

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE OF GOVERNMENTAL OPERATIONS

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November 25, 2008

Start: 10:04 am

Recess: 12:20 pm

HELD AT: Council Chambers  
City Hall

B E F O R E:  
SIMCHA FELDER  
Chairperson

COUNCIL MEMBERS:  
Daniel R. Garodnick  
Larry B. Seabrook  
Peter F. Vallone, Jr.  
Inez E. Dickens  
Melissa Mark-Viverito

## A P P E A R A N C E S (CONTINUED)

Daniel Kolb  
Election Protection

William McDonald  
NAACP Jamaica branch

Teresa Hommel  
WheresThePaper.org

Marjorie Gersten

Susan Lerner  
Executive Director  
Common Cause New York

Dick Dadey  
Executive Director  
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Andrew Stengel  
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Rima McCoy  
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Douglas Kellner  
Co-Chair  
New York State Board of Elections

Benjamin Kallos  
Chief of Staff  
Assembly Member Jonathan Bing

## A P P E A R A N C E S (CONTINUED)

Adrienne Kivelson  
Elections Specialist  
New York City League of Women Voters

Regina Eaton  
Deputy Director of Democracy Program  
Demos

Marcus Cederqvist  
New York City Board of Elections

CHAIRPERSON FELDER: Good morning, ladies and gentlemen. [Pause] Good morning and welcome to this hearing of the Committee on Government Operations. I am Simcha Felder, Chair of the Committee and I am joined by my colleague, Council Member Dan Garodnick. I'd also like to acknowledge the staff from the Committee that prepared for today's hearing, Matt Gewolb--I know I pronounced that wrong.

MALE VOICE: You didn't, you got it.

CHAIRPERSON FELDER: Yeah? Counsel to the--Matt Gewolb, I just want to prove I could say it right a few times. Matt Gewolb, Counsel to the Committee; Israel Rodriguez, who is sitting--he's to my right and Israel Rodriguez is to his right, Policy Director of the Committee; and to my left, my Legislative Director, Michael Casertano. Today, the Committee will consider three important resolutions aimed at achieving meaningful voting reform and modernization. Resolution 1251 calls upon the state legislature to amend the state election law to permit electronic voter registration. 1252 calls upon the state legislature to pass A.4258 and S.5013, which would allow same-day registration. And 1698 calls upon the U.S. Congress and the state legislature to

pass legislation to allow some form of early voting, whether traditional early voting or no excuse absentee balloting or both. All three of these measures would help encourage democratic participation in different ways. And I'm eager to hear the testimony on these issues so the committee can have an informed discussion on the merits of these proposals. I'm pleased that there's been so much interest in these particular issues from my colleagues on the Council, as well as state and federal lawmakers and look forward to a lively and informative hearing. Before we begin today's hearing, I'd like to emphasize that it's my policy as Chair of this Committee to ensure that the hearings begin on time and therefore my rule has been that only those individuals that signed up to testify within the first 15 minutes of the hearing we'll allow to do so. So I remind you again if you want to testify, sign up. And it's about seven minutes after so we can round it off to 25 after.

[Pause] Additionally, I ask witnesses to refrain from repeating points that were already mentioned by previous witnesses. If somebody made a point that you agree with, you can say I agree. If somebody said something you don't like, you could say I don't like

it and that's enough. So before I get to the witnesses, I'd like to ask my colleague, Council Member Dan Garodnick, who has been in the forefront of fighting on these issues to make a few opening remarks.

COUNCIL MEMBER GARODNICK: Thank you, Mr. Chairman, and I'd just--on behalf of those of us who come to hearings and chair hearings, I just want to acknowledge your very expeditious manner and efficient way of operating, we all appreciate it and I want to thank all of you for being here today. I am not a member of this committee, I am a guest of the Government Operations Committee with a particular interest in the issues that are being discussed today. In the months leading up to this most recent election, this Committee hosted a number of oversight hearings relating to the New York City Board of Elections' preparation for the upcoming election. And each hearing left members of the committee and good government groups and the general public concerned about the ability of the Board to ensure that the historic election would run smoothly. As anticipated, the voters turned out here and across the country in record numbers and some polling sites New Yorkers

waited for three hours or more to cast their vote. And the fact that so many people were willing to wait, demonstrates the commitment of all of us to participating in the process and to ensuring that our vote will count. I mean the patience of New Yorkers and the patience of people around the country was truly inspiring, I thought, as an act of participation in our democracy. But New Yorkers deserve better and we know that a better system exists out there. In states around the country, voters were given the opportunity to cast their vote in person prior to Election Day or by absentee ballot without providing an excuse. And early voting and no excuse absentee voting make the process more accessible by allowing people to vote on a day and time that is convenient for them. I believe that, if given the opportunity, many more New Yorkers would vote early or by absentee ballot; delays at the polls would be mitigated and it would be much easier for the Board of Elections to ensure that the voting process runs smoothly. New Yorkers are the busiest people in the world, they should be given ample opportunity to have flexibility in the way that they cast their votes and that's why I'm so pleased to be co-sponsoring a resolution with

the Chair of this Committee on early voting and no excuse absentee voting and I'm very interested supporting the online voter registration system and same day voter registration concepts. We know that there are good alternatives out there and it's time for New York State and New York City to be pursuing those. So thank you, Mr. Chairman, for the opportunity to be here and to say a few words at the outset.

CHAIRPERSON FELDER: Thank you very much. Normally we set the clock for the testimony, but since there's a small crowd, I'm not going to do so, but I'm taking the privilege as Chair that if testimony goes, goes, goes, goes, goes on and on and on to reinstitute the normal timing. So say whatever you have to say cognizant of the fact that there are a lot of people listening here and would like to testify. First panel we'll have is Daniel E. Kolb and William McDonald. [Pause] I just want to mention for the record that I am a great advocate of trying to restructure the way testimony is done at committees. I can't control other committees, but I can try to control the way the hearings are done at my own committee and, therefore, as best as I can, we're



going to try to make sure that a panel of people who are unaffiliated with any organizations, regular citizens of this city get a chance to speak first at every hearing and I would hope that everyone appreciates that. [Pause] Whenever you want, which-- you know, whoever wants to start. You can decide among yourselves.

[Off mic]

DANIEL KOLB: Mr. Chairman, I really am sincere in saying that we very much appreciate your inviting me here today to speak on behalf--

CHAIRPERSON FELDER: [Interposing] You have to identify yourself.

DANIEL KOLB: --of Election Protection. And my name is Dan Kolb and I do represent Election Protection and the Lawyers Committee for Civil Rights here today--just as a caveat, I am not speaking for my law firm or the other partners in the law firm. We all recognize that voting is a cornerstone of democracy and, unfortunately, our Election Protection Coalition has seen firsthand in the recent election and prior elections that there are significant deficiencies in our system. Those deficiencies continue to make it difficult and often impossible for

citizens to cast their ballots or have their votes counted. This Committee is certainly to be commended for stepping up and addressing those deficiencies so very promptly after this year's election. Election Protection, just to identify it, is a coalition of legal professionals and civic engagement organizations that was started after the 2000 election and is led by the Lawyers' Committee for Civil Rights Under Law. Our objective is to provide non-partisan assistance to ensure that all voters are able to cast a meaningful ballot and, as we do here today, to utilize our experience with the problems voter encounter in advocating for changes that we believe would be beneficial. Election Protection is currently the largest non-partisan voter assistance organization in the United States. On November 4<sup>th</sup>, Election Day, Election Protection had more than 10,000 pro bono legal volunteers working on a strictly non-partisan basis in over 40 jurisdictions across the United States. This comprehensive program included 32 voter assistance call centers, as well as mobile legal teams, poll monitors, and dispatch attorneys in various cities and counties across the United States. The Election Protection 866-OUR-VOTE hotline and

website were widely disseminated on television networks and radio stations and in the print media. As a result, we received over 200,000 calls and 300,000 website hits nationally from voters seeking assistance from September 17th through Election Day. Our New York City hotline logged approximately 8,000 calls on Election Day--most of those from New York City residents--and I might add that we received approximately 5,000 calls the day before. In addition, on Election Day, we received reports from 350 legal volunteers that we had out in the boroughs monitoring poll sites. Now, as indicated earlier by Mr. Garodnick, the election was a success in many ways, obviously a great many people voted and voted without incident. But the calls we received and the observations in the boroughs left us with no doubt that there were many, many problems on Election Day and as Election Day approached. After analyzing the data reflecting those problems that we collected on Election Day and before, we believe very strongly that there is a significant need to change the design of our electoral system. Among other changes, we believe that there is a need for significant reform of our system for registering voters and our practice of

limiting voting to a single day. On Election Day and before, literally thousands of frustrated New York City voters called Election Protection to report problems voting. Those problems included uncertainty as to where to vote, voting equipment breakdowns, affidavit ballots being used when emergency paper ballots should have been used, absentee ballots requested but not received by voters, and confusion over voter identification requirements. That said, by far the most significant problems reported to our hotline were from voters who believed that they were registered but did not find their names on the official registration list. Election Protection received more than 1,100 calls from voters throughout the day indicating that that was a problem they faced. Now 1,100 calls is itself significant, but of course those are just the people who experienced those problems who called us, that doesn't represent, quite obviously, all the people who must have had such problems. The Rock the Vote organization also reported to us after Election Day that hundreds of additional New Yorkers had sought to register, but had been unsuccessful. Now we believe there were several reasons why many were left off or had their names

removed from the registration rolls and it is both, some were left off, some had their names actually removed. Those reasons include the purging of voters in an excessive effort to comply with the Help America Vote Act requirements, confusion when there were duplicate registrations, the use of an inactive voter list, the manner in which forms sent to state offices were processed and sent on to the counties, and failure of the Department of Motor Vehicles to forward registration information. To the extent we could be helpful so as not to prolong the hearing here, we'd be very happy to talk to you about our experiences with each of those individual problems. While any number of factors may have been to blame for omissions from registration rolls, obviously the result for each omitted voters was the same: either they just didn't get to vote or have their vote counted or, at minimum, they needed to take additional steps in order to secure their right to vote. Now in that regard, many of the people we talked to, many did actually go to election judges and seek orders so they could vote, which reflected how important it was to them to be treated as registered and to be able to vote.

Election Protection is very pleased that Resolutions

1251 and 1252 offered by members of this Committee recognize that the current registration process is seriously flawed and has become a hindrance of the democratic process in our state. We support each of those approaches as going in the right direction in solving problems. Although we would welcome adoption of those measures called for in those resolutions, we do also urge the Committee to consider calling for the adoption of a universal registration system. Under such a system, the state would use existing government lists to automatically register citizens to vote when they become eligible either by age or naturalization. Of course, all voters would be afforded the opportunity to opt out if they chose not to be registered. The government would automatically update registration rolls to account for things such as name changes, changes of address filed with government entities, and the death of a voter. Should the government fail to properly register or update voters' information, Election Day registration also would be permitted, subject to appropriate precautions as to the identity of the voter. We believe that such a system would eliminate many of the large scale registration issues that plague the current system and

it would be, in many respects, consistent with the other resolutions that have been put forward. Now I've been focused to this point on voter registration because that was clearly the most significant problem we encountered from the most voters. I do want to take a moment, however, to also express Election Protection's support for early and no excuse absentee voting and Resolution 1698 offered by Chairman Felder and Council Member Garodnick. Confining our elections to a single day unnecessarily limits the ability of all who may want to vote to do so. The work and family demands of modern society do not always allow voters the time required to vote on a single Election Day. Requiring nearly all voters to vote on Election Day places a great strain on the system and leads to long lines at polling places. Likewise, Election Day problems become magnified. We do want to note that Marcus Cederqvist and the staff of the City Board of Elections provided Election Protection with an open hotline of communication on Election Day and they were able to resolve many problems we brought to their attention on that day. We found Mr. Cederqvist and his staff very helpful and willing to try to help. Nonetheless, many problems just couldn't be solved

quickly enough to allow all who wanted to vote to do so in the single 15-hour window afforded by state law. Early and no excuse absentee voting would reduce the strain on the election process and would allow still more people to participate. Some form of early or no excuse absentee voting has, as I think you know, been adopted and has proven to be a success in several states, North Carolina, Georgia and Florida being outstanding examples. Now let me again thank you for holding the hearing today and affording Election Protection the opportunity to share the experience it has had with the election process and our thoughts on how it could be improved. We believe that the election system is sorely in need of modernization and we appreciate this Committee's intent on seeing that it happens and we understand it to be the Committee's hope that it will happen soon. And we do hope that if you have questions for us or issues you'd like to discuss with us later, that we can be a resource for the sub-committee.

CHAIRPERSON FELDER: Thank you. Before we go on, I want to add two people to this panel, Teresa Hommel and Marjorie Gersten. Can I ask the Sergeant at Arms--if you can join us at this panel--



just to add one more chair. [Pause] If you want we can take them from [off mic]. In the meanwhile--

MALE VOICE: Sure.

CHAIRPERSON FELDER: --the next witness can speak.

[Off mic]

MALE VOICE: Which way? Just--

MALE VOICE 1: Yeah, just make room for this chair.

WILLIAM MCDONALD: Good morning, my name is--first of all, I'd like to thank you for having this hearing, also, so close after the election. My name is William McDonald, I represent the NAACP Jamaica branch, that's in southeastern Queens. On Election Day I was a poll watcher. I've seen a lot of things out there with the long lines, that seemed to be the majority of our complaints--the lines. We also noticed that some of the poll personnel didn't have the proper equipment: they didn't have keys, wasn't enough paperwork, because of the lines, I can understand the paperwork, machines broke down. All in all, I think it was a very good day, November 4th. But one of the things I'm going to say also is that I totally concur with some of the things that both of

these two gentlemen before me said. Online registration, it's a great idea, we all--absentee ballots, on up until Election Day, we don't see why that can't happen. Registration on up until Election Day, we don't see why that can't happen. Early voting [pause] from what I've seen maybe just a couple of days as I watched the news, we seen some states voted a couple of weeks before the election. So I would say here, even if we had two days, that would make a great difference. Pretty much that's just about it for me. I think it was a great day. The election went well considering the massive turnout that we got in this city, you know. And one of the things that I wanted to say is what you said, I want to see how we can get the majority of these seven to eight million people in New York City to participate in their franchise. Thank you very much.

CHAIRPERSON FELDER: Thank you very much. Next witness, please.

[Pause]

TERESA HOMMEL: Okay. Hi, my name is Teresa Hommel and I'm representing WheresThePaper.org this morning. Thank you for the opportunity to comment on these three resolutions. I regret to tell

you that I oppose all three of them because they introduce new and difficult to secure opportunities for fraud, as well as unnecessary complexity in the conduct of elections and I urge you to reject all three resolutions. Low voter participation in our nation will not be addressed by making voting so-called more convenient. Many people have gone to jail or died in the struggle to obtain or exercise their right to vote. When something is valuable, people will act to secure it for themselves. Democracy requires an engaged, informed citizenry. Our citizens are neither engaged in civic life nor well informed. Our elections are overly influenced by money, party control of candidates, gerrymandering, a corrupt media that is controlled by a very small number of owners, and so on. Efforts to get citizens to vote by making it more convenient rather than by seeking ways to inform and engage all citizens only cheapens our democracy even further. I would like to say that simplicity and the ability of people to observe all procedures and to be invited and encouraged to participate or at least observe the set up for elections and the post-processing of election materials would encourage people to believe that their

vote does count. And I also believe that additional funding for the Board of Elections funding that might be designated specifically for poll worker training and also for mailing prior to each election to inform people who is informed and who isn't would encourage people to vote if they want to. I have a list of objections to each of the resolutions. In terms of 1251, which advocates electronic registration, I spoke to some people around the country where--in states where they have electronic registration or have attempted or thought about it and here are some of the problems. First of all, that wrongdoers can go online and register real or nonexistent people. There would be no original signature on the electronic transmission to safeguard existing registrations from false changes by others, and also no original signature to verify the voter's identity on Election Day. Now in New York State we have what I've heard called affidavit identification of the voter on Election Day where they sign the book and their signature validates their identity. Without that, you're going to end up with an ID system where people have to produce a voter--a photo ID, driver's license or non-driver's license to identify themselves and

this would be a burden on elderly or poor or city dwellers who don't have driver's licenses. In terms of 1252 which advocates same-day registration, the idea of automatic registration I think is a valid idea, but I caution you to make sure that voting and the conduct of elections and registration does not end up providing a basis for having a national citizen identification card, which is the characteristic of tyrannical governmental systems where citizens have to be able to produce an identification card at all times. There have been efforts to justify the introduction of citizen ID cards and to piggyback that on the idea of national registration is one of those attempts. In some states same-day registration opens the door to the use of electronic poll books, which create vast opportunities for fraud, both in insiders deleting the registrations of people of another party or insiders creating false registrations because nobody really knows what the computers are doing and anytime you computerize anything having to do with elections, you open vast opportunities for fraud. At this time of budget deficits and cutbacks in essential services, if there's extra money in the budget, I would recommend it be spent on essential services: our

senior centers and education and so on and not the cost of extra poll workers to enable people to vote on the spur of the moment on Election Day or the use of electronic poll books. I don't see how people are going to walk in to a poll site and have a poll worker and inspector register them while other people are waiting in line to vote and right now the primary reason that people are waiting in line to vote is because they have to sign in. So imagine, not only do they have to find somebody's name in a book, but they also have to start registering them. We have two special registration days that are already funded and part of state law, and I would recommend that on those special registration days, that the registration effort be located in high-traffic areas rather than in poll sites where people don't generally go in, such as NYPIRG did a voter registration drive in the subways, in large subway stations and that was very successful. Anyway, same-day registration also introduces the opportunity for people to cross-register into another party and taint the primary of that party. And there were allegations that when John Dean lost the Iowa primary four years ago that that was due to 35% cross-registration from other parties of people that day

registering as Democrats and voting for someone else.

[Pause] My last remarks have to do with early voting and no excuse absentee voting. [Pause] The draft resolution says that these practices relieve election administrators of some burdens, but I don't believe that this is true. The main effect is to complicate election administration and create many batches of ballots and tallies which would need to be separately managed if security is to be maintained. Right now we still have our mechanical lever machines for which record keeping is very simple. If we convert, or once we convert to more difficult to manage electronic machines, meaning optical scanners, we would need separate envelopes for each day's ballots, along with tally printouts for each day's voting and the state requirements for auditing 3% of the machines would become more complex. Meantime, the possibilities for fraud become much greater. Around the country, what we've seen with early voting is that there's absolutely no security, that the machines and ballots and election materials lie around overnight, nobody audits or keeps records accurately on a day-by-day basis and it's just total chaos. No absentee--no excuse absentee voting same as vote by mail, also

opens vast new opportunities for fraud as some ballots will disappear in the mail or somehow get lost on the way to the Board of Elections. And encouraging absentee voting also reverses the idea of a secret ballot because particularly in families or neighborhoods where there may be coercion or vote selling, you know, it's very easy to prove who you vote for, just show your ballot, then stuff it in the envelope and stick it in the mailbox. [Pause] In terms of early voting, in some races in New York, the candidates aren't known until the day before the election when litigation is resolved. There is also a cost of additional poll workers staff and voting locations for the days of early voting. And when candidates send their volunteers on Election Day to watch the security of the election materials and the tallies, if you extend the voting day to 14 days, in those last 14 days before the end of the election when the candidates are most interested in having all their volunteers out to campaign, they're going to have to designate volunteers to sit and watch the materials at the early voting sites to make sure that hanky-panky doesn't occur. [Pause] Another problem that we've seen around the country is allegations that insiders



use the early voting tallies, particularly in local races, to determine how many votes needed to be shifted or blanked out or somehow fraudulently modified in order to guarantee that certain candidates would win. And in some jurisdictions that use DREs, which I don't believe New York State is headed for, or New York City, but in DRE systems with early voting, there's no secret ballot because the voter's identity is tagged onto their ballot in order to prevent multiple voting. In conclusion, I urge you to evaluate all aspects of election administration by using the criteria of simplicity, understandability, the ability of observers to witness and evaluate the honesty of procedures, and the lowest possible use of technology, and I think that will encourage people to vote more than so-called convenience that shuts out people even more. Thank you.

CHAIRPERSON FELDER: Thank you. Next witness, please.

MALE VOICE: Mr. Chairman, could I just make an observation?

CHAIRPERSON FELDER: Not right now.

MALE VOICE: Not right now, okay, thank you.

[Pause]

MARJORIE GERSTEN: I thank you for letting me comment. Marjorie Gersten, activist in Brooklyn on voting for a while now. My main intention is to show that voting systems become unauditible when they are so complex. We should figure out a way to audit the new system we are presently heading toward, optical scanners, assuming we replace the levers before we start creating more complex, convenient voting systems. I'd like to read into record comments by Howard Stanislevic, Convenience Voting: Unsafe for Democracy. If we are concerned with the integrity of our elections, we should be equally concerned about any voting methods that obscure the chain of custody of our ballots. Early voting and vote-by-mail are two such methods. They are also two of the most difficult forms of electronic vote counting to audit effectively and verify. The next paragraph, which I hope you'll read, talks about how to audit an election and the resultant discrepancies. Early voting and vote-by-mail tabulation sites, which can number as few as one per county, incorporate hundreds of different ballot styles and thousands of ballots, possibly counted by a single computer. This makes it very difficult to sort

the ballots by precinct for auditing. Further, at early voting sites, there is no way to divide the ballots into batches before they are counted since the computer counts each ballot when each voter casts it. That is why early voting and vote-by-mail are problematic, requiring more complex and onerous election auditing laws and regulations that can reduce both compliance and enforcement. That is also why early voting and vote-by-mail are inadvisable, especially in New York where our election law requires our poll inspectors to remain at the polling place until the counting of our votes has been completed. We should not weaken well-crafted election laws designed to protect our vote merely for the sake of convenience. To make voting more convenient and increase turnout, better solutions would be: an Election Day holiday, more polling places and poll books, and better poll worker training. Only in this way can we genuinely increase the likelihood that every vote will be cast and counted. Thank you.

CHAIRPERSON FELDER: Thank you very much. I just want to acknowledge, we've been joined by Council Member Inez Dickens and Council Member Mark-Viverito, and Council Member Dickens has some

questions, may you have an opportunity to discuss your comments.

COUNCIL MEMBER DICKENS: Thank you, Mr. Chair. Good morning and thank you all for coming down to testify. Mr. Kolb, I have a couple questions for you. In the early voting process, would that voting be done by machine?

DANIEL KOLB: It could be, I don't think it has to be, I think one could adopt a system that was otherwise overall satisfactory and do it in [crosstalk]--

COUNCIL MEMBER DICKENS: [Interposing] So you're saying it could be done by machine or by paper ballot.

DANIEL KOLB: I do.

COUNCIL MEMBER DICKENS: And where would that voting be done? Downtown at BOE in the case of Manhattan or are you talking about in the district, such as A.D., E.D., C.D., S.D., which D?

DANIEL KOLB: I imagine that there would be an argument for simply doing it at the regular polling sites, but that there would be counter arguments to that because of the convenience factor at the sites, the use of the buildings, and so forth. So

I think we would expect that there would be some centralized way to do it. We also note that if you use machines, there are options such as those used in Nevada for relocating the voting itself. So there are a number of things that could be studied and could provide--

COUNCIL MEMBER DICKENS: [Interposing]  
Nevada has a machine that is what? Explain that to me.

DANIEL KOLB: I'm not sure I could explain the machine. What we do know, I know having worked here in New York on this and having heard observations from other parts of the country is that they did allow voting by machine in various parts of the state, various ways, and that it seemed, from what we were hearing, to be working efficiently and then so that would be another option. I think it's fair to say, we see this as a situation where studying each of the options is very much in order and that what's really good here is that that's exactly what you're undertaking to do.

COUNCIL MEMBER DICKENS: Thank you. And also, what is the anticipated course for having polls open if we use polling sites that would be open? What

is the anticipated course for opening, for the delivery and the pick up of the machines, for the poll workers, for the security of the ballots, and how would those ballots be divided? Would it be divided by assembly district? And, if so, many assembly districts are divided in four parts, how would that protect--because in New York City we have election of district leaders.

DANIEL KOLB: Right, was your question-- first question cost? Is that--yeah--

COUNCIL MEMBER DICKENS: Yeah cost for all of that--

DANIEL KOLB: Yeah.

COUNCIL MEMBER DICKENS: --and it's the anticipated cost--

DANIEL KOLB: Sure.

COUNCIL MEMBER DICKENS: --for polls being open, machine delivery and pick up, the cost of poll workers, the security of the ballots, because that's what my concern would be, and how would it be housed? Would it be done by assembly district? Would it be done by election district in the case of district leaders? Because in New York City, many of the assembly districts are divided in fourths.

DANIEL KOLB: Right, I understand. I think first of all, the complete answer to that question is impossible until one gets into the individual details, but I think if you were doing this by machine, then presumably the machines would be recording the votes and that would take care of the housing and the issues you're raising.

COUNCIL MEMBER DICKENS: I was really referring to the paper that [crosstalk]--

DANIEL KOLB: And if you have paper ballots, I think you'd have to have an organized, careful system to keep those ballots secure. One of the things we observed on Election Day was when paper ballots had to be used because machines broke, the paper ballots were put in cardboard boxes. I would hope we could--whatever other changes are made, we could devise a better system for security than that.

COUNCIL MEMBER DICKENS: All right, thank you. I just, I was wondering about the cost because in these days when we're talking about we're having hearings that go from 9 a.m. until 5 and 6 p.m. on the financial downfall that we're experiencing--

DANIEL KOLB: Sure.

COUNCIL MEMBER DICKENS: --not only in

New York City and New York State, but in the country, I am, therefore, very concerned about the cost factor at any hearing. So that's why I asked that.

DANIEL KOLB: We definitely don't mean to suggest that cost shouldn't be factored in or considered, there are different ways to do this, which would hold different ways of being--they'd be efficient or less efficient, but cost is a factor and ought to be--this ought to be cost efficient to the extent possible. We are talking about people who need to vote, want to vote, and we should do the best we can to let them vote.

COUNCIL MEMBER DICKENS: All right. One last question on electronic registrations, my name is Alice Johnson and I electronically register. What's to protect Inez Dickens from going in and voting as Inez Dickens and then coming back several hours later and voting as Alice Johnson?

DANIEL KOLB: I think that depends on how the system for registration is arranged. If it were, for instance, to end up that we still had the books and people still had to sign the books, that could still be the security, that is certainly possible. I don't know that any of the systems here



necessarily preclude that and I think that without that, some form of verification like that, there would be a problem.

COUNCIL MEMBER DICKENS: All right, thank you so much. Thank you.

CHAIRPERSON FELDER: Council Member Garodnick.

[Pause]

COUNCIL MEMBER GARODNICK: Thank you, Mr. Chairman. My questions are for Mr. Kolb, first of all, let me congratulate you for the work of Election Protection, the Lawyers' Committee for Civil Rights. I think it was an very impressive operation, I should also disclose that my wife, Zoe Segal-Reichlin, was very active and certainly worked with you on this process. I wanted to ask you about a couple things that you mentioned in your testimony, particularly the failure of the Department of Motor Vehicles to forward certain registration information--

DANIEL KOLB: Right.

COUNCIL MEMBER GARODNICK: --and I wanted to see if you could address that, and also the efforts of Rock the Vote to try to register people and learning that some of those efforts were not

successful. If you could just flesh those out a little bit for us.

DANIEL KOLB: Sure. With respect to the DMV, we knew going into Election Day that that was a significant problem and so did the Board of Elections, and actually the judges who were posted in each county were prepared so that if someone came to them to check at the DMV to see if there was a registration there, that would be consistent with what the voter said--the problem was that significant. Now I can't give you an exact number of people who didn't have their registrations passed on, but it was that meaningful a problem.

COUNCIL MEMBER GARODNICK: But let me just probe that for a second.

DANIEL KOLB: Yeah.

COUNCIL MEMBER GARODNICK: So in advance of the Election Day, we knew that the Department of Motor Vehicles had not forwarded--

DANIEL KOLB: [Interposing] To some extent, that's right--

COUNCIL MEMBER GARODNICK: Okay.

DANIEL KOLB: --and enough to actually have the judges alerted to it.

COUNCIL MEMBER GARODNICK: Has the Department of Motor Vehicles explained in any way what was going on there?

DANIEL KOLB: Not to my knowledge, no, they may have explained it to some people, I haven't-- and I don't think we've had the opportunity to hear an explanation, we were addressing the problem. If there is an explanation, I, obviously like you, I'd like to know what it is.

COUNCIL MEMBER GARODNICK: Well, Mr. Chairman, I should note this is, I think, an important area for our exploration as well because obviously this is a critical means of registration for New Yorkers and if the Department of Motor Vehicles is not actually sending this stuff over to the Board of Elections, it makes it completely ineffective. So, okay, so there was an alert and you all were responding to those problems.

DANIEL KOLB: We were, but in, you know, the judges also that was--

COUNCIL MEMBER GARODNICK: Right.

DANIEL KOLB: --it was good move certainly to have the judges alerted and actually be in a position so they could contact the DMV quickly to

resolve problems, and they did resolve a lot of problems, they gave a lot of voters orders to vote.

COUNCIL MEMBER GARODNICK: And the Rock the Vote?

DANIEL KOLB: Well, Rock the Vote, just to make sure the story is clear, at least as we understand it, Rock the Vote is an organization that is promoting registration and, obviously, voting by young people, and they have a form online, which is available and you can download it, you can send it in, and thereby register. And the problem in New York was that, although it's perfectly legal to do it this way, the registration forms were going to the state and so there was a processing problem that the state had to get the forms and then send the forms to the counties, and the counties then had to record the votes. Now that, again, was a problem we all knew about, Board of Elections knew about. It was my impression the Board of Elections was working hard, you know, more or less night and day to try to catch up with that and some other things, the new registrations, but it was that glitch, it was that step that was a problem and, you know, in the future you'd hope that there could be a mailing direct to the counties, but at least for this

election, that is not the way it worked.

COUNCIL MEMBER GARODNICK: Let me--

DANIEL KOLB: And it was a problem, apparently there are still hundreds of people who didn't get their votes--didn't get their registrations recorded.

COUNCIL MEMBER GARODNICK: Let me ask you about the two potential arguments against early voting. And just get your response to them, and the also would be interested, if you had a response to some of the potential for fraud issues too, you should feel free--

DANIEL KOLB: Right [crosstalk]--

COUNCIL MEMBER GARODNICK: --but one possibility--and this was, I think, something that was raised--was legal challenges going right up to the last minute. Legal challenges where somebody is questioning a candidate's ability to appear on a ballot going right up to Election Day. And if you had such challenges, could that not, you know, create real complications for a system of early voting where you don't actually know who the candidates are? That's question one, and question two is, in terms of protecting incumbents, this is really a political

question, you know, if we, you know--a lot of people in local elections in particular don't necessarily focus as much as we would all like to think that they focus on us all of the time, they don't--and I think people start to engage in some situations very close to the end of the line. I guess my question for you--and this is really a general question to anybody 'cause, you know, there are other people who are listening and I hope you address it--does this have the potential to protect incumbents at least at a local level in a way that we might want to consider? Those are my two questions.

DANIEL KOLB: Well, I'll take the last one first. I don't--I wouldn't think so and I think really answering both of these, there's presumably would have to be a decision on what the voting time was, the zone, you know, it doesn't have to be weeks, it could be two days, it could be three days. I can tell you from being in the call center we had here in New York and the one I was trying to deal with problems, a lot of times if we had more hours to deal with the problem, we could have solved it. And so even two or three days would be sufficient and I would think--first of all, I don't see how that would really

give an incumbent an advantage if it was that kind of period. And, second, I would think you'd treat the legal challenges as going up to that first day just like we treat them as going up to Election Day now and that's the kind of problem I imagine we could overcome. I mean any new system is going to have some issues, but, if I can observe just generally, it should be the clear and really on this, we're a repository of facts, because we got thousands of calls from people all over the country, not just New York City, and it's overwhelmingly clear that the vast number of people, we're clearly [off mic] in the millions who want to vote, who, for one reason or another, don't get to vote is itself a very serious problem. And while we would certainly--we'd be first to say well we don't want to have voter fraud and there ought to be precautions. It's our observation here that knowing what voter fraud has been reported, even something of some volume like the ACORN situation that was reported, that comparatively, the number of people who want to vote who can't would appear to us to just dwarf any number of people who try to vote who shouldn't. Now and I think that should be taken into account in deciding what kind of legislation we might

fashion here going forward.

COUNCIL MEMBER GARODNICK: Thank you.

Thank you, Mr. Chairman.

CHAIRPERSON FELDER: Council Member

Dickens.

COUNCIL MEMBER DICKENS: Thank you, Mr.

Chair, I just want to give one clarifying point on my colleague's questioning, is that BOE did come down and give testimony and I see them here on the motor vehicle department's problem with failing to timely send in the registration forms and they are supposed to send them to the counties. It's, you know, a question of the Department of Motor Vehicles doing the right thing and the right-hand talking to the left-- right-hand talking the left-hand, so I just wanted to clarify that because they--and I see that they're here and they did give testimony on that at the last hearing that we had just prior to this historic election. So just, you know--and in my community, although we would like the early voting, we also don't like paper ballots in my community. So I just--

DANIEL KOLB: I must say, we found that very few people liked paper ballots and there is a problem, which I might just report, which is that



there are people who are concerned that if they vote on paper and then they just put the paper ballot in a box, that's somehow less secure in terms of the confidence that they'd like to have--the confidentiality they like to have in their vote.

COUNCIL MEMBER DICKENS: I just want-- you're correct, I just--I'm not saying that there's anything about the confidentiality of the department-- the Board of Elections, but it is a problem.

[Pause]

CHAIRPERSON FELDER: Council Member Mark-Viverito.

COUNCIL MEMBER MARK-VIVERITO: Thank you, Mr. Chair, and thank you to the panelists. You know, I do want to say I want to--I'm one of the sponsors--co-sponsors of the--I signed onto the resolutions that are before us today and I want to thank the Chairman for sponsoring it. You know, I thank you for your testimony, and I think clearly what our intent here is to say that this is a discussion we need to have as a state. We need to explore these options and really find a way that we can encourage greater participation in the democratic process. I think the city and, we all know and I know that they

have reps here, but we beat up the Board of Elections and I think that we are really behind, we have an archaic system and I think that we really need to figure out ways that we can do it in a deliberative way, you know, I know I hear the concerns that are being raised by the panelists. But my expectation would be that if this is something that we're going to explore as a city or as a state, that it's going to be done in a deliberative way: analyzing and looking maybe at other cities, other states, and how it's being implemented and ensuring ways that we can protect against voter fraud and really encourage more participation. I've participated, or I went to Iowa during the caucuses back in 2004, I also went to Florida in 2004, so I saw the same day voter registration in Iowa and how that kind of worked and it really was encouraging and something that I became very interested in, and in Florida, they have the early voting. And I think that, again, those are things that we should be exploring as a city and we should be exploring as a state, so I would hope that we are just opening the door to this conversation and looking at ways that we can become more efficient as a city in the way we conduct our elections, but also

that we can be more encouraging of people to be involved in a Democratic process. The last thing, you know, I want to say is I am from Puerto Rico where we have around an 85% voter participation on that island in every election and they are very, very methodical in the way that they conduct elections, and protect very, very strongly people's right to vote and there are other places outside of New York state or even the continental United States that we could look at how elections are conducted and see if we can learn from that process. And so I would encourage us as we move forward, that I think those are things that we were looking to do as we move forward this resolution and hope that the state will look at it as well. So just wanted to make that comment. I want to thank you all for your thoughts. I hear the concerns that are raised, but, again, I would believe that those are things that we could address as we move this process forward. Thank you.

CHAIRPERSON FELDER: Thank you very much. The next panel will be Rima McCoy, Dick Dadey, Susan Lerner, and Andrew Stengel. I want to acknowledge the presence of some of my colleagues, Council Member Larry Seabrook and Council Member Peter

Vallone Jr.

[Off mic]

[Pause]

DICK DADEY: Susan.

SUSAN LERNER: Hi, Dick.

[Pause]

[Off mic]

SUSAN LERNER: Should I go first?

[Pause]

CHAIRPERSON FELDER: All right, just for the record, I want to say that I adhere to my rules strictly; at the same time, I'm not running a kindergarten. If somebody comes along and says that they were here at 10 o'clock and stepped out to get coffee downstairs, I'm not here--we're not certainly going to send people after people to find out if that's true. I take people at the face value of whatever they say, if they say they were here that time and they stepped out, I assume they're telling the truth. And if people come in late and I see they came in late, then they came in late. We're running, I think, particularly Government Operations, if we can't run this hearing efficiently, then we have a lot to work on. Whoever wants to start first can be...

SUSAN LERNER: I'll start. Thank you very much for the opportunity to testify this morning. I'm Susan Lerner, Executive Director of Common Cause New York. I want to commend the Committee for examining these important issues. Common Cause, we work at the national, state, and municipal level as the people's lobby and one of our core missions is to encourage citizen participation in democracy. So we are involved in these election administration issues, not only here in New York state where we co-facilitate the state coalition of groups that monitor election activities, which is now called the New York State Citizens Coalition for Voter Participation and Fair Elections, but nationally, we work on election reform throughout the country at the state and the federal level. Common Cause New York supports all three of the resolutions which are the subject of today's hearing and I'll address each of the reforms proposed, briefly. I have made some phone calls and talked to people in different states that have versions of what is being proposed in the resolutions and I'd like to talk first about electronic voter registration. That process provides a more streamlined and accessible secure voter registration process. Allowing

electronic registration would improve the current system by allowing eligible New Yorkers with a valid driver's license or state identification card to register entirely online. I'd like to point out that we can file our taxes online, our children can apply to college online, and I personally pay virtually all of my bills online, and do most of my banking online so there are existing secure systems for ensuring that the registration process would be safe and verifiable. I'd like to talk about Arizona's system, because I did spend some time with friends who live in Arizona, on the phone and also with the person in the Maricopa County Recorder, who is involved with the online registration, Maricopa County is the largest county in Arizona. Not everybody can register to vote online in Arizona. To register to vote online, you have to have a state issued either driver's license or identification card issued subsequent to 1996, and the date is key, because subsequent to 1996, Arizona, as part of its DMV records, captures the signature of the individual. So that when the person registers online, it's matched to their DMV record and if you put in the wrong number, 'cause we went on actually and we started the process and we put in a fictional driver's

license number and it kicked us out of the system and shutdown, we could not get back in. One of my employees took it upon himself to play with it and I'm happy to say that it worked the way it should and, you know, nothing went forward. What happens is that when the voter books are created, the records are tapped and it's possible to print out the digitized version of the signature from the driver's license. So when the individual comes to the voting place, they sign the book and if it does not match the signature which is on record with the DMV, then their vote is not counted. So, in that sense, it is a secure system and it works very effectively. Arizona has had the system since 2002; Washington State implemented it this year and I'm happy to say that a third state, California, has just joined the ranks of states permitting online voter registration systems--Common Cause California was a major supporter--and Governor Schwarzenegger signed the bill less than two months ago, so we now have three states. So we have real-world experience with it and we know it works effectively. It is a net cost savings for election administration because in Arizona they have had to avoid putting on additional staff to deal with keying in the registrations that

tend to pile up at the very end of the process. You can go online in Arizona, the cut off for registration is at midnight on a specific day, and if, as many people are, you haven't paid attention and you realize at 11:50 that you meant to register, you can get online in your pajamas and bathrobe at 11:50 at night and register if you have a valid driver's license or a state ID. It cuts down on costs and it cuts down on errors, because one of the problems that we found in mismatches here in New York, and it's true throughout the country, is that when you have human beings entering in data and they're sitting there and doing it sometimes for 18 to 20 hours a day, as our election staff this year had to do Herculean efforts, they're to be commended with the mountain of paper that they managed to push through, but just human nature and fatigue, you get errors. If you are using an online registration system, the errors are cut down because the voter themselves keys in their information and the accuracy is increased, so it is very definitely helpful. And we have not seen, because it's tied to the driver's records with signatures and pictures, we have not seen fraud at all in these systems. We also strongly support no fault vote by mail. I provided



copies of a January 2008 election reform brief prepared by the Common Cause Education Fund entitled What We Know About Mail Elections and How to Conduct Them Well, which reviews the experience of various cities and states throughout the country. It talks in greater detail about an entirely vote by mail system, but many of the points I think are relevant. I've seen firsthand in my years in California how effective the ability to have a no-fault vote by mail can be in easing the stress of individuals who want to vote but who have family or work commitments. I mean this year my daughter excoriated me for some of the difficulties here in New York. She had had to get time off from work and wanted to know why she couldn't just vote absentee and also why she couldn't vote in early voting the way her friends in Texas were able to do and this is a complaint we hear frequently as people have more obligations. The vote-by-mail works very effectively. We already have absentee voting, we have the systems in place and it relieves a lot of the polling place stress. In other states, and this is something we recommend, there's not only no-fault absentee voting, but there is the ability to elect for permanent absentee status, so that my 92-year-old

mother-in-law who was difficulty getting around, would not have to worry about filling out the absentee form every single election, but would simply be able to fill out the form once, check a box, and then the administration of the absentee ballots becomes easier and less expensive for the Board of Elections because they start with a list of people who are disabled or who have a preference of voting by mail, and they have fewer pieces of paper that they have to process on an individual election basis for absentee ballots. The permanent absentee ballots can be placed in the mail at the very earliest possible moment, alleviating concerns that the voters won't get the ballots in time, which is a problem that we see with a system where you have to request an absentee ballot in every single instance. We strongly support both early voting and Election Day registration, however, we're concerned that Election Day registration would place even greater strains on overstressed staff in polling locations here in New York City on Election Day. We believe that same-day registration, rather than Election Day registration, may be a more practical proposal for our state. Same-day registration allows citizens to register and vote on the same day in

advance of Election Day, but does cut off registration by a date certain before the actual Election Day. We could, for instance, here in New York adopt same-day registration by statute and cut it off at the 10 day constitutionally mandated registration cut off without having to amend the Constitution. I would like to see the Constitution amended in a lot of ways, and I would throw in being able to register closer to Election Day. But based on the experience of other states, most particularly North Carolina, we hope that early voting and same-day registration would be adopted in tandem. And I've spent some time--I have family in North Carolina who this year took advantage of same-day registration and early voting, found the process to be very easy--and have spent some time talking with my Common Cause colleagues in North Carolina. The figures from North Carolina for this November 2008 election are very impressive. North Carolina had the largest increase in voter turnout of any state from 2004 to 2008. North Carolina first adopted early voting several election cycles ago, but this was the first election where they had same-day registration, and the pairing of the two is credited in major part with this big bump-up in voter turnout. The early

voting and same-day registration period started on October 16 and ended on November 1. North Carolinians were able to vote on Saturday and Sunday in some counties, giving rise to Souls to the Polls programs organized through churches. Forty-two percent of North Carolinians voted early; 236,700 new voters availed themselves of same-day registration. The impact on minority registration and participation was significant: 39% of the new voters added to the rolls through same-day registration were African-American. Now in North Carolina an astounding 94% of African-Americans of voting age are registered to vote. But it's not just battleground states that benefited from early voting this election cycle. In Texas, a jaw-dropping two-thirds of voters took advantage of that state's early voting opportunities. And, again, our experience is that alleviating the pressure on Election Day actually holds down the possibility of fraud. In addition to its convenience for voters, early voting and same-day registration have benefits for election administration, which would be particularly helpful here in New York City. Many New York City residents experience long lines at their polling places, particularly in the morning this past

Election Day, early voting alleviates the extraordinary pressure and demands of providing facilities for our almost 2.5 million active voters exclusively on Election Day. As I said, it cuts down on also the processing jam at the very end of the registration period by spreading out the registration and by completing the registration process while the voter is there. So if there are problems with the identification, questions about the eligibility of the voter, the voter has the opportunity right then and there to answer those questions, to come back on another day with additional information. It's a faster process that concludes much more easily than the process we now have where the voter mails in something, a problem is flagged, a letter goes back, the voter then has to make copies or perhaps go into the Board of Elections, there's more time to determine things go back out by mail. This is streamlined, it's faster, you get a conclusion. And the proposals which are being discussed if adopted would substantially improve both the experience and the administration of voting here in New York. I'd like to point out one additional thing about the early voting in terms of the cost, North Carolina has had an increase in its

population, but it has, even though it's experienced a very substantial increase, has not had to increase the number of polling places which it operates on Election Day because so many people vote early. The early voting places tend to be more limited in number than the number of polling places which you have on Election Day and I've experienced early voting in Los Angeles County, as well as familiarity with what my family members experienced in North Carolina. What is normally the case and, you know, this is obviously not necessarily the case everywhere, but both in North Carolina and in Los Angeles, the early voting took place in limited locations, either libraries or the Board of Elections or recorder locations, and the staffing was done by paid staff--the election administration staff. So there was a slight increase in cost for having paid staff actually involved, but the actual custody questions in terms of the ballot were lessened because you had paid staff who had the custody of the ballots. And it ended up being not a net cost savings, but it was basically a wash, it did not increase the cost because it kept down the cost that needed to be expended on Election Day. So it ended up being more convenient for voters, alleviating

the pressure on Election Day, and being a net cost equivalence. So we commend the Committee and all of you for your interest in trying to encourage participation in democracy and to explore new and effective ways to allow the people who so very much want to exercise their franchise to be able to do so. We look forward to working with you and members of the state legislature on these ideas to come up with the best and most effective way to bring them to New York State.

[Pause]

DICK DADEY: Good morning, Chairperson Felder and Committee Members. My name is Dick Dadey, I'm the Executive Director of Citizens Union. I would like to thank the New York City Council Committee on Government Operations for the opportunity to testify today on innovative ways that New York State can explore to make increases in voter participation possible. I have a six-page testimony that's been distributed, but I'm not going to read all six pages, even though I'm tempted to given the opportunity that you have allowed us, but I'm going to condense it to three pages. The recent presidential election demonstrated that increased interest in voting and the

electoral process can be generated. It is a responsibility that of New York State and election officials to make voting as accessible as possible. With advances in technology and a greater capacity to allow voters to participate through different processes, creative approaches aimed at boosting voter participation can and should be explored. Among them include those that the Committee is reviewing today: instituting Election Day voter registration, otherwise known as same-day registration, exploring the use of early voting, and no excuse absentee voting, and allowing voters to register online to vote. By creating a system through which people have a greater ability to participate at the fundamental level of voting, we can not only increase voter turnout, but also encourage their involvement in other areas of elections in government. My first set of comments here is going to specifically focus on Election Day voter registration. The deadlines for voter registration can have a significant effect on the ability of eligible voters to participate in elections. New York State currently requires registration be completed 25 days in advance of election. During this year's general election, this



restrictive deadline meant that voters had to register by October 10th. This registration deadline can create a barrier for voters interested in casting a ballot, specifically for those who may become interested in the election to late or are frequently mobile. The advancement of EDR has been a long-held goal of Citizens Union and we believe it can be a forward-thinking solution to New York's notoriously low voter turnout. In a report published by Citizens Union Foundation, Citizens Union's affiliated non-profit research and education organization, in 2005 titled, Election Day Registration: Simplifying the Voting Process and Increasing Voter Turnout in New York City, we detail not only why New York can benefit from the implementation of same-day voter registration, but also provide very specific recommendations for how to securely and efficiently institute this practice. In the 2004 presidential elections, New York ranked 46th--46th in voter turnout across the nation. In the last five presidential elections, New York State voter turnout failed to exceed 51% of the voting age population, while the state's population has continued to increase. By implementing EDR, New York could encourage

participation among all voters, and particularly late-interested voters, recently mobile, marginally interested, incorrectly registered, and first-time voters. Based on research and analysis in our report, EDR in New York would, one, streamline registration and voting into a single process, diminishing administrative burdens and saving costs associated with the registration procedures and affidavit ballots; two, allow eligible voters with uncertain registration status to reregister, therefore decreasing the number of provisional ballots cast; and three, eliminate confusion and uncertainty over voter registration status; and, finally, four, enfranchise and turnout more citizens to vote. Currently nine states across the country have implemented EDR, including Maine, Minnesota, and Wisconsin. In these three states specifically, voter turnout has seen large increases over the national trend and at times even when voter turnout across the country has decreased. Criticism of EDR include concerns of voter fraud and increased errors, administrative burdens on the Board of Elections, and the financial cost associated with its implementation. Other states, however, that have instituted EDR have shown that

precautionary measures can be implemented to safeguard the ballot. In our report, we include recommendations for how to safely and effectively institute EDR and address some of those common concerns here in the city of New York. There are concerns that New York City in particular would have a difficult time implementing EDR because of the size of our electorate. Well there are three ways in which EDR could be implemented in the city as we recommend, specifically Citizens Union believes that election EDR and voting is the best approach because it allows voters to register and vote at their local election office instead of their assigned polling place--voters would only have to go to one place to both register and vote. By eliminating this extra step of registering before Election Day, New York State can provide all citizens with a greater opportunity to participate in elections, no matter what they--no matter when they become engaged in the process. EDR, however, cannot be implemented in New York without a constitutional change that eliminates the requirement that registration must be completed at least 10 days before each election. Prior to becoming Assembly Speaker, Sheldon Silver in 1992 sponsored and the Assembly

passed EDR legislation--1992, that's 16 years ago. It never passed the Senate--surprise--so the constitutional amendment was not presented to the voters. Assembly Member Michael Gianaris from Queens currently is the lead sponsor as we know. We continue to work with him and toward this goal and support your resolution 1252 calling on the state to implement EDR. Terms of online registration, we believe it also provides voters with an easier way to register to vote. To register to vote in New York State, citizens must complete a form in person at a state agency or local Board office or mail in the completed form. Online registration is convenient and would accommodate an increasingly mobile and virtual population. According to a study by the Center for Technology in Government at the University of Albany, the second most common request by citizens for electronic government services is online voter registration--the second most common request by citizens for electronic government services is online voter registration. Additionally, online registration may encourage younger voters whose registration rates are consistently lower than those of older age groups to become involved in the electoral process. A Pew

Research report found that 88% of 18 to 29-year-olds are online and nearly two-thirds of them check their e-mail daily. Two states currently permit online voter registration, Arizona and Washington, and both have experienced significant increases in voter registration, which can be correctly correlated with higher voter turnout. Most recently, California passed a bill on September 30th to implement its own online registration. Citizens Union supports your resolution 1251 and encourages the state and election officials to explore ways to allow online voter registration and increase voter information available on the state and city websites. Early voting is one option that can allow voters who may not be able to reach their polling location on Election Day to still participate by casting their ballots at an earlier time. In the 2008 General Election, early voting reached a record high, especially in certain swing states in which early voting may account for a majority of the ballots cast. At a recent city board meeting, it was reported that the city received up to 800 voters per day prior to November 4th wishing to cast an absentee ballot in person at one of the five local Board of Election offices. While Citizens Union

has yet to take a position on how best to implement early voting, its potential to allow those unable to reach their polling location on Election Day or cast an absentee ballot, the opportunity to cast their ballots is a laudable goal that must be studied further. Unlike New York, 31 states offer the chance to vote in person before Election Day. Although the time period and locations vary by state, most states offer early voting to 14 days before the election and some allow voting at county or state offices, grocery stores, shopping malls, schools, libraries, and other locations. In addition to exploring the use of early voting, the state should consider changes to the use of absentee ballots. The New York Constitution requires all voters who wish to cast an absentee ballot to declare a reason why they will be unable to vote at their respective poll sites on Election Day. Permissible reasons are illness or absence from the county. Twenty-eight other states, such as California, have instituted no excuse absentee voting, allowing voters who would prefer to vote early and through the mail to do so. Citizens Union, therefore, is supportive of Resolution 1698, encouraging the United States Congress and the New York State

legislature to implement early voting, and we encourage further study of the best way to institute the program here. We would also be supportive of a constitutional amendment needed to reform New York's restrictive absentee ballot requirements and allow voters to obtain an absentee ballot without declaring a reason. New York State and city has a responsibility to its citizens to make voting as accessible as possible and encourage their participation by removing barriers, all of which would be achieved by the implementation of these proposed reforms supported in these resolutions. If implemented correctly with the proper precautionary measures in place, Election Day registration, online registration, early voting, and no excuse absentee voting can ensure that all eligible voters have the opportunity to cast a ballot which ultimately will increase voter participation and enhance civic engagement. These reforms represent a new commitment and a creative approach to increasing voter participation, which has been, and continues to be, a top priority for Citizens Union. And, again, thank you for the opportunity to testify today and we look forward to working with you and your colleagues as we

work on these reforms.

ANDREW STENGEL: Good morning, my name is Andrew Stengel, I'm the National Election Advocacy Director of the Brennan Center. As an aside, I'd just like to point out the last time I was here was February 14th, on Valentine's Day, and I missed you since. The Brennan Center for Justice is a nonpartisan think tank and advocacy organization that focuses on issues of democracy and justice. We are deeply involved in the effort to ensure fair and accurate voting and voter registration systems and to promote policies that maximize participation in elections in New York and throughout the nation. In this past election alone, through advocacy and litigation, we prevented more than 500,000 voters in Florida, Ohio, Colorado, Wisconsin, and Montana from disenfranchisement. Put simply, the implicit question before us today is how to make it easier to register and to vote. The three resolutions under consideration would be a step toward catching up to other states and rethinking New York's cumbersome election code and regulations. In general, the Brennan Center supports steps to ease election administration. However, I'm here today to urge you



to consider something in addition and even bolder. A system of universal or automatic registration-- actually Michael Gianaris, Assemblyman, also sponsored similar legislation back in 2004. The 2008 General Election will be remembered for many reasons. One relevant to today's hearing are the images of long lines of people snaking around blocks waiting to vote early. Yet, despite the spike in early balloting and the overall increase of 5 million voters from 2004, only about 62% of eligible voters went to the polls. That's an improvement over 60.6% in 2004, but still well below the '64 turnout of 64%. In the November 2004 presidential election, 28% of eligible Americans were not registered to vote--that's more than 50 million--that's 50 million who were not on the electoral rolls and could not vote on Election Day. According to 2006 data from the U.S. Census Bureau and the State Board of Elections, about 21% of potential voters in New York, more than 3 million eligible voters, were not registered to vote. Voter protection efforts, including the election protection toll-free hotline in which the Brennan Center participated, consistently reported that the single greatest source of voting problems is the registration system and New

York is no exception. Automatic voter registration is the most comprehensive means available to ensure all who are eligible may vote and to increase participation in the electoral system. In addition, it shifts the burden of registration from citizens and third-party organizations to the government and removes several barriers and smooths election administration. Voter registration laws weren't widely enacted in the United States until the 19th century. These laws were often used as a means to keep undesirable voters from the polls, including African-Americans, the working class, immigrants, and the poor. Sadly, that discriminatory effect is still in effect today. In 2006, while nearly 70% of white voters were registered to vote nationally, only 60% of African-American and 54% of Hispanic populations were. And while 82% of people earning over 100,000 were registered to vote, the ratio drops precipitously in lower income categories: 67% of those who earn between 30 and 40,000; 66 of those who earn between 20 and 30,000; and 56 of those who earn less than 20,000. Only 54% of the unemployed and 48% who didn't graduate from high school are registered to vote. Under the current system of registration, voters often make

mistakes, including submitting multiple forms or omitting information. Voters may use a different form of their name than that which appears in the DMV or Social Security databases. Fixing these errors delays processing of forms. If the information isn't corrected, the voter is barred from the polls for reasons having nothing to do with eligibility, through error-prone purges or no match-no vote policy. Essentially it's disenfranchisement by typo. With the burden resting upon the individual, it's also a challenge to keep lists current. Voters rarely cancel registrations when they move, leaving no longer valid records on voter lists. Such bloated lists fuel false claims about potential for voter fraud, thus giving way to suppression or unlawful purges. Our highly mobile population exacerbates flaws in the system. More than two-fifths of nonvoters in 2000 were ineligible because they had moved and did not re-register. Populations that are more likely to relocate, including low-income citizens and those who are less educated, are disproportionately impacted by the burden of registering in each new location. Finally, the rush to register voters as Election Day approaches creates a strain on the local Boards of

Election to process the paperwork and update poll books. Without knowing in advance the actual total number of voters in a district, it's also difficult to plan the allocation of voting equipment and poll workers. The solution to all these issues is universal voter registration. How can that be accomplished? There are basically two ways that can succeed. For example, through lists that already exist and a process known as enumeration. States have a variety of databases that have information on citizens, including DMV databases, state tax rolls, and social service lists. These would be the building blocks of a comprehensive voter registration roll. Another method of registration could be enumeration, like the decennial census. The local Boards could send out mail surveys to each known address asking citizens over 18 to complete the form and return it. Follow-up could be conducted by going door to door, making an effort to include those who do not live at a fixed address. Back to the resolutions under consideration today. If New York indeed added the millions of unregistered voters to the rolls, early in-person voting could be useful to reduce the strain on the election system. And a comment, if I may,

about electronic voter registration, while the intent is to ease administration, consider the demographics of citizens who are unregistered: they are the least likely to have access to the Internet. Electronic registration may theoretically lower a barrier, but this alone is probably little or no relief for most of those who aren't already registered. In sum, my colleagues and I thank you for this opportunity to testify and for your continued oversight and concern for the electoral process. The Brennan Center is eager to work with the state and city Boards of Elections and the Council on these many issues. Thank you.

MALE VOICE: Thank you.

RIMA MCCOY: My name is Rima McCoy, and I'm the Voting Rights Coordinator at the Center for Independence of the Disabled New York. My comments are primarily directed towards Resolution 1698 and primarily the early voting portion of it. Some of my comments though apply to the other resolutions. Prior to the election, I was asked to do voting information presentations at various community organizations, Selis Manor, Goddard Riverside, for voters some of whom were going to be first-time voters who had

physical, cognitive, and visual disabilities, and at every single presentation I was asked does New York have early voting. So people have been hearing about early voting that was happening in other states and they were disappointed that it wasn't happening in New York. And what I want to do is raise a couple of reasons why early voting is advantageous for people with disabilities. One reason, for people who have cognitive and or visual impairments, and even some with severe physical disabilities where they would need to use a sip and puff device, voting could take up to 45 minutes on a ballot marking device and if you're in on Election Day, where there are going to be long lines and impatient voters and poll workers, that raises your anxiety, your confusion, your intimidation. I had somebody who actually uses a sip and puff device call me a few days before the election and say wouldn't it be great if we had early voting options at accessible sites where people like this person could vote on a ballot marking device. Another issue is that a lot of people with disabilities rely on Access-A-Ride to get to polling places. So if we had early voting options that would increase their flexibility in arranging Access-A-Ride and decrease

the chances that they're going to miss their return pickup time. When you're waiting, you know, you have long lines and it takes a long time to vote. Another issue is that if you have early voting opportunities at accessible sites with ballot marking devices, it raises the expectation that the poll workers are actually going to be familiar with the ballot marking devices and that you're going to be able to go there and have a successful voting experience. We conducted individual voting surveys on the November 4th election and we were hearing over and over again from people that poll workers were really uncomfortable with the machines and even actively discouraging people from using them. One person reported having to talk to eight poll workers before he was able to access the ballot marking device and there were plenty of other people who were not as assertive, so we would hope that poll workers would be more prepared at early voting sites. Now I have a couple of voter communication issues I want to raise that apply to actually all the resolutions because if there are voter changes, the information needs to get out to people. One issue, I mentioned an individual voter survey that we conducted about voters' experience on

November 4th and one of the questions was about receiving materials from the Board of Elections on the ballot marking devices. Now I have to confess, we're talking about 54 survey respondents, but 67% of those said that they did not receive any information from the Board of Elections on the ballot marking devices. Well we all know that a mailer went out. One of the problems that I want to address, I have two issues I want to address, one is information in accessible formats and I'm going to get to that in a second, but the other one has to do with how information is disseminated. You know, if you just send out information once, the chances of people being able to receive it and digest it are very slim and we're talking about a lot of potentially complicated changes to voting. Information needs to go out in multiple outlets and repetitively, TV, radio, newspapers, subway, bus ads, newspapers several times, not just once; radio spots several times, not just once. Of the--okay, I told you that 67% said that they did not receive anything from the Board of Elections about the BMDs. Of those that said they had, 25% said that the information was useless to them because it was not in an accessible format. I was speaking to one woman on



the phone who is blind and she said accessible format is Braille, or audio CD, or data CD because some people have computers, but don't have Internet. A few people mentioned, and I think this is really important point, that voter registration process ought to include a place where you can select how you want your information. If you need information in an accessible formats, you should be able to check that on your voter registration form. I feel compelled to raise a point again that any special sites need to be accessible. We conducted polling sites of 65 polling places during November 4th and 54 of those 65 had barriers to access, most of those barriers would be corrected with very little effort. Just to give you one example, I don't know, those of you who saw pictures from our September report might remember the picture of a man using a cane who was in danger of bumping his head on these protruding window gates. Well, for six dollars you can put a cone under every single window gate and then you eliminate that kind of a hazard to people with visual impairments. And another comment from the individual voter surveys was that there should be BMD demonstrations in public arenas all year long. So, you know, we shouldn't be

waiting a couple of weeks or months before the election, I think the time is to start now in educating the public. Basically, all my comments, what CIDNY wants to convey is that any election reform resolutions really need to incorporate measures that ensure voting equality for all New Yorkers, including those with disabilities. So thank you.

CHAIRPERSON FELDER: Thank you. Council Member Dickens.

COUNCIL MEMBER DICKENS: Thank you, Mr. Chair. And thank you to all of you for coming down to give testimony and to enlighten us all on the process, whether you support it or do not. One thing, Ms. Lerner, I had a question and I'm not sure if I heard correctly, I was listening to your testimony and at one point you said that if someone registered and they were not the person that they were purported to be, it bounced back, and then you went on to say the vote would not be counted. I'm not--I needed some clarity here--

SUSAN LERNER: Okay.

COUNCIL MEMBER DICKENS: --I'm not quite sure if I--

SUSAN LERNER: Okay. So the online

process is that you log on to a site that's run--and this is the Arizona experience--you logon, you go to a website that's maintained by the Secretary of State and you are able--and each county also, the county recorders allow you to click on a button that says I want to register online, you fill out a form online with your identifying information and you have to provide your driver's license number, your Arizona driver's license number or the number of your state identification card. If you do not have a valid Arizona driver's license or state identification card issued subsequent to 1996, you cannot register online and the program kicks you out. So if you put in a number that's not a valid license number, it throws you off. You cannot complete the registration. Okay? And then once you get to the polling place, they--the book can have a printout of your digitized signature from your driver's license record. That's why you can't register if your license was before 1996 because before 1996 they didn't capture an electronic picture of your signature in the DMV records. So it's similar to the process we have now where you sign the book and the election officials, the BOE officials, are able to compare your signature to your registration card, only

in this instance they're comparing your signature to the DMV records in order to allow the registration to go through and to allow you to vote.

COUNCIL MEMBER DICKENS: So, in essence, it's not that your vote wouldn't be counted, it's that you wouldn't be allowed to vote then. I wasn't sure if I heard that correct.

SUSAN LERNER: Well, first if you don't have a valid Arizona driver's license, you can't register through the Internet. Okay? So it only--

COUNCIL MEMBER DICKENS: [Interposing] Is it possible that someone can use a number? Its people have licenses all the time that are not really legal and they use numbers...

SUSAN LERNER: While in that instance, because it's in a--what happens, because, as I said, one of my employees, without letting me know, got on the site, I'm not sure this is quite the right thing to do, but he did look to see if he could fool the system. And when he put in, you know, a number that was not a valid Arizona license number, it kicked him off.

COUNCIL MEMBER DICKENS: Okay.

SUSAN LERNER: It shut down the

application so it's got--it goes into the DMV records and matches you up.

COUNCIL MEMBER DICKENS: All right.

Well thank you so much, Ms. Lerner, for your clarification. One last thing I wanted to clarify, what state does your mother live in? You mentioned about your mother having to--

SUSAN LERNER: My mother-in-law--

COUNCIL MEMBER DICKENS: --apply every time for absentee ballot voting?

SUSAN LERNER: My mother lives at 205 3rd Avenue.

COUNCIL MEMBER DICKENS: [Off mic] I don't want the address. I don't want the address, I don't want [crosstalk]--

SUSAN LERNER: My mother-in-law lives in Manhattan.

COUNCIL MEMBER DICKENS: Because in New York City, we do have a process for permanent absentee voting, so that's why I'm surprised that she doesn't [crosstalk]--

SUSAN LERNER: [Interposing] And she's not aware of that.

COUNCIL MEMBER DICKENS: Well can I hook

you up with the BOE so that that could be...

SUSAN LERNER: Definitely.

COUNCIL MEMBER DICKENS: Thank you.

Thank you.

[Off mic]

CHAIRPERSON FELDER: Thank you to this panel, and the next panel will be Douglas Kellner, Rosamond--

MALE VOICE: Dana?

CHAIRPERSON FELDER: --Dana?

[Off mic]

CHAIRPERSON FELDER: Okay. [Pause] Adrienne Kivelson, Benjamin Kallos. [Pause] And we'll just conclude Regina Eaton.

[Pause]

COUNCIL MEMBER DICKENS: Ms. Lerner, those are the gentlemen that you need to see afterwards.

MALE VOICE: Why don't you turn it on.

SUSAN LERNER: Thank you.

ADRIENNE KIVELSON: I'll give you the form, Susan.

CHAIRPERSON FELDER: Yeah, this is the last panel and I would just suggest if you can speak

spontaneously without reading your testimony, I think everyone would appreciate it. Maybe I should've said that earlier, but whenever you're ready.

DOUGLAS KELLNER: Good morning, my name is Douglas Kellner, I serve as co-chair of the New York State Board of Elections and prior to 2005 I was Commissioner of the New York City Board of Elections. I have submitted lengthy testimony, but I will just summarize the key points, since many of them have been brought up. The one novel thing that I recommend is that people should start to seriously ask, do we need to keep a separate system of voter registration at all. North Dakota does not have voter registration, New York State, in my view, could save as much as \$50 million a year if we just stopped trying to pretend that we have a meaningful, workable voter registration system. And that I think in the long run, we would be better off if we just abandoned that mission that we assign to Boards of Elections to try to maintain voter registration rolls. Obviously, that's a radical concept that requires a lot of discussion and an exploration, but the next best thing is moving to a concept of universal registration which may be more acceptable in terms of the verbiage. And I strongly

endorse the proposals that have been elaborated by the Brennan Center: that there are ways of switching the legal burden onto the government; that there should be a presumption that everybody who is a citizen is entitled to vote; and we should not use voter registration laws as a means for disenfranchising people. So if somebody shows up at the polls, he's a citizen, he's over 18 years of age, he's not incarcerated because he's got a felony conviction, he hasn't been declared judicially incompetent, the vote should count. And if we switch that legal presumption, there are lots of different ways to do it, but universal registration is the obvious system. Many states have the Departments of Motor Vehicle maintain the voter registration lists. So that's one starting place, but obviously, in New York where only 93% of the adult population has motor vehicle identification and driver's license, you need to go beyond that to ensure that everybody is entitled to vote regardless of whether or not the Board of Elections actually has a record of them. Now in addition to the goal of universal registration, there are a number of other steps that we can do, we've been talking about same-day registration, I think the model



is completely workable, we have nine states that already use it. As people have pointed out, it requires an amendment to the state constitution, unless you say that the DMV list or any other state list constitutes registration, in which case that 10-day requirement could arguably be met through other means and you wouldn't need a constitutional amendment. Second thing is, is that, as Susan Lerner pointed out, we could change our current laws now to go to the full 10-day limit, that there's no reason we should require 25 days in advance, the Boards of Elections can't process the registrations within the 25-day limits, so they already have a backlog that requires provisional ballots. We might as well just go to the full constitutional limit and allow any registration up 'til 10 days to be counted as good, even though many of those late registered voters will be--have to vote by provisional ballots. We have transfer of registration right now under National Voter Registration Act, in the state law, you can only transfer registration within the jurisdiction. Well there's no reason why we shouldn't have statewide transfer now that we have a statewide database and indeed I would argue we should have national

transfers. So if you're registered in Illinois, you move to New York, you should be able to transfer your Illinois registration to New York. And then the last bugaboo that really has annoyed me for 15 years is that New York City Board of Elections, because of partisan blockage by the Republicans on the city board, is not able to use an affidavit ballot application as a voter registration form, even though in the majority of the counties throughout the rest of the state, that's exactly what they do. And so you have people who vote by affidavit ballot, the ballot is rejected 'cause they're not currently registered, and unless they still send back a registration form, they're still not registered, and that's always struck me as a very unfair and discriminatory policy against New York City. My testimony, I go into a number of issues that are involved with early voting and with unlimited absentee voting. My biggest concern about early voting is the budget issues. If you're going to set up vote centers and expand early voting, you're going to have to require personnel for it and in many places they've funded that by closing poll sites on Election Day and it's the poorest segment of our population that tends to walk to the polls, that's the

most disadvantaged when you close poll sites and limit the number of poll sites. And, finally, I just want to address poll worker allocation, that what we have seen is a very clear trend that more and more people want to vote on their way to work and that there is this crushing rush-hour. The other problem is that we have short memories. For election administrators, presidential elections are like childbirth and that after it's over, they forget about it and four years later, the cycle happens all over again. And what I've seen now is that over and over again, we fail to learn on the needs to address issues that arise because of the crush of presidential elections. And the most important thing is poll worker allocation, that we have to recognize now that most people want to vote on their way to work in the morning on Election Day. So we have to shift our poll worker allocation, we have to print multiple poll books, because that, in most poll sites, that was the main barrier in terms of what was slowing down the elections. And so you need to have more poll books, more poll workers able to sign people into those poll books, and concentrate them in the morning. You don't need as many people in the afternoon, you don't need as many people in

mayoral elections and gubernatorial elections or certainly in the off-year elections. You don't need as many people in the primaries where you only have this third as many people voting. So that there are economies that the local Boards of Elections need to address and the time to do that is this coming year as we switch over to an entirely different model of voting when we have ballot scanning, where a single scanner in the poll site can handle all of the different ballot forms. So that we should start thinking out of the box in terms of how we staff our poll sites. So thank you for holding these hearings, and I do support your efforts to expand accessibility of the franchise.

[Pause]

BENJAMIN KALLOS: Good afternoon, my name is Benjamin Kallos, I'm Chief of Staff for Assembly Member Jonathan Bing. I have prepared testimony, it is a very short, it is two minutes, so if you'll indulge that. I am Assembly Member Jonathan Bing and I represent the 73rd Assembly District on Manhattan's East Midtown and Upper East Side with over 80,000 registered voters, 10% of whom registered in the last year. I appreciate the opportunity to

testify today before the New York City Council Government Operations Committee on Election Reform and Modernization. I applaud the City Council's call for early voting, Same-Day Voter Registration, and Electronic Voter Registration. I look forward to their support in the coming session. I am here today to address Resolution 1251, which calls for electronic voter registration. Earlier this year, I proposed A.11167, legislation that seeks to remove many barriers to registration and electoral participation with the aim of improving voter registration among young people. In addition to providing for distribution of voter registration cards at institutions of higher learning, early voter registration for 17-year-olds, and postage prepaid voter registration forms, the legislation also provided for online voter registration. In the first two weeks of October in 2008, the New York City Board of Elections was crushed under nearly 204,000 voter registration forms which it had serious difficulty processing. This brought the 2008 total for voter registrations received by the New York City Board of Elections to nearly 715,000 as compared with 253,000 in all of 2007. Local Boards of Elections throughout

the state reported similar unprecedented volume and struggled to get thousands of voter registration records entered in time for the general election. On Election Day, voters appeared to discover their names were not listed in the poll book, which is required to vote on the machines. Many of these voters fell victim to data entry errors--something that is common for voters with ethnic names. A simple misspelling of their name made it nearly impossible to locate their name in the poll book and vote on a machine. While some voters obtained a court order to vote on a machine, many voters were forced to vote by a paper ballot called an affidavit ballot and will learn the fate of whether their votes were counted later this year. Online voter registration would solve data entry errors by allowing the prospective voter to enter their own name. In response to Council Member Dickens' fiscal concerns, online voter registration would also minimize data entry costs. In response to these situations and the Resolution 1251 calling upon the state legislature to amend the state election law to permit electronic voter registration, I will be proposing new and stand-alone legislation to supplement my previous bill, which will specifically

allow citizens to register to vote online with New York State Board of Elections by filling their voter registration cards online. Voters will be able to provide a Social Security number or the identification number from their New York State driver's license or non-driver's identification. Those that use the DMV identification will have signatures imported from the DMV and would not need further identification when voting for the first time. Those using Social Security numbers would need to show identification when voting for the first time, since they would be unable to meet the New York State signature requirements. Both of my bills would use online voter registration to improve poll book accuracy and cure recent backlogs at local Boards of Elections across the state. We have to make it as easy as possible for people to register to vote and ensure the hard-working public servants in the city's Board of Elections offices can properly handle large amounts of new registrations. These bills will help make that possible. Thank you for calling attention to election reform and electronic voter registration. I look forward to working with the New York City Council in the coming session to accomplish these reforms.

ADRIENNE KIVELSON: Good morning--I'm still in the morning, I think--my name is Adrienne Kivelson and I'm the Elections Specialist of the New York City League of Women Voters. I've come here today to speak on two issues: the same-day registration and no-fault absentee ballots. The League does not have a position on early voting or on electronic voting and so I will refrain from speaking about that and I will also say very little on same-day voting because I think the area has been covered. But I would like to talk about the issue of absentee ballots. I'm going to give this to Susan, but as I'm talking, I think we should look at our absentee ballot application at the present time. It's 21 inches long, it asked questions that are truly an invasion of privacy and are not necessary to give someone an absentee ballot. It asks your doctor's name or your Christian Science practitioner's name, it asks your employer's name if you're going on vacation, none of these things are necessary and none of these even come into play when you get the absentee ballot. I daresay the Board doesn't check these, I would hope they're not spending their time doing that, and so someone is entitled to an absentee ballot whether they're



recovering from brain surgery or they're going to Atlantic City to gamble for two days. This seems to be totally out of proportion to what we're really trying to accomplish here, which is to encourage people to vote and to give them an opportunity and to ease their ability to vote. We support no-fault absentee voting, we recognize that it's a constitutional amendment, we have been supporting this since 1963. So a two-year lag does not seem to be insurmountable if we really seriously--if we can seriously follow this, and we hope that the City Council will follow up on this and support this and we will all lobby in the state legislature to eliminate this process, which is really wasteful of the time of the voter and of the Board of Elections. We think it will also help in possibly shortening lines on Election Day. If the process of receiving an absentee ballot is simplified, voters will be encouraged to use it. It will be checked the same way every other absentee ballot is checked so that the security considerations are really not that great. And we feel that there are people who would have voted by absentee ballot on Election Day who didn't have an excuse, and so they came to the polls and stood in long lines and

could have accomplished the same method if they wanted to, and this is an option that someone would have. We're not proposing mail-in voting, we're proposing that people have options, and this would be an option that we would hope they would have an opportunity to entertain. On same-day registration, we really support the issues that have been testified, we don't think it's an undue burden on the Board and we feel that there's safeguards that can be built in which would make this a feasible practice in New York City. As one who fielded phone calls for voters for days before, during, and after the election, I can tell you that if same-day voter registration and simplified no-fault absentee balloting had been in place, there would have been less confusion at the polls on November 4th. Now before I conclude, I want to pick up on something that Rima said and that Doug said about forgetting after four years. We have testified before this Committee a number of times on the need for a second notice before, particularly a presidential election. And we sat on the phones on Election Day and realized that the cause of many of the lines and the long waits was that people didn't know their election district, they didn't know their

assembly district, and they didn't know their election district. We ask that there be funding for a mailing to go out prior to Election Day and not prior to the primary--or as well, in addition, so we have repetition prior to Election Day informing people of their polling place, their E.D., and their A.D. We had a staff member on her own--we have a very small-- who went home after work, took her laptop, went to the polling place, and told people which election districts that they were in. We had people calling us from lines, from their cell phones asking them--asking us their election district and assembly district. We think that process of voting could have been simplified and we know that resources are very scarce, but funding for this should be provided by the Council and the City and the Mayor, so that the Board can send out an additional notice before Election Day. Thank you very much.

REGINA EATON: Thank you for the opportunity to testify, I will be incredibly brief because I think most of the points that I was going to raise have been covered by everybody here. I want to point out that I brought one--

CHAIRPERSON FELDER: Can you identify--

REGINA EATON: [Interposing] I'm sorry, my apologies, I'm Regina Eaton, I'm the Deputy Director of Democracy Program at Demos. Demos is a national organization, we're a think tank, we do work on a number of issues, election reform is one of our major ones. We have a major project on Election Day registration and have worked with over 20 states in the last couple years who have proposed these kind of--this reform, including Iowa and North Carolina, the two--and Montana, the three newest states to allow the voter to register and vote on the same day. I just want to clarify something too in terms of the term Same-Day Registration versus Election Day Registration. Same-Day Registration is kind of the larger set and Election Day Registration is a subset of that, so people use them interchangeably. We had a campaign going on in Iowa where they were looking to do things on Election Day only and they called it Same-Day Registration. At the same time there was a campaign in North Carolina where they're looking to do things up to [off mic] before the election and they call it Same-Day Registration. So the terms can get a little confusing, which is why we explained exactly what it is we're proposing when we work with a state.

Just want to--I understand the concerns about New York being able to move to same-day because of the constitutional concern there, and the idea of doing something within that--before that 10-day period, the early voting overlap, I think that's very interesting we would be willing to work on that. My initial concern is that 10 days out is still pretty, you know, long before the election and it's not clear the level of energy that you're going to have, but we've seen tremendous energy in this last election. So I think that that's encouraging, I don't know that that [off mic] in sort of smaller elections and whether or not you end up [off mic] that people wouldn't be as encouraged to use. We really are excited the fact that you are looking at these reforms. Anything that you can do to make this very complicated process simpler is encouraging, and we're willing to help you on all of those issues. When, in about a month, we will come out a report that shows exactly the level of participation that occurred using same-day registration over the last election. The combination of registering and voting has been tremendous in the places where it's been used. North Carolina was [off mic] pointed out, but we saw the same things in

Montana, in Wisconsin, in Maine, every place where they allow Election Day registration, they usually have some ability to register and vote on the same day before the election, just not necessarily as elaborate as the North Carolina model. We don't have a project on early voting or on online registration, although, again, I think if you're setting up a process that's going to make it easier for voters, then we applaud that. We also served on the voter hotlines and the questions that came in all the time were about registration [off mic] missed a deadline. Election Day registration will virtually eliminate the provisional balloting process because if you register 20 days out, you go there, 28 days out, your name's not on the list, you get to register and vote. That's why it's most important that if you do Election Day registration, you're able to do it at the polling place because that solves that problem of people showing up and their names not being there. If you show up and your name's not there and you have to go to the county seat, you know, if people are just not going to do that or be able to do that and so they'll virtually be disenfranchised. I will conclude my remarks with that and, again, and I've submitted

testimony.

CHAIRPERSON FELDER: Thank you. Council Member Dickens.

COUNCIL MEMBER DICKENS: Thank you so much, and thank you to all of you for coming down, please give my regards to the Assembly Member. Hello, Commissioner, how are you? I'd like to get back to you with a question if I may, but I have a question for Adrienne, please.

ADRIENNE KIVELSON: Yes.

COUNCIL MEMBER DICKENS: You mentioned about the difficulty, and I agree with you, on people going in and not knowing their E.D. and A.D., but I received a BOE postcard with my polling site on it and my E.D. and A.D. right on it, and also there was information clerks--and this is a question really I guess I want to pose to the Board--do you have information clerks at every polling site that provides the E.D. and A.D. for when people give their address? I know that the county is not up there, but that's just a question I'd just [crosstalk] answer.

ADRIENNE KIVELSON: Can I--well--yeah--

MARCUS CEDERQVIST: Is it appropriate for me to [off mic]

MALE VOICE: If you want to--

[Pause]

MARCUS CEDERQVIST: Sure, Marcus

[crosstalk]--

MALE VOICE: No, no, you--

[Pause]

MARCUS CEDERQVIST: Thank you, Council Member, Marcus Cederqvist, New York City Board of Elections. With regard to that, if it's a poll site with a single E.D., usually they don't have an information clerk; if it's a poll site with multiple E.D.s, then they would. [Clears throat] Excuse me. That function, if they're at the wrong poll site and they get a referral to the proper poll site, that would be borne by the inspector if it's a single E.D. poll site.

COUNCIL MEMBER DICKENS: And what about the postcard that I received? And by the way, I just say that because I did get a postcard with my polling site on it.

ADRIENNE KIVELSON: When?

[Off mic]

MARCUS CEDERQVIST: I'm not sure what the--do you have the postcard with you? I'm not sure



what that is.

COUNCIL MEMBER DICKENS: I received a mailing and it might not have been from you, it might have been from you.

ADRIENNE KIVELSON: It was--I believe it was before the primary, unless your E.D. or--unless your polling site changed.

MARCUS CEDERQVIST: Right, if your poll site changed, you would have received something from the Board.

ADRIENNE KIVELSON: So it was in August. I think--

COUNCIL MEMBER DICKENS: [Interposing] And I got it from you then?

ADRIENNE KIVELSON: No, I wish you did, but we don't have the resources to send them out. But the problem was the information clerk, that people lined up outside of the poll site to go to the information clerk, because there's one information clerk in each poll site.

COUNCIL MEMBER DICKENS: No, there's not, he just said no.

ADRIENNE KIVELSON: Well, if there's one E.D. and--if there's one E.D., it's not a problem--

COUNCIL MEMBER DICKENS: Yeah.

ADRIENNE KIVELSON: --but if there are multiple E.D.s, there's an information clerk and our information--that was the problem not anything against the information clerk, but everybody was lining up to go to the information clerk to see what their E.D. was to go and vote at. So if there was somebody would see a line, they'd get online, they didn't know what they're E.D., A.D. was, and inside there might be empty poll sites because people weren't going in. In some polling places where you had enough staff--and I'm not faulting the Board for this--they had staff come out and do exactly what our staff person did at night by telling people which E.D. and A.D. they should voted in, but in busy poll sites and early in the morning when you didn't have additional staff if I'm--am I correct in that? This is when the lines were there and primarily they were there because people just didn't know which E.D. table to go to.

COUNCIL MEMBER DICKENS: I agree with you, Adrienne--

ADRIENNE KIVELSON: Yeah.

COUNCIL MEMBER DICKENS: --it was a problem because I acted as a--

ADRIENNE KIVELSON: Yeah.

COUNCIL MEMBER DICKENS: --at a poll site as an information clerk for about four hours.

ADRIENNE KIVELSON: Yeah, that's--yes.

COUNCIL MEMBER DICKENS: [Crosstalk] Commissioner--and this is a question I want to understand what you said--are you saying that we should have an open registration where just anyone can register? Whether it's online or in person, whatever.

DOUGLAS KELLNER: That's one way to do it, I'm questioning whether we should be spending \$50 million a year keeping any voter registration system at all. In other words, why do we have voter registration? The main reason is as a deterrence for fraud. Well there are probably better ways to spend that money to deter fraud because we know that the bottom line is that it is impossible to erect a full proof voter registration system that a person who is determined to vote twice is not going to be able to exploit.

COUNCIL MEMBER DICKENS: Well just explain to me rather quickly, with the indulgence of my Chair, who, if not BOE, would ensure age, citizenship status, and, because we vote by our

address, that I, that live in Harlem, am not voting in Chelsea?

DOUGLAS KELLNER: Essentially, you're working on a system of trust, which is pretty close to what we have already, even with our voter registration system and the fear of prosecution. And in order to effectively steal an election, you have to do it on a large scale, and as soon as you start doing it on a large scale, the probability of getting caught increases dramatically. So you and I both know how we could register a phony person and have that person vote, but if we started doing it on the kind of scale necessary to influence the outcome of an election in the hundreds and thousands, for even a Council race or an Assembly race, the likelihood is you're going to get caught because it's just too much to handle. So I just raise it, but these other options that are out there for universal registration would be turn it over to DMV, let DMV simply put a checkbox on the driver's license on whether or not you're a citizen and if you're a citizen, you're entitled to vote at the address on your DMV registration, and then let DMV handle the marginal cost of keeping track of those people who don't already have a driver's license or

non-driver's license ID in order to keep a registration list, but with the presumption that if somebody is a citizen, they're going to be entitled to vote.

COUNCIL MEMBER DICKENS: Thank you so much, Commissioner; thank you to all of you for coming down.

[Pause]

CHAIRPERSON FELDER: Garodnick.

COUNCIL MEMBER GARODNICK: Thank you, Mr. Chairman, and thanks to all of you for your testimony today. This is directed at Mr. Kellner, nice to see you, I wanted to--I wasn't here when you read it, but I did read it myself, so I just wanted to ask you a couple of questions from your testimony. The point about transfer of registration, you noted that it's the requirement from the National Voter Registration Act that all jurisdictions transfer the registration of the voter who moves within the jurisdiction, and you point out that with our statewide voter registration lists, there's no reason why voters who move from one county to another should not be allowed to transfer their registration to their current residence when they go to vote. So I just

want to make sure that I understand your point there, is what you're saying that when you show up--

DOUGLAS KELLNER: Right.

COUNCIL MEMBER GARODNICK: --at the poll, you can do it then?

DOUGLAS KELLNER: Right, right now, if I moved to Stuyvesant Town tomorrow, I can just show up at the poll site at Stuyvesant Town and say I've moved, I will cast an affidavit ballot, and that affidavit ballot will count, and then back at the Board of Elections, they will change my registration to show that I've moved to Stuyvesant Town. We should have that same process statewide.

COUNCIL MEMBER GARODNICK: That sounds very reasonable to me, and also your point about the provisional ballot affidavit being a voter registration form also makes a lot of sense. On the vote-by-mail or the no-excuse absentee voting, you made a couple of points that I just wanted to ask you about. The first was, you said that about 3.5% of the electorate casts an absentee ballot today in New York. We don't really have any knowledge of what would happen if we were to give people the option, it could stay at 3.5, it could become 5%, it could be 10%, we

just don't really know how many people would take advantage of it. But the point that coercion is something that's present in a mail situation which might not be ostensibly present if people were to show up in person, isn't that issue present with any absentee voting situation at all? I mean, why is, you know, allowing more of this to go on, to make lives easier for people, why is that any different from any vote-by-mail situation?

DOUGLAS KELLNER: It's a value judgment you have to make. You're certainly increasing the opportunity for that and you have to weigh these concerns. I'm not suggesting that it's wrong, I'm just listing out the pros and cons. I mean the pros are obvious, it's easier for people to vote. Teresa Hommel made a good point in terms of you have to increase the security on the paper flow, and not all states have done a good job with that. And so this is a value judgment that the policy makers have to make when you decide whether to implement this system. So I'm not opposing it, I'm simply saying these are concerns that need to be addressed.

COUNCIL MEMBER GARODNICK: So is it fair to say that you're neutral--

DOUGLAS KELLNER: Neutral.

COUNCIL MEMBER GARODNICK: --on this point at the moment?

DOUGLAS KELLNER: Right.

COUNCIL MEMBER GARODNICK: Okay.

Because I was going to ask the same question about ballot chain of custody because those same issues appear to be present for absentee ballots today as well. But I see your point is just these are--it's not a panacea, it is a--and you're raising particular challenges that might arise.

DOUGLAS KELLNER: And it's an issue of scale. When you--when paper ballots are only 3% of the total vote, then you're not as concerned as you would be if paper ballots are 50% of the vote.

COUNCIL MEMBER GARODNICK: I think that's a fair point, but I also agree with your point before about when people are doing things which are happening in a significant enough degree to influence anything, then they're probably getting caught. And so, you know, in the balance, I guess I will say that I would err on the side of making it easier for people and allowing us to create whatever constraints we need to, to make it as safe and secure as possible, but I



hear your concerns and very much respect your judgment, so I wanted to thank you for that. Thank you.

[Pause]

CHAIRPERSON FELDER: ...you. Before we conclude, I just wanted to acknowledge and thank the Board of Elections for being here from the beginning of the hearing to the end. The Executive Director, Mark Cederqvist, and, of course, the Richmond [phonetic] legal counsel and other staff who have stayed around to hear the whole thing. I just have one question that I'd like to pose to Mr. Kellner, it's an odd question and I in no way agree with the thinking, but there are, in the absence yet of the universal registration which would take care of a lot of the issues that were raised, there are some people that don't register to vote because they don't want to be called for jury duty, and I'm not in any way, in any way saying that that's a good thing. It's an honor to be able to serve as a juror and an obligation certainly in this wonderful country, where in many countries you don't have the opportunity to help in a democratic system. But there are many, many people that will not register because they don't want to

serve for jury duty. First of all, is it so that juror rolls are taken from registrations?

DOUGLAS KELLNER: The juror rolls come from three sources, so they're taken from registrations, the motor vehicle list, and the income tax list.

[Off mic]

CHAIRPERSON FELDER: Okay. And income taxes. And what?

REGINA EATON: And also unemployment and social services.

CHAIRPERSON FELDER: Okay. Unemployment and other social services?

REGINA EATON: Yes.

CHAIRPERSON FELDER: Now it may be a theoretical question, if I said to you that--is this a rule or a law? In other words, the fact that they use--the juror rolls are taken in part from voter registrations, is that a rule, a law, or just, I mean, who decided that?

DOUGLAS KELLNER: The County Clerk decides and he wouldn't necessarily have to use the voter rolls. I might add that the way the County Clerk assembles the jury rolls by going to multiple

source lists, that how universal registration could work the same way. But if your idea is, should the County Clerks be prohibited from using the list for jurors, using the registration lists for jurors, I personally ask the question, you know, if somebody is that determined not to do jury duty, should they be voting?

CHAIRPERSON FELDER: Right. Okay. I thank you very, very much and I thank everybody for coming to the hearing today.

[Pause]

DOUGLAS KELLNER: Thank you. So is this--were you giving this to me?

REGINA EATON: Yes [crosstalk]--

DOUGLAS KELLNER: Well thank you, Regina.

REGINA EATON: --looking at, so I figured I'd--

DOUGLAS KELLNER: Yeah. [Pause] Sure, I mean that sounds like a better use for them. But I think this question about jury duty actually was a very good example of exactly how you could do universal registration. The same way the county--

ADRIENNE KIVELSON: Use the same lists.

DOUGLAS KELLNER: You use all these lists and if you're on a--

FEMALE VOICE: What's happening in Congress?

[Pause]

DOUGLAS KELLNER: Well we still don't know whether Schumer's going to be Chair of the Rules Committee, unless somebody's got more recent information than I have.

ADRIENNE KIVELSON: [Crosstalk] they're saying is we go in [pause] to optical scanners--

[Pause]

DOUGLAS KELLNER: Yeah, I mean we're supposed to do it, there is a chance we won't because the vendors aren't ready--

CHAIRPERSON FELDER: The hearing is hereby closed.

DOUGLAS KELLNER: --then you should meet with Chuck and I mean Schumer will decide what the agenda is.

FEMALE VOICE: Oh, okay.

[Pause]

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature Tammy Wittman

Date December 29, 2008