessibility. Someone earlier had  
21 stated that a lot of these buildings are

22 supposed to be accessible by state and  
23 federal law. That is absolutely true. And  
24 I don't think the onus should be on the

1 Board of Elections to make changes to  
2 buildings that are required to be  
3 accessible, but a lot of polling places are  
4 in churches. Churches are exempt from the  
5 Americans with Disabilities Act. Many  
6 churches are more interested in  
7 accessibility, but the fact is they don't  
8 have to be by law and often they can't  
9 afford the ramp or widening of the doors or  
10 whatever is needed to be done.

11 My county Broome and neighboring Tioga  
12 County used HAVA funds to make all their  
13 sites accessible for the ones that -- they  
14 did for a lot of churches, a lot of  
15 buildings that weren't otherwise required or  
16 that it would have been an undue burden for.

17 Another thing, county elections  
18 commissioners are not well-versed in  
19 accessibility standards, nor should they be  
20 expected to be. Having worked closely with  
21 these people over the years, it's amazing

22 the variety of duties they have and they  
23 don't need one more thing piled on top of  
24 them.

1       There are independent living centers  
2 throughout the state, there are statewide  
3 commissions that have the expertise and  
4 access. They should be tapped to provide  
5 the expertise as I've done with my county  
6 and several other of my colleagues have.

7       And as far as accessibility, we think  
8 of it as benefiting a small number of people  
9 with disabilities now. What we don't think  
10 about is that all of us will acquire a  
11 disability as we age if we live long enough.  
12 Many of our senior citizens are now having  
13 problems with vision and mobility  
14 impairments. Many of our veterans from the  
15 wars in Iraq and Afghanistan are coming back  
16 with service-related disabilities. It's not  
17 just a small special interest group. It  
18 really benefits all of us.

19       And as far as 1386, last year my county  
20 board asked me to help them recruit people  
21 with disabilities to serve as election

22 inspectors because they, like everyone else,  
23 are having trouble finding enough people.  
24 And my agency serves about 2 to 3,000 people

1 a year. We sent out invitations. We got  
2 not one single response, which really  
3 surprised me. But, as it turns out, very  
4 few people with disabilities were able to  
5 endure a fifteen-hour shift. They just  
6 couldn't do it. They were willing to do a  
7 five-hour shift, a seven-hour shift, but  
8 fifteen hours they couldn't do. So I think  
9 this bill would help bring in more potential  
10 inspectors by just opening it up for more  
11 people.

12 And thank you.

13 SENATOR ADDABBO: Thank you, Mr.  
14 Pannisi.

15 MR. PANNISI: Yes.

16 SENATOR ADDABBO: Any questions from  
17 my colleagues?

18 Mr. Fagan, Mr. Pannisi, you should know  
19 that, as we go through these hearings  
20 throughout the state, we are starting to  
21 see, I guess, common problems, whether they

22 be in Albany, Manhattan, you know, or here,  
23 so this is why these hearings are helpful,  
24 as we start to the address these most common

1 problems.

2 So with the change in dynamics of the  
3 voting process with the increased amount of  
4 voters, the issues of accessibility and the  
5 issues of different training for poll  
6 workers to handle the different and changing  
7 climate patterns of our voting population,  
8 that's why these hearings are helpful, so we  
9 can start to work on these issues. So I  
10 thank you again both for your time and  
11 testimony. Thank you very much.

12 Our next panel, Diane Dwire, chair of  
13 Onondaga Democratic County Committee, and  
14 Dustin Czarny, chairman of 17th ward, City  
15 of Syracuse.

16 DIANE DWIRE

17 Chairwoman

18 Onondaga Democratic County Committee

19 MS. DWIRE: Senator Addabbo, Senator  
20 Griffo and Senator Valesky, I thank you very  
21 much for giving me the opportunity to speak

22 on these proposed bills. I'm going to only

23 comment and I will try to be very brief --

24 SENATOR VALESKY: Thank you.

1 MS. DWIRE: -- hopefully on four of  
2 them. The first one is the early voting.  
3 You know, I agree with this concept. I  
4 think the issue is not long waiting lines.  
5 I think it's really giving the people the  
6 flexibility. And in the proposal it  
7 suggests one week. I might suggest, instead  
8 of one week in one place, it would be the  
9 weekend before in multiple places. But, as  
10 has been stated, this certainly does create  
11 some problems and -- because of the multiple  
12 different types of ballots that we have.

13 One of the things that I would say  
14 requiring the vote...and I read this...to be  
15 counted within 24 hours, I think, is very  
16 unrealistic if we're talking about a paper  
17 ballot. I know it goes on a little bit  
18 here, in canvassing, and it's just an  
19 unrealistic expectation. But we, I think,  
20 should look into that.

21 This next one is 2868-A, the additional

22 information on the absentee ballots. And

23 I'd like to say as a health care

24 professional, a nurse, this almost strikes

1 me as a violation of HIPAA, reg. violations,  
2 but I know it truly is not a HIPAA  
3 violation. But for the state to require  
4 such information that is very personable,  
5 regarding even their physician and their  
6 hospital or where they're going on vacation,  
7 it certainly does create some -- which is...  
8 I think this is material that is FOILable...  
9 creates some serious concerns. And I would  
10 very much urge that this be passed  
11 immediately.

12 One of the other things, though, that's  
13 not quite mentioned in here is that when we  
14 look at absentee ballots and as several  
15 people have suggested maybe using more of  
16 that than the early voting, is that we  
17 really need to maybe look at the reason why  
18 absentee ballots are disqualified. I think  
19 of the coffee rings, the extraneous marks,  
20 and I understand it 'cause I've sat it on  
21 those sessions when we go over absentee

22 ballots. But I also know my 89-year-old  
23 father, who is a permanent absentee ballot,  
24 is 89 years old and could easily spill

1 coffee on the ballot. And, therefore, they  
2 should not really be disqualified, and I  
3 know they don't know that.

4 The next one, 1701, I think our  
5 election inspectors, you know, they work one  
6 to two days a year, they're very good,  
7 they're very competent and they take their  
8 job very responsible, but they are humans  
9 and humans make errors. So, if a voter is,  
10 you know, inadvertently given an affidavit  
11 ballot in the wrong voting election  
12 district, then I think that really -- ballot  
13 should be counted. However, this does  
14 create, once again, different problems  
15 because it may be the wrong ballot and only  
16 those elections that would pertain to them  
17 in their proper election district could be  
18 counted, which is actually why I would very  
19 much prefer the other...I just lost my place  
20 for a second...that I would very much prefer  
21 the bill 6991 -- or I'm not sure which one

22 it is. There's 2443. It seems to be the  
23 same. This one would require voters to be  
24 directed to the correct polling place in an

1 election district. If the intent of the  
2 various proposed legislation is to increase  
3 voter turnout and to assure that each vote  
4 is counted, we have to come into the 21st  
5 century. It is argued that paper copies and  
6 -- of maps and street-finders can be very,  
7 very voluminous. This is true, but not an  
8 acceptable excuse. In today's age of  
9 technology, we have computers, palm pilots  
10 and other electronic devices that could be  
11 used by the inspectors to be linked directly  
12 to the voter registration system to look up  
13 the voters and provide them with the  
14 accurate information of where to vote.

15 We should at least start to implement  
16 this in larger cities. The paper hard  
17 copies is a doable in many of the towns and  
18 villages. In fact, in the Town of Camillus,  
19 street-finders at polling places were at one  
20 time provided to the inspectors in order to  
21 direct voters to their proper voting place.

22        However, this is not true for all of the  
23        towns.

24        To implement this legislation, each

1 polling place, though, I believe should be  
2 required to have what I would call a  
3 coordinator who would solely be responsible  
4 for assisting the voters to the correct  
5 election district. It just does not seem  
6 appropriate for -- you've got inspectors  
7 doing multi tasks. There may be one person  
8 dedicated. I'd like to share one quick  
9 thing. In the past election we identified  
10 several voting places in Onondaga County and  
11 we had some of our volunteers, our, quote,  
12 co-watchers, who were there actually  
13 voluntarily coordinating, calling us at  
14 headquarters; we were looking up where  
15 election polls were so they could help  
16 direct. The calls get swamped. So I think  
17 it's something we maybe need to start with a  
18 pilot because it certainly would be a lot of  
19 training, but I think it would be extremely  
20 beneficial.

21 So I would say, if you were truly

22 sincere about increasing voter participation

23 versus voter suppression, we must have

24 reform in our election laws and funding for

1 the counties must be provided so it can be  
2 implemented. Thank you.

3 SENATOR ADDABBO: Thank you, Ms.  
4 Dwire.

5 MS. DWIRE: Was I quick?

6 SENATOR ADDABBO: You did very good.

7 MR. Czarny.

8 DUSTIN CZARNY

9 Chairman

10 City of Syracuse, 17th Ward

11 MR. CZARNY: Senators, thank you for  
12 allowing me to testify today. I've been an  
13 activist for voting rights for all my entire  
14 adult life. I think I was born into it.  
15 And I'm chair of a very active ward here in  
16 Syracuse. I'm going to be brief. I do want  
17 to touch on most of these bills here, but,  
18 before I do, I would ask and encourage the  
19 senate to look into ways to help fund these  
20 various bills. Passing these amendments  
21 through our constitution will have no effect

22 if the current level of funding for the  
23 elections boards across the county and  
24 across the state aren't kept up. We need to

1 have an investment in our own democracy,  
2 which is a very important investment. It  
3 will lead to a better participation at all  
4 levels of government and we'll reap benefits  
5 from that fruit for generations to come if  
6 we can do that. And as the Empire State, I  
7 think we can.

8 In the first bill, the Early Voting  
9 Act, I'm a father of a 19-year-old freshman  
10 who chose to go to the University of South  
11 Florida and, much to my chagrin, actually  
12 changed her registration down there last  
13 year because, in her words, we needed the  
14 votes there more than we needed the votes  
15 here. And so I had to agree with her. And  
16 she participated in the early voting in  
17 Florida and stood in long lines, a couple of  
18 hours, to do so. I'm definitely in favor of  
19 early voting here in New York State. I  
20 think there's a way to do it. Again, it  
21 must be funded. We must have those funds to

22 do this. Having one location inside a  
23 county, just a county Board of Elections, is  
24 not enough.

1           We have a very big mall that we -- I'm  
2           sure they'll be looking to rent space in.  
3           These are places that with our modern  
4           technology we can, you know, link into the  
5           voter database, that we can have early  
6           voting places throughout the county,  
7           especially in federal election years where  
8           there's such a high need and want for voting  
9           that -- but it must be funded. If we just  
10          put this mandate out there, it will not be  
11          realized. However, early voting, you know  
12          -- although absentee ballot voting, as Mr.  
13          Szczesniak said, could help with that  
14          situation, I think many voters like the  
15          tactile sensation of actually going in there  
16          and marking a ballot, pushing a button or  
17          clicking a lever. And to -- you know, that  
18          is a -- I know I feel proud as a citizen  
19          when I go in to vote, and, if somebody wants  
20          to early vote and stand in those lines and  
21          do that, I think we should find a way to

22 make that possible.

23 However, coming to the absentee ballot

24 vote, absentee ballots, S5028 and S2868,

1     which I believe pretty much go together, it  
2     is ridiculous that we, you know, require in  
3     this day and age a reason for an absentee  
4     ballot. We have single-parent families who  
5     may not be able to get out of the house to  
6     go vote. We have people who work and travel  
7     long commutes to and from their job and may  
8     only have a few hours throughout their day  
9     where they could actually get to the polling  
10    place, and if they see long lines when they  
11    get there they're going to pull their car  
12    out and go to the responsibilities of their  
13    families.

14        If they know ahead of time it would be  
15    easier and more beneficial for them to do an  
16    absentee ballot, by all means, we should  
17    find a way to make that possible. Removing  
18    that language from the absentee ballot would  
19    allow that.

20        S1701, although I'm in favor of this in  
21    theory, I do have to worry about the

- 22 practicality of it, especially in odd
- 23 election years where there are local
- 24 elections going on. It seems like it may be

1 a little too permissive. On a countywide  
2 level, even in state election years where we  
3 have state senate -- state assemblies,  
4 you're talking about two-thirds of the  
5 county where you would go to vote if you  
6 were in the wrong place that your ballot may  
7 not be counted for anything but a statewide  
8 or countywide race because you're voting --  
9 the affidavit ballot in the polling places  
10 will be different than the affidavit ballot  
11 that would be in your true polling place and  
12 so your vote will not be counted in the  
13 elections throughout, especially on the  
14 local level. And in on add election year  
15 like this, where we have many city races  
16 going on this year, if you just decide to go  
17 across the border to Dewitt, those ballots  
18 are not going to be available, and on a very  
19 busy Election Day they may not be able to  
20 get to the right place. So I think we need  
21 to actually put this one on the voters a

22 little bit. However, this could be resolved  
23 by making this maybe a town or citywide  
24 instead of countywide change.

1           This will resolve that issue for all  
2           but the lowest level of district counselor  
3           or towns that have a ward system where they  
4           have district town counsels. And although  
5           there may be instances where some votes are  
6           not counted for those races, there will also  
7           be a -- most of the -- I think the spirit  
8           that what we are trying to do here with this  
9           will be allowed to count. And I think the  
10          benefits of that will far outweigh the  
11          problems that are happening.

12          I don't think anybody has any issue  
13          with requiring that the polling places be  
14          accessible to the disabled. I do think that  
15          there is some question of how we do that.  
16          And I'm not even going to really touch on  
17          that too much. However, authorizing the  
18          Board of Elections to employ election  
19          inspectors to work half-day shifts, from  
20          what I understand, you're not requiring  
21          half-day shifts but you're authorizing them

22 to have half-day shifts in some inspection  
23 cases. And I believe that will open up the  
24 pool of inspectors and we will get a better

1 quality of inspector as well by opening up  
2 that pool.

3 We may have teachers who work in a  
4 school that is a polling place who decide,  
5 after their teaching day is ending at 2:00,  
6 to work the two-to-nine shift. This will be  
7 a great opportunity to have a higher level  
8 of inspector. You can still have inspectors  
9 that work all day, so you can have the  
10 history of what happened in that polling  
11 place throughout the day that can be  
12 reported on. But, if you're allowing for  
13 half-day inspectors, I think, you know, and  
14 people who are working shift work, we're  
15 going to open up that position to people  
16 that may serve the public a little bit  
17 better and also be fresher throughout the  
18 day. 6:00 a.m. To 9:00 p.m. is a very long  
19 day, and I work it every Election Day so I  
20 know by 9:00 p.m. I'm not as responsive to  
21 the people calling me on the phone as I was

22 at 6:00 a.m.

23 SENATOR ADDABBO: It's actually a

24 much longer day because you have to get

1       there earlier and by the time --

2           MR. CZARNY:   That's right, and they  
3       have to count the ballots at the end.

4           So, you know, lastly, S2443, I think  
5       this is going to be the most expensive of  
6       the options, and again I urge that New York  
7       State actually fund this option.

8       Commissioner Ryan brought forth an example  
9       of a software system, a hand-held software  
10      system that can help in this, which is  
11      45,000 in the first year.  Again, this seems  
12      like a lot of money in these tough economic  
13      times, but again it is an investment in our  
14      democracy.  And if we are going to try to  
15      get our voters to the right polls, a lot of  
16      times if you're just giving them a card and  
17      say call and try to find out the  
18      information, if the phone line is busy or if  
19      they're busy, they're not going to make that  
20      call.  They're just going to leave and  
21      they're not going to come back.  Having the

22 information there at the polling place will  
23 allow these people to vote quicker and be --  
24 you know, and we will get those people to

1 the right polling place, which may just be a  
2 couple blocks away, especially if the other  
3 provision is not passed for the countywide  
4 voting.

5 So again I urge that we adopt that  
6 measure, but I also urge we adopt it with  
7 funds to back it up.

8 SENATOR ADDABBO: Mr. Czarny and Ms.  
9 Dwire, thank you very much for testimony and  
10 your suggestions as well. I really  
11 appreciate the suggestion part as we go  
12 forward, so thank you very much.

13 MR. CZARNY: Thank you.

14 SENATOR ADDABBO: Our next panel, Dr.  
15 Wanda Warren Berry, director of New Yorkers  
16 for Verified Voting, and Dr. Grant Reeher...  
17 I apologize if I mispronounced the name.

18 SENATOR VALESKY: Reeher.

19 SENATOR ADDABBO: Reeher. I'm so  
20 sorry.

21 DR. WANDA WARREN BERRY

- 22 Director
- 23 New Yorkers for Verified Voting
- 24 DR. BERRY: Shall I go first? Good

1 morning, Senator Addabbo and Valesky and  
2 Griffo.

3 And I'm glad to put a face with a name  
4 David Kogelman. I'm Wanda Warren Barry,  
5 director of New Yorkers for Verified Voting.  
6 We refer to that as NYVV.

7 We are a nonprofit citizens group which  
8 has been advocating for election integrity  
9 in New York during the five years that the  
10 state has faced the challenge of the Help  
11 America Vote Act. On our website NYVV  
12 publishes its aim as "to ensure that all  
13 eligible citizens can vote and that their  
14 votes will be accurately counted."

15 During the years leading up to the  
16 counties' choices of equipment for HAVA  
17 compliance, under the leadership of our  
18 former director, Bo Lipari, we were  
19 recognized as a driving force behind the  
20 strong grassroots effort to advocate for a  
21 system based on voter- marked paper ballots.

22 That choice now having been made, NYVV's  
23 current focus is on encouraging citizen  
24 oversight of the implementation of this

1 system through procedures and practices that  
2 promote security during the recording and  
3 counting of the votes. While we stand ready  
4 to oppose and critique any voting systems,  
5 procedures or policies that could violate a  
6 citizen's right to vote, our particular  
7 emphasis is on technological and procedural  
8 accuracy and security. Therefore, I will  
9 emphasize these aspects of the bills before  
10 you today.

11 And I won't speak to all of the bills.  
12 I'll try to shorten this. First, the Early  
13 Voting Act, our position now is that early  
14 voting ought not to be adopted until New  
15 York has in place careful procedures and  
16 arrangements to keep both the machines and  
17 ballots secure during an extended period for  
18 the casting of ballots. While we support  
19 every reasonable effort to encourage more  
20 people to vote, our constituents in NYVV at  
21 this point disagree with one another about

22 the value of early voting, and I receive  
23 arguments on both sides. Therefore, we  
24 believe this bill should be tabled until

1     there is more evidence that early voting  
2     actually is effective enough in improving  
3     voter turnout to make it worth the extra  
4     demand for staffing and security. Another  
5     reason for delaying action on this issue, we  
6     think, is that it seems unwise to institute  
7     early voting at the same time that New York  
8     is implementing a completely new voting  
9     system. So we suggest tabling that.

10         With regard to what's called no-excuse  
11     absentee voting, many of our constituents  
12     support these measures to allow the state to  
13     protect the privacy of voters who apply for  
14     an absentee ballot. It's true...and I --  
15     another colleague of mine will go into more  
16     detail with this later...that the absentee  
17     ballot is intimidating to some people and  
18     discourages them from voting even when they  
19     can't get to a polling place.

20         I do want to point out that absentee  
21     ballots sent by mail are inevitably less

22 secure than those cast in the polling place;  
23 therefore, every possible step must be taken  
24 to protect both the security and privacy of

1 absentee ballots.

2 I want to skip down then to Bill  
3 1836-A, the proposal that would allow  
4 election inspectors to work half-day shifts.  
5 NYVV supports this proposal so -- and I like  
6 the way the bill is written that calls for  
7 at least one inspector from each major party  
8 to be there for the whole Election Day.  
9 Most of the inspectors we've talked to  
10 support this bill, and many of us are  
11 election inspectors.

12 I do want to point out particularly the  
13 concerns for security and accuracy that  
14 cause us to support this measure. People  
15 who are tired are more apt to make mistakes  
16 than when they're not so tired. The  
17 security procedures for the new equipment  
18 that have been described to us will take  
19 alertness and attention to detail at every  
20 step, especially in opening and closing the  
21 polls. Therefore, half-day shifts for at

22       least some workers seem to be indicated so

23       that people are alert and able to do that.

24       I have more concern and I know there's

1 more controversy about the bill numbered  
2 5112. This is the bill that would require a  
3 place in the ballot to indicate that one has  
4 intentionally undervoted. With a few  
5 members of NYVV dissenting from this  
6 position, the majority of our board of  
7 directors and steering committee believes  
8 that New York's law should not require  
9 undervote notification in the programming of  
10 the scanners. Only overvote notification is  
11 required by HAVA.

12 As a matter of fact, so far we don't  
13 know of other states that require undervote  
14 notification. We should research that, but  
15 we haven't found any.

16 We believe the opportunity to correct  
17 the ballot for which HAVA calls is provided  
18 when you have a paper ballot that can be  
19 reviewed in the privacy booth and replaced  
20 if the voter asks for a new copy. And that  
21 could be done before submission to the

22 scanner.

23 Therefore, we think this change in the

24 ballot is unnecessary and that it will

1 confuse voters. Instead, the undervote  
2 notification requirement should be rescinded  
3 in New York so that scanners would not be  
4 programmed to do undervote notification but  
5 only overvote. We urge instead that the  
6 senate develop a bill that would amend  
7 Election Law 6209.28 to delete the phrase  
8 "or undervote." This is the sentence that  
9 would be changed: "In a paper ballot"...I'm  
10 quoting now..."In a paper-based voting  
11 system, the system must indicate to the  
12 voter specific contests or ballot issues for  
13 which an overvote or undervote is detected."  
14 We suggest deleting "or undervote."

15 There are several reasons for this  
16 change; first, the protection of privacy.  
17 Notice that HAVA advises -- in the section  
18 following the description of need to notify  
19 of overvotes, advises that, quote, "any  
20 notification required under this paragraph  
21 preserve the privacy of the voter and the

22 confidentiality of the ballot." We have  
23 found that automatic notification of an  
24 undervote is seen by many as threatening the

1 privacy of their vote. Especially in small  
2 jurisdictions with a short ballot, it might  
3 seem easy for those in the polling place to  
4 know when a voter deliberately did not vote  
5 in an uncontested race.

6 Reports from states that already have  
7 implemented paper-ballot scanner systems  
8 suggest that voters are confused even when  
9 the scanners warn only of overvotes, and  
10 there's a tendency for the poll workers to  
11 get involved and for a jeopardization of  
12 privacy.

13 We also would point out that automatic  
14 notification of undervotes will slow the  
15 submissions of ballots to the scanners. We  
16 would like to point out that adding the box  
17 for the voter to indicate an intentional  
18 undervoting as in this proposed bill is an  
19 unnecessary complication of the process of  
20 learning the new voting system since  
21 notification of undervotes was not required

22 on the lever machines.

23 I want to then point out that, if the

24 election law requiring a notification of

1       undervotes is not amended, some kind of  
2       arrangement needs to be made to override  
3       undervote notification, but I think having  
4       the box to indicate intentional undervoting  
5       at the top of the ballot is not as good a  
6       solution as having that box at the bottom of  
7       the ballot.

8             In sum, we believe that, if voters are  
9       carefully educated about the ballot and  
10      encouraged to review it in the privacy  
11      booth, undervote notification is unnecessary  
12      on the scanners and that requirement should  
13      be rescinded. However, we realize that  
14      there may need to continue to be undervote  
15      notification on the ballot marking devices.

16            I'm going to just mention one thing  
17      that came up in my dialogue with members of  
18      my board in the last couple of days, and I  
19      want to make sure it's known that this  
20      recommendation doesn't grow out of any  
21      experience with election commissioners in

22 this room, because I think they don't need  
23 the training I'm going to suggest. But I do  
24 hear from people around the state who do not

1     have confidence in us moving forward with  
2     this new system and confidence in the way  
3     their vote will be counted because they do  
4     not have confidence in the professional  
5     training of their election commissioners.

6         As an educator, I want to encourage  
7     development of legislation that would  
8     require certification of election  
9     commissioners. Modern elections and their  
10    technologies are complex and ought no longer  
11    to be managed by persons who lack specific  
12    training for their positions. While many  
13    commissioners conscientiously attend  
14    workshops over the years and are qualified  
15    by years of experience, even they would be  
16    benefited by a process that would recognize  
17    that they are professionals, that their work  
18    requires training and expertise.

19        The day is past when we can assume that  
20    anyone nominated by a county political  
21    committee is able to run elections.

22 Training schools might be provided by the  
23 state on the model of those offered for  
24 persons elected as town clerks and justices.

1 I also suggest that certifying programs  
2 could be developed in regional community  
3 colleges, and I've suggested some of the  
4 courses that might be there, like computer  
5 skills, mathematics and so forth, ethics for  
6 election administrators.

7 While many of our commissioners could  
8 be certified without further training, it is  
9 time to make sure all of our elections are  
10 in the hands of qualified persons with  
11 professional training.

12 Thank you.

13 SENATOR ADDABBO: Thank you, Dr.  
14 Berry.

15 Dr. Reeher.

16 DR. GRANT REEHER

17 DR. REEHER: Thank you, Senator  
18 Addabbo, Senator Valesky, Senator Griffo,  
19 for the opportunity to testify today. I  
20 don't have copies of my testimony ready to  
21 share, but I'll polish what I'm about to say

22 and send that by --

23 SENATOR ADDABBO: Please do.

24 DR. REEHER: -- very quickly. We're

1 limited to three minutes, and, as you might  
2 gather, three minutes to an academic is like  
3 a nanosecond. So I'll get right to my  
4 conclusion.

5 The answer is yes. That is, I'm  
6 generally in favor of these proposals as a  
7 group, but I also have a broader lingering  
8 reservation.

9 Regarding the yes, I think anything  
10 that opens up the voting process further,  
11 that makes it more inclusive and easier to  
12 vote, is likely to have a positive effect on  
13 voting levels and simply provides people  
14 greater opportunities to vote. So, from a  
15 small-D democratic perspective, these seem  
16 to be good ideas, and, as I'm sure you know,  
17 New York is one of the more restrictive  
18 states when it comes to voting and  
19 participation rules, so you could argue that  
20 the changes are even more needed here.

21 Having said that, I'd also note,

22      though, that none of these is going to lead  
23      to a revolution in higher voter turnout, and  
24      I'm sure you know that as well.

1       One thing I would note in that regard,  
2       though, is the research from my political  
3       science colleagues recently suggests that a  
4       particularly effective difference-maker for  
5       people voting is not rules or technological  
6       changes but, rather, in-person appeals to  
7       vote, the power of peers working in real  
8       space and real time. And that finding  
9       actually ties in with my broader  
10      reservation, which I'll get to in just a  
11      second.

12      The one proposal here that I find  
13      particularly entreaty is the last one on  
14      the list. It's gotten a lot of attention so  
15      far allowing the voter to state the  
16      intentionality of undervoting. If I  
17      understand that proposal correctly, you can  
18      see it as a very weak version of a "none of  
19      the above" option, which exists right now  
20      only in Nevada in the United States, and  
21      even there it's a nonbinding result.

22 I actually think "none of the above"

23 would be a good idea in New York and this

24 slight nod toward it is a good thing, I

1 think. But here's the big reservation I  
2 have. John Madden used to like to say that  
3 NFL football needed more bunting, not the  
4 baseball kind of bunting but the red, white  
5 and blue kind that you hang from your window  
6 or the sky box of the stadium. I think our  
7 voting also needs more bunting, and what I  
8 mean by that is that our day of voting needs  
9 to be wrapped in a civic pageant that makes  
10 it more of a shared community event, a  
11 shared state event, even a shared national  
12 event, and that helps to invest it in a  
13 greater civic meaning. And so our voting  
14 days, I think, need to be more genuine  
15 holidays, they need to be days of  
16 reflection, days of deliberation,  
17 conversation and civic celebration.

18 In order to do that, the day itself  
19 has to maintain its importance, and the act  
20 of voting needs to be something that we do  
21 together at one time. And there needs to

22 be, I think, an actual moment of decision.

23 And viewed from that perspective, some of

24 these proposals and others that have

1 recently been instituted in other states to  
2 make voting easier arguably dilute that to  
3 some degree, and I'm referring here  
4 particularly to the Early Voting Act and the  
5 removal of restrictions on absentee voting.

6 Now, other proposals here, of course,  
7 strengthen the civic value that I'm  
8 describing, the provisions for the disabled,  
9 the requirement to direct voters who are in  
10 the wrong place to the right place. But  
11 from this perspective of creating a civic  
12 community event, I think you'd want to focus  
13 on making voting on the day easier but also  
14 to preserve that day's importance. So  
15 things like requiring employers to give time  
16 off for voting or holding our elections on  
17 Sunday or having more polling places all  
18 make sense from that perspective.

19 But, again, from the standpoint with a  
20 couple of the proposals that are under  
21 consideration here, what we may be doing is

22 chasing a slightly higher turnout, which is  
23 a valuable goal, at the expense of changing  
24 something important about the civic nature

1 of the very enterprise itself.

2 Having said all that, then I awake from  
3 my ancient Greek city state dream and  
4 conclude on balance that the additional ease  
5 of voting not only on the day but before  
6 that day is probably a desired thing, so, to  
7 go back to my conclusion, the answer is yes.

8 SENATOR ADDABBO: Dr. Reeher, thank  
9 you very much. Any questions from my  
10 colleagues?

11 SENATOR GRIFFO: Professor, I don't  
12 think you should shrink away from the Greek  
13 dream. It would probably be something that  
14 is a great encouraging aspect to try to get  
15 a national debate on the date itself. I  
16 mean many other countries use weekends and  
17 we tend to continue to look at that Tuesday.  
18 So I think that's a very valuable subject  
19 for consideration and discussion and  
20 advocacy.

21 The question I would have is, relative

22 to when we talk about some of these  
23 procedures, while they're tending to make it  
24 easier, could it also be problematic in the

1 sense that in the last week of an election  
2 things change; if you have early voting,  
3 something dramatically may happen where  
4 somebody may have thought gee, I wish I had  
5 the opportunity to cast my vote again. Is  
6 that a problem, do you see?

7 DR. REEHER: Well, that's always the  
8 issue and the tradeoff that you're making  
9 with early voting. Again, the research  
10 tends to indicate that most elections most  
11 of the time, by the time you get to that  
12 point, most voters' preferences are pretty  
13 well locked in, for the general election, at  
14 least for the big top-ticket races. I mean  
15 there always is movement at the end, and  
16 certainly we've seen that if we go back the  
17 last 16 years or so, you can see evidence of  
18 people making up ground at the last second.  
19 But that -- you know, but that is the risk.

20 I think the theme that I would  
21 emphasize here today, though, is, in going

22 back to what you started with, to the degree

23 that we want to make this a meaningful

24 thing... and that's really what our European

1 counterparts do a better job of than we  
2 do...having the elections on Sunday is one  
3 thing; there are other things that they do  
4 as well. You've got to keep that day being  
5 very, very important and have it be  
6 something that we do together.

7 SENATOR GRIFFO: Thank you.

8 DR. REEHER: Sure.

9 SENATOR ADDABBO: Thank you very  
10 much, Senator Griffo. There being no other  
11 questions, I want to thank this panel very  
12 much for their time today. Thank you very  
13 much.

14 Our next panel is Reginald Neale,  
15 Citizens for a Better New York, and Nina  
16 Kohn, Professor of Syracuse University  
17 College of Law.

18 I want to thank you both for being here  
19 today. Please state your name for the  
20 record and give your testimony.

21 NINA KOHN

22 Associate Professor of Syracuse University

23 College of Law

24 MS. KOHN: Thank you Senator, Chair

1 and Senators, for allowing me to be here  
2 today. My name is Nina Kohn. I'm an  
3 Associate Professor at Syracuse University  
4 College of Law where my research focuses on  
5 the civil rights of older adults and where  
6 I've had the opportunity to study and write  
7 about access to voting by persons with  
8 disabilities and senior citizens. My  
9 testimony today will focus on senate bill  
10 1058-A.

11 1058-A represents an improvement over  
12 current law and will help bring our state  
13 into compliance with federal law. Instead  
14 of simply stating that there must be an  
15 accessible entrance but allowing a waiver,  
16 1058-A requires all polling places to be  
17 accessible to citizens with disabilities and  
18 comply with the accessibility guidelines of  
19 the Americans with Disabilities Act.

20 While I support this bill, I believe it  
21 does not go far enough. Specifically, I'm

22 concerned that it will fail to make voting  
23 accessible to all citizens with disabilities  
24 for two primary reasons.

1           First, the bill focuses on access to  
2           polling places and not on access to voting  
3           itself. But it's not enough to be able to  
4           get in the door of the polling places. To  
5           successfully vote, the voter must be able to  
6           access the ballot, comprehend the ballot and  
7           register voting preferences. Accordingly,  
8           elections are only truly accessible when  
9           voting equipment is accessible, election  
10          staff understand and can use that equipment  
11          and appropriate assistance is available to  
12          those who need it.

13          The ADA guidelines with which this bill  
14          would require compliance don't address these  
15          issues. They provide detailed guides as to  
16          the design of other facilities...mini golf  
17          courses, piers... but they say nothing about  
18          polling places, voting equipment or election  
19          procedures. Moreover, they generally only  
20          apply to the design or construction of new  
21          facilities or the alteration of existing

22 ones.

23 I would, therefore, encourage this

24 committee to amend the bill to cover voting

1 equipment and procedures as well as polling  
2 places. The first sentence of a revised  
3 bill might read something like replacing the  
4 words "each polling place" with "all polling  
5 places, voting equipment and procedures".

6 Okay. Second, the bill focuses only on  
7 the physical accessibility of voting, and I  
8 would urge this committee to address, either  
9 in this bill or in future legislation, the  
10 cognitive accessibility voting. Physical  
11 disabilities are only one form of disability  
12 that can prevent citizens from being able to  
13 exercise their right to vote. Cognitive  
14 disabilities, even those as seemingly minor  
15 as short-term memory loss or mild confusion,  
16 can really create formidable barriers to  
17 voting, and that's true even where those  
18 disabilities don't rise to the level that  
19 they undermine the capacity to make informed  
20 voting choices.

21 So a number of reforms are possible

22 that could reduce the extent to which  
23 cognitive disability prevents would-be  
24 voters from exercising their fundamental

1 right to vote.

2 A key reform in this state would be to  
3 change on very outdated election law, New  
4 York Election Law 5.1066, that, in clear  
5 opposition to our limited guardianship  
6 scheme, denies the right to vote to anyone  
7 adjudicated incompetent regardless of  
8 whether they've been adjudicated incompetent  
9 to vote or not.

10 Other reforms could focus on polling  
11 place conditions, such as low lighting and  
12 distracting noises, that increase the  
13 cognitive demands of voting and thus may  
14 effectively make voting impossible for  
15 certain citizens.

16 Other reforms could focus on ballot  
17 design, eliminating unduly complex and  
18 confusing ballots. Finally, actually making  
19 the absentee balloting process less complex,  
20 as two of the bills being considered here  
21 today would do, could also help make voting

22 more cognitively accessible to persons with

23 disabilities.

24 In considering these forms, the

1 committee might find informative the  
2 American Bar Association's new  
3 recommendations regarding voting by persons  
4 with mental and cognitive disabilities.

5 In conclusion, I think 1058-A is a step  
6 in the right direction, but it really does  
7 fall short of making voting accessible.  
8 Attention needs to be paid to the physical  
9 and cognitive barriers to voting that remain  
10 even once someone has crossed the threshold  
11 into the polling place.

12 Thank you for your consideration.

13 SENATOR ADDABBO: Thank you,  
14 Professor Kohn. Thank you.

15 Sir, you're up.

16 REGINALD NEALE

17 Citizens for a Better New York

18 MR. NEALE: Good morning, Senator  
19 Addabbo, Senator Griffo and Senator Valesky.  
20 Thank you for the opportunity to testify  
21 here this morning.

22 My name is Reginald Neale. I live at  
23 6032 County Road 41 in Farmington. I have  
24 been a resident of New York State my entire

1 life. I'm a member of Citizens for a Better  
2 New York, a nonpartisan group working for  
3 reform of state government.

4 As you know, CFBNY is currently  
5 addressing several reform issues. Our  
6 members have testified at several senate  
7 hearings across the state. However, my  
8 testimony today reflects my personal views,  
9 which are not necessarily those of my  
10 organization.

11 I want to thank you and Senator Smith  
12 for providing this forum. I certainly hope  
13 that the state senate is setting an enduring  
14 precedent with these statewide hearings.

15 Let us hope that this demonstrates a new  
16 commitment to making real-world connections  
17 with citizens and to documenting their input  
18 on important issues. The senate's new web  
19 link that encourages on-line public comments  
20 on pending legislation is also a valuable  
21 new tool.

22           Rather than comment in detail on the  
23 bills that were listed for discussion today,  
24 I'd just like to make some brief comments.

1           In general, I support legislation that  
2 improves voter access or process. And there  
3 are additional comments in my written  
4 testimony. Much of the discussion to date  
5 has been about the effects of legislation on  
6 the general election, but primary elections  
7 are a critical component of needed reforms  
8 to state government. Challengers who run in  
9 primaries are often individuals who are  
10 motivated to make changes and to implement  
11 reforms. Yet both major political parties  
12 have historically used primaries as a tool  
13 to block challenges and to reduce the  
14 choices available to voters. We must make  
15 sure that primary elections are fair and  
16 that they preserve the widest possible range  
17 of electoral choices for citizens.

18           I support changes to election law like  
19 those proposed by Senate Bill 355, 1366 and  
20 Assembly Bill 4161 and 2651, which affect  
21 petition requirements.

22           There are two other issues, which may  
23           at first seem peripheral to today's  
24           discussion but which, in my opinion, are

1 central to the idea of fair elections.  
2 First, even if all the election law problems  
3 which have been discussed before this  
4 committee were solved, voters are still  
5 being deprived of fair representation  
6 because the boundaries of legislative  
7 districts are distorted for political  
8 advantage.

9 I hope you and your committee will  
10 support the creation of a truly independent  
11 commission with authority to draw  
12 legislative district lines.

13 Second, fair elections are impossible  
14 without campaign finance reform. As long as  
15 wealthy individuals or those supported by  
16 special interests or backed by the political  
17 establishment are the only ones who can  
18 afford to run an effective election  
19 campaign, our state legislature will  
20 continue to be the most dysfunctional in the  
21 nation. I'm glad to see that you have

22        scheduled future hearings dedicated to

23        campaign finance reform.

24        Finally, one can't help but be struck

1 that, in testimony before this committee and  
2 also before the Temporary Committee on Rules  
3 of Administration, individuals and  
4 organizations alike have repeatedly pointed  
5 to the Brennan Center's recommendations.  
6 Citizens and good-government groups all  
7 across the state largely agree on the kinds  
8 of changes that need to be made. There is  
9 never a shortage of good ideas. The real  
10 deficit has been leadership. Leadership  
11 develops the political consensus for  
12 implementing solutions.

13 I hope that you, your committee and the  
14 senate as a whole will maintain your  
15 momentum. You have my support and  
16 encouragement. Please do not fail to take  
17 maximum advantage of your new tools. Your  
18 goal must be real changes in state  
19 government, changes that can restore New  
20 York State to its historic position as a  
21 world leader in jobs, education, finance and

22 health care.

23 Thank you for your attention.

24 SENATOR ADDABBO: Thank you, Mr.

1 Neale. Any questions from my colleagues? I  
2 want to thank both of you for your  
3 testimony.

4 I have one real quick question for  
5 Professor Kohn.

6 You said the American Bar Association  
7 had a report?

8 MS. KOHN: Yes, and I'd be happy to  
9 provide that to your staff.

10 SENATOR ADDABBO: If you can, please,  
11 that would be helpful.

12 Thank you very much, both of you.  
13 Again appreciate your time here today.

14 Our next panel, Charles Pierce-El,  
15 National Action Network, and Lenore  
16 Rapalski, director of Advocacy for Syracuse  
17 League of Women Voters.

18 Mr. Pierce-El.

19 CHARLES PIERCE-EL

20 National Action Network

21 MR. PIERCE-EL: First of all, I want

22 to thank you senators for coming here to  
23 Syracuse, New York and opening up this  
24 process. It's been way overdue.

1           SENATOR ADDABBO: Thank you.

2           MR. PIERCE-EL: Senator Addabbo,  
3           Senator David Valesky, my senator, and  
4           Senator Joseph Griffo and counselor and  
5           young lady, thank you for coming here to  
6           Syracuse to hear our complaints and hear our  
7           concerns.

8           SENATOR ADDABBO: Thank you.

9           MR. PIERCE-EL: On behalf of the  
10          Alliance Network -- I'm playing with three  
11          hats here, but, first of all, Senator, I'd  
12          like to tell you something that's very  
13          disturbing and, you know, you can take it  
14          either way. You brought some bad weather  
15          here 'cause we had good weather. We had  
16          good weather here up until you came here  
17          late.

18          SENATOR ADDABBO: I'm sorry. I'll  
19          try to take it back with me. Fair enough?

20          MR. PIERCE-EL: Thank you, appreciate  
21          that. Fair enough. Secondly, on behalf on

22 the Alliance Network, my president Walt

23 Dixie, we agree with everything that you

24 have set down on here. We agree with

1 everything. He informed me to make sure  
2 that I emphasize that, that the Alliance  
3 Network was in agreement on everything that  
4 you have here.

5 On my other half, I'm also the  
6 chairperson of the Southside Homeowners  
7 Association, and we too agree with this here  
8 on behalf of the Homeowners Association.

9 And as an advocate, a community  
10 advocate, I heard a lot of things here  
11 today, and a lot of things were good and a  
12 lot of things we were not -- we were not  
13 helping you guys with your solutions and I'd  
14 like to point out some solutions that I  
15 think is way overdue. For a person that  
16 history predicts that we have been  
17 disenfranchised for a long time in this here  
18 country, and I'm a product of that and my  
19 ancestors have died to give us this right to  
20 vote in this country, this great country of  
21 ours, there's a lot of things that need to

22 be said that was not said. And the solution  
23 is: We've asked a lot of times and we asked  
24 a lot of times of our people and our

1 senators and our elected officials for money  
2 to pay, but yet we have a lot of time that  
3 we can volunteer. And we don't capitalize  
4 on that. And for the senator and for this  
5 committee, I would also suggest that we  
6 start using our children because this  
7 country is based on your children's future.  
8 And in my particular district that I can  
9 speak on, which is the largest district in  
10 the City of Syracuse, the fourth district,  
11 our voting is terrible. And our young  
12 people do not participate, only because of a  
13 lack of education.

14 And our commissioners in this community  
15 does not set up enough education; not only  
16 the commissioners but organization, like  
17 NAACP, the churches, youth organizations,  
18 schools, we don't set up enough programs to  
19 teach our children to volunteer for some of  
20 these things that you guys are putting in  
21 place for us. You know, it's just like a

22 farmer. A farmer puts out -- a farmer has a  
23 whole lot of good seeds. Some of those  
24 seeds are going to flourish and some are

1 not, and he's got to weed them. And we  
2 don't do a good job of weeding educating our  
3 children as a collective amount of people in  
4 our district. And, sir, there should be  
5 some stipend somewhere along the line to  
6 help educate these children, especially  
7 children of my complexion and of the African  
8 American community. And I can only speak of  
9 Syracuse even though I know it happens  
10 across this whole United States. And I  
11 would like for this committee, not only for  
12 this particular thing, and for my Senator  
13 Dave Valesky to help implement some of these  
14 changes that need to take place because in  
15 our nation -- in our fourth district  
16 election, we have over 7,000 people in that  
17 district; only 1,200 turns out. And we have  
18 a deciding factor of maybe 500 people  
19 deciding who our elected officials are in  
20 the City of Syracuse and the fourth  
21 district, and that's ludicrous. That is

22 terrible. And I think the main point that  
23 we have to start using and showing our young  
24 people how to volunteer, and that will take

1 up some slack of the pay that normally  
2 people are always asking for pay. So with  
3 the volunteers and maybe some type of  
4 stipend and educational purposes, I think  
5 that would help you guys help us and help  
6 our country grow even with this pilot,  
7 because this is a pilot and without you guys  
8 doing this we never would have had this in  
9 the first place. So I want to thank you  
10 guys and commend you guys for a job well  
11 done. Thank you.

12 SENATOR ADDABBO: Thank you, Mr.  
13 Pierce-El. Thank you.

14 Ms. Rapalski.

15 MS. RAPALSKI: Yes. I have a feeling  
16 that you may have heard this testimony  
17 before.

18 SENATOR ADDABBO: Yes, in Albany, but  
19 please.

20 MS. RAPALSKI: Yes. I'm Lenore  
21 Rapalski and --

22           SENATOR ADDABBO:  If you can

23           summarize that --

24           MS. RAPALSKI:  I will.

1           SENATOR ADDABBO:  -- I would  
2 appreciate that.

3           LENORE RAPALSKI  
4           Director of Advocacy  
5           Syracuse League of Women Voters

6           MS. RAPALSKI:  I will.  I fully  
7 intended to.  My name is Lenore Rapalski and  
8 I am director of Advocacy and Local Issues  
9 for the Syracuse Metro League of Women  
10 Voters.  The testimony I was going to read  
11 today has already been read, for the  
12 purposes of the audience behind me, has  
13 already been read in Albany, to, I believe,  
14 two of you at least.  I don't know, Senator  
15 Valesky, if you were there.

16          SENATOR VALESKY:  No.

17          MS. RAPALSKI:  But you can have a  
18 copy of it so ...

19          SENATOR VALESKY:  I have it already.

20          MS. RAPALSKI:  All right.  Pretty  
21 much the items that our election

- 22 specialist...that would be Aimee
- 23 Allaud...for the New York State League of
- 24 Women Voters, I have a collection of the

1 bills and also whether we agreed with them  
2 or not. Would you like me to read that, not  
3 for your purposes but more for the people --

4 SENATOR ADDABBO: Again, if you can  
5 summarize that portion I'd appreciate it.

6 MS. RAPALSKI: Sure. Senate Bill  
7 3250, that is your bill, Senator Addabbo,  
8 enacting the Early Voting Act, the League  
9 has no position on the early voting, per se,  
10 because there has not been opportunity to  
11 study the effects.

12 The second, S5028 and S2868-A, that's  
13 you, Senator Addabbo, both expand absentee  
14 voting by removing unnecessary documentation  
15 requirements on the application for an  
16 absentee ballot, the League strongly  
17 supports both of these measures, and both of  
18 the New York State Election Commissioners  
19 Association and the New York State Board of  
20 Elections also support the measures.

21 Senate Bill 1701, Dilan, the counting

22 of affidavit ballots, the League has no

23 position on the bill.

24 Senate Bill 1058-A, Addabbo, requiring

1 that all polling places be accessible to  
2 physically disabled voters, the League  
3 supports the bill to amend the New York  
4 State Election Law to conform to federal  
5 accessibility standards.

6 S1836-A, Klein, permits election  
7 inspectors to work half-day shifts, the  
8 League supports this measure, which  
9 potentially may increase the number of  
10 citizens who apply to work as poll  
11 inspectors and draw younger individuals into  
12 the process.

13 S2443, Stewart-Cousins, the bill has --  
14 or the League has no position on this bill.

15 Finally, S5112, Foley, in relation to  
16 the form of the paper ballot, this bill  
17 would add a new subdivision to the election  
18 law stating that ballots must provide an  
19 area to be filled in by a voter that would  
20 notify the voting system that the voter  
21 intended to undervote deliberately so the

22 optical scanner would not produce an error

23 message which would reject the ballot.

24 And that's it. Thank you very much.

1           SENATOR ADDABBO: Ms. Rapalski, thank  
2           you very much. I appreciate your time.  
3           Thank you so much.

4           Our next panel, Robert Spitzer, chair  
5           of the political science department for the  
6           SUNY-Cortland, and Richard Kendrick, a civil  
7           engagement director for SUNY-Cortland. Good  
8           afternoon, gentlemen.

9                        ROBERT SPITZER  
10          Chairman - Political Science Department  
11                        SUNY-Cortland

12          MR. SPITZER: Good afternoon. Thank  
13          you, Mr. Chairman, for the opportunity to  
14          testify. I am Robert Spitzer, chair of the  
15          political science department at  
16          SUNY-Cortland. I believe the proposals --  
17          all of the proposals under consideration  
18          merit speedy passage by the state senate,  
19          but I wish to use my limited time to speak  
20          primarily about the so-called no-excuse  
21          early voting.

22           As you know, 32 states allow for early  
23           voting. In the 2000 presidential elections,  
24           14 percent of all votes cast nationwide were

1 cast before Election Day. That would  
2 include paper voting and in-person voting,  
3 early voting. In 2004 nationwide 22 percent  
4 of all votes cast were early votes, and last  
5 year, 2008, it was a third of all votes  
6 cast. Early voting is no longer an  
7 experiment. It's instead an integral  
8 feature of the voting process across the  
9 country.

10 And it has, I think, three obvious  
11 benefits without really any measurable  
12 drawbacks, and I say that understanding that  
13 there are financial startup costs and there  
14 are knowledge costs as well. First, it  
15 relieves one-day Election Day pressures on  
16 election officials and voters by spreading  
17 out the voting process. Second, it makes  
18 voting more convenient. Third, the measure  
19 before the state senate lets early voting  
20 occur at local board of election offices  
21 where early voting can, in effect, serve as

22 a testing ground for equipment and  
23 procedures before actual Election Day  
24 arrives.

1           And as to my colleague Grant Reeher's  
2           point about Election Day needing more  
3           bunting, I certainly agree, but I think he  
4           misses the point about early voting. Early  
5           voting magnifies the bunting effect because  
6           people actually voting will vote and will  
7           talk about voting, and it's in-person  
8           conversations and the buzz of the election  
9           process before Election Day that will add  
10          bunting to our electoral process absent  
11          moving our Election Day to a Saturday or  
12          Sunday.

13          Now, last fall I witnessed early voting  
14          in Delaware County, Indiana, on the Saturday  
15          before Election Day. It was November 1st.  
16          At the county seat of Muncie, I saw nearly  
17          300 people standing in line waiting to vote  
18          at the county clerk's office. According to  
19          the county employee who escorted me,  
20          employees were willing to work on a Saturday  
21          not only to relieve Election Day pressures

22 but to give people the chance to vote on a  
23 weekend, and, indeed America is virtually  
24 the only democratic nation that does not

1 hold its elections on the weekend. Support  
2 for early voting in Indiana, I should say,  
3 is bipartisan.

4 And, finally, let me say one thing  
5 about early voting and politics. Some have  
6 argued that Barack Obama and the democratic  
7 party were advantaged by early voting in  
8 last year's elections, but that's not  
9 exactly correct. Obama's campaign did adapt  
10 its political strategy to early voting  
11 trends, but this reflected two important  
12 traits. The first is that Obama's campaign  
13 was strategically more advanced than was  
14 that of his opponent, just as in 2004 George  
15 W. Bush's campaign was strategically more  
16 advanced than that of his opponent. And,  
17 secondly, Obama had far more money to spend  
18 on early voting mobilization efforts. The  
19 Republicans would have spent it had they had  
20 it.

21 Early voting, as well as no-excuse

22 absentee voting, is neither democratic or  
23 nor republican. It is instead  
24 pro-democracy.

1 Thank you very much.

2 SENATOR ADDABBO: Thank you, Mr.

3 Spitzer. Thank you.

4 RICHARD KENDRICK

5 Director

6 Institute for Civic Engagement

7 SUNY-Cortland

8 DR. KENDRICK: Senators, thank you

9 very much for the opportunity to be here

10 today. My name is Richard Kendrick. I'm

11 the director of the Institute for Civic

12 Engagement at SUNY-Cortland and a colleague

13 of Bob's.

14 And I'm here to comment specifically on

15 four provisions that I think will enhance

16 student participation in the electoral

17 process. As the director for the Institute

18 for Civic Engagement on our campus, that has

19 been one area of focus for us, is getting

20 students registered to vote, informed to

21 vote and then to the polls to vote on

22 Election Day. And I've seen a number of  
23 obstacles to that process that I think some  
24 of these provisions will do a lot to

1 rectify.

2 I am particularly supporting S1701 that  
3 will require that affidavit ballots be  
4 counted if they are cast in the right county  
5 but not necessarily the correct polling  
6 place; S3250 that will amend the election  
7 law to enact early voting because I think  
8 that will allow those students who would  
9 like to vote in their home towns more  
10 accessibility to that opportunity; S5028  
11 that will allow absentee voting by qualified  
12 voters for any reason and without  
13 explanation, particularly if it would be  
14 possible for students to actually request a  
15 ballot on the voter registration form.  
16 Right now they request an application for an  
17 absentee ballot.

18 Many students don't understand that  
19 that's all they're going to get, is the  
20 application. They think, having checked  
21 that, they'll get the ballot in the mail.

22 They don't understand the process fully. I  
23 think if they have the opportunity to  
24 receive a ballot off of something that they

1 can mark on the registration form that would  
2 be very advantageous.

3 And then S6991 that requires poll  
4 clerks and election workers to provide maps  
5 of polling places and assistance to find  
6 one's correct polling place would also be  
7 very advantageous for those students who are  
8 properly registered but just happen to show  
9 up at the wrong site as they sometimes do.

10 I would reiterate some of the comments  
11 made by others earlier that it would -- it  
12 seems to me to be important that this be  
13 automated. Your voter registration and your  
14 polling place is now available on-line.

15 It's amazing to me that we don't have  
16 laptops at the polling places with internet  
17 access so we can look that up right away and  
18 send somebody to the right location. And I  
19 hope that that can be something that we can  
20 work toward.

21 Provision 1386-A that would shorten the

- 22 days -- or the shifts, rather, that poll
- 23 workers would be required to work I think
- 24 would be very helpful for increasing student

1 participation as poll workers. We've had a  
2 program at Cortland for several years,  
3 funded initially by the U.S. Election  
4 Assistance Commission, to train students as  
5 poll workers. The response has been  
6 excellent. I think this would increase the  
7 likelihood that students would participate  
8 as poll workers if they didn't have to work  
9 the extensive shifts that are currently  
10 required.

11 So, in short, I want to indicate my  
12 support for these provisions. As you may  
13 know, the State of New York unfortunately  
14 ranks 40th in the nation in percentage of  
15 young people ages 18 to 29 who voted in the  
16 2008 election. I think we can do much  
17 better, and I think these provisions will  
18 help.

19 Thank you very much.

20 SENATOR ADDABBO: Thank you, Mr.  
21 Kendrick. We do have a question from

22 Senator Griffo.

23 SENATOR GRIFFO: Dr. Spitzer, when

24 you look at Dr. Reeher and you were talking

1 about... and I think I find that an  
2 interesting concept... and he talks about a  
3 communal experience, but you talk about  
4 generating interest as you lead up to that  
5 experience, but isn't that, if you truly  
6 want a communal experience leading up to it,  
7 it could dilute that on that day, couldn't  
8 it?

9 DR. SPITZER: Not to my way of  
10 thinking, because the election process a  
11 season and it's the -- it's the acceleration  
12 through the season that causes people to  
13 focus greater attention on the fact that an  
14 election is coming up.

15 SENATOR GRIFFO: Doesn't that already  
16 exist in campaigns?

17 DR. SPITZER: Well, campaigns have  
18 that very effect, and more and more voters  
19 become aware that an election is occurring  
20 as you approach Election Day. But the  
21 advantage to early voting as a way of

22 accelerating interest is that it happens not  
23 through television, although there would be  
24 media information, but it happens through

1 in-person contact. It's people going to  
2 vote early, a week early let's say, who then  
3 talk to their family members, to their  
4 neighbors, their friends, to their  
5 coworkers, "Hey, I voted yesterday," and  
6 it's that direct -- as Professor Reeher  
7 pointed out, it's person-to-person contact,  
8 is the most powerful, that has the most  
9 powerful impact on the attitudes of others  
10 and the political attitudes of others and  
11 the political awareness of others. And it's  
12 precisely because early voting involves feet  
13 going to the polls that there's every good  
14 reason to believe that it will accelerate  
15 interest in the final couple weeks leading  
16 up to election day.

17 SENATOR GRIFFO: Could that be  
18 accomplished if we were looking at the  
19 no-excuse absentee balloting which would  
20 allow people to still cast that ballot  
21 earlier but also then to continue to ensure

22 that people go to the polls on Election Day

23 to try to create that environment that Dr.

24 Reeher discussed?

1 DR. SPITZER: It could, except for  
2 one thing, which is absentee voting is a  
3 private act, in-person voting is a public  
4 act. And I think that distinction would  
5 give a little more weight to the beneficial  
6 public consequences of allowing in-person  
7 early voting, although I certainly agree  
8 that loosening extraneous restrictions  
9 regarding absentee voting would be  
10 beneficial as well.

11 SENATOR GRIFFO: Thanks. Senator  
12 Valesky.

13 SENATOR VALESKY: Thank you, Mr.  
14 Chairman. Professor Spitzer, thank you for  
15 your testimony.

16 DR. SPITZER: Thank you.

17 SENATOR ADDABBO: We have questions.

18 DR. SPITZER: Oh, I'm sorry.

19 SENATOR VALESKY: Yeah. It's not a  
20 question. Maybe it's a comment.

21 In regard to early voting, I noticed

22 your experience certainly in Indiana and  
23 often the experience we read about and hear  
24 about in regard to other states often

1 centers around a presidential election.  
2 Obviously that only happens once every four  
3 years and I can't imagine a system where we  
4 would have a bifurcated laws, one for  
5 presidential election years and one in the  
6 intervening three years. I would be  
7 interested in any data that you may have in  
8 regard to the experience with early voting  
9 in other states in non-presidential years,  
10 and particularly how that has affected  
11 turnout, if it has at all. I know we always  
12 tend to focus on presidential elections, but  
13 that's ...

14 DR. SPITZER: Yes. There should be  
15 available data on congressional midterm  
16 election year turnout rates, and I will  
17 pursue that and get back to your office.

18 SENATOR VALESKY: Thank you.

19 SENATOR ADDABBO: Mr. Spitzer, Mr.  
20 Kendrick, thank you so much for being here  
21 and for your efforts in the SUNY system. I

22 appreciate that as well. Thank you very

23 much.

24 DR. SPITZER: Thank you for that.

1           SENATOR ADDABBO: I want to thank  
2           Senator Griffo, a member of the elections  
3           committee, for being here today. Thank you,  
4           Senator Griffo.

5           And our last panel, panel of two, Mike  
6           Atkins, Executive Director of Concerned  
7           Citizens Action Program, and Carolyn Todd,  
8           New Yorkers for Verified Voting.

9           (Whereupon Senator Griffo excused  
10          himself from the hearing.)

11          MR. ATKINS: I have one other  
12          gentlemen that's going to be with us. This  
13          is Bishop Molefe.

14          SENATOR ADDABBO: Okay. So you want  
15          Miss Todd to speak first and I'll call you  
16          up as the last panel? How's that?

17          MR. ATKINS: Excellent.

18          SENATOR ADDABBO: Fair enough.

19          MR. ATKINS: He's from South Africa  
20          so this system is kind of new to him --

21          SENATOR ADDABBO: Okay.

22 MR. ATKINS: -- so if he could sit

23 right here and ...

24 SENATOR ADDABBO: Is he going to give

1 testimony or no?

2 MR. ATKINS: Yes, he's just going to  
3 give testimony.

4 SENATOR ADDABBO: Okay. Miss Todd,  
5 why don't you sit up front here and these  
6 gentlemen will be the last panel.

7 MS. TODD: Do you want me to go  
8 first?

9 SENATOR ADDABBO: Sure.

10 CAROLYN TODD

11 Election Inspector in Madison County  
12 Member of New Yorkers for Verified Voting

13 MS. TODD: Senators Addabbo and  
14 Valesky, good morning. My name is Carolyn  
15 Todd. I reside in Hamilton, New York. I'm  
16 an Election Inspector in Madison County, and  
17 I'm also a member of New Yorkers for  
18 Verified Voting and I'm very interested in  
19 the integrity of elections.

20 I would like to speak today in favor of  
21 Bills S5028 and 2868-A as they relate to the

22 use of absentee ballots. I would like to  
23 present three reasons for supporting these  
24 bills.

1 First, the onus is on the voter to  
2 state the exact nature of one's absence on  
3 Election Day, but the authority to accept  
4 the application rests with the County Board  
5 of Elections. Will a voter be out of town  
6 due to business obligations?

7 Will a last-minute business trip arise?  
8 Will an illness of a senior citizen cause  
9 the voter to be housebound on Election Day?  
10 If a business trip or an illness should  
11 occur after the seven-day deadline required  
12 to postmark the application prior to the  
13 election, then the voter is confronted with  
14 a problem. The application needs to be hand  
15 delivered to the County Board of Elections,  
16 at great expense if Federal Express or  
17 overnight mail is used. Personally driving  
18 the application to the Board of Elections  
19 appears to be an option.

20 In the case of voters who reside in a  
21 rural county, such as my own county of

22 Madison, a 34-mile round-trip drive must be  
23 made to deliver the application. These  
24 last-minute crises can be avoided if voters

1 are permitted to choose a no-excuse absentee  
2 ballot.

3 Second, the voter needs to divulge  
4 one's location on Election Day and dates of  
5 one's absence. Why is this necessary? Are  
6 the rights of voters protected when they are  
7 asked to document the place where they  
8 expect to be on Election Day? Who will be  
9 responsible for protecting this sort of  
10 private information, information that  
11 reveals when one's home will be vacant and  
12 for the periods of time involved.

13 Third, the quality of time required by  
14 candidates and their attorneys and the time  
15 required by paid election officials at the  
16 local and state levels challenging and  
17 defending these absentee ballots results in  
18 a very costly procedure. Government  
19 resources need to be used to serve people  
20 with real problems, not spent arguing the  
21 technicalities of every absentee ballot in

- 22 an election. Challenging the absentee
- 23 ballot of Senator Kirsten Gillibrand in the
- 24 Congressional District 20 special election

1     this spring does not further the cause of  
2     election trustworthiness and accuracy.

3             In conclusion, shrinking budgets and  
4     common sense on both the public and private  
5     side of the election equation demand that  
6     reason prevail. No-excuse absentee ballots  
7     need to be made legal in New York State.

8             And if I could just make one other  
9     comment about one of the other pieces of  
10    legislation, which is S2443, pertaining to  
11    the assistance of voters when they arrive at  
12    the wrong polling place, and I've heard a  
13    couple of comments made this morning about  
14    sort of beefing up the polling place, with  
15    more equipment, laptops, sounds like  
16    instantaneous map production, GPS  
17    equipment's going to be required and really  
18    sort of institutionalizing a real heavy-duty  
19    polling place, I would suggest that the  
20    system we have in Madison County is  
21    wonderful. We just call the Board of

22 Elections and ask: Here's the voter, where

23 should she vote.

24 I know that having cell. phones, asking

1 election inspectors to have cell. phones is  
2 a concern, and so I would suggest for a \$10  
3 Tracphone or \$20 Tracphone provided to each  
4 polling place. The communication is then  
5 allowed and encouraged from the poll site to  
6 the Board of Elections and with one or two  
7 phone calls the voter can be assisted and  
8 directions can be given, and I would say  
9 that trying to get elections inspectors to  
10 utilize laptops and maps and directions on a  
11 laptop is just too much. So that's my  
12 thought on that one.

13 SENATOR ADDABBO: Thank you, Miss  
14 Todd.

15 Mr. Atkins.

16 MIKE ATKINS

17 Executive Director

18 Concerned Citizens Action Program

19 MR. ATKINS: Thank you, Senator  
20 Addabbo and to our great senator here in  
21 Central New York. My name is Mike Atkins.

22 I'm a former city councilman with the  
23 City of Syracuse and also a former city  
24 chair in the City of Syracuse.

1           And as you heard earlier, a gentleman  
2 spoke about the fourth district. That's the  
3 district that at one time I represented,  
4 which, when he spoke of the numbers of  
5 individuals that are not truly represented  
6 in there as far the voting process, that has  
7 always been a challenge for that district.

8           I'm here today -- well, I'd like to  
9 thank you, first of all, for this panel  
10 discussion, because this is a very important  
11 issue. And I'd also like to thank Senator  
12 Malcolm Smith for hosting these types of  
13 panels throughout New York State.

14           But when you talk about the voting  
15 participation, when you look at the  
16 democracy of our country and the importance  
17 of people engaging, it's crucial. Today I  
18 have a visitor that's here with me from  
19 South Africa, Bishop Phillip Molefe, and he  
20 is one of the pioneers that was with Nelson  
21 Mandela in South Africa during their

22      apartheid, and I thought it was very fitting  
23      for him to come today to see democracy at  
24      work here in the United States and right

1 here in our great State of New York and in  
2 the City of Syracuse. And I had wanted him  
3 to just share with you something that he has  
4 witnessed and just recently through the  
5 election of the new president, Joseph Zuma,  
6 and the lines of people that stood in line  
7 over five hours that had walked miles just  
8 to engage in a voting process. We talk  
9 about access to polls. These individuals  
10 walked miles and stood in line in 110  
11 degrees of heat to participate. And I think  
12 the key is how do we begin to get all  
13 citizens to truly understand the passion and  
14 the importance of voting and for their  
15 rights. So I yield my time and I would just  
16 like the Bishop just for a few minutes.

17 SENATOR ADDABBO: Please, Bishop  
18 Molefe.

19 BISHOP MOLEFE

20 BISHOP MOLEFE: Good afternoon to all  
21 the Senators here today.

22 I thank Mike for inviting me for this  
23 special and interesting occasion.  
24 Voting is my interest in South Africa.

1 And here I think I have a cutting here,  
2 which I brought along to show the importance  
3 of voting in South Africa.

4 In South Africa, voting is a priority  
5 for all the citizens of South Africa. We  
6 wake up eight hours even before sunrise to  
7 go to the polls to cast our votes. And this  
8 morning I think it is my pleasure to be in a  
9 gathering like this. I didn't know that I  
10 would have an opportunity of sharing my  
11 interest when it comes to voting, but I  
12 think the cutting that I have here will say  
13 it all. Can I hand it over?

14 SENATOR ADDABBO: Please.

15 MR. ATKINS: Again, Senator, I'd like  
16 to thank you for giving us this opportunity  
17 and especially for allowing the bishop to  
18 say a few words on behalf of South Africa.

19 SENATOR ADDABBO: Well, Mr. Atkins, I  
20 am pleased that the Bishop is here and that  
21 basically he is part of our -- the last

22 panel to highlight the importance of our  
23 democracy, not only throughout the state but  
24 throughout the country, so it is fitting,

1 Bishop Molefe, that you're here and thank  
2 you very much for being here and again  
3 capping off what to me is a very  
4 constructive and productive hearing. So  
5 thank you very much.

6 Mr. Atkins, you brought up the fourth  
7 ward, and we heard from Mr. Pierce-El  
8 earlier --

9 MR. ATKINS: Yes.

10 SENATOR ADDABBO: -- about the  
11 numbers, unfortunately, but the need to  
12 motivate our younger voters, which I think  
13 is very important. We heard from, I  
14 believe, Dr. Reeher earlier about the need  
15 for civic involvement and I think that's a  
16 great theme that we need to promote in our  
17 election system, the need to encourage not  
18 only young voters but the voter population  
19 in general to instill upon them the great  
20 need to vote and the basic patriotism that  
21 is involved in voting. And I think this is

22 something that the elections committee wants  
23 to look into deeper. So I appreciate your  
24 testimony as well. And, Bishop, I wish you

1 a safe trip back to South Africa.

2 BISHOP MOLEFE: Thank you.

3 SENATOR ADDABBO: Thank you very  
4 much. Ladies and gentlemen, I thank you all  
5 for being a participant in this very  
6 constructive hearing as we go forward not  
7 only improving and expanding the voting  
8 process and registration to voter  
9 participation but protecting the checks and  
10 balances that are there, protecting the  
11 integrity and the accuracy of our voting  
12 system. We don't want to dilute that in any  
13 way, so we need to obviously protect that in  
14 the same way and try and promote the  
15 increased voter participation.

16 I want all to know the upcoming  
17 hearings that the elections committee is  
18 having on May 28th and on June 3rd. May  
19 28th will be in Rochester. On June 3rd will  
20 be in Albany. The topic there will be  
21 campaign finance reform. And in September,

22 a specific date to be determined, we would

23 be talking about Board of Elections

24 oversight, and in November we will be

1 talking about elections oversight in  
2 general.

3 Again, the purpose of these hearings is  
4 to open up the process, to be more  
5 transparent, to be more inclusive of the  
6 people who this affects on a -- pretty much  
7 a daily basis.

8 So we appreciate your participation  
9 here today, and I will take the bad weather  
10 back home with me so don't worry to the good  
11 people of Syracuse. Thanks for allowing us  
12 to be here today, and thank you very much,  
13 everybody. Have a great day. Thank you,  
14 Senator Valesky. Thank you very much.

15 Written Statement Submitted by:

16 ROSS GALIN  
17 Election Protection

18 -----

19 Chairman Addabbo, members of the New  
20 York Senate Standing Committee on Elections,  
21 thank you for inviting me to provide this

- 22 statement on behalf of Election Protection
- 23 in support of what we believe are important
- 24 legislative initiatives.

1           Moreover, we thank you for holding this  
2           and other hearings on how we can best  
3           modernize New York State's election system  
4           and address the deficiencies we all know  
5           currently exist.

6           As you know, Election Protection is led  
7           by the Lawyers' Committee for Civil Rights  
8           Under Law and is supported by a diverse  
9           network of local and national coalition  
10          partners and over 10,000 legal volunteers  
11          across the country.

12          The cornerstone of Election  
13          Protection's work is our 866-OUR-VOTE voter  
14          services hotline. Last year, over 240,000  
15          voters, including 17,000 New Yorkers, called  
16          the hotline seeking assistance with a  
17          variety of election-related problems.

18          Additionally, tens of thousands more  
19          received assistance from our teams of mobile  
20          legal volunteers who were stationed  
21          throughout New York City on Election Day

22 this past November to help voters at

23 targeted poll sites.

24 In certain respects the 2008 election

1 was a success in New York State. A record  
2 number of New Yorkers turned out at the  
3 polls, and the vast majority were able to  
4 vote without incident. The election was  
5 not, however, without what have become  
6 expected problems. Prevalent among them  
7 were long lines at polling places, machine  
8 breakdowns and registration issues. We  
9 believe that each of the bills being  
10 considered by this committee today are  
11 important and each would improve New York's  
12 election system and go a long way towards  
13 addressing many of these problems that we  
14 witnessed. There are two in particular that  
15 we think are necessary to bring New York's  
16 election system into the 21st century.  
17 Those are S3250, the "Early Voting Act," and  
18 S5028 to allow for "no-excuse" absentee  
19 voting.

20 The work and family demands of modern  
21 society do not always allow voters the time

22 required to vote on a single Election Day.

23 Requiring nearly all voters to cast a ballot

24 on a single day restricts the ability of

1 many to participate in our democracy. More  
2 than one-third of registered voters who do  
3 not vote attribute their inaction to being  
4 out of town, away from home, too busy, or  
5 having conflicting obligations on Election  
6 Day.

7 Other Americans complain of  
8 transportation problems or inconvenient  
9 polling place locations. Early voting, as  
10 would be permitted under S3250, would allow  
11 much greater flexibility and significantly  
12 alleviate these concerns, thereby increasing  
13 turnout.

14 Not only does early voting increase  
15 turnout, but it also alleviates many of the  
16 problems that lead to mass  
17 disenfranchisement on Election Day.

18 Spreading out the burden of Election Day  
19 over a period of two weeks, as called for in  
20 this legislation, would provide election  
21 officials with the opportunity to recognize

22 and solve the problems that plague elections

23 prior to the time when most voters go to the

24 polls, and in a manner that would lessen the

1 risk that voters would be disenfranchised.

2 As hard as election officials try, and  
3 we recognize that they try hard, not every  
4 problem that emerges on Election Day can be  
5 solved quickly enough to prevent some voters  
6 from effectively being disenfranchised.

7 Election Protection has found in its work  
8 throughout the country that states that had  
9 early voting fared better than those that  
10 did not in overcoming some of the most  
11 pressing problems of this election season,  
12 including inadequate preparation by election  
13 officials and poll workers for the increased  
14 turnout, malfunctioning machines, shortages  
15 of paper ballots and long lines.

16 Our experience with Election Protection  
17 helps to illustrate just why New York needs  
18 to implement early voting. Mary T., a  
19 Manhattan voter, called our 866-OUR-VOTE  
20 hotline at 8:40 a.m. on Election Day to  
21 report that she had been waiting in line at

22 her polling place since 6:00 a.m. She  
23 reported that there were still several  
24 hundred people ahead of her in line. Mary

1 said that people were becoming frustrated  
2 and leaving without voting. Mary expressed  
3 concern that she too would not be able to  
4 wait out the long line. In part, the delay  
5 at Mary's polling place was due to a broken  
6 machine.

7 An early voting period would not  
8 prevent machine breakdowns, but it would  
9 mitigate the damage caused when one does go  
10 down, and, at the very least, an early  
11 voting period would significantly shorten  
12 the long lines at polls. According to Dr.  
13 Michael McDonald, a professor at George  
14 Mason University's Department of Public And  
15 International affairs, approximately 30  
16 percent of all ballots cast in the  
17 presidential election of 2008 were cast  
18 prior to Election Day. Of those  
19 approximately 39.7 million ballots, 94  
20 percent were cast in the 34 states with some  
21 form of no-excuse early voting. In North

22 Carolina, the state's adoption for 2008 of  
23 an early voting process lead to the state's  
24 highest voter turnout in 24 years. Nearly

1 half the ballots cast for president were  
2 cast prior to Election Day. In Georgia,  
3 one-third of voters took advantage of early  
4 voting.

5 In Florida, 4 million people voted  
6 early. A fact that should not be lost among  
7 these numbers is that New York is one of  
8 only 16 states that does not have some form  
9 of no-excuse early voting, and, in that  
10 respect, lags behind states like North  
11 Carolina, Georgia and Florida.

12 Mark S. of Syracuse called to report  
13 that the sole machine at his voting site had  
14 broken. Mark informed Election Protection  
15 that, to their credit, the poll workers had  
16 properly told voters that they could cast  
17 emergency paper ballots. Many voters,  
18 however, did not feel comfortable casting  
19 paper ballots. One of the important aspects  
20 of the S3250 is that it provides for early  
21 voting on machines, just as on Election Day.

22 This would allow those voters who, whether  
23 justified or not, do not trust paper ballots  
24 the option to guarantee voting on a machine

1 by voting during the early period. If a  
2 machine is down during the early period,  
3 voters can return on another day when the  
4 machine has either been fix or replaced,  
5 rather than vote by paper ballot.

6 For some voters, the health of the  
7 machines presents less of an obstacle than  
8 does their own health. Janet H. of  
9 Whitestone called our hotline in advance of  
10 Election Day hoping to learn that she could  
11 vote early. Janet explained that she is an  
12 older woman and some days she feels better  
13 and has more strength than other days. She  
14 hoped, therefore, that she could vote on a  
15 day that she felt well and strong, rather  
16 than risk that she would feel that way on  
17 Election Day. S3250 would offer Janet and  
18 others like her that opportunity.

19 S5028 is an important counterpart to  
20 the early voting period provided for in  
21 S3250. In the weeks leading up to this past

- 22 Election Day, the offices of New York's
- 23 Boards of Election reported overflow crowds
- 24 of voters seeking absentee ballots.

1       Unfortunately for many of those who waited  
2       in those lines, their votes were susceptible  
3       to challenge based on the supposed adequacy  
4       of their reasons for voting by absentee  
5       ballots. For example, had Janet H. voted by  
6       absentee ballot, her health issues would  
7       make her ballot susceptible to challenge and  
8       her vote not assured of being counted.  
9       S5028 would remove that risk.

10       The restrictions placed on the ability  
11       of New Yorkers to vote by absentee ballot  
12       are arbitrary and result in uneven  
13       application. If the purpose of absentee  
14       voting is to allow those who are unable to  
15       vote in person to exercise their right to  
16       vote, restricting its use as a New York law  
17       currently does is counterproductive. Our  
18       laws should be designed to foster  
19       participation, not restrict it.

20       Again, thank you for the opportunity to  
21       submit this statement, and, more

22 importantly, for continuing to examine how

23 New York's election laws can be improved.

24 Written Statement Submitted by:

1           LYNNE M. JONES and  
2           LAURA P. COSTELLO  
3       Election Commissioners of Madison County  
4           Board of Elections

5       -----

6           We are submitting written testimony on  
7       the bills proposed by the NYS Senate  
8       Committee on Elections.

9           We do not wish to speak at the hearing,  
10       but ask that our written testimony be  
11       considered and made part of the hearing  
12       record.

13          We submit our statements jointly, and  
14       would like to stress the importance of  
15       passing S5028 (no-excuse absentee) and  
16       S1386-A (half-day shifts for inspectors).

17          Thank you. I would like to submit the  
18       following written testimony regarding two of  
19       the senate bills that are on the agenda for  
20       the public hearing.

21          S5028, which amends the Constitution to

22 allow no-excuse absentee voting by removing  
23 the restrictions on a voter's right to vote  
24 by absentee voting.

1 Many election commissioners have been  
2 requesting that the no-excuse absentee  
3 voting issue be submitted to the State  
4 Legislature through the Legislative  
5 Committee of the Election Commissioners  
6 Association for many years. One of the main  
7 reasons this is a good idea is we have been  
8 hearing from voters that, with the new  
9 voting system being implemented, they are no  
10 longer going to vote. They do not want to  
11 vote on the new machines. Many of them are  
12 nervous about trying the new machines. When  
13 we tell them it will be okay, they still say  
14 they will no longer vote. They also ask why  
15 it is so hard to get an absentee ballot.  
16 Our only option right now is to tell them to  
17 leave the county before the polls open and  
18 not to return until after the polls close.  
19 This is not an option for many of them, so  
20 they will choose not to vote.  
21 I also believe voter turnout would be

22 better because many people do not want to go  
23 to the poll site to vote. They would rather  
24 do so in the privacy of their own home. It

1 would increase voter turnout.

2 If the absentee process was changed to  
3 allow no-excuse voting, there are procedures  
4 that are followed before absentees are  
5 opened and counted so that a person could  
6 not vote in person and also vote an absentee  
7 ballot. All absentee ballots are checked  
8 against the poll books after Election Day,  
9 so there is no way they could vote by  
10 absentee and in person. This is an  
11 excellent bill and is long overdue. I  
12 sincerely hope that this bill is passed and  
13 that Section 2 of Article 2 of the  
14 Constitution is amended.

15 S2868-A - eliminates the requirement  
16 that voters who request an absentee ballot  
17 disclose private and personal information  
18 about why they cannot vote at their polling  
19 station.

20 This bill should be supported for a  
21 number of reasons. Most of the information

- 22 that is received in the County Board of
- 23 Elections' office falls under the Freedom of
- 24 Information Law and can be viewed by someone

1 who files a FOIL request. This means that  
2 the private and personal information that  
3 has been entered on the absentee application  
4 can be viewed by others. The information  
5 can be viewed by attorneys who have  
6 impounded an election. Under an impoundment  
7 order, we were required to fax absentee  
8 applications to attorneys. Anyone could  
9 have had access to the information on those  
10 applications.

11 Anyone who works in our office also  
12 sees this information. We do not need to  
13 know the extent of a person's personal  
14 information. As long as we have the  
15 pertinent information to issue the absentee  
16 ballot, that is all the information we need.  
17 We do not need medical history. If they  
18 state that they cannot appear at the polling  
19 place, we can take that on good faith.

20 If a person is on vacation, education  
21 outside the county, working outside the

22 county, we do not need to know the details

23 of each of those. We have enough

24 information if we know that they will be

1 absent from the county, the dates they will  
2 be gone (if they require ballots for more  
3 than one election) and a mailing address,  
4 along with other identifying information  
5 that is required (name, date of birth, and  
6 county residence).

7 This bill would also help streamline  
8 the absentee application. Many times we  
9 cannot send an absentee ballot because some  
10 of the information is missing and we cannot  
11 reach the voter to get information that we  
12 do not feel is needed, but is required by  
13 Election Law at this time.

14 Thank you for taking the time to read  
15 and consider my written testimony on these  
16 two important bills. Sincerely, Lynne M.  
17 Jones, Election Commissioner, Madison County  
18 Board of Elections.

19 (The following is a continuation of  
20 the written statement submitted by Lynne  
21 M. Jones and Laura P. Costello, Election

22 Commissioners - Madison County Board of

23 Elections.)

24 As election commissioners, we

1 appreciate the need to get more people  
2 voting. We are not a true democracy when a  
3 registered few can decide who will govern  
4 our towns and cities, states and nation.  
5 Many of the bills we are reviewing are meant  
6 to increase voter turnout by making the  
7 process of registering and voting more  
8 convenient.

9 No-excuse absentee voting (S5028) and  
10 same-day registration (S1616) both greatly  
11 increase the access to the election process  
12 and require a Constitutional Amendment.  
13 This means that if the bills are passed this  
14 year we will still have several years to get  
15 comfortable with the new paper ballot voting  
16 system before implementing these new  
17 registration and absentee procedures. Both  
18 these bills should be passed.

19 Early voting (S3250) would alleviate  
20 the absentee voting process, but the bill  
21 would be effective January of next year.

22 The first federal election year using a new  
23 voting system is not the time to introduce  
24 new early voting procedures. This bill

1 would serve us better in another year.

2 The remaining bills being reviewed  
3 today apply to actual election procedures.

4 We agree that: S1058-A, polling places  
5 should be accessible; S1701, affidavits  
6 should be counted even if voted in the wrong  
7 election district (only counting the votes  
8 that apply to the correct district); S5112,  
9 paper ballots should contain a box to mark  
10 that any "undervotes" are intentional.

11 To require that the inspectors get the  
12 voter to the correct poll site (S2443) may  
13 be overambitious. Inspectors have street  
14 lists, poll site lists, and district maps.  
15 But if the voter is not registered, not in  
16 the primary party or wrongly districted, he  
17 may be sent to several poll sites by  
18 well-meaning inspectors. We recommend that  
19 the inspectors call our office where we can  
20 research the registration and determine why  
21 the voter is at the wrong poll site.

22      Allowing ballots cast in the wrong poll site  
23      to be counted would be more effective than  
24      expecting the inspectors to direct voters to

1 the correct poll site with maps and lists.

2 We need to allow inspectors to split  
3 shifts on Election Day (S1386-A). General  
4 Election day for inspectors can last from  
5 5:30 a.m. to after 10:00 p.m. Even a  
6 half-day shift would be eight hours. As  
7 senators, you must know what a 16-hour day  
8 is like. We are asking thousands of  
9 inspectors to work these long hours and then  
10 end the day with the highly accountable job  
11 of closing down the polls, sealing the  
12 voting machines and ballots, and canvassing  
13 the results. We have procedures in place,  
14 oaths taken, affidavits filed that can  
15 guarantee the integrity of an election  
16 without requiring all of our inspectors to  
17 work 16 plus hours and then canvass the  
18 election results.

19 Thank you for this opportunity to  
20 comment on the proposed laws and  
21 regulations.

22      Written Statement Submitted by:  
23      CHARLOTTE (CHUCKIE) HOLSTEIN  
24      Executive Director of FOCUS

1 "Forging Our Community's United Strength"

2 -----

3 THE WHITE HOUSE For Immediate Release

4 January 21, 2009 MEMORANDUM FOR THE HEADS OF

5 EXECUTIVE DEPARTMENTS AND my Administration

6 is committed to creating an unprecedented

7 level of openness in Government. We will

8 work together to ensure the public trust and

9 establish a system of transparency, public

10 participation, and collaboration.

11 Openness will strengthen our democracy

12 and promote efficiency and effectiveness in

13 Government.

14 Government should be transparent.

15 Transparency promotes accountability and

16 provides information for citizens about what

17 their Government is doing. Information

18 maintained by the federal Government is a

19 national asset. My Administration will take

20 appropriate action, consistent with law and

21 policy, to disclose information rapidly in

22 forms that the public can readily find and  
23 use. Executive departments and agencies  
24 should harness new technologies to put

1 information about their operations and  
2 decisions on-line and readily available to  
3 the public. Executive departments and  
4 agencies should also solicit public feedback  
5 to identify information of greatest use to  
6 the public.

7 Government should be participatory.  
8 Public engagement enhances the Government's  
9 effectiveness and improves the quality of  
10 its decisions. Knowledge is widely  
11 disbursed in society, and public officials  
12 benefit from having access to that disbursed  
13 knowledge. Executive departments and  
14 agencies should offer Americans increased  
15 opportunities to participate in policymaking  
16 and to provide their Government with the  
17 benefits of their collective expertise and  
18 information. Executive departments and  
19 agencies should also solicit public input on  
20 how we can increase and improve  
21 opportunities for public participation in

- 22 Government.
- 23 Government should be collaborative.
- 24 Collaboration actively engages Americans in

1 the work of their Government. Executive  
2 departments and agencies should use  
3 innovative tools, methods, and systems to  
4 cooperate among themselves, across all  
5 levels of Government, and with nonprofit  
6 organizations, businesses, and individuals  
7 in the private sector. Executive  
8 departments and agencies should solicit  
9 public feedback to assess and improve their  
10 level of collaboration and to identify new  
11 opportunities for cooperation.

12 I direct the Chief Technology Officer,  
13 in coordination with the Director of the  
14 Office of Management and Budget (OMB) and  
15 the Administrator of General Services, to  
16 coordinate the development by appropriate  
17 executive departments and agencies, within  
18 120 days, of recommendations for an Open  
19 Government Directive, to be issued by the  
20 Director of OMB, that instructs executive  
21 departments and agencies to take specific

22 actions implementing the principles set  
23 forth in this memorandum. The independent  
24 agencies should comply with the Open

1 Government Directive.

2 This memorandum is not intended to, and  
3 does not, create any right or benefit,  
4 substantive or procedural, enforceable at  
5 law or in equity by a party against the  
6 United States, its departments, agencies, or  
7 entities, its officers, employees, or  
8 agents, or any other person.

9 This memorandum shall be published in  
10 the Federal Register.

11 Barack Obama. \* \* \*

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