

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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Chairperson

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Brad Lander
Letitia James
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CHAIRPERSON BREWER: Well, good afternoon. I'm Gale Brewer and I am the city council member on the West Side and chair of the council's Governmental Operations Committee. We want to thank the New York State Legislature for this room. All other rooms are booked, but we would like to have this room at the city council. We're holding the hearing on several pieces of legislation relating to the way we conduct our elections, the special focus on instant run-off voting; we call it IRV, and I'd like to thank Council Member Garodnick and Council Member Lander, who are co-sponsors or prime sponsors of some of the legislation and they'll say a few words in a minute, and we're here with David Seitzer, counsel to the committee, Tim Matesov [phonetic], policy analyst and Will Colegrove from my staff.

IRV, also called Ranked-Choice Voting, is a method of choosing candidates that permits voters to rank candidates for an office in the order of the voter's preference rather than casting a ballot for a single candidate. If no candidate receives a majority of first choice votes, the candidate who receives the fewest votes is

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2 eliminated and those ballots are counted as votes
3 for the candidate ranked second. If no candidate
4 has the majority at this point, the process
5 continues until a candidate has the majority of
6 voters. Those of us who are old remember the
7 school board elections. We all voted them in a
8 similar manner. You have to be old to remember all
9 that. IRV is generally thought to be more
10 representative of voter preference than simple
11 first-pass-the-post voting, since it permits voters
12 to vote for the candidate they like the most
13 without worrying that their vote would be a
14 throwaway that allows the least desirable of the
15 front runners to win. It is also much less costly
16 than holding a separate run-off election, which is
17 a system we have currently for citywide primary
18 elections when one candidate receives less than 40
19 percent of the vote. Unfortunately, we have a
20 fresh example of just how much more expensive our
21 current system can be, and I say this... I'm a big
22 believer in paying whatever we can and need to for
23 democracy with a small d, but in this case in the
24 most recent primary election for Public Advocate...
25 and Council Member Tish James just came in...

1 {laughter} none of the Democratic candidates passed
2 the 40 percent threshold, requiring the city to
3 hold a run-off, as we all know, three weeks later.
4 This extra election was estimated to have cost the
5 city \$13 million. Furthermore, the potential for
6 having a run-off election three weeks after the
7 primary required the Board of Elections to use old
8 lever machines, since they did not have enough
9 turnaround time between the two elections to use
10 and program the optical scanners, and I like the
11 optical scanners, but I swear to God, every New
12 Yorker likes those damn lever machines. [laughter]
13 Now, to put that in some context, \$13 million is
14 more than five times the annual budget of the
15 public advocate, which the Public Advocate-elect
16 knows, [background voice] and it's approximately
17 the same... [background voice] the same amount of
18 money that is required to run the city's entire
19 animal shelter system for one year and would take
20 care of many other matters. To make this even
21 worse, turnout for the run-off was less than half
22 of what it is in the primary, which means an
23 exercise which is supposed to be more
24 representative of voter preferences was actually
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1 significantly less so. It doesn't take too much to
2 understand; to conclude that something is wrong.

3 So the legislation before us seeks to address this
4 issue. Intro 1066, introduced by Council Member

5 Brad Lander and myself, and he'll talk about it,
6 would institute instant run-off elections for
7 citywide primaries. In conjunction with this,

8 Intro 1108, which I have sponsored with others,
9 would institute instant run-off for absentee and

10 military voters, many of whom commonly don't get to
11 vote in run-offs due to the short turnaround, and

12 I'll give you some numbers about that later. Intro
13 1172; Council Member Tish James is the prime

14 sponsor; seeks to alleviate the problem in a
15 different way by abolishing run-off for the offices

16 of Comptroller and Public Advocate and keeping it
17 for the Mayoral Primary. We're also hearing from

18 Intro 488, which would codify the Board of
19 Elections' existing practice of posting sample

20 ballots on their website. That's the one that I
21 sponsored and helped get the primary... get the

22 websites done initially and finally, Reso 4-A;
23 council Member Garodnick is the prime sponsor.

24 It's a reso, which calls on the State Legislature

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to pass legislation requiring instant run-off for citywide elections, I think in support of Council Member Brian Kavanaugh's legislation in Albany.

To be clear, instituting IRV is not without its challenges. Voters and poll workers would have to be educated about how it works; that's not easy, and the Board of Elections will have to figure out how to create a ballot that is easy to comprehend and can be tallied automatically and easily. IRV is already in use in a number of major cities; San Francisco. Everything is in San Francisco. I'm tired of San Francisco! [laughter] [background voice] Oh, my goodness. Oakland and Minneapolis and our understanding is that those systems operate relatively smoothly.

I want to thank everyone for being here and call on Council Member Brad Lander.

COUNCIL MEMBER LANDER: Thank you, Chair Brewer, for convening this hearing and also for co-sponsoring this legislation with me. As you said, on October 2nd, New York City held a primary run-off election for the office of Public Advocate and while we're thrilled with the outcome and delighted to be joined by Public Advocate-elect,

1 Council Member Tish James, it was an election that
2 we did not need to have. The run-off cost
3 taxpayers some \$13 million, effectively
4 disenfranchised military and absentee voters who
5 live overseas and unfortunately, also contributed
6 to some negative campaigning. Turnout fell by more
7 than two-thirds from the September 10th primary and
8 even the potential of the run-off had a negative
9 consequence, as the Chair said, in that the city
10 had to use the antiquated lever voting machines,
11 which, while many New Yorkers like them, is not the
12 best way for us to administer in cost-effective
13 way. Luckily, there is a good alternative that
14 achieves not just as good, but more robust and
15 inclusive democracy at a lower cost. If we had to
16 pay more to have good democracy, like the Chair I
17 would do it, but in this case we don't. We save
18 money because election administration is not a
19 barrier. The optical scanning machines are capable
20 today, and in fact, New York's equipment vendor is
21 running an IRV election this November in
22 Minneapolis and Tacoma Park. Where run-offs can
23 encourage divisive campaigning, instant run-off or
24 rank choice voting promotes inclusion. Think about
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1 this year's mayoral debates or mayoral race in the
2 Asian community, where because there was the
3 perception that one candidate, John Liu, was going
4 to win, and in fact, did win the overwhelming
5 percentage of the Asian vote. Other candidates in
6 the race largely did not pay that much attention to
7 the Asian community. In a Ranked-Choice Voting
8 system, all candidates would've continued to have
9 an incentive to reach out to the Asian community,
10 so you get less negative or divisive campaigning
11 and more inclusive campaigning. The evidence
12 suggests that while the Chair is right that we'll
13 have to have education, that voters handle instant
14 run-offs well. Of Oakland's 18 offices elected
15 with IRVs since 2010, 16 were won with more votes
16 than the winner of the preceding comparable non-IRV
17 election and in Oakland and San Francisco and
18 Minneapolis there's consistent reporting, and we
19 actually have a letter here from Minneapolis from
20 the council member there talking about how well
21 it's working there. We know that IRV already has a
22 lot of support in New York. It's wonderful that
23 there's a bill in Albany to try to move it.
24 Council Member Garodnick's resolution would help
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2 move that bill. I will note one challenge here is
3 that this would take a citywide referendum, so I'm
4 hoping that the council will pass this bill and it
5 will then go on the ballot automatically for a
6 citywide referendum, but that's good as well. It
7 gives New Yorkers the opportunity to learn about
8 what this is and to vote to choose it themselves
9 and in plenty of time for the 2017 elections.
10 Intro 1066 would implement IRV both in primary
11 elections for citywide offices and in special
12 elections, including for council races and that's
13 important for making sure that you get more
14 majoritarian elections. Right now in those council
15 special elections, you could have a situation where
16 a council member wins office with a very, very low
17 percentage of the vote and that can have odd
18 impacts in terms of providing the best possible
19 representation. So for all those reasons, I say
20 thank you for convening this hearing and hopefully
21 we'll be able to move forward to passage of this
22 bill.

23 CHAIRPERSON BREWER: Council Member
24 Garodnick?

2 COUNCIL MEMBER GARODNICK: Thank you,
3 Chair Brewer and thanks for holding a hearing on
4 these various bills and resolutions. I really
5 think there's very little to add on top of what
6 Council Member Lander just said. I will, just for
7 my own purposes, explain that my top two rationales
8 for supporting this are cost and tone, and I think
9 the cost is self-explanatory, but I do think that
10 what Council Member Lander said about the tone of
11 elections and knowing that you are not just
12 competing with the slate of candidates that you
13 have at any one moment. You are thinking about the
14 subsequent rankings of all of their supporters. It
15 allows for us to have a much more civil dialogue
16 when we're conducting ourselves in campaigns, and I
17 think that that is a real benefit of this and one
18 of the reasons why I am so enthusiastic about it.

19 CHAIRPERSON BREWER: Council Member
20 James?

21 COUNCIL MEMBER JAMES: So first, let me
22 thank Council Member Brewer for holding this
23 hearing. Obviously, I am the poster child for a
24 number of these bills, or actually the race that I
25 was involved in. Unfortunately, historically run-

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2 off elections have been plagued by low voter
3 turnout. Although I support abolishing instant
4 run-off in the city of New York, I am open
5 obviously to instant run-off, but I am obviously
6 concerned about the number of the administrative
7 problems associated with this type of mechanism.
8 In addition to that, I am also concerned with
9 regards to cost. I think by abolishing the instant
10 run-off for the... you know, by abolishing run-offs
11 for the office of Public Advocate and Comptroller
12 we would be saving some additional dollars and
13 saving the taxpayers obviously grief in going back
14 to the polls a second, if not a third time. I'm
15 open to all of the bills that are before us today
16 and I look forward to a hearty and healthy
17 discussion in this regard. Again, I want to thank
18 Council Member Brewer for holding this hearing and
19 I look forward to the testimony.

20 CHAIRPERSON BREWER: Thank you very
21 much. I've been joined by Council Member Inez
22 Dickens and we'd like to call on Doug Kellner from
23 the New York State Board of Elections.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COMMISSIONER KELLNER: Good afternoon and I want to thank you for inviting me to this hearing.

CHAIRPERSON BREWER: Do we have copies of your testimony? Are we all... do we have it? Okay, thank you. Go ahead, I'm sorry.

COMMISSIONER KELLNER: And I don't think it's necessary for me to read my testimony, but I would like to start out by just saying I subscribe to every single thing that Councilman Lander said in his opening remarks, but I agree with all of the points that he made. There are three key points that I wanted to address to the council. The first is that you really should act now. If you are going to enact Ranked-Choice Voting, you need a substantial lead time in order to accomplish it properly and also as we see historically, the closer we get to the election, the harder it is to change election procedures because it's perceived that it will have a beneficial effect on some candidate and a negative effect on other candidates, so that the time to work out the election procedures is very far in advance of the election so that it can be done in a

1 neutral manner without fear of the saying it's
2 biased in favor or against any particular
3 candidates. So I strongly urge you to make a
4 decision on what to do about the run-off, if not
5 this month before this council adjourns, certainly
6 within the early months of the next session of the
7 council because if you don't do it, we're going to
8 get stuck again four years from now with another
9 run-off primary election that everybody agrees is
10 the least desirable of the options that we have
11 available. And I realize it's difficult that
12 people have to agree 'cause there are so many
13 different permutations of how it could be done. I
14 personally think Ranked-Choice Voting is the best
15 method for resolving primary elections in New York
16 City, but I would apply it to all offices.
17 Applying it to the three citywide offices was an
18 arbitrary decision made following the 1969 election
19 and that's what we have now. It's completely
20 optional in terms of you know, in my view of how
21 you approach it in terms of which offices should be
22 done by instant run-off voting, but I strongly urge
23 you, no matter what you do, to abolish the run-off
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1 primary election because of the expense and the
2 problems that it generates.

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4 And then dealing with the mechanics of
5 this, just to comment on this, and I fortunately
6 just got the New York City testimony so I've been
7 able to read that, but I have a few comments with
8 respect to it. First of all, on the cost, I think
9 the \$13 million figure is an accurate figure in
10 terms of what it costs the Board of Elections, but
11 it doesn't necessarily include the other costs to
12 other city agencies, including a substantial
13 overtime cost in the Police Department, the
14 dislocation that happens in the Department of
15 Education and the cost that the Campaign Finance
16 Board would have to bear in matching funds for a
17 run-off election, so that I think the \$13 million
18 number is actually low. Then in terms of the
19 logistics of the implementing, I think that it's a
20 little bit easier than what the city puts forth in
21 its testimony. First of all, the existing hardware
22 and software are sufficient to run a Ranked-Choice
23 Voting election, but not optimally, as we saw in
24 Minneapolis. Minneapolis uses the same ballot
25 scanning equipment that New York City has, the ES&S

1 DS200. I attached the Minneapolis ballot that they
2 use. Now, one of the big differences in
3 Minneapolis is that they have a much easier ballot
4 access than you have in New York, so we had 34
5 candidates for Mayor, and Minneapolis chose in
6 their ballot to list each candidate three times in
7 a column for first, second and third choice votes,
8 so that basically forced Minneapolis to go onto a
9 two-page ballot. I've attached a made up ballot
10 that ES&S distributed with one of their promotional
11 things, but it's an alternative method of showing
12 how to set up a ballot. In the first column of the
13 ES&S ballot they simply give three choices next to
14 the voter's name. You'll see using that set up of
15 three choices next to the voter's name it does not
16 take any more... any significantly more space than
17 what we have now in our current primary ballot and
18 so to that extent, I would question the city's
19 concern that the ballot would double the printing
20 costs for the election. It doesn't necessarily
21 have to do that. And you'll see another
22 alternative that ES&S has set up where you go
23 beyond three choices where they have all the
24 choices listed and of course, they're doing it in
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1 much larger font than what New York City uses,
2 which is another issue itself. So as I say, it
3 could... now, the other issue is certification.
4 Minneapolis adopted their system without time to do
5 a full implementation of a system that would
6 aggregate the votes from the DS200 scanners, and so
7 Minneapolis used an uncertified makeshift system
8 for this election, which worked. It just took them
9 three days to add up the ballots and get the final
10 result, but it worked without having to go through
11 a certified system, but certainly I agree with the
12 City Board's recommendation that if you are going
13 to enact Ranked-Choice Voting, that a system be
14 developed to have a computer program that would
15 take the results from the scanner and add them up
16 according to the formula that is used in whichever
17 version of Ranked-Choice Voting you adopt for
18 aggregating the votes and that that system would
19 have to be certified by the State Board of
20 Elections, and the appropriate turnaround time if
21 you're going to do it right and plan properly is
22 three years; again, another reason why I'm saying
23 if you're going to do this, do it now, don't delay.
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Some of the city's points with respect to the cost of educating the voters are good points well taken, but I think that the numbers are somewhat exaggerated, but that's an ideal situation if you were really going to gold plate it and spend every dollar that you're going to spend. Many cities have implemented the changeover to rank choice voting with very little extra money spent for voter education or poll worker training. It isn't that complicated when you look at it. As I say, if you use the choice of just marking one, two or three, it's fairly self-evident. The experience in most of the cities is that there are very few additional void ballots as a result of the implementation and switchover to rank choice voting. So as I say, I personally prefer Ranked-Choice Voting, but certainly as far as I'm concerned, your main priority should be to repeal the run-off election and then deal in as objective a way as you can of whether or not... you know, how you're going to go about replacing the run-off election.

CHAIRPERSON BREWER: So I...

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COMMISSIONER KELLNER: [interposing]

Thank you.

CHAIRPERSON BREWER: I just have a

couple of questions and then I know my colleagues have questions. Just give us a scenario on the time. Say, for instance, we do pass it in 2013 or early 2014, then there would have to be you know, an election that would include this as a referendum and then three years or so to do the... so is that... can you just go through that? Am I correct in...

COMMISSIONER KELLNER: [interposing]

That if you're amending the City Charter, yes, you'd have to do that, so that would be November of next year that it would pass. Then you need to contract out for developing the program, the software program that will aggregate the votes and then actually develop that program. I think realistically you need nine months to a year in order to actually get the program and then you have to submit it for state certification testing and you're looking at another six months. This is not as complicated as a certification project as putting in a new voting machine, but it still

2 requires testing and review of the source code to
3 make sure that the system does exactly what the
4 statute requires it to do.

5 CHAIRPERSON BREWER: What do you think
6 that the cost of all of that would be generally?
7 We know in some sense that we'll be saving money if
8 it goes through but...

9 COMMISSIONER KELLNER: [interposing]
10 Oh, you'll be saving a very substantial amount of
11 money. We're talking only a small fraction of
12 the... even if we take the low figure of \$13
13 million to do a run-off election. I'm estimating
14 that the cost of developing the software and
15 getting it certified would be probably in a million
16 to a million and a half range, and no more than \$2
17 million.

18 CHAIRPERSON BREWER: And the... okay,
19 and the state could do this I mean, but is there
20 any indication that they might? I know there are
21 bills pending. Do you have any sense of that?

22 COMMISSIONER KELLNER: I don't think
23 you're going to see action from the legislature on
24 this before the City Council acts and I think that
25 most of them feel that this is a New York City

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issue and therefore the City Council should take the lead on it, but I don't speak for the legislature.

CHAIRPERSON BREWER: I should know this, but is there instant run-off or any kind of run-off situation... is there instant... is there instant IRV in other locations in the state of New York and is there any run-off in the rest of the state of New York?

COMMISSIONER KELLNER: I'm not aware of any. Rob Richie from FairVote might be able to answer that better. We do have one village in Westchester County, which uses a form of alternative voting, where I think it's six members of the village council are elected and so the voter gets six votes, but can cast all six votes for a single candidate if the voter so chooses, and so they have to list on the ballot each candidate six times and it works. The system has worked very well.

CHAIRPERSON BREWER: And there are probably as many people as there are...

COMMISSIONER KELLNER: That's the village of Port Chester, mm-hm.

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2 CHAIRPERSON BREWER: 79th Street
3 between Amsterdam and Columbus. Council Member
4 James.

5 COUNCIL MEMBER JAMES: So it's my
6 understanding that instant run-off voting is in
7 place in several jurisdictions, in Berkeley, in
8 Minneapolis, San Francisco and Arkansas, South
9 Carolina and Louisiana use IRV for overseas orders
10 for run-off elections and another interesting note
11 and an aside is the Academy of Motion Picture Arts
12 and Sciences uses a run-off system to vote for the
13 Academy Awards for those who are into trivia.
14 [laughter] But currently the system that's used in
15 the city of New York is it capable of counting
16 several other different... several offices?

17 COMMISSIONER KELLNER: If today we were
18 to use instant run-off voting, for example, in a
19 special election, the New York City software and
20 hardware can do it, but you would not be able to
21 aggregate the votes using the regular computer
22 function. You would have to aggregate the votes
23 using spreadsheets and doing it manually. That's
24 what Minneapolis faced in their last election.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER JAMES: Doug, with all
due respect...

[crosstalk]

COMMISSIONER KELLNER: I...

[crosstalk]

COUNCIL MEMBER JAMES: There are a
number of individuals who are sitting behind you
who are all shaking their heads, and there is a
belief that currently under the current system in
New York City we are not capable of that.

COMMISSIONER KELLNER: And it's just
not true. The...

[crosstalk]

COUNCIL MEMBER JAMES: Well...

[crosstalk]

COMMISSIONER KELLNER: There is a
switch... and you know, I did the certification
testing on the system and it's the Unity 5.0.0.2
software and there is a switch on the software,
which allows the votes to be aggregated and
exported from that aggregation and so in other
words, you can format the ballot using either the
Minneapolis format or the ES&S sample format. The
New York City ballot can be formatted in either

2 way, and the DS200 scanner will export the results
3 of those ballots. Now, aggregating the results it
4 will not do, and that requires a software that
5 needs to be certified or you have to do it manually
6 with an uncertified system, which is not ideal.

7 COUNCIL MEMBER JAMES: Mr. Kellner,
8 though I respect your intelligence and your
9 opinion, the fact is is that there's a question of
10 fact between your...

11 [crosstalk]

12 COMMISSIONER KELLNER: I...

13 [crosstalk]

14 COUNCIL MEMBER JAMES: Position and the
15 individuals who sit behind you, which to me
16 suggests litigation, and also suggests to me that
17 it would take longer to count ballots.

18 COMMISSIONER KELLNER: Well, if I had
19 the machine here, I could show you. I could just
20 do the switch for you.

21 COUNCIL MEMBER JAMES: That there's...
22 there's clearly...

23 COMMISSIONER KELLNER: [interposing]
24 Minneapolis did it, Council Member James. I mean

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2 that's the bottom line is that Minneapolis has the
3 same DS200 system that we have and they did it.

4 COUNCIL MEMBER JAMES: May I ask you a
5 question? How many voters are in Minneapolis?

6 COMMISSIONER KELLNER: I don't know the
7 exact number...

8 [crosstalk]

9 COUNCIL MEMBER JAMES: Or San
10 Francisco?

11 [crosstalk]

12 COMMISSIONER KELLNER: But it's one-
13 tenth of what new York's is. San Francisco is a
14 fifth of New York's.

15 COUNCIL MEMBER JAMES: The point is is
16 that there seems to be some disagreement, and my
17 other question to you is in regards to instant run-
18 off, how does this impact on communities of color,
19 a voter turnout?

20 COMMISSIONER KELLNER: You know, there
21 are so many formulas on how that's approached. The
22 experience I've seen in San Francisco and in
23 Berkeley is that it actually had a positive effect,
24 but there are lots of people who have arguments on
25 that. I don't know that there's a definitive view.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER JAMES: So I've heard from... [background voice] some opinions with respect to Ranked Voting, particularly as it relates to communities of color and whether or not this would, in fact, pass... I'm sure it has already passed justice, but the Voting Rights Act and so that's an issue that I continue to have and have some concerns about its impact. And in terms of... of in the event that we cannot move to Ranked Voting for whatever reason, what is your position with respect to eliminating instant run-off elections or run-off elections in the city of New York?

COMMISSIONER KELLNER: I feel strongly that we should eliminate run-off elections regardless of whether we go to instant run-off voting; that that should be the priority is to eliminate the run-off election for all offices, right.

CHAIRPERSON BREWER: Okay, Council Member Lander?

COUNCIL MEMBER LANDER: Thanks so much for being here today and for bringing us the helpful ballots. I think it makes a big difference

2 to be able to see them. In terms of the testing
3 that you talked about, I wonder whether you think
4 special elections between now and the 2017 citywide
5 elections might be able to provide that.
6 Obviously, there's this question on the one hand of
7 getting it done in enough time, but there are
8 likely to be some city council specials that would
9 perhaps provide on a smaller scale an
10 opportunity...

11 [crosstalk]

12 COMMISSIONER KELLNER: A...

13 [crosstalk]

14 COUNCIL MEMBER LANDER: To provide...

15 [crosstalk]

16 COMMISSIONER KELLNER: A special
17 election with one office is relatively easy to run
18 and relatively easy to count and again, the
19 software for counting that election is not
20 absolutely necessary, as Minneapolis has shown, but
21 it would take longer to count than if you did not
22 have Ranked-Choice Voting.

23 COUNCIL MEMBER LANDER: And just to be
24 clear, so the figure that you gave of the extra one

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to \$2 million, that's what would give you the ability to do the aggregating.

COMMISSIONER KELLNER: That's correct.

COUNCIL MEMBER LANDER: It's not the difference between the somewhat bigger you know, ballot that...

[crosstalk]

COMMISSIONER KELLNER: That's right.

[crosstalk]

COUNCIL MEMBER LANDER: Might require two...

[crosstalk]

COMMISSIONER KELLNER: That's right.

[crosstalk]

COUNCIL MEMBER LANDER: Pages and...

[crosstalk]

COMMISSIONER KELLNER: And that doesn't include the issue of printing costs. The city is correct that if it goes to a two-page ballot that's going to double the printing costs. I don't think it's very likely that you'd go to a two-page ballot if you used the three... you know, the three box format for setting up the ballot. It would be very

2 similar to the ballots that we have now for the
3 primary.

4 COUNCIL MEMBER LANDER: And just to be
5 clear, the cost then is a one-time cost; that one
6 to \$2 million is a one-time cost but...

7 [crosstalk]

8 COMMISSIONER KELLNER: But...

9 [crosstalk]

10 COUNCIL MEMBER LANDER: The savings is
11 every time we would potentially have a run-off
12 election.

13 COMMISSIONER KELLNER: That's right and
14 as I say, you do have some marginal training costs.
15 You know, you should have training for the poll
16 workers and you know, a publicity campaign for the
17 public to make sure they know so that there is some
18 cost for that, but it's nowhere near the...

19 [crosstalk]

20 COUNCIL MEMBER LANDER: Mm-hm.

21 COMMISSIONER KELLNER: Cost of a run-
22 off.

23 COUNCIL MEMBER LANDER: Thank you very
24 much. Thank you, Madam Chair.

25

2 CHAIRPERSON BREWER: Thank you.

3 Council Member Dickens?

4 COUNCIL MEMBER DICKENS: Oh, thank you,
5 Madam Chair and thank you, Commissioner, for coming
6 and giving us testimony today. Are there any
7 jurisdictions with instant run-off elections that
8 are switching back or have switched back to non-
9 instant run-off elections?

10 COMMISSIONER KELLNER: I'm not aware of
11 any, but there may be.

12 COUNCIL MEMBER DICKENS: Alright, but
13 you allow...

14 [crosstalk]

15 COMMISSIONER KELLNER: I haven't
16 heard...

17 [crosstalk]

18 COUNCIL MEMBER DICKENS: There aren't
19 any.

20 [crosstalk]

21 COMMISSIONER KELLNER: Of any, no.

22 COUNCIL MEMBER DICKENS: And I know you
23 mentioned a moment ago about the voter education,
24 which is going to be critical because every time we
25 change the system or change the ballot, the voters

1
2 get very confused and they push back and GovOps
3 hears a lot of complaints and that's because they
4 haven't been formally... none of us have been
5 formally educated in whatever the new system is.
6 That means it's going to be critical for the board
7 to do extensive outreach to the communities so that
8 they thoroughly understand is something that is
9 saving money, but it's something is going to brand
10 new to them and I believe that a lot of them are
11 going be even with the switching of the machines
12 and in this election we switched back to the old
13 machines and there was a lot of confusion around
14 just that this year. So even though I think it's
15 critical that we save the money and instant run-
16 offs is great... I like this ballot, by the way,
17 that you brought in. I agree with Council Member
18 Lander. I think that's very impressive. I've not
19 seen one before, so I'm glad that you brought this
20 in, but my constituents; our constituents they
21 don't have this ballot to see, so are you
22 prepared... is the state prepared to help the
23 jurisdiction of the board to pay because this is
24 going to be an additional cost for education, not
25 just for the poll workers. We're talking about the

1 constituents now that go in to vote and they don't
2 know and they're fearful. Our seniors get fearful
3 every time the system changes; particularly the
4 seniors because they don't know what's happening
5 and they think we're stealing their votes. They
6 think we're doing something to them and they're not
7 sure, so I want to... I can't stress enough the
8 educational component to the constituents, and in
9 the beginning it's going to be costly because
10 you're going to have to send out not one little
11 postcard, but it's going to be important to be
12 repetitive and in advance if we enact this
13 legislation because I'm scared to death for all of
14 our constituents 'cause they're going to be scared
15 and I think each of us can talk about our seniors
16 and their fear just this year. I mean I got people
17 calling me up, "What are you doing? What are you
18 all doing?" You know, "Change the machine back,"
19 and then when they went back for the general
20 election it just switched back, so I just wanted to
21 put that on and I did want to ask about the
22 jurisdictions; if there were any that had reversed
23 back and I couldn't stress enough about the
24

2 educational component of it. And can you tell me,
3 because see, this one is a little convoluted to me.

4 COMMISSIONER KELLNER: That's the
5 Minneapolis ballot, right?

6 COUNCIL MEMBER DICKENS: That's kind of
7 convoluted even to me.

8 COMMISSIONER KELLERMAN: Yeah.

9 COUNCIL MEMBER DICKENS: But you know,
10 so can you tell me you know, and how is that going
11 to work and see first choice, second choice, third
12 choice and that means that there... if this is
13 in... let me use that first, second, third 'cause
14 they have... would have to have you say the
15 Democrat three times and the Republican three times
16 and the... is that what...

17 COMMISSIONER KELLNER: We're talking
18 about a primary ballot, so you only have one party
19 on the ballot.

20 COUNCIL MEMBER DICKENS: Yeah, but now
21 this says general, so I'm now asking about the
22 general...

23 [crosstalk]

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COMMISSIONER KELLNER: Right, Minneapolis uses the Ranked-Choice for their general election, not for the primary.

COUNCIL MEMBER DICKENS: So I mean how is that going to work with the general if this one's...

[crosstalk]

COMMISSIONER KELLNER: The bills that we're talking about are only for the primary. Right now we have a run-off...

[crosstalk]

COUNCIL MEMBER DICKENS: But if it's going to come...

[crosstalk]

COMMISSIONER KELLNER: For the primary, not for the special election. Oh, for a special election...

[crosstalk]

COUNCIL MEMBER DICKENS: Yes.

COMMISSIONER KELLNER: You're right. You would have... but for special elections right now under the city charter they're nonpartisan, so you would list the candidates for the city council position or whatever the office is and as I say,

2 you can do it the Minneapolis way or you can do it
3 the way on the... the second ballot, the ES&S
4 sample ballot.

5 COUNCIL MEMBER DICKENS: And this
6 encourages voter participation in communities of
7 color?

8 COMMISSIONER KELLNER: Well, it...

9 [crosstalk]

10 COUNCIL MEMBER DICKENS: Is that what
11 you're telling me?

12 [crosstalk]

13 COMMISSIONER KELLNER: It gives you an
14 effective second or third choice. That's the
15 point, is that well, if you take the San Francisco
16 and Berkeley models, you know, the minority
17 candidates were elected through the second choices,
18 who would not have won in the first round, but got
19 elected to the office of Mayor in each of those
20 cities.

21 COUNCIL MEMBER DICKENS: And the second
22 ballot.

23 COMMISSIONER KELLNER: As... well,
24 because of their second choice... they got a lot of
25 second choice votes.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER DICKENS: And that's from using this ballot and not this one.

COMMISSIONER KELLNER: They...

COUNCIL MEMBER DICKENS: [interposing] Not this first one, this Minneapolis.

COMMISSIONER KELLNER: Council Member Dickens, the system on the ballots is the same. The first ballot... the Minneapolis ballot lists every candidate for first choice, second choice and third choice, so the name is printed three times. You could just as easily do it the way they do it on the ES&S ballot by printing the name once and then having a voting block for first, second and third choice. It's the same system. It's just a different format of the ballot.

COUNCIL MEMBER DICKENS: Alright, thank you.

CHAIRPERSON BREWER: Council Member Lander?

COUNCIL MEMBER LANDER: I'll just add that I know FairVote, who's testifying later today, has I think the most extensive experience all around the country and they'll be talking to us about how it worked in San Francisco, about how it

2 works when you need to have it in different
3 languages and can answer a lot more questions. The
4 goal absolutely, as I said in my opening remarks,
5 is to make it more inclusive and I think the
6 evidence is that it does that, and FairVote is a
7 good government and civil rights and voting rights
8 organization who've concluded that this achieves
9 those goals, so they'll be around; they'll be
10 giving testimony later that'll help us understand
11 the experiences from other cities even more deeply
12 so.

13 COMMISSIONER KELLNER: Okay, thank you
14 very much.

15 CHAIRPERSON BREWER: Alright, thank you
16 very much. Our next is Michael Ryan, New York City
17 Board of Elections and I believe he's bringing some
18 folks with him so... [background voice] Miss
19 Sandow. [background voice] Go right ahead whenever
20 you want.

21 MICHAEL RYAN: Okay, I'm just getting
22 some water.

23 CHAIRPERSON BREWER: Some water, good
24 New York water. San Francisco water.

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2 MICHAEL RYAN: Unlike Commissioner
3 Kellner, as I have a board of commissioners to
4 answer to, I'm going to stick to the script.

5 CHAIRPERSON BREWER: Okay.

6 MICHAEL RYAN: Chair Brewer and the
7 members of this council's Committee on Governmental
8 Operations, I want to thank this committee for
9 providing the opportunity to appear before you on
10 behalf of the Board of Elections. My name is
11 Michael Ryan and I am the Executive Director of the
12 Board of Election in the city of New York. I would
13 like to take a moment to acknowledge Chair Gale
14 Brewer. Over the past several years in my capacity
15 as Commissioner and in my current capacity as
16 Executive Director, I have come to work closely
17 with Chair Brewer and found her to be a tireless
18 advocate not only for her constituents, but for the
19 voters of the city of New York as a whole. As
20 Chair Brewer's work with the New York City Council
21 draws to a close, I am taking this opportunity to
22 wish her nothing but success in her future
23 endeavors. At the time that this testimony was
24 prepared, I was not aware that Council Member James
25 would be on this panel, so as a matter of personal

1
2 privilege I'm going to amend this testimony to
3 thank Council Member James as well for her work
4 here in the City Council and I know that she will
5 continue to do well in her future endeavors. And
6 I'm also thankful that we are not sharing a podium,
7 myself and Council Member James, and I don't have
8 to follow her oratorical skills, as I had to do one
9 time in the past and found that I was no match for
10 her. [laughter]

11 Joining me today are the Boards' Deputy
12 Executive Director Dawn Sandow, seated next to me
13 at my left, Administrative Manager Pamela Perkins;
14 General Counsel Steven Richmond; Deputy General
15 Counsel Raphael Savino; Director of Electronic
16 Voting Systems John Naudus and Director of
17 Communications and Public Affairs Valerie Vazquez.
18 And Commissioner Maria Guastella, who is a late
19 addition to the program and she hails from the
20 jewel of the city, Staten Island, which also
21 happens to be my home borough. Reasonable minds
22 can differ on that, of course. [laughter]

23 The Board of Elections in the city of
24 New York has been asked to comment on several
25 pieces of legislation before the City Council that

1 would affect the conduct of elections. The
2 Commissioners have authorized us to share the
3 following with you: with respect to Intro 488,
4 Intro 488 requires that sample ballots be placed on
5 the Board's website prior to each election. When
6 utilizing the electronic poll site voting system,
7 the Board provides sample ballots on its website
8 prior to each election. When utilizing the
9 mechanical lever machines, the Board provides the
10 functional equivalent of sample ballots in the form
11 of a contest list for each relevant subdivision.
12 As such, this bill codifies existing Board
13 practice. Intro 1192 eliminates the requirement of
14 a run-off for the offices of Public Advocate and
15 Comptroller. The Board takes no position with
16 respect to this proposed legislation and/or its
17 merits. Eliminating the run-off requirement for
18 Public Advocate and Comptroller has the potential
19 to generate savings, as an additional election
20 would no longer be required assuming that there is
21 no mayoral run-off. Resolution 4-A calls upon New
22 York State Legislature to enact and the Governor to
23 subsequently sign Assembly Bill A.7013, which would
24 require instant run-off voting, now we're going to
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1 refer to it here and after as IRV, in the New York
2 City primary elections for the office of Mayor,
3 Comptroller and Public Advocate. Intro 1066 is a
4 Local Law to amend the New York City Charter, which
5 also calls for IRV. Intro 1108 is a Local Law to
6 amend the New York City Charter in relation to
7 absentee and military voters utilizing IRV. The
8 Board takes no position with respect to these
9 legislative proposals. The Board has identified
10 several technical and operational and cost
11 implications related to the implementation and
12 conduct of IRV elections. The electronic voting
13 systems used by the Board as currently certified by
14 the New York State Board of Elections do not
15 support IRV. The systems currently can provide a
16 record of the votes cast; however, additional
17 software would be needed to complete the vote
18 tabulation in accordance with the pending
19 legislation. Such software must be developed or
20 procured and certified by the State Board prior to
21 implementation. Currently, the voting position for
22 each candidate in each contest is tested at least
23 once. In an IRV election, each ranked position for
24 each candidate in each contest must be tested at
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1 least once. This greatly increases the time and
2 cost associated with the legally mandated testing.
3 Using this year's Democratic Mayoral Primary as an
4 example, 10 voting positions would have been tested
5 had we used the electronic machines. Under IRV,
6 this would increase to 100 voting positions. Past
7 experience has shown that the development testing
8 and certification of modifications to the voting
9 system exceeds one year, and we've heard testimony
10 earlier that it would be closer to three years.
11 This process cannot commence until the proposed
12 legislation is ratified. The legislation calls for
13 enactment immediately following ratification by the
14 voters. Such a provision does not square with the
15 reality of the implementation process. In the
16 event that the proposed legislation is enacted, our
17 recommendation is to build in an appropriate
18 timeframe to allow for the implementation of IRV.
19 In recognition of this committee's limited time, I
20 would like to extend an invitation to have my staff
21 be made available to discuss the technical details
22 of using the current systems with IRV at a
23 convenient date and time for any members of the
24 council or their staff if so desired. If the
25

1
2 proposed legislation is enacted, Board staff would
3 be required to develop an enhanced and extended
4 training curriculum to facilitate the
5 implementation of IRV. This would necessitate
6 training poll workers sufficiently to effectively
7 serve the voters during an IRV election. The Board
8 would be required to instruct poll workers on the
9 appropriate manner of assisting voters in a lawful
10 and bipartisan way to ensure meaningful
11 understanding of the IRV method. IRV will increase
12 poll worker-voter interaction on Election Day. As
13 an added complexity, the poll workers and voters
14 would only experience this type of election once
15 every four years or during the occasional special
16 election. Nonetheless, an extended version of
17 training in the IRV method must be conducted each
18 and every year to remain in compliance with the New
19 York State Election Law. Although the pending
20 legislation calls for the Voter Assistance Advisory
21 Committee, also known as VAAC, to conduct a voter
22 education campaign, the Board would be require to
23 undertake an outreach program to familiarize voters
24 with IRV. The Board welcomes the opportunity to
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work closely with VAAC and others to extend the reach of our voter education campaign.

The introduction of IRV will require additional ballot space and will inevitably result in a multi-page ballot. Utilizing multi-page ballots creates a host of concerns, not presently confronted with the single page full phase ballot, and Chair Brewer, font off...

[crosstalk]

CHAIRPERSON BREWER: Font.

[crosstalk]

MICHAEL RYAN: To the side. We're not even talking about the font here. We'll leave that off to the side for the purposes...

[crosstalk]

CHAIRPERSON BREWER: Oh, blow off the font, leave it off. [laughter]

MICHAEL RYAN: Of this conversation. Including, but not limited to increased ballot jams, additional equipment, increased complexity of ballot management, accountability and additional ballot costs, not to mention any changes to the voting system requires State Board Certification. The increased complexity of an IRV ballot has the

1 potential to lead to longer wait times as voters
2 consider additional candidates and make the
3 appropriate ranked choices. The time it takes to
4 use the ballot marking device could be
5 significantly increased, and for those that don't
6 know, that's to assist the disabled voters and
7 voters with vision problems in voting. So that is
8 also a potential concern. Voters correcting their
9 ballots as a result of improper ranked choices will
10 likely increase the amount of voided ballots.
11 Should a voter exceed the legally permissible free
12 ballots, a court order is required to provide an
13 additional ballot.

14 While it is difficult to accurately
15 predict the cost increases, past experience has
16 taught us that significant additional resources
17 will be necessary for the implementation of IRV.
18 It is expected that IRV will require transitioning
19 to a multiple page ballot. It is estimated that
20 ballot printing costs will increase by
21 approximately \$1.75 million for each additional
22 page. The cost of development and certification to
23 allow the voting system to properly tabulate IRV
24 ballots is unknown at this time. To provide
25

1 guidance in this regard, the committee has advised
2 that adding the Bengali language to the voting
3 system costs in excess of \$480,000. Upon
4 certification by the State Board, the Board must
5 install and test new firmware for the voting
6 system. The estimated cost for this is
7 approximately \$600,000. For each citywide IRV
8 election, the approximate additional cost for pre-
9 election testing and set up is \$350,000. The cost
10 associated with training the additional poll
11 workers is difficult to assess; however, our past
12 experience permits the conclusion that the
13 potential increase is in the range of two to \$4
14 million per year. Keep in mind that we... it's not
15 in here, but we train approximately 36,000 poll
16 workers annually. The Board recognizes that to
17 successfully introduce IRV to the voters, a
18 comprehensive voter outreach program is necessary.
19 Such a program will invariably require a
20 substantial expenditure of resources. This
21 expenditure will be essential to educating the
22 voting public on this new voting method. For the
23 committee's information and consideration, and
24 again, what we're trying to do here is provide you
25

2 know, the worst case scenario numbers, not
3 necessarily paint a rosy picture.

4 CHAIRPERSON BREWER: Worst case
5 scenario...

6 [crosstalk]

7 MICHAEL RYAN: Right.

8 CHAIRPERSON BREWER: Numbers.

9 MICHAEL RYAN: The cost of the 2010
10 voter outreach program introducing the new poll
11 site voting system was 608 million. These costs,
12 while considerable, are offset by the savings of an
13 estimated \$13 million spent on the 2013 citywide
14 Democratic Run-off Primary for Public Advocate.
15 Again, on behalf of the Board, I thank you for the
16 opportunity to inform this committee as to the
17 implications of enacting IRV. While the Board
18 takes no position with respect to the merits of
19 enacting IRV or any other alternative to the
20 current run-off primary, we assure this committee
21 and the voters of the city of New York that will
22 act in strict adherence to the applicable and
23 relevant city, state and federal mandates. The
24 Board looks forward to working with this committee

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and others toward the continued improvement of the voting process.

CHAIRPERSON BREWER: Thank you very much for your testimony today and for all of your responsiveness to the voters, but also to all of us, so I appreciate that. And we've been joined by Council Member Peter Vallone. I have a couple of questions. First of all, when you talk about these costs, obviously the run-off, to the best of my knowledge, is every four years, unless we've changed something, so some of them are not every year. So I guess my question is we're still paying \$13 million. I think all of your costs don't quite add up to that, right?

MICHAEL RYAN: Correct.

CHAIRPERSON BREWER: Okay and if other jurisdictions, and again, this would take more... but other jurisdictions we'll hear later I assume, feel that there is an increase in voter turnout with this system and more diverse candidates get elected and it costs less, and I think there's some merit to trying to figure out how you could do this, right?

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MICHAEL RYAN: Well, as I qualified my remarks when I first began testimony, and I'll flush it out just a little bit more, there was not consensus among the commissioners...

CHAIRPERSON BREWER: Really? Hm.

MICHAEL RYAN: With respect to whether this was a great idea or not so great idea or anything in the middle, so...

CHAIRPERSON BREWER: [interposing] I think the public is also not sure.

MICHAEL RYAN: [interposing] Right.

CHAIRPERSON BREWER: They're unsure of...

[crosstalk]

MICHAEL RYAN: So my mandate here is to not speak to those issues and not get involved in that level of discussion. So when we came to the conclusion that we were going to be testifying here today and after I got permission from the commissioners to do so, we set about trying to come up with some meaningful input into this process, while leaving the larger issues of whether it's appropriate or not to the you know, to the good thoughts of this committee.

1
2 CHAIRPERSON BREWER: I appreciate that
3 and you did an excellent job and I appreciate that.
4 And the other question is, again, this would be
5 piggybacking on other discussions, but there is a
6 discussion about having different languages;
7 English and Bengali; English and Spanish in a
8 separate piece of paper. Again, you worry 'cause
9 you want to make sure that the individual who
10 speaks that language isn't confused and you want to
11 make sure a poll worker has them available; you
12 want to make sure that people can see that they can
13 pick them up and it's not something that is hidden
14 and hard to get access to. If that existed, this
15 would be despite any kind of run-off situation,
16 instant run-off voting. Would that not eliminate
17 the problem of having too much on one page, 'cause
18 instant run-off when you have choice one, choice
19 two, choice three and you got different languages,
20 then you end up with a large challenge.

21 MICHAEL RYAN: It would reduce it
22 certainly, and to piggyback on that point, our
23 staff will be coming up with a mock-up ballot for
24 the gubernatorial election to present to the
25 commissioners after the first of the year, but

2 certainly before the first meeting in February, so
3 within the month of January, we're going to start
4 the mock-up conversations with respect to the
5 ballot and the ballot layout well in advance of
6 what had been done in the past to provide everybody
7 an opportunity to weigh in on this. One of the
8 concerns that I have with the sample ballots that
9 were presented, they're all in English.

10 CHAIRPERSON BREWER: That's why I'm...

11 [crosstalk]

12 MICHAEL RYAN: Right?

13 [crosstalk]

14 CHAIRPERSON BREWER: Bringing it up...

15 [crosstalk]

16 MICHAEL RYAN: You know...

17 [crosstalk]

18 CHAIRPERSON BREWER: To you.

19 MICHAEL RYAN: And ours aren't so...

20 CHAIRPERSON BREWER: [interposing] I

21 understand that. I mean I've...

22 [crosstalk]

23 MICHAEL RYAN: Right.

24 CHAIRPERSON BREWER: Brought up the

25 issue 'cause...

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MICHAEL RYAN: And one of the things that we are concerned with is ballot cost and making sure that we order the appropriate amount. You know, we have five language mandates in Queens.

CHAIRPERSON BREWER: We all know that.

MICHAEL RYAN: And so we have to live up to that and certainly, because we don't have enough staff within the Board of Elections if we had to go even in a particular ED to a you know, to a manual recanvas of the ballots, we have to print them all with at least English on them, and then we can go to English and Bengali; English and Korean; English and Chinese. So there are practical considerations that we have with respect to those things as well, and I don't think anyone would suggest that it would be a good idea in the city of New York to engage in a manual count of the votes.

CHAIRPERSON BREWER: We agree, and Council Member Dickens?

COUNCIL MEMBER DICKENS: Thank you and thank you, Mr. Ryan, for your testimony, but my question goes back to the outreach education. It will be on the computer, will it not? So that...

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COMMITTEE ON GOVERNMENTAL OPERATIONS

MICHAEL RYAN: [interposing] On our website, yes. One of the challenges that we have though...

COUNCIL MEMBER DICKENS: [interposing] If we go to that...

[crosstalk]

MICHAEL RYAN: Right.

COUNCIL MEMBER DICKENS: IRV, of course.

MICHAEL RYAN: Or in any election. We have a lot of information on our website. One of the challenges that we have is driving people to our website to get them to see our information 'cause we track it. I don't have the numbers, you know, immediately available, but we're in the thousands of people who are you know, looking at our website. We need to be in the hundreds of thousands of people to be looking at our website in order to make that portion of it...

[crosstalk]

CHAIRPERSON BREWER: You've got to have...

[crosstalk]

MICHAEL RYAN: Effective.

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[crosstalk]

CHAIRPERSON BREWER: An E News list like mine.

MICHAEL RYAN: Right.

COUNCIL MEMBER DICKENS: And in addition, my concern is about the absentee out of country ballots and the military ballots. Do the outreach education to that group, which is growing in significance. That's why we had a legal battle for the federal elections.

MICHAEL RYAN: Right.

COUNCIL MEMBER DICKENS: So now, that's why I'm bringing up about the computerization because that's where it's going to become critical.

MICHAEL RYAN: Right.

COUNCIL MEMBER DICKENS: To the military and to those that are absentee out of the country.

MICHAEL RYAN: Yes.

COUNCIL MEMBER DICKENS: So there's no... that's not... that somewhat should reduce the cost factor that you're talking about.

MICHAEL RYAN: Yes, but we've also found that nothing beats hands-on training like

1 hands-on training. I was a commissioner at the
2 time that this... you know, in 2010 when the system
3 was initially being rolled out, and I can tell you
4 that our staff was like a roving band you know,
5 going throughout the city in various places.
6 Trying to get people to come is a bit of a
7 challenge and we also... you know, when there's a
8 complex change I think you know, all voters are a
9 responsibility, but certainly that's heightened
10 when you're dealing with voters whose language is
11 not English as their primary language, 'cause then
12 we have to make sure that we have enough
13 translators available when we're going you know, to
14 the various neighborhoods. You know, and I was at
15 a community meeting the other night and you know,
16 folks were talking about why we don't put Haitian
17 Creole on the ballot, because in that particular
18 neighborhood, that's a big concern and you know
19 what? When you try to explain to people that we
20 are working within certain mandates, it really
21 doesn't matter to them if they're feeling
22 shortchanged and there's no answer you can give to
23 them that rises to the level of a sufficient
24 response.

2 COUNCIL MEMBER DICKENS: Anyway, how
3 many educate or how many languages is the... would
4 the outreach wrote up on the computer be in?

5 MICHAEL RYAN: Five; English, Spanish,
6 Chinese, Korean and Bengali. [background voice]
7 Pardon? Oh, oh, it's also, although not mandated
8 on the ballot, on the computer it's also in
9 Russian. I forgot about that.

10 COUNCIL MEMBER DICKENS: Alright well,
11 thank you. Thank you, Madam Chair.

12 CHAIRPERSON BREWER: Council Member
13 Lander?

14 COUNCIL MEMBER LANDER: First, I want
15 to say thanks to the Board in general and
16 especially this election to Valerie Vazquez for her
17 help with... there's some poll sites that had to be
18 moved around in Gowanus and otherwise, so thank you
19 for helping smooth that. Thank you. I guess in
20 terms of the... so I appreciate your testimony and
21 I appreciate your trying to help us be clear on
22 what you believe it would take. Obviously, we
23 heard some difference of opinion from Mr. Kellner,
24 but I think the good news is whether we could do it
25 immediately or whether we could do it with this

2 transition process, it's clear we could do it and
3 that the one-time costs of transition seem like
4 they would be dramatically paid back over time. I
5 guess I do want to ask about this two to \$4 million
6 a year number for ongoing training and I mean I
7 guess I'll start by saying I mean did you get a
8 chance to look at the more simple version of the...
9 that Mr. Kellner provided us?

10 MICHAEL RYAN: Yes.

11 COUNCIL MEMBER LANDER: Because I
12 just... I don't see how you could spend two to \$4
13 million a year training people to understand this
14 piece of paper.

15 MICHAEL RYAN: Well, we have state
16 requirements that we have to train the poll
17 workers...

18 COUNCIL MEMBER LANDER: [interposing]
19 In any case.

20 MICHAEL RYAN: In any case and they
21 have to be trained and take a test and then what
22 would happen is we would have to add this to the
23 current curriculum. We don't...

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER LANDER: [interposing]

This what? What? This piece of paper here; first choice, second choice, third choice?

MICHAEL RYAN: Well, it's... it's...

[crosstalk]

COUNCIL MEMBER LANDER: I mean I'm not being... I understand...

[crosstalk]

MICHAEL RYAN: The concept...

[crosstalk]

COUNCIL MEMBER LANDER: That the real cost of training...

[crosstalk]

MICHAEL RYAN: Right, it...

[crosstalk]

COUNCIL MEMBER LANDER: But I just don't possibly understand how adding this...

MICHAEL RYAN: It's the concept of Ranked-Choice Voting and as we understood this particular piece of legislation to include a rank for each individual that's running, so it's not that... that ballot that you have, Council Member, the Minneapolis ballot, is not what I understand

2 the New York ballot would be 'cause it's picking
3 three. We would have to rank...

4 COUNCIL MEMBER LANDER: [interposing]
5 There's one...

6 [crosstalk]

7 MICHAEL RYAN: In...

8 [crosstalk]

9 COUNCIL MEMBER LANDER: Right next to
10 it where you pick eight.

11 MICHAEL RYAN: Right. Well...

12 [crosstalk]

13 COUNCIL MEMBER LANDER: I mean on the
14 other side of the...

15 MICHAEL RYAN: [interposing] Right.

16 COUNCIL MEMBER LANDER: Paper you pick.
17 If you have eight candidates, you'd have to have
18 eight positions.

19 MICHAEL RYAN: Right.

20 DAWN SANDOW: It's not just one race
21 and if I could just...

22 [crosstalk]

23 CHAIRPERSON BREWER: Dawn, you have to
24 introduce yourself.

25 [crosstalk]

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COMMITTEE ON GOVERNMENTAL OPERATIONS

MICHAEL RYAN: Sure, Dawn can, you know...

DAWN SANDOW: Great. I would just like to explain. Along with public education...

[crosstalk]

CHAIRPERSON BREWER: Dawn, you have to introduce yourself.

DAWN SANDOW: I'm sorry. Dawn Sandow, Deputy Executive Director. This goes along with public education as well. Our poll workers need to be educated on this new process and what I'm sure they would have to be able to educate voters when they come through the door, so this would add to our training. I'm not sure about the cost...

[crosstalk]

MICHAEL RYAN: And we would...

[crosstalk]

DAWN SANDOW: And how long we may have to prolong the training, but just for example, San Francisco spent \$1.70 per voter for their voter education, totaling \$7.8 million for the first rollout. That was San Francisco.

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COUNCIL MEMBER LANDER: It must've been more than that. They don't have six million voters.

DAWN SANDOW: Public education they spent \$7.8 million. They spent \$1.70 per voter. [background voice]

COUNCIL MEMBER LANDER: Those numbers can't possibly add up, so if it was \$1.70 per voter, they can't have had six million voters in San Francisco. They don't have six million people.

DAWN SANDOW: These are the numbers that we received and I believe...

[crosstalk]

COUNCIL MEMBER LANDER: Then your numbers are...

[crosstalk]

DAWN SANDOW: We worked with...

[crosstalk]

COUNCIL MEMBER LANDER: Clearly incorrect because... [background voices] I mean anyway, that's alright. We just... that was two numbers; can't both be true. [background voices] So I just... I mean I understand and I think we all agree that there'll be some additional outreach...

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COMMITTEE ON GOVERNMENTAL OPERATIONS

[crosstalk]

DAWN SANDOW: Yes.

[crosstalk]

COUNCIL MEMBER LANDER: And education
cost. I think in the...

[crosstalk]

DAWN SANDOW: And it's...

[crosstalk]

COUNCIL MEMBER LANDER: First year...

[crosstalk]

DAWN SANDOW: Hard for us to even say
what the actual...

[crosstalk]

COUNCIL MEMBER LANDER: Well, but it
doesn't help them to make up crazy any old numbers
because...

[crosstalk]

MICHAEL RYAN: But, well...

[crosstalk]

COUNCIL MEMBER LANDER: The one time
the initial number would make sense; even that...

[crosstalk]

DAWN SANDOW: Well...

[crosstalk]

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER LANDER: Two to \$4 million...

[crosstalk]

DAWN SANDOW: Initially, yes.

[crosstalk]

COUNCIL MEMBER LANDER: Is really overgrown...

[crosstalk]

DAWN SANDOW: Public education...

COUNCIL MEMBER LANDER: But the idea that two to \$4 million...

[crosstalk]

CHAIRPERSON BREWER: Brad, hold on. Let her finish. Go ahead, Dawn.

DAWN SANDOW: Initially our public education it would be 7.8 million. If you look at what San Francisco did with \$1.70 per voter; for New York it would be \$7.8 million if we spent \$1.70 per voter. Initially that would be the cost; however, it would go down with every year. We wouldn't continue that public education every single year.

2 COUNCIL MEMBER LANDER: I guess I'm
3 going to ask for a little common... you guys to go
4 use a little common sense. I...

5 [crosstalk]

6 MICHAEL RYAN: Well, look at this
7 piece...

8 [crosstalk]

9 COUNCIL MEMBER LANDER: I...

10 [crosstalk]

11 MICHAEL RYAN: Of paper.

12 [crosstalk]

13 COUNCIL MEMBER LANDER: I don't see how
14 you could spend...

15 [crosstalk]

16 MICHAEL RYAN: Right.

17 [crosstalk]

18 COUNCIL MEMBER LANDER: Two to \$4
19 million a year explaining to people what a first
20 choice, a second choice and a third...

21 [crosstalk]

22 MICHAEL RYAN: I could put a little...

23 [crosstalk]

24 COUNCIL MEMBER LANDER: 'Cause New
25 Yorkers are pretty smart.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON BREWER: Mike, go ahead.

MICHAEL RYAN: Anyway, I can put a little common sense around it. If we added two hours to the training, two hours to the existing training...

COUNCIL MEMBER LANDER: No, no, 30 seconds.

MICHAEL RYAN: But no, I understand that.

COUNCIL MEMBER LANDER: Would it take two hours to explain...

[crosstalk]

MICHAEL RYAN: But...

[crosstalk]

COUNCIL MEMBER LANDER: This form?

MICHAEL RYAN: But... but...

COUNCIL MEMBER LANDER: [interposing] Really?

MICHAEL RYAN: It's... it's...

[crosstalk]

COUNCIL MEMBER LANDER: Is that what you're saying? It may take two hours to explain this form to people.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

MICHAEL RYAN: It's... no, it's more than that because...

[crosstalk]

COUNCIL MEMBER LANDER: Then why are you...

[crosstalk]

CHAIRPERSON BREWER: Wait, wait, wait...

[crosstalk]

MICHAEL RYAN: Because...

[crosstalk]

CHAIRPERSON BREWER: Brad?

MICHAEL RYAN: There... it's not... if it were that ballot, it wouldn't take that long, but we're talking about the likelihood of going to a two and potentially a three-page ballot depending on how the layout is. That will require us to completely overhaul the way that we do training in terms of ballot management. Don't forget that we have a responsibility to have ballot accountability post-election. It's not just what they're doing on Election Day. We have to be able to track this stuff, so the machines would have to be reprogrammed and recertified to count ballots, not

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pages, and we would have to train the poll workers in the management of all of those ballots. Now, let's say for example, we go to a two language ballot; English, Spanish; English, Chinese; English, Korean; English, Bengali. Alright, we go to the two-page ballots. Now we have to retrain our poll workers in ballot management, because if you're an English speaking voter and you come into the poll site and they give you a ballot and it's got English and Bengal on it, you're going to vote and it's fine, but if they give out the wrong ballots and we use up all the Bengali ballots at the end of the day and the Bengali voters come in 'cause they're voting later in the day and there's no Bengali ballots left, then we've now created a problem. All of that stuff requires painstaking training and folks that have visited poll sites, especially the busy ones, and I've been to all boroughs of the city through the last three election cycles, know that they can be a fairly frenetic fairly chaotic place. So if we added two hours to the training that would cost 1.15... \$1,152,000, just two hours to the training.

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2 CHAIRPERSON BREWER: Is that... well,
3 go ahead, Brad.

4 COUNCIL MEMBER LANDER: Who is going to
5 decide whether we use a ballot design like the one
6 they use in Minneapolis or a ballot design like
7 this attractive one from Springfield County,
8 California?

9 MICHAEL RYAN: The 10 commissioners of
10 the Board of Elections for the city of New York,
11 unless there is some legislation to the contrary
12 mandating a certain layout.

13 COUNCIL MEMBER LANDER: So have you
14 looked at both of them? Which one do you think
15 they would choose?

16 MICHAEL RYAN: I have looked at the
17 Minneapolis ballot and it does not appear to square
18 with what I believe our mandates are presently in
19 the city of New York.

20 CHAIRPERSON BREWER: But you...

21 [crosstalk]

22 COUNCIL MEMBER LANDER: How about this
23 one for Springfield County, California?

24 MICHAEL RYAN: Alright, I saw that,
25 yes.

2 COUNCIL MEMBER LANDER: That one would
3 square with the ballot requirements of...

4 CHAIRPERSON BREWER: [interposing] But
5 Brad, you still have to deal with the issue of
6 language...

7 [crosstalk]

8 MICHAEL RYAN: It has two...

9 [crosstalk]

10 CHAIRPERSON BREWER: So that's...

11 MICHAEL RYAN: Right. It has two
12 offices on it and [background voices] you know,
13 it's just two offices.

14 CHAIRPERSON BREWER: And just language.

15 DAWN SANDOW: And it's two offices.

16 COUNCIL MEMBER LANDER: Right, but my
17 only point was that it's an awful lot simpler than
18 the other one. It both takes up less room on the...

19 [crosstalk]

20 DAWN SANDOW: It is simpler than the...

21 [crosstalk]

22 COUNCIL MEMBER LANDER: Page...

23 [crosstalk]

24 DAWN SANDOW: Other one.

25 COUNCIL MEMBER LANDER: Far simpler...

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COMMITTEE ON GOVERNMENTAL OPERATIONS

[crosstalk]

DAWN SANDOW: It is simpler...

[crosstalk]

COUNCIL MEMBER LANDER: Than the...

[crosstalk]

DAWN SANDOW: Than the other one, but you're not looking at the language that we need to provide and you're not looking at party positions and all the other positions that need to go on the ballot. So what you're looking at is a race for a U.S. Secretary of State and dog catcher.

COUNCIL MEMBER LANDER: [interposing]

it's...

DAWN SANDOW: But you're not looking at all the other...

CHAIRPERSON BREWER: [interposing] I

would...

[crosstalk]

COUNCIL MEMBER LANDER: Luckily we won't have to use U.S. Secretary of State or dog catcher.

CHAIRPERSON BREWER: I don't want to...

[crosstalk]

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COMMITTEE ON GOVERNMENTAL OPERATIONS

COUNCIL MEMBER LANDER: So we can eliminate both of them.

[crosstalk]

CHAIRPERSON BREWER: I don't want to...

[crosstalk]

COUNCIL MEMBER LANDER: From the ballot.

[crosstalk]

CHAIRPERSON BREWER: I just want to say I assume that this conversation if the instant run-off goes through, and nobody knows at this moment, would be coupled with other discussions about whether it's Bengali and English or Bengali on every single page on the one... in other words, there's a broader discussion about how the ballot would look.

MICHAEL RYAN: Absolutely.

CHAIRPERSON BREWER: It's not just this one issue.

DAWN SANDOW: No.

MICHAEL RYAN: Right, but Miss Sandow did bring up one point that I would to underscore. For those folks that voted on Election Day, we had a very...

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[crosstalk]

CHAIRPERSON BREWER: General election.

MICHAEL RYAN: Right. No, in the primary, I'm sorry.

CHAIRPERSON BREWER: Oh.

MICHAEL RYAN: In the primary election. we had a very complex ballot primarily because of the down the ballot issues that had to be dealt with.

CHAIRPERSON BREWER: Judges and...

[crosstalk]

MICHAEL RYAN: Most... judges and party positions.

CHAIRPERSON BREWER: Oh.

MICHAEL RYAN: Which presented a very full ballot with very limited real estate. That's the level of complexity that we deal with here in the city of New York that perhaps other jurisdictions do not deal with.

CHAIRPERSON BREWER: Yeah, we have more parties than other jurisdictions.

MICHAEL RYAN: As a matter of fact, in the manual recanvas that we had to do ultimately was in a party position 'cause we still have to

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treat them the same way that we treat everything else. We don't just say we can ignore those folks, 'cause they're down the ballot. No, we have to treat everybody the same way and it's... I'm not here pushing in one way or the other. I'm just pointing out potential problems in areas that would require a resolution.

COUNCIL MEMBER LANDER: And I don't mean to minimize the challenges and I think the point that both you made and Mr. Kellner made that there needs to be plenty of time; that we need to work together on the details. I think your recommendation that there not be this goes into effect immediately the day after the voters would vote, but would be a period of time; the work we have to do together and the fact that there'll be some costs all are salient and sensible and I appreciate it...

[crosstalk]

MICHAEL RYAN: 'Kay.

[crosstalk]

COUNCIL MEMBER LANDER: On the floor.

[crosstalk]

MICHAEL RYAN: Thank you.

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2 COUNCIL MEMBER LANDER: I appreciate
3 the... you know, I do think the two to \$4 million
4 training class per year seems a lot higher than it
5 will actually be, but on all the other issues we're
6 looking forward to working with you as we move
7 forward.

8 MICHAEL RYAN: And as I said, we wanted
9 to put out worst case scenario, not shoot for the
10 moon numbers, but certainly you know, worst case
11 scenarios numbers within the range of what we
12 thought was reasonable.

13 CHAIRPERSON BREWER: Council Member
14 James?

15 MICHAEL RYAN: Thank you.

16 COUNCIL MEMBER JAMES: So you know, I
17 support expanding the franchise and I also believe
18 that we should... I support early voting and I
19 hoped the State Legislature would take that on so
20 we could expand the franchise to make it more
21 easier and more accessible for individuals to vote,
22 including voting over... more than over a 24-hour
23 period, but over an extended period and perhaps
24 over the weekend. We need to make it easier and
25 more accessible for people to vote. Having said

1 that, this is really a complicated issue and
2
3 although my colleague doesn't want to minimize the
4 challenges, I don't want to minimize the fact that
5 it's going to take some additional studying and
6 some additional conversation. These are
7 complicated issues and at this point in time all
8 that I am seeing and all that I am hearing and all
9 that I am imagining is litigation, litigation and
10 litigation. You are inviting litigation. In
11 addition to that, if we were to have this official
12 ballot, the ballot from Springfield County,
13 California, there is no way that you could have a
14 one-page ballot. You would have to have at least
15 given Public Advocate, which went first, [laughter]
16 Comptroller, Mayor, City Council...

17 CHAIRPERSON BREWER: Don't forget about
18 me.

19 COUNCIL MEMBER JAMES: Borough
20 President, Judges, D.A...

21 CHAIRPERSON BREWER: Party...
22 [crosstalk]

23 MICHAEL RYAN: And party positions.

24 COUNCIL MEMBER JAMES: Party positions.
25 You're looking at least at six ballots; in addition

2 to that, all of the language requirements. The
3 Haitian community is organizing; they want language
4 access. The South Asian community; they want
5 ballot access. We were only speaking Chinese in
6 one dialect. There are a number of dialects. They
7 want ballot access and they should all have it and
8 I'm sure I am excluding some ethnic groups in the
9 city of New York. Saying all of that, you know, if
10 in fact the State Legislature or the City Council
11 or the voters decided to do instant ballot run-off
12 you know, I don't know if that's going to happen,
13 but you know, I just think at this point in time
14 given the historical history behind run-off
15 elections, that this was nothing more than a
16 political mechanism to address the ambitions of one
17 particular candidate back in 19 whatever. Why do
18 we have instant run-off? And this arbitrary number
19 of 40 percent, who decided that?

20 CHAIRPERSON BREWER: You mean why do we
21 have... you're talking about run-off elections.

22 COUNCIL MEMBER JAMES: Run-off
23 elections.

24 CHAIRPERSON BREWER: Yeah.

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COUNCIL MEMBER JAMES: So if we don't have run-off election and if, in fact, to the winner goes the spoils after the primary day and we eliminate instant run-off, then we would avoid this problem altogether and at this point I would even amend my legislation to include the office of the Mayor to avoid all of these issues.

Notwithstanding the fact that you know, I mean I know we're trying to be more democratic and more open and more transparent and all of that good stuff. I just see a number of challenges and I don't know whether or not... I'm not quite sure whether or not we can overcome, and last, but not least, the issue of the Voting Rights Act. I think my election, the fact that I was victorious was unique, primarily because of the absence of diversity in all of the citywide candidates, and because the individual that I was running against, notwithstanding the absence of diversity, had that not been an issue I feel pretty much confident, and without the support of the labor unions, I'm confident that I would have lost because the individual I was running up against, as you know, outspent my campaign seven to one. Would that... I

2 don't know if those circumstances; if those facts
3 would happen again and that is why I feel very
4 uncomfortable and when I'm uncomfortable I question
5 whether or not this would be beneficiary to
6 communities of color and to minority candidates in
7 the city of New York. I know I'm looking forward
8 to FairVote. I heard that they are about to speak
9 soon. I look forward to their testimony. I
10 seriously question it. I don't know whether or not
11 San Francisco, Minneapolis and any other
12 jurisdictions are comparable to New York City, but
13 nonetheless, I'm open to hear their testimony. I
14 don't know whether or not... I think it's apples
15 and oranges and I don't think you can compare the
16 two. I really have no questions for you. I just
17 wanted to make that comment. Thank you.

18 CHAIRPERSON BREWER: Thank you very
19 much. I just...

20 [crosstalk]

21 MICHAEL RYAN: Thank you.

22 CHAIRPERSON BREWER: Regarding the
23 folks who are living overseas or the military, do
24 you think there's any advantage to them

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participating in some kind of a different system
for the run-off? I mean...

[crosstalk]

MICHAEL RYAN: Yes, because...

[crosstalk]

CHAIRPERSON BREWER: Because they're in
a slightly different situation. [background
voices]

MICHAEL RYAN: Well, they currently can
get their ballot by email, but we know that the
current system of communicating with military and
overseas voters is not nearly as effective as it
should be, and...

[crosstalk]

COUNCIL MEMBER JAMES: Well, it needs
to.

MICHAEL RYAN: Pardon?

COUNCIL MEMBER JAMES: Well, it needs
to be.

MICHAEL RYAN: Oh, it needs to be,
absolutely. You know, but it's absolutely a
concern of ours. We don't want to see any voter
disenfranchised for any reason and it's something
that this Board takes very, very seriously. It's

2 the essence of our democracy, voter participation
3 and you know, we need to do what we can, not only
4 to preserve it, which would I think be a backwards
5 looking thing, we need to promote it.

6 CHAIRPERSON BREWER: Right, but you
7 would you have...

8 [crosstalk]

9 MICHAEL RYAN: Which is forward
10 thinking.

11 CHAIRPERSON BREWER: To come up with
12 new ideas at another time perhaps; how to deal
13 with... we don't know where this run-off discussion
14 is going to go, but I do think that that community
15 needs to have a different approach and I think you
16 agree.

17 MICHAEL RYAN: Yes, I do.

18 CHAIRPERSON BREWER: 'Cause they are
19 not participating in a run-off in a big way.

20 MICHAEL RYAN: Correct.

21 CHAIRPERSON BREWER: Maybe it's 'cause
22 they can't get it. It might be you know, their
23 lack of you know. Council Member Lander, you had a
24 quick question?

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2 COUNCIL MEMBER LANDER: Well, I just
3 wanted to say one quick thing in response to the...
4 my colleague and the Public-Advocate-elect. Part
5 of why I added the special election here was the
6 experience we had in February out in the Rockaways,
7 and I just want to make sure we kind of bring this
8 to the record as well. In the Rockaways in the
9 February special election there were eight
10 candidates I think, seven of them African American
11 or Caribbean and one Orthodox Jewish candidate in
12 an area that's about 85 percent people of color and
13 about 15 percent Orthodox Jewish, and not that
14 there would be anything wrong with an Orthodox
15 Jewish person representing an 85 percent African
16 American-Caribbean district, but it came this close
17 to happening. You know, a couple dozen votes, as I
18 recall, were all that separated it and you know,
19 when allowing... what moving to in the special
20 elections, Ranked-Choice Voting would have done in
21 that case, is meant that the 85... you know and
22 then again, I don't want to assume what their
23 second, third, fourth, fifth, sixth, seventh,
24 eighth choices would have been, but I think that's
25 an example where Ranked-Choice Voting actually

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quite clearly would have a voting rights... would have had an obvious voting rights positive impact. So we can think through the different scenarios, but I think... and they look different. It's you know, how you think about a run-off and what people do; what turnout looks like, but at least that example says that there are many situations or at least that one situation where Ranked-Choice or IRV actually would be an important you know, voting rights outcome, so thank you.

CHAIRPERSON BREWER: I want to thank the Board very much and we're going to go to the next panel.

COUNCIL MEMBER LANDER: Thank you very much.

CHAIRPERSON BREWER: Thank you, Brad and we look forward to more... Assembly Member Kavanaugh, would you like to testify? You're next, and after that is the Campaign Finance Board.

[Pause]

CHAIRPERSON BREWER: Go right ahead. Thank you for being here.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

ASSEMBLY MEMBER KAVANAUGH: Well, thank you very much, and I appreciate the deference, although I was sitting next to Amy...

CHAIRPERSON BREWER: She can... she can wait a few...

[crosstalk]

ASSEMBLY MEMBER KAVANAUGH: Who is somewhat upset. Thank you for opportunity for being here, and for the very long attention that this committee and the individual members of this committee have paid to the issue of how to administer elections in New York. Your oversight has been critical and has really, I think, allowed us to move forward in many ways, although we obviously have a lot of work to do. I am here to testify briefly on behalf of all the bills before you and particularly to comment on a piece of legislation that is the subject of one of your resolutions today, which I sponsor in the State Assembly. I am a proponent both of very substantial changes to improve the usability of ballots and I've been working for a number of years now, as you all know, on something called the Voter Friendly Ballot Act, which is intended to very

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substantially clean up New York City's ballots in particular and New York State Law with respect to requirements for how to design New York City ballots. That issue has become particularly salient this year, of course, because we just saw the shockingly small print that was used, the six point font that was used in recent elections, and I believe that had we passed the Voter Friendly Ballot Act that ballot essentially would not have complied with state law. And so I mention all of that partly because you know, you've got your requirement that the ballots be put online in advance, which is an innovation that we all applauded when the City Board did it voluntarily, but it is important that we institute that because it's essential that voters have every opportunity to understand what they're voting on and obviously the ballot is the mechanism for that. It is important that we continue that by passing the law that you have before you, but it's also important that we continue to look at how to make ballots as useable as possible, and I won't go into the details of that. This committee has also passed a resolution in favor of that in the past and I

1 appreciate your support on that end. It is
2 something that given what has just happened in New
3 York, I expect we might actually be able to get it
4 done this year. We've passed it the Assembly twice
5 and there has been interest in the Senate, but we
6 haven't gotten it done. In this context, also
7 because I'm a proponent of instant run-off voting,
8 but I would not want to do anything that has some
9 of the dire consequences that the folks who
10 testified before me suggested; many, many pages of
11 ballots or things that are impossible to use. There
12 are two basic mechanisms by which we could
13 introduce instant run-off voting in New York City.
14 One is the one that you're considering in the form
15 of several pieces of City Council legislation that
16 would be followed by a referendum, and the other is
17 through an act of the State Legislature. We
18 believe that if the State Legislature were to
19 change the law, and that were to be signed by the
20 Governor, we would not need to have the extra step
21 of going to a referendum. So first of all, I fully
22 support the effort of this committee to move these
23 bills forward and to do this at the city level with
24 the caveat that if we can get it done at the state
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1 level, that's a far more efficient way to do it for
2 two reasons. First of all, you never know what
3 voters might be considering next year in the
4 general election and obviously having more
5 resolutions for people to consider reduces the
6 efficiency of people... you know people's attention
7 span and the efficiency of running elections. More
8 importantly, I think having... in order to pass a
9 resolution on this and have the voters consider it,
10 we would have to have a very substantial education
11 campaign next year about the nature of instant run-
12 off voting and in my view, given the range of
13 issues we're trying to educate voters on and our
14 efforts to continue to encourage people to
15 participate, it would be odd to have an education
16 campaign in 2014 about methods to elect people in
17 2017 and 2021. It would just be like you know, you
18 have to understand this now so three years from now
19 there'll be this ballot and you'll be able to use
20 it. It strikes me as a lot of messaging
21 difficultly for voters. The simplest step would be
22 for the State Legislature to do this. Now, I have
23 a bill that is intended to do this in a very
24 straightforward manner. It only... although I
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1 respect Council Member Lander's efforts to expand
2 the range of elections that instant run-off might
3 apply to and I would support that, I have a bill
4 that simply deals with three citywide elections and
5 that currently are subject to the run-off. It
6 eliminates the different day run-off and replaces
7 that with what I would call a modified form of
8 instant run-off voting. It would allow each voter
9 to pick up to three candidates and then it would
10 reassign if nobody got a majority, as opposed to
11 the current 40 percent standard, which I agree with
12 Council Member James' comments earlier, is quite
13 arbitrary. It would do what we think of a run-off
14 as doing in almost all circumstances, which is
15 allow a candidate in the citywide race to get a
16 majority, and it would do it without very
17 substantial changes in the ballot. Essentially
18 each voting choice, and I say that rather than each
19 candidate because we know that candidate's names
20 can appear on multiple places in the ballot, but
21 basically each voter would be required to fill in a
22 one, a two or a three next to each of three
23 candidates. We already have ballot design
24 difficulties in New York. I... again, I think
25

1 those can be fully addressed, certainly before we
2 we'll be seeing this in 2017, but it is not likely
3 in my view that that would significantly change the
4 underlying format on the ballot that would make the
5 ballot either go onto multiple pages or make it
6 very difficult to use. I would say that it is a
7 significant benefit of this that we go from the
8 current 40 percent standard to the 50 percent
9 standard because in a democracy 40 percent may be
10 arbitrary, but 50 percent plus one; getting a
11 majority of the people in the city to choose you is
12 just the most basic element of our democratic
13 system and a system that allows voters to do that
14 simply I think would increase people's sense of the
15 integrity of the system. Obviously, all of this
16 would have the same benefits as the proposals all
17 of you are considering legislatively here, which is
18 to eliminate the enormous cost of a second day
19 election.
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21 And finally, I would just note that
22 again, I have great respect for Council Member
23 James' suggestion that it might make sense to
24 forego instant run-off voting for some of those
25 offices because there was obviously a particular

1 concern about a very modestly budgeted, but very
2 significant office in the city that she will soon
3 assume, that the modest budget that was relative to
4 the large of election made it particularly odd that
5 we were doing a run-off. I would just say that
6 whatever we're going to do, if we are going to go
7 down the road of instant run-off voting, it makes
8 sense to do it for all three city offices first of
9 all, because the cost and the energy it's going to
10 take to explain this system to voters is just
11 better used if all citywide candidates are telling
12 the same story about the system and the energy of
13 mayoral campaigns, and a lot of the education would
14 come from the candidates in their campaigns
15 themselves who are going to be very interested in
16 making sure people understand how to put them
17 second if they're not going to put them first. So
18 I think you would see you know, many well-resourced
19 operations including the City Board of Elections,
20 but also all the major citywide candidates would be
21 working to tell people how to work this system.
22 But the other thing is that the integrity and the
23 public mandate of the City Comptroller and of the
24 Public Advocate are in my view just about as
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1 important as the mandate the Mayor has. Those jobs
2 are intended to be in the case of the Comptroller,
3 a review of the finances; a review of the books;
4 the auditing power to be a formal check on the
5 operations of agencies. And obviously, the Public
6 Advocate is designed in our system to be a
7 substantial office with its own resources and its
8 own independence and an ability to really advocate
9 on behalf of the people irrespective of what the
10 Mayor wants. So if we're going to have a system
11 that allows the Mayor to get a mandate of a
12 majority, we certainly would not want a situation
13 where Public Advocates and Comptrollers are elected
14 with 20 some odd percent of the vote. So it's
15 important that we do all this together. I think we
16 increase the people's faith in the system if we go
17 with a majority standard. I think we can do it
18 easily through legislation. Obviously, you all
19 could also do it through the City Council and
20 again, I would support that and suggest that given
21 the vagaries of what goes on in Albany sometimes,
22 it would be prudent of you to move that forward
23 here perhaps and then see if we can manage to get
24 it done before you'd have to put before the voters,
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and I think I'll stop there and I'm happy to take any questions or...

CHAIRPERSON BREWER: Thank you very much and one question is do you have any sense of the... and nobody has a crystal ball, but do you have any sense of what could happen in Albany in terms of your legislation?

ASSEMBLY MEMBER KAVANAUGH: I will say that there was... because there was such interest in this question of whether it made sense to do a run-off this year and the cost, I have gotten lots of unsolicited phone calls from colleagues saying I understand you have a bill to address this; why can't we do it? So I do think there's a lot more interest in it. I think obviously it'll be helpful if folks in the city come to a consensus on it. I had for many years with Senator Krueger, Senator Liz Krueger had a bill that would have allowed localities around the state to pilot this. I think that raised some concerns about how it might affect other localities. That would've... that would've have allowed run-offs; instant run-offs where no run-off at all exists now. So a bill that just as we got a system in New York City now, it's unusual

2 in the state and we're changing it and we're saving
3 millions of dollars and it's more democratic I
4 think has a real chances of getting through both
5 Houses this year.

6 CHAIRPERSON BREWER: And do you think
7 also... obviously, if your Voter Friendly Ballot
8 Act passes, then I wouldn't be asking this
9 question, but the full faith ballot I think is
10 something that's in your ballot act in terms of how
11 to deal with it, but we're not there yet. So then
12 the question would be do you think... I know you
13 mentioned that you thought there would be enough
14 space to be able to fit everything in, but do you
15 think that we should be having in New York that
16 same conversation about, you know, Bengali and
17 English on one and then et cetera, et cetera?

18 ASSEMBLY MEMBER KAVANAUGH: Yeah, I
19 think that...

20 CHAIRPERSON BREWER: {interposing}
21 Instant run-off voting.

22 ASSEMBLY MEMBER KAVANAUGH: Yeah, I
23 think that the most critical thing the City Board
24 of Elections could do to address the readability
25 issues of the ballots is accept what other

1 jurisdictions have done, which is basically to
2 accept the notion that two or three language
3 ballots are sufficient and that if you are a voter
4 who wants to vote in Bengali, you need a ballot
5 that has Bengali on it. You don't need a ballot
6 that has Bengali and Chinese and Spanish on it.
7 And so, I come from the House of the Legislature
8 where we have pushed for more languages. The
9 standard now; basically a handful of languages in
10 New York have met the standard and they've only met
11 them in Queens. We would expect as the
12 demographics of the city change that we would have
13 more languages, but there are jurisdictions around
14 the country like in California where there are more
15 than 20 languages that are currently mandated.

17 CHAIRPERSON BREWER: Maybe we could
18 have some kind of a start up to figure out how we
19 can do it on site.

20 ASSEMBLY MEMBER KAVANAUGH: There is
21 and I know some...

22 [crosstalk]

23 CHAIRPERSON BREWER: Nice 3-D printer.
24 I'm dying to have a 3-D printer.

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ASSEMBLY MEMBER KAVANAUGH: I think we have 3-D ballots that let you produce the candidates themselves so [laughter] people can select them.

CHAIRPERSON BREWER: The results.

ASSEMBLY MEMBER KAVANAUGH: But... yeah, I mean just produce the... actually the government right at the poll sites. But no, there are logistical challenges to having multiple ballot styles. As it is now, I mean if you did Chinese, Spanish and English on a single ballot, there's only one county where that would not be sufficient under the current law and yeah, I'm sure I know that I'm preaching to the well-educated and current on this, but the logistical challenges come with how many ballots you need to have available in each style. Obviously, if you have a particular language you don't want to run out in any way. I think there are many things, and I've spoken with the folks on the Board about this, there are other things we can do to consider the cost of printing ballots and the standard for how many ballots you have available to you right now. The city just went to a slightly less conservative standard this

1 time and printed 85 percent of the potential vote
2 rather than I think it was 110 percent. There are
3 apparently localities around the state that in some
4 cases print three times the total number of
5 registered voters in advance on the theory that
6 each voter could show up and have two spoiled
7 ballots and still get another one. I understand
8 that the State Comptroller is currently doing an
9 audit statewide on that issue and others and
10 expects to have some analysis of what is necessary
11 and what is sufficient and what the cost savings
12 would be. So we obviously have a lot of work to
13 do, but I'm highly confident that we could... even
14 without changes; even without the Voter Friendly
15 Ballot Act we could design a system under current
16 law with instant run-off voting that would not
17 meaningfully make ballots meaningfully more
18 difficult to use other than the obvious fact that
19 voters are going to have to understand the task
20 before them, which is a different task, and I think
21 we can do that under current law, mostly by just
22 accepting the fact that we don't have to have all
23 languages on all ballots.
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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON BREWER: Council Member
Lander?

COUNCIL MEMBER LANDER: Thanks so much
for the testimony and I think in particular the
idea that you could... well, first let me say we'd
be thrilled if you'd do this in Albany and then I'd
be delighted to withdraw my legislation when it
passes both Houses and the Governor signs it, so
try to do that.

ASSEMBLY MEMBER KAVANAUGH: Alright.

COUNCIL MEMBER LANDER: And I'm also a
big supporter of the Voter Friendly Ballot work
that you're doing, so thank you for that work in
Albany and we're certainly very supportive of it.
I like the idea of a top three choices as opposed
to necessarily requiring, at least intuitively, the
opportunity to rank eight or 10 or 12 for however
many voters. I don't think most voters would need
to go beyond three I guess, and I don't have an
intuitive response to whether filling out three
bubbles in the way that this you know, Secretary of
State ballot shows or writing in a one, two or
three. Have you had communication either with the
vendor or the Board on the technological

2 feasibility of our optical scanners to accommodate
3 either of those approaches?

4 ASSEMBLY MEMBER KAVANAUGH: Yeah, I've
5 had conversations with the State Board and with the
6 vendor of our machines here in New York City. The
7 machines are in use for instant run-off votings in
8 various jurisdictions with different ballot styles,
9 and basically the machines are designed to read
10 ovals and whether they're filled in or not. I
11 think it seems we would have substantial latitude
12 with respect to you know, do you have a little one
13 inside the oval or do you have something like these
14 columns? So I think that it seems we have a
15 variety of ways to do that. It is important to
16 note that we would need some reprogramming and some
17 recertification of the machines. I gave up on the
18 effort to try to get instant run-off voting
19 instituted in New York City for 2013 elections in
20 about the summer of 2012, because I had it from a
21 variety of reliable sources that just said it's too
22 late to implement it. You just... technically by
23 the time you got the machines re-tooled, so that's
24 why it's appropriate that you're talking about this
25 now. We could do this in the coming year so that

2 everybody knows it's the law 2017, but yes, I'm
3 confident from my conversations with the State
4 Board at least and with the vendor that they could
5 accommodate a variety of design options.

6 COUNCIL MEMBER LANDER: Thank you.
7 Thank you, Madam Chair.

8 CHAIRPERSON BREWER: Council Member
9 James?

10 COUNCIL MEMBER JAMES: So first, let me
11 thank you for all you have done with regards to the
12 Voter Friendly Ballot. Thank you for testifying
13 here today. I think you have... I don't want to
14 seem that there's a rift between myself and my
15 progressive colleague and the leader of our cause
16 here in the City Council and I think you offer up a
17 compromise, which both of us can... we can both
18 accept. I agree with you and thank you for
19 recognizing the importance of the office of Public
20 Advocate and Comptroller and putting it on the same
21 standing; in the same standing as the office of the
22 Mayor and just as just an advertisement, I would
23 hope my colleagues in the City Council would feel
24 the same; would hope that they would vote for an
25 independent office; vote to increase the budget.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON BREWER: I knew that was coming. [laughter]

ASSEMBLY MEMBER KAVANAUGH: Perhaps a charter change would be appropriate.

COUNCIL MEMBER JAMES: I've got more subpoena power, [laughter] expanding the ability to initiate litigation. I would urge all of them to consider...

[crosstalk]

CHAIRPERSON BREWER: And I...

[crosstalk]

COUNCIL MEMBER JAMES: Okay, sorry, sorry. [laughter] But you said you said you received a number of calls from your colleagues in support of your legislation. Did you receive calls from the other side of the aisle and from the other House?

ASSEMBLY MEMBER KAVANAUGH: Well, I've had conversation... I mean this is a... the way this bill is conceptualized it's a city only issue. I have had conversation... my office has had conversation with a couple of Senate offices that are...

2 COUNCIL MEMBER JAMES: Of the same
3 party?

4 ASSEMBLY MEMBER KAVANAUGH: Well, they
5 are of... we happen to have an odd situation in our
6 Senate where two different parties are part of the
7 majority.

8 COUNCIL MEMBER JAMES: [interposing]
9 Right.

10 ASSEMBLY MEMBER KAVANAUGH: And we have
11 had conversations both with Republicans and with
12 members of our independent Democratic conference
13 and also with a lot... a bunch of what I'll call
14 regular Democrats for lack of a better word, and
15 again, there's interest. I don't speak for the
16 Senate and I certainly don't speak for my Senate
17 colleagues. I cannot tell you today I have a firm
18 commitment to move this bill, but we've had some
19 interesting discussions and some interest, and
20 again, I think that we're going to make a case, a
21 bipartisan case. Our Board is bipartisan and part
22 of my goal is to...

23 [crosstalk]

24 COUNCIL MEMBER JAMES: Right.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

ASSEMBLY MEMBER KAVANAUGH: Persuade the City Board that this will be very... I didn't go into all... I know you've had a lot of conversation about the benefits of this, but one of the big benefits of this is it will make it far easier to administer elections. Having to retool the system and do a run-off quickly is very hard.

COUNCIL MEMBER JAMES: Right.

ASSEMBLY MEMBER KAVANAUGH: Having a run-off that's closer to the general mix, it's harder to get ready for the general. So I think that our goal is going to be to persuade people of both parties that this is better for everybody and cheaper and more effective, and I can't say I'm there, but I've worked well with... we passed a bill that this committee also supported this year on election procedures. That was originally viewed as controversial. It was very complex, but Senator Golden carried and passed it last year and so I hope that...

COUNCIL MEMBER JAMES: Have you heard from the second floor?

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COMMITTEE ON GOVERNMENTAL OPERATIONS

ASSEMBLY MEMBER KAVANAUGH: Not on this issue honestly, but I would... yeah, no, I haven't had any direct conversations.

COUNCIL MEMBER JAMES: So if, in fact, there is some consensus on the bill I, too, would join with my colleague in withdrawing mine. I was going to expand it to include the office of the Mayor, but I would... if, in fact, there's movement in the State Legislature to withdraw my bill. What is the status of Early Voting Bill; the Early Voting Bill or any other bill to extend voting to increase the franchise?

ASSEMBLY MEMBER KAVANAUGH: I'm personally a very big supporter. The Assembly has moved and passed a bill that would allow for a very substantial early voting period statewide. That is not a bill we've been able to get much traction on in the Senate yet, but a lot of us are putting it among our top priorities for the coming session.

COUNCIL MEMBER JAMES: Thank you.

CHAIRPERSON BREWER: Thank you very much, Assembly Member Kavanaugh.

ASSEMBLY MEMBER KAVANAUGH: Thank you.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON BREWER: And now Amy
Loprest, New York City Campaign Finance Board.

[Pause]

CHAIRPERSON BREWER: Whenever you're
ready.

AMY LOPREST: Okay, despite what
Assembly Member Kavanaugh said, I do not mind being
bumped by him. It's always a pleasure to hear what
he has to say.

CHAIRPERSON BREWER: He's probably
the... he's the best person in government right
now. I want you to know in my opinion.

AMY LOPREST: Yeah, it's strictly yours
though.

CHAIRPERSON BREWER: It is.
[laughter] It's my opinion.

AMY LOPREST: Hi, Chair Brewer and
members of the committee. My name is Amy Loprest.
I'm the Executive Director of the New York City
Campaign Finance Board. With me today are Sue
Ellen Dodell, our General Counsel; Eric Friedman,
our Director of External Affairs and Onida Coward
Mayers, our Director of Voter Assistance. Thank
you for the invitation to testify today. As the

1
2 committee prepares to consider the future of run-
3 off elections in New York City, I would note that
4 the Board has long supported the concept of instant
5 run-off voting. The Board endorsed IRV for New
6 York City elections in our report following the
7 2009 elections and also in our most recent Voter
8 Assistance Report for the year of 2012 and 2013.
9 The bills before the committee represent a range of
10 approaches to this issue, and the Board takes no
11 position today on the specific legislation before
12 the Council. In your deliberations you will decide
13 the best approach is to move forward with all
14 elections or to begin by providing absentee and
15 military voters with the ability to participate
16 fully in primary elections. There are questions
17 about whether state law provides the flexibility to
18 design ballots appropriate for instant run-off
19 elections or whether it allows the Council to act
20 in this area at all. The Board of Elections has
21 also noted the operational issues that would be
22 implicated by the adoption of IRV in New York City.
23 However, the Board continues to believe that
24 instant run-off voting is an important reform to
25 New York City's outdated system of run-off primary

1 elections. Each of the past two citywide election
2 cycles has featured run-off elections for one or
3 both of the non-mayoral citywide offices. We know
4 that voter turnout, which is already low, is
5 minimal in these run-offs. Only 206,367 voters
6 cast a ballot in the October 1st run-off for Public
7 Advocate, less than seven percent of acting
8 registered Democrats. More than 60 percent of New
9 Yorkers who cast a vote for Public Advocate in the
10 September 15th primary stayed away from the polls
11 on October 1st. The winner of the primary is often
12 the presumptive winner of the general election,
13 even if he or she fails to gain a majority of
14 primary voters. Instead of choosing the eventual
15 victor of a close multi-candidate election in low
16 turnout run-off, the winner of an IRV election will
17 be the candidate with the broadest support among a
18 larger pool of interested voters. IRV can ensure
19 more voters participate meaningfully in citywide
20 elections and ensure all election officials have
21 the legitimacy that comes with the express
22 preference of a majority of voters. From the
23 perspective of the Board's Administration of the
24 Campaign Finance Program there appeared to be
25

1
2 several advantages to eliminating the traditional
3 run-off elections and instituting IRV.

4 In addition to the significant cost of
5 administering a citywide run-off election,
6 candidates who participate in the Campaign Finance
7 Program receive an additional public funds payment
8 to conduct a run-off campaign equal to 25 percent
9 of the funds they received in the primary. For the
10 past four citywide election cycles, 2001 to 2013,
11 the Board has paid a total of \$4.35 million to 12
12 candidates for run-off elections. With instant
13 run-off voting, those payments would not be
14 necessary. Instant run-off elections also would
15 eliminate an avenue for large campaign
16 contributions. New York City's reasonable
17 contribution limits are a significant and useful
18 safeguard against real and perceived corruption.
19 The limits constrain the ability of wealthy donors
20 to exercise influence over the political system
21 through large campaign contributions. For citywide
22 offices, the contribution limit is \$4,950; however,
23 the Campaign Finance Act permits candidates to
24 accept additional contributions for a run-off. If
25 a run-off has been declared reasonably anticipated

1
2 by the Board, this means a candidate may return to
3 his or her maxed out contributors to request
4 another contribution of up to one half of the
5 applicable contribution limit for a total of
6 \$7,425. In practice, run-off fundraising is
7 largely dominated by candidates' largest
8 contributors. In 2013 election cycle, nearly half
9 of the funds raised by citywide candidates for run-
10 off accounts came from contributors who had already
11 given the maximum for the primary in general
12 election.

13 Additionally, IRV could simplify
14 compliance requirements for candidates. Board
15 rules require that any funds raised for a potential
16 run-off be deposited into a separate bank account
17 from which no spending can be made prior to the
18 primary election. Additional disclosure statements
19 for the run-off are required; additional rules
20 governing the candidates' use of run-off accounts
21 to ensure that funds remain separate from primary
22 and general election funds. Eliminating a separate
23 traditional run-off would eliminate these
24 requirements.

1 With only two or three weeks between
2 the primary and the run-off elections, every day of
3 campaigning counts. If the unofficial results of
4 the primary election are inconclusive, decisions
5 about public funds payments in a run-off may need
6 to be made before the official count is concluded.
7 One example, the first place finisher in the
8 September 2001 Democratic primary for Public
9 Advocate, Betsy Gotbaum, finished well under the
10 run-off threshold with 24 percent of the vote in
11 the unofficial count; however, the identity of the
12 second candidate in the run-off was unclear. Less
13 than one percent separated the next four
14 candidates. Three days after the election before
15 the official count was completed, the Board issued
16 run-off payments to four of the five leading
17 candidates. In a more recent instance, Bill de
18 Blasio, who had finished first in the September
19 2013 Democratic primary for Mayor, received
20 slightly more than the 40 percent vote in the
21 unofficial count. Second place finisher, William
22 Thompson, did not immediately concede. Because the
23 unofficial count indicated that a run-off had not
24 been triggered, the Board declined to issue run-off
25

2 payments. The official count, certified on
3 September 30th, showed that de Blasio received 40.8
4 percent of the vote. Instant run-off voting would
5 eliminate these difficult and time sensitive
6 determinations and allow the winning candidate to
7 begin their general election campaigns without
8 delay or uncertainty.

9 If IRV is adopted, there will be
10 adjustment period as voters learn the new system.
11 Helping encouraging voting by all New Yorkers who
12 are eligible is a key responsibility to the Board.
13 The CFB conducts a broad voter education campaign
14 before each citywide election across multiple
15 platforms. The City Charter requires the Board
16 prepare, publish and distribute a voter guide to
17 every household with at least registered voter.
18 For the recently concluded 2013 elections, the CFB
19 mailed 3.3 million guides to voters before the
20 primary and another 4.2 million before the general
21 elections. Additionally, the Board prepares an
22 online version of the guide, as well as a video
23 voter guide and a mobile platform, nycvotes.org,
24 which makes voter information available by
25 smartphone. Our Voter Assistance Unit conducts

1 registration guides and voter outreach partnerships
2 with city agencies, neighborhood groups and civic
3 institutions. The CFB also administers a debate
4 program for citywide offices, which represents
5 another opportunity to convey important information
6 to the voters. Two of the bills before this
7 Council envision a role for the Board to play in
8 helping familiarize New York City voters with IRV.
9 In various platforms we have available we are
10 confident the Board can be an effective partner in
11 that effort.

13 Before I conclude, as this may be my
14 last appearance here in 2013, I would like to take
15 this opportunity to extend my deep appreciation to
16 Chair Brewer for her leadership in the Committee on
17 Governmental Operations. Throughout her career on
18 the Council she has been a thoughtful engaged
19 legislator and a strong supporter of the Campaign
20 Finance Program. We have enjoyed a collaborative
21 and productive working relationship with her, her
22 staff and this committee during the current term,
23 and I wish her much success as she moves on to
24 higher office. I would also like to congratulate
25 my councilwoman, Letitia James and wish her the

2 best in her future endeavors. Again, I thank you
3 for the opportunity to testify today and I would
4 welcome your questions, and I also would indulge to
5 tell you that the charter requires us to have a
6 hearing about the conduct of the previous election
7 after the option that the hearing will be held on
8 December 16th. Notices will be going out shortly.

9 CHAIRPERSON BREWER: Thank you very
10 much. Not only is it good testimony, but it's a
11 lot of concise material that puts some of the
12 elections in perspective. Numerically,
13 percentagewise and other it's very helpful.

14 AMY LOPREST: Thank you.

15 CHAIRPERSON BREWER: I just have a
16 question about the education. That came up a lot.
17 How much it would cost; how much is involved, et
18 cetera and you know, 'cause you do you know,
19 complement the Board and you work together on some
20 of these issues. If there is an instant run-off,
21 how much do you think education would cost; would
22 be involved, et cetera? You did listen to some of
23 the testimony earlier.

24 AMY LOPREST: I mean I have no opinion
25 about what the Board of Elections said it would

2 cost. You know, their budget is different than
3 ours. Obviously you know, we would use our
4 existing methods to educate voters, so and many of
5 those are... some of them are very low cost you
6 know, using the website, using our mobile platform
7 and using our Voter Assistance staff and our
8 partnerships with many civic organizations across
9 the city to educate voters, as well you know,
10 closer term. I mean it's not you know, very close
11 to the election when the voter guide gets mailed,
12 but of course, that information about how to
13 complete the new ballot would be included in that
14 voter guide in clear and concise form and that is
15 already mailed to every single household in the
16 city, so I mean we would use all of those methods
17 to supplement what the Board of Elections does.

18 CHAIRPERSON BREWER: 'Kay and you did
19 mention the military and overseas, but do you also
20 think that the instant run-off would be of
21 assistance to them? In other words, that's also
22 another community that is I think somewhat
23 challenged in terms of voting.

24 AMY LOPREST: I mean I think that
25 that's a difficult issue and I think that that

2 is... you know, I think that they would... the
3 benefits that would inert all the general
4 population that I'd talked about in my testimony
5 with instant run-off voting would certainly you
6 know, be the people who get their ballots already
7 mailed to them, the people who are absentee and
8 overseas voters.

9 CHAIRPERSON BREWER: Council Member
10 Dickens?

11 COUNCIL MEMBER DICKENS: Yes, thank
12 you, Madam Chair and thank you, Amy, for the work
13 that you do. You've got a great staff, they're
14 very responsive and very fast with the response, by
15 the way.

16 AMY LOPREST: Thank you very much.

17 [crosstalk]

18 COUNCIL MEMBER DICKENS: So I want to
19 thank you for that. Can you tell us just very
20 simply what would be the savings if we went to IRV
21 and there wouldn't have to be the additional
22 funding that comes with run-off?

23 AMY LOPREST: As I said, I mean
24 obviously the biggest savings would be in not
25 running the... the administrative cost of not

1 running the election, which you know, has been
2 reported in the papers as being \$13 million, but I
3 understand from Mr. Kellner's testimony that that
4 may be an understatement, but as far as the actual
5 you know, cost for the Campaign Finance Program, we
6 have spent about you know, over \$4 million in
7 making run-off payments to candidates from 2001 on
8 and so I would... you know, that would be... would
9 just go away. All those payments wouldn't have
10 been made if there wasn't instant run-off voting
11 because there would be no run-off.

13 COUNCIL MEMBER DICKENS: And the
14 outreach education that Chair Brewer spoke about,
15 that would be minimal, even to the military and the
16 ballots of voters out of the country overseas.

17 AMY LOPREST: You know, I mean we
18 didn't cost out, but I mean since we would
19 primarily you know, in our voter education
20 endeavors use most of the methods that we already
21 do. It wouldn't be a large additional cost. I
22 mean there might be some additional cost, but
23 because we would primarily work with the existing
24 ways that we educate voters, the additional cost
25 would not be significant.

2 COUNCIL MEMBER DICKENS: And right now,
3 that represents a savings of \$17 million between
4 the Board and campaign financing. That's...

5 AMY LOPREST: Well and I think it's
6 actually...

7 [crosstalk]

8 COUNCIL MEMBER DICKENS: That's
9 significant.

10 AMY LOPREST: I think it's actually a
11 lot more because that \$13 million was only this
12 past election and my \$4.3 million is for...

13 [crosstalk]

14 COUNCIL MEMBER DICKENS: For the
15 previous years.

16 [crosstalk]

17 AMY LOPREST: All the run-offs...

18 [crosstalk]

19 COUNCIL MEMBER DICKENS: 2001.

20 [crosstalk]

21 AMY LOPREST: 2001, 2005 and 2009 and
22 2013.

23 COUNCIL MEMBER DICKENS: Alright, thank
24 you so much, thank you.

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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON BREWER: Council Member
James?

COUNCIL MEMBER JAMES: Just one
question. If Assembly Member Kavanaugh's bill were
to pass and become law in the city of New York,
would you anticipate any additional... an increase
in payments to candidates to educate individuals
about the possibility of marking your ballots one,
two and three?

AMY LOPREST: I mean the payments to
actual... to increase in public funds payments to
the individual candidates you know, that would have
to become... you know, the payment formula is
determined by law; you know, we give \$6.00 for
every dollar collected up to \$175.00 and up to
maximum of 55 percent of the spending limit. So
you know, unless the law changed to you know, allow
for additional public funds payments you know, that
wouldn't be. But I do agree with Assembly Member
Kavanaugh that the candidates themselves, it would
be much to their benefit to use some of the money
that they raise both privately and public to
educate the voters about this.

2 COUNCIL MEMBER DICKENS: Yeah, I just
3 have one other question as it relates to
4 competitive races and the reduction in payments to
5 those who are running. Who determines whether a
6 race is competitive?

7 AMY LOPREST: Yeah, I assume you're
8 speaking about the provision of the law that limits
9 payments to...

10 COUNCIL MEMBER DICKENS: [interposing]
11 Yes.

12 AMY LOPREST: 25 percent...
13 [crosstalk]

14 COUNCIL MEMBER DICKENS: Yes.
15 [crosstalk]

16 AMY LOPREST: Of the maximum. The law
17 has a list of... I'm not going to really
18 remember... I think seven different factors that
19 are objective factors that candidates can use to
20 demonstrate that the race is competitive. Those
21 factors were adopted by the Council I believe in
22 2007, but don't hold me to that date, but and you
23 know, that's a list of variety of things both
24 finance... primarily you know, based on complicity;
25 you know, your endorsements, your mentions in the

2 newspaper, those kind of objective factors.
3 Unfortunately, the Supreme Court's decision on
4 Citizen United and the Davis case limited our
5 ability to use financial thresholds to determine
6 competitiveness to give increased public funds
7 payments, but those objective criteria are in the
8 law and those were set by the City Council.

9 COUNCIL MEMBER DICKENS: But Amy, it's
10 first determined by Campaign Finance, and this is a
11 question, not really a statement. Is it first
12 determined by Campaign Finance to reduce the
13 payments to a candidate and then the candidate has
14 to go back and prove that they are in a competitive
15 race or is the reverse?

16 AMY LOPREST: The law says that the...
17 [crosstalk]

18 COUNCIL MEMBER DICKENS: Do you give it
19 before...

20 [crosstalk]

21 AMY LOPREST: That the payments are
22 limited to 25 percent of the maximum unless the
23 candidate demonstrates one of the seven factors
24 exists, so it's not... we don't determine that you
25 don't get the money. It's the law says you have to

2 demonstrate that you're one of these seven factors
3 in order to get more than the 25 percent of the
4 maximum.

5 COUNCIL MEMBER DICKENS: Thank you.
6 Thank you.

7 CHAIRPERSON BREWER: Thank you very
8 much. I appreciate all your kind words and...

9 [crosstalk]

10 AMY LOPREST: Okay.

11 CHAIRPERSON BREWER: We like mostly
12 working with you, just [laughter] sometimes our
13 treasurers don't, but we like working with you.

14 ASSEMBLY MEMBER KAVANAUGH: Madam
15 Chair, I'll just say well, first of all, thank you
16 for all the work that you did this cycle and I'll
17 look very forward to your report on the hearing on
18 the 16th and I'll hope that the chair, who's been
19 extraordinary on these issues, can squeeze a
20 hearing in from our end to come hear that in our
21 body between then and the end of the year, but if
22 she cannot we will endeavor the next council to
23 uphold the level of leadership on these issues in
24 general that she has shown and have that hearing in
25 January or in the new council.

2 CHAIRPERSON BREWER: Okay, thank you
3 very much.

4 AMY LOPREST: Thank you very much.

5 CHAIRPERSON BREWER: The next panel;
6 it's a large one and it's representative of
7 FairVote. Alex Camarda from Citizens Union; Kate
8 Doran from the League; Susan Lerner from Common
9 Cause New York and Kevin VanLandingham from
10 Election Protection. We might need some extra
11 chairs and we would like FairVote to go first.
12 [background voices]

13 CHAIRPERSON BREWER: FairVote, and you
14 go first.

15 ROB RICHIE: Right. Well, terrific.

16 CHAIRPERSON BREWER: And sign a slip.
17 You need to sign a slip later.

18 ROB RICHIE: Okay, I don't think I got
19 a slip.

20 CHAIRPERSON BREWER: I know.

21 ROB RICHIE: Okay, great. Sorry. So
22 it's Rob Richie. I am Executive Director of
23 FairVote and we're a national organization that
24 works on a lot of ambitious electoral reforms, but
25 we've done a lot of work about instant run-off

1 voting, Ranked-Choice Voting at really every stage
2 of the process as it's been deliberated, as it's
3 been passed, as it's been implemented, as it's been
4 considered, studied, evaluated. We actually just
5 got a big grant that's very interesting in looking
6 into an issue that came up today about the tone and
7 civility of campaigns and how it affects that. so
8 I'm really glad you're having this hearing. Thank
9 you to the committee, to Chair Brewer and to
10 Council Member Lander and others who are engaging
11 with this. So I have written testimony that gets
12 into a lot of things that have actually been talked
13 about well today, so I will not stick to that
14 testimony. There clearly were questions and
15 concerns that have come up that I thought it would
16 be helpful to get to. As I look at just from the
17 key points from the written testimony, let me just
18 highlight a few things. One is this is an issue
19 that is growing in its use. It's been considered
20 in the past in some very interesting places like
21 Memphis, Tennessee, which is a black majority city
22 in the south; actually the second biggest city in
23 the southeastern United States; passed this with 71
24 percent of the vote on a presidential ballot in
25

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2 2008, and I know pretty detailed ballot questions
3 too, where the voters had to like think about
4 ranking and things like that and they
5 overwhelmingly passed it. They are awaiting
6 implementation, and that points to their obvious
7 implementation issues, but it is to be implemented,
8 we hope, by the next election. They are being
9 used... it's been used every November in San
10 Francisco, which a very diverse city with a lot of
11 issues involving languages and languages on the
12 ballots and some of the questions that came up
13 today, so there's a lot of precedent for how that's
14 been dealt with. Oakland is another exceptionally
15 diverse city that has now used this for two sets of
16 elections for a total of 18 offices. San Francisco
17 does a total of 18 offices as well. Minneapolis
18 just had its second election with the system. They
19 have all of their elections at once, they have them
20 every four years and they use it for a lot of
21 offices. When you look at the ballot that
22 Commissioner Kellner handed out, you'll see that a
23 lot of different races were put on that ballot. We
24 can talk about some more why they made the
25 decisions to use that ballot design, which I know

1 is a question that came up, but here are just some
2 interesting numbers from Minneapolis. So with that
3 ballot; with that challenging ballot, a total of 88
4 percent of voters ranked a second candidate; ranked
5 both a first and second candidate in the Mayor's
6 race. 78 percent ranked three. The winner, who
7 campaigned in a way that people observing the
8 campaign... it was really this particularly
9 inclusive way of running. She didn't put any money
10 into T.V. ads. She put it into kind of campaigning
11 on the ground and she ultimately was ranked in the
12 top three by more than two-thirds of voters, and
13 including a lot of people who voted for the person
14 who was in her final round paired up person in the
15 final two, a lot of his voters ranked her second or
16 third, which underscores this fact that you can
17 have very contested heated campaigns. But
18 actually, the two people who ended up being the
19 front runners, a lot of those voters ended up
20 liking both of them, which is actually a nice, nice
21 thing when they had 33 other candidates to be able
22 to look at. In the Ward 5 in Minneapolis, which is
23 the most diverse ward... majority minority ward, 75
24 percent of voters ranked two candidates in the city
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council race that they had there, 63 percent ranked three, and low rates of ballot error and the people in the city felt particularly pleased at how it was working kind of across the city. It uses the same system, by the way, in Minneapolis that you do have here, so that whole question about you know, can it be done; what needs to be done. It's the ES&S system. It is with the rapidity of how it had to be implemented, and that was what led to that ballot design that looks rather startling when you look at it. The other ballot design that ES&S has made that shows just the candidates listed once and rankings next to them, that is something that their system can do. It just needed more time to be able to kind of get it fed up there. And the way they do it now is they export into Excel, but because it's Excel programs that actually do the count in Excel, and so it's not a very complicated software counting challenge, but they actually just used it as a place to sort of manually like look at the number of cells rather than actually run an Excel program of adding up the Xs in a cell or something, which could be done. It wouldn't be an exceptionally difficult challenge particularly with

1
2 some time to set it up. There are some particulars
3 about this ballot design that wouldn't have to be
4 part of it too. You'll note that in this one from
5 the mock-up from California's, they have a lot of
6 write-ins. We would suggest only having one write-
7 in, and there's ways of making that work 'cause you
8 know, people only write-in once now and they don't
9 need to write-in for as many other choices as there
10 are. On the question of limiting rankings, I'll
11 say one other data point from Minneapolis, which I
12 think is interesting, is that a lot of people
13 ranked three, as I said, and in the final round
14 there was a big field race, but there were a
15 certain number of ballots that didn't count for
16 either of the top two, and some of those were
17 people who just didn't care about them and you
18 know, there was Republicans in Minneapolis. This
19 is a general election, by the way, where the final
20 two candidates were associated with the Democratic
21 Party. But about... I think it was more than half
22 of the people whose ballots didn't count for one of
23 the candidates had ranked three people who weren't
24 one of those two people. Now, it was a large
25 field, so I think there's some compromise and it

1 has to be built into you know, the other factors
2 like not going to extra ballots you know, and other
3 things that you want to look at. But you know,
4 five might be sort of a happy medium if you think
5 about this year's Mayors race; you know, there's a
6 number of candidates running, and people might've
7 had feelings about four or five of them and you
8 know, that's sort of the question that people might
9 want to look at. Certainly we know that voters can
10 handle having more rankings. I'll use another
11 example from you know, a city that demographically
12 is different than New York, but interesting. It's
13 Portland, Maine, which is the largest city in
14 Maine, used this for its Mayors race in 2011. They
15 had a ballot that had 15 candidates and 15
16 rankings, using this more like the simpler ES&S
17 ballot design and they spent really no money on
18 voter education, no special money on poll worker
19 training, but they did very good work on the ballot
20 sign, which is really the most important thing to
21 do, to make sure the instructions are clear and the
22 ballot design is good and tested. More than 99.8
23 percent of people ranked the ballot and about as
24 many people ranked all 15 as chose to rank only
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one, and I think that average number of rankings was five or six. So we're seeing that voters can handle this, and so I think it's also interesting to point out that New York City using different ballot designs and using just sort of numbers has used Ranked-Choice ballots, and as Chair Brewer was saying earlier, the School Board elections used them and when there was an effort to move away from them, the Department of Justice actually said no. That's the last Section 5 objection that the DOJ has filed affecting New York city, which was saying you can't stop using Ranked-Choice Voting for the School Board elections in these multi-seat districts. Now, there were other parts of that that were you know, the time of year or there's other issues, but the fact of voters handling the ballot, we actually did a lot of analysis of those elections and it was quite interesting to see how many people were ranking candidates deep into the ballot.

CHAIRPERSON BREWER: Wrap up, just

'cause there's more.

[crosstalk]

1
2 ROB RICHIE: Yeah, yeah, so sorry. And
3 so the last... so I guess sort of the things I
4 wanted to make sure I touched on. But there were a
5 lot of questions about cost. I will say that I'd
6 be happy to go over with staff or certainly with
7 the Board of Elections itself directly on some of
8 those costs, but we know that a lot of those costs
9 certainly among voter education and poll worker
10 training are optional. We're always good for voter
11 education, but they're optional and I also would
12 say that like the question of going to extra
13 ballots almost certainly could be avoided, as has
14 already been discussed, and there was just one
15 other particular point relating to that that I
16 wanted to make sure I touched base on. Well, one
17 thing is just we should remember that we are
18 working with something that has been used in very
19 you know, big elections. In fact, San Francisco
20 and Oakland use it at the biggest elections. They
21 vote in November of even years, so you know things
22 like how long will it take voters to handle the
23 ballot, will it cause longer lines or things like
24 that. There's lots of evidence to suggest that

2 those concerns can be addressed and I'll just
3 mention the last thing I'll say just about Boston.

4 CHAIRPERSON BREWER: Just need to go,
5 yeah.

6 ROB RICHIE: Yeah, just the last thing.
7 So Boston had an open seat race for Mayor. They
8 used a run-off system. The first place candidate
9 had 18 percent. The second place candidate had 17
10 percent. Those were two white men in a field that
11 had I think six people of color. The second place
12 candidate was a person of color. There was all
13 this sort of tension involving that person of
14 color. The candidate asking other people to maybe
15 drop out so that the vote wouldn't be split and all
16 these things and that's... there's a lot of people
17 in Boston right now sort of interested in this...
18 you know, the freedom that it gets from all of
19 those kinds of calculations, even within a run-off
20 dynamic, but certainly to get a plurality those
21 kinds of dynamics become all the more intense and
22 you certainly see that going on around the country.
23 So thank you.

24 SUSAN LERNER: Thanks very much. I'm
25 Susan Lerner from Common Cause New York and I want

1 to just hit some highlights. First off, you know,
2 as with everybody else in New York City, we're
3 really concerned about the cost of a Public
4 Advocate run-off, which we thought was really not
5 our best use of money, but I'm afraid that I
6 disagree with Councilwoman James in terms of the
7 solution. I do feel the solution is IRV rather
8 than doing away with the run-off. I do have
9 concerns in a run-off situation of you know, it's a
10 low voter turnout and I think that strange things
11 can happen if there is no run-off on some of these
12 down ticket races, so I think that we'd like to see
13 IRV as the solution. And I have some rather I
14 think unusual positions regarding the resolution,
15 and that is we believe that New York doesn't have a
16 strong enough home rule situation and we would like
17 to see New York have more ability to control its
18 own elections, rather than having always to go to
19 the legislature to ask them to allow New York City
20 to run elections for the largest jurisdiction in
21 the best way possible. So as a matter of
22 principle, we'd prefer to see the Council deal with
23 the question of IRV, rather than having to punt it
24 up to Albany. I had an interesting discussion out
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in the hall with Assembly Member Kavanaugh and I realize the problems of submitting this to a referendum, but I think you know, with the experience in Memphis that a referendum in and of itself is good voter education and frankly, I think the people understand Ranked Voting. People like to make those choices. One of the most popular things on the internet is anything that ranks a list. All of your consultants tell you if you want to get traffic to your website; if you want people to open up your emails put a ranking on, because people want to know who did you rank first and who did you rank second, so the voter instinctively gets this in a referendum as a good form of education. We're in favor of the requirement of having a sample ballot on the web. I know the Board is doing it, but in terms of the Board is sometimes surprising in its choices and having a actual requirement is good. If indeed the Council were to adopt full instant run-off, I don't know whether Initiative number 1108 would be necessary, so for us it's kind of a fallback. We'd rather see IRV for everything. If we don't get IRV for everything, then yes, let's definitely pass 1108 as

2 soon as possible to ensure that our overseas voters
3 have an opportunity to vote.

4 CHAIRPERSON BREWER: That needs a
5 referendum also.

6 SUSAN LERNER: Does it? Well, then we
7 might as well do the whole package. Thank you very
8 much. And I would just like to say that I'd like
9 to thank Citizens Union, which has been sort of the
10 organizational sponsor for organizing all of us and
11 educating us on IRV and to thank FairVote for being
12 such a good resource nationwide.

13 ASSEMBLY MEMBER KAVANAUGH: Madam
14 Chair, I just... I apologize. I have to leave and
15 I just want to thank all of the advocates including
16 Susan, everyone I'm not going to hear, and that we
17 continue to look forward to working very closely on
18 the details as we...

19 [crosstalk]

20 CHAIRPERSON BREWER: Right.

21 ASSEMBLY MEMBER KAVANAUGH: As we move
22 forward to try to address the good issues that have
23 been raised here today.

24 CHAIRPERSON BREWER: Who would like to
25 go next?

1
2 ALEX CAMARDA: I'll try to be as quick
3 as possible. Good afternoon, members of the
4 Governmental Operations Committee. My name's Alex
5 Camarda. I'm the Director of Public Policy at
6 Citizens Union. I have a lot of comments on the
7 individual bills themselves, but I want to just say
8 up front that Citizens Union supports run-off
9 elections. I think that's the most important part
10 of our testimony here today, and we just would
11 prefer that it be done instantly. We think that's
12 more effective and efficient. The reason we
13 support run-off elections is we believe that
14 there's a value in having candidates win with much
15 greater than just a plurality of the vote. You
16 know, I think it's easy to look at the elections of
17 recent years and forget about the more distant
18 past. In 1977, in the race for Mayor, the top
19 candidate in the first round got 18 percent of the
20 vote and that was Ed Koch, and so I think there's
21 value in having a second round so that that person
22 and the other candidates who are competing in a
23 run-off can earn broader support, as Council Member
24 James did I think. Her winning 60 percent of the
25 vote in the second round gives her more of a

2 mandate going into the office than she would have
3 if she had 37 percent, if I'm correct in
4 remembering the percentage.

5 CHAIRPERSON BREWER: It wasn't 40.

6 [laughter]

7 ALEX CAMARDA: So that's my piece on
8 the run-off. Obviously, we prefer that it be done
9 instantly for the cost savings and for the positive
10 campaign environment it creates and because it
11 allows more participation by voters in the first
12 round all at once. As far as the different bills,
13 I think we have Lander's bill, which is the most
14 robust, the most aggressive, applies to the most
15 offices and then our bill is the Brewer bill. We
16 think there's value in all of these. I think the
17 Kavanaugh bill before the legislature that the
18 resolution supports is a good compromise. We would
19 like to see IRV established in whatever form is
20 appropriate at this time and is best for the Board
21 of Elections to be able to implement, but we think
22 it should be done. As far as IRV generally, I did
23 want to talk about some of the benefits. It's been
24 mentioned that more voters participate in the first
25 round. I think it's worth putting some numbers to

1 that. In this most recent election for Public
2 Advocate, 16.4 percent of registered voters
3 participated in the primary; in the run-off just
4 5.7 percent. Now, that's a decline of 345,089
5 voters or 65 percent, so it really makes a big
6 difference between the first and second round in
7 terms of the number of voters. Similar declines in
8 2009, when the Comptroller and the Public Advocate
9 were on the ballot for the run-off. It wasn't as
10 severe. The drop was about a third. It went from
11 roughly 11 to seven percent.

12
13 I did want to spend a lot of time
14 talking about Council Member Brewer's bill, 1108,
15 because I was able to with the cooperation of the
16 Board of Elections get the data for absentee and
17 military voters for both the run-off and then for
18 the primary election, and it shows a substantial
19 decline not only in the participation of absentee
20 and military voters, but also in the number of
21 ballots that they cast that actually count and the
22 reason that more did not count during the run-off
23 is because of the tight timeframe between the
24 primary and run-off election of three weeks, which
25 in the future here will be two weeks, and you can

1 see it's quite dramatic. With the absentee voters,
2 we went from a 46 percent to a 32 percent
3 participation rate. That's a drop of 14.49
4 percent. Now, recall for the primary for all
5 voters, the drop was only 10 percent, so this is a
6 drop that's four percent greater among people who
7 actually went through the trouble of requesting a
8 ballot. Likewise for military voters, the drop off
9 was a little bit less, five percent from 14.49 to
10 nine percent, but when you look at the number of
11 ballots that were cast by military voters that
12 actually counted, more did not count than counted.
13 83 did not count; 65 counted. Now, that's a very
14 small number of voters, but 1,481 actually
15 requested a ballot and only 148 even voted and I
16 think that has a lot to do with the timeframe. And
17 I think that the city is really susceptible to a
18 lawsuit from a military voter because state law
19 requires that military ballots be sent out 32 days
20 before a primary election, which the run-off is,
21 and many of them as you can see are probably not
22 able to vote on account of the tight timeframe.
23 And this isn't the Board's fault. They did get out
24 the ballots 10 days prior. It's the structure that
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they operate within, and we've seen that the courts will change a federal election to accommodate military voters. I would imagine if a military voter brought a case, they would... that would be viewed favorably by the courts if they couldn't vote in a run-off.

Let me move now to the Sample Ballot Bill, 1108. We support this. We've long supported sample ballots online. To the Board's credit, they did this administratively. When the Lever Machine Bill passed and the levers were brought back, they only provided a list of candidates rather than an actual picture of a ballot on their website. This bill would actually, contrary to what's in the Board's testimony, actually require that they put a picture of the ballot online and not just the candidates' names, even if the lever machines are used because it references a section of law and that section is 7-118, which states that the Board of Elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine that shall be in use at that election. So clearly, it goes beyond candidates' names. State

1
2 law actually requires the Board of Elections to put
3 sample ballots in newspapers, mail them to schools
4 and potentially even mail them to voters. So this
5 is something that they should embrace and support
6 the bill, which I misstated. It's number 488, and
7 with that I'll conclude.

8 KATE DORAN: I'm next, okay. Good
9 afternoon. Thank you. I'm Kate Doran and I serve
10 of the board of the League of Women Voters of the
11 City of New York. Thank you very much for holding
12 this hearing. Run-off elections as currently
13 conducted are expensive and inefficient. Turnout
14 is light and absentee and military voters are
15 regularly disenfranchised because of insufficient
16 time for the ballot turnaround, and Alex gave us
17 some great stats on that. The League believes in
18 and supports the concept of winners being elected
19 by a majority or a significant plurality of voters.
20 We support run-off, but no longer are we in support
21 of separate run-off elections, and we're very
22 pleased to have this conversation today. With
23 respect to the bills under consideration today,
24 Intro 1108 provides for Ranked-Choice Voting for
25 those who are utilizing absentee or military

1 ballots in citywide primaries, and this bill most
2 closely tracks our current position and we would
3 support the process; however, the bill repeatedly
4 references a fall primary rather than the citywide
5 primaries. As advocates of a June primary, which
6 we would hope will also be supported by the
7 Council, we believe fall in this new charter
8 language is unnecessary and unfortunate. We also
9 believe that study and discussion should continue
10 on methodology for conducting Ranked-Choice
11 elections. Should voters be given unlimited
12 choices as this bill proposes or should they be
13 limited to three, four choices? While we
14 acknowledge serious deficiencies in our current
15 run-offs, we would not support a bill which would
16 eliminate run-off elections just for the offices of
17 Public Advocate and Comptroller. Run-offs have a
18 value because they facilitate an election which
19 assures that the winning candidate gets more than
20 half the votes. That's much more desirable than
21 having a citywide official elected by fewer than a
22 a third of the voters, which did happen in multi-
23 candidate primaries before the advent of run-offs.
24 Presumably also, this proposal leaves in place the
25

1 possibility of a second run-off for the office of
2 Mayor with all of the attending costs and
3 likelihood of disfranchising certain voters. Intro
4 1066 institutes instant run-off voting for citywide
5 primaries where candidates are nominated by
6 independent nominating petitions, which would
7 include filling City Council vacancies. Passage of
8 this bill would result in dramatic changes for
9 voters; we've been hearing about this all day; and
10 great challenges for the Board of Elections. We
11 appreciate however, the definitions in Section B,
12 Paragraphs one through six and suggest that the
13 word majority in Section D be similarly defined.
14 Do you mean 50 percent plus one vote, which is the
15 language in the New York State Assembly Bill or
16 something else? We note that Intro 1066 states
17 that the Voter Assistance Advisory Committee shall
18 be responsible for voter education. What outreach
19 role do you envision for the New York City Board of
20 Elections and should that be included in your
21 proposal? If this bill or any Ranked-Choice Voting
22 procedure is enacted, the Board of Elections will
23 have to secure new computer programs to count
24 ballots. These programs do exist and they have
25

1 been used, as we have heard. We believe that the
2 savings ultimately will be a net savings over the
3 \$13 or \$14 million we spend now on separate run-
4 offs. In general, the League agrees that the City
5 Council should pass a resolution to support State
6 Legislation amending the election law to provide
7 for an instant run-off voting; however, a question
8 remains as to how the votes are going to be
9 counted. Assembly 713 specifically stipulates the
10 two candidates with the most votes proceed to a
11 second round and that most closely resembles a
12 system in place under current law, but it is not
13 the procedure that's described in the Council
14 bills. The League of Women Voters was among the
15 first to encourage the New York City Board of
16 Elections to post sample ballots on its website and
17 we appreciate that the Board has been doing so,
18 linking the ballots to the poll site locator for
19 the past several years. Accordingly, we fully
20 support and we thank Council Member Brewer for her
21 persistence and invaluable work on this initiative,
22 and it wouldn't have happened just with us big
23 government types standing in front of the
24 Commissioner, so thank you very much. Accordingly,

1 we fully support Intro 488 that codifies the
2 posting of sample ballots on the Board of Elections
3 website as a requirement under the City Charter.
4

5 Now, while not named a topic of today's hearing, we
6 strongly urge the City Council to pass a resolution
7 calling on the New York State Legislature to move
8 the state primary to a date in June. Without

9 legislation there will be a federal primary in June
10 2014 and a state primary in September of 2014 and

11 as we all know, each one of these election events
12 cost in the tens of millions of dollars and the

13 bill must be paid by the city of New York. Since

14 citywide run-offs won't happen again until 2013, we

15 have a certain amount of time and opportunity, so

16 here we at the League would completely agree with

17 Commissioner Kellner that the time to begin

18 managing this and working out the specifics is

19 soon. The League of Women Voters recommends that

20 the Council convene an Advisory Task Force with

21 participation from and in consultation with

22 representatives of the Mayor, Public Advocate,

23 Comptroller, Borough President, State Legislators,

24 New York City and State Boards of Elections, Bar

25 Associations, political parties and good government

2 organizations who are all active in election reform
3 and voter protection to explore avenues for
4 improving New York City elections, focusing on the
5 pros and cons of instant run-off voting and the
6 mechanics of Ranked-Choice Voting, and as Mr... as
7 Commissioner Kellner said many times, right away.

8 CHAIRPERSON BREWER: Got it.

9 KATE DORAN: Right away. Thank you
10 very much. Thank you.

11 KEVIN VANLANDINGHAM: Good afternoon.
12 My name is Kevin VanLandingham, on behalf of
13 Election Protection and the Lawyers' Committee for
14 Civil Rights Under Law. I'm here to talk mostly
15 about our observations during the past two
16 elections. I don't offer any specific
17 recommendations with the legislation we're
18 considering today, but the with the facts relayed
19 to me, may inform those decisions. As I believe
20 you know, Election Protection is the nation's
21 largest nonpartisan voter protection coalition.
22 It's led by the Lawyers' Committee for Civil Rights
23 Under Law. The program has two components, the
24 nationwide hotline, 1-866-OURVOTE and a field
25 program in which trained volunteers assist voters

1 at targeted places throughout the city. During the
2 elections this year, as in other recent elections,
3 the largest number of calls we received were from
4 voters trying to find polling sites. We also
5 received a large number of calls about registration
6 issues. At the New York City Call Center, thanks
7 especially to the New York City Board of Elections
8 website, we were able to handle nearly all of those
9 inquiries fairly easily. For more complex issues
10 that required the attention of the City Board of
11 Elections to resolve, a staff person at the Board
12 of Elections was designated to speak with us on an
13 open line dedicated to our calls for the entirety
14 of the day for both the primaries and the general
15 election. On that line we reported issues that
16 stood out as problems that the Board needed to
17 address. Our experience was that efforts were made
18 by the Board to address those issues. I think it's
19 important to note that based on our experience over
20 several elections, this year fewer systemic
21 problems were reported. We didn't receive calls
22 indicating that poll workers were improperly
23 seeking voter identification, which was a larger
24 issue during the 2012 elections, partially because
25

1 of the hurricane. Nor did we receive calls
2 indicating that poll workers misunderstood how to
3 use provisional or emergency ballots. Our
4 conversations with some other organizations have
5 confirmed these observations, and while the absence
6 of these issues may be due in least in part to
7 lower voter turnout, we are nevertheless encouraged
8 that these issues did not arise. During the
9 primary, we did report a number of lever machines
10 had malfunctioned. There were far fewer reports of
11 breakdowns during the general elections. We did
12 receive reports that several scanners in locations
13 in Brooklyn were malfunctioning, but those issues
14 appear to have been remedied before noon. We
15 understand that many of the issues that we reported
16 to the Board throughout the day could most
17 efficiently be resolved by the Board with a phone
18 call to the polling site; however, the Board does
19 not currently appear to have a way to call its poll
20 workers during the Election Day. This requires the
21 Board to deploy staffing to sites across the city
22 when a brief phone call may resolve the issue. For
23 instance, during the Election Day the Board
24 indicated to us that it may be able to diagnose and
25

1
2 resolve issues with scanning machines over the
3 phone, but it didn't have a way to contact its poll
4 workers during the day. We helped address that
5 issue by suggesting that voters who had called in
6 to us ask for poll workers' personal cell phone
7 number so that we could provide it to the Board and
8 they would be able to call the poll workers. We
9 believe that those efforts helped resolve those
10 issues more quickly. So based on that experience
11 Election Protection strongly recommends that funds
12 be allocated so that each polling site may be
13 provided with a cell phone to use during the day.
14 This is a very modest proposal and we think it will
15 undoubtedly save more time and expense for the
16 Board than it would cost. Once again, I would like
17 to thank you, Chair Brewer and member of the
18 committee for allowing me to speak today. We
19 remain committed to working with the state and city
20 governments and will continue to offer any support
21 we can provide. Thank you.

22 CHAIRPERSON BREWER: Thank you very
23 much. In some schools I know you can't use a cell
24 phone just FYI. You know, it just doesn't have the
25 connectivity. I just throw that out.

1
2 KEVIN VANLANDINGHAM: Mm-hm. No, I
3 understand.

4 COUNCIL MEMBER JAMES: No, just the
5 point, I recognize that there was some individuals
6 that have indicated opposition to the bills that
7 I've put forward, but I think it's important to
8 understand that my election... I was voted into
9 office by less than three percent of the electorate
10 citywide and I think that's a major issue and it
11 was as a result of a run-off. I do support
12 Assembly Member Kavanaugh's bill in Albany for
13 instant run-off and I think both Council Member
14 Lander and I agreed that if, in fact, that moved
15 forward, both he and I would withdraw our bills and
16 I believe that is an appropriate compromise moving
17 forward. And notwithstanding the fact that their
18 connectivity in some of the schools is a major
19 problem, I do recognize that access to inspectors
20 and to coordinators is a major, major issue. So
21 if perhaps we could look at cell phone usage, but
22 having a landline perhaps available somewhere in
23 the school where the inspectors could have access
24 to I think would go a long way, but clearly the
25 major issue during the run-off in the primary and

1 the general, levers were missing in Brooklyn,
2 particularly in Central Brooklyn. We did have a
3 major problem. Machines did break down, but as you
4 indicated, by 1:00 or 2:00 most of those issues;
5 problems had been resolved, so I thank you for
6 pointing out what we all know has you know, been a
7 pervasive problem, but we're getting much better
8 and I give all the credit obviously to the Board of
9 Elections.
10

11 CHAIRPERSON BREWER: Just a quick
12 question. Just first of all, I want to thank you
13 all for putting the time in on this topic. I know
14 you've been doing this for a very long time and
15 it's much appreciated. One of my questions is just
16 to reiterate the fact that in other
17 jurisdictions... this is a method of voting that
18 seems to involve more voters than the system that
19 we have now and that it does seem to make sure that
20 it either enhances, which would be preferable, or
21 does it detract from the diversity of those who are
22 participating in elections. I mean these are the
23 issues that we care most about. And obviously, I
24 think there's a cost savings. You know, it's hard.
25 Portland and other jurisdictions are more

1
2 homogenous, not... I don't know about California,
3 but they certainly are and they're not as large,
4 but do you all agree that you know, this... I'm
5 just trying to put some of the positives on here,
6 not necessarily regarding what New York is doing,
7 but just generally.

8 KATE DORAN: Well, certainly the
9 experience of my colleagues in California in cities
10 that are diverse shows that IRV is quite popular
11 and very useable by populations and I think
12 actually as earlier testimony, really puts the onus
13 on candidates to campaign to the entire city and
14 helps I think build a stronger unified electorate
15 by candidates who have a strong base in one
16 community feeling the need to campaign as
17 vigorously outside of their home base because they
18 want to be number one, but if they're not going to
19 be number one, they want to be number two for
20 everybody who's not already part of their base and
21 it creates a different and I think very positive
22 campaign atmosphere that voters like and that
23 candidates from all backgrounds speak of
24 positively.

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CHAIRPERSON BREWER: Anybody else want to add to that?

ROB RICHIE: I'll just quickly add to that. You know, one of the benefits that I think has not been discussed today is obviously there's been a huge rise in the independent expenditures in city races and that will probably continue this year in the state races and in years to come and I think one of the values of IRV is that it does create these more positive campaigns. Candidates are going to be reluctant to criticize each other and run negative campaigns because they'll want to earn those second choice votes, but I also think it would be independent actors are going to be reluctant to do negative mailers, negative Robocalls and things like that because they know it's going to hurt the candidate they want to win to earn second choice votes. So I think it has that potential to also address independent expenditures.

COUNCIL MEMBER JAMES: That's...

[crosstalk]

ROB RICHIE: Let me just say...

[crosstalk]

1
2 COUNCIL MEMBER JAMES: That's an
3 interesting comment, but I guess in a perfect
4 world. Having been a victim of some negative
5 campaigning, I'm not sure there's a business for
6 that, mm-hm.

7 ROB RICHIE: Yeah, there'll still be
8 people trying to win campaigns and they'll try
9 their tactics, but it is interesting that in San
10 Francisco one of the things that they were noticing
11 was the independent expenditures were four times
12 higher in their run-offs, and that it's because
13 when it comes down to that one-on-one game, it's a
14 different kind of game in knocking is just as good
15 as elevating and then that is an ongoing theme,
16 that it rewards candidates that are good about
17 being inclusive. It doesn't mean that everyone's
18 going to be nice to everyone, but it does mean that
19 you get rewarded for doing that. Just a couple
20 things about people of color in particular: one,
21 both Oakland and San Francisco are majority
22 minority cities and very diverse within that
23 diversity and San Francisco now has 18 offices
24 elected by Ranked-Choice Voting and 16 of them are
25 held by people of color. When they first started

1
2 it, it was about half that number and now it's not
3 just because of Ranked-Choice Voting, but it does
4 mean that the decisive election always happens when
5 most people are participating and that's the most
6 diverse electorate there is and it tones down some
7 of what can be a more racially divisive kind of
8 campaigning when you're not necessarily reaching
9 out, so that seems to be a real positive. As I
10 think was mentioned earlier by Council Member
11 Lander in Oakland, they have 18 offices elected by
12 the system also and 16 of those winners have had
13 more votes than the previous person in the last
14 non-Ranked-Choice Voting election, but that doesn't
15 mean it's going always raise turnout, but it means
16 it preserves turnout, which I think also speaks.
17 So I just want to make a point really clearly about
18 the Absentee Voter Bill, just because the data that
19 is there you know, South Carolina does that system
20 and more than 90 percent of overseas voters who
21 return their ballots... they return a regular
22 ballot and then a Ranked-Choice ballot and 90
23 percent of those voters end up having their ballot
24 count in the run-off also and everyone else it
25 actually drops a lot more, but it just shows when

2 they're handling the ballot and it's preserving the
3 turnout and that's the most obvious thing that it
4 seems to do.

5 CHAIRPERSON BREWER: Alright, thank you
6 very, very much for your testimony.

7 COUNCIL MEMBER JAMES: And I have one
8 last thing.

9 CHAIRPERSON BREWER: Oh, go ahead.
10 Your question?

11 COUNCIL MEMBER JAMES: So in your
12 papers, you indicated that there was a challenge to
13 Ranked Voting. Do you know what the legal
14 objection was? You overcame it, but what...

15 [crosstalk]

16 ROB RICHIE: Mm...

17 COUNCIL MEMBER JAMES: Was the
18 objection?

19 ROB RICHIE: Well, there's...

20 [crosstalk]

21 COUNCIL MEMBER JAMES: In a broad...

22 [crosstalk]

23 ROB RICHIE: So people... not everyone
24 always likes Ranked-Choice Voting, we have to
25 admit, and it's usually people who have lost or you

2 know, there's something and so there was someone
3 who didn't like having lost with the system, so in
4 San Francisco they limit rankings to three, so he
5 was actually challenging that limitation.

6 COUNCIL MEMBER JAMES: Oh.

7 ROB RICHIE: Saying that what about the
8 people that rank three that aren't in the final
9 round; are they disenfranchised?

10 COUNCIL MEMBER JAMES: Right.

11 ROB RICHIE: 'Cause that happens
12 sometimes when you limit to three, and the Circuit
13 Court unanimously ruled that's not the case. In
14 Minneapolis, there was a challenge, a preemptive
15 challenge so it was dealt with on a facial basis
16 and went to the Minnesota Supreme Court, but it
17 was... both of these were unanimous rulings. I
18 think theirs was a more fundamental. It's not a
19 one person one vote system, which sometimes people
20 can confuse. Like they'll say well, if you're
21 ranking candidates do some people get two votes and
22 others get one?

23 COUNCIL MEMBER JAMES: Right.

24 ROB RICHIE: And that's not true, but
25 it can seem that way and the courts have

2 definitively said it is a one person one vote
3 system.

4 COUNCIL MEMBER JAMES: Interesting.
5 Thank you.

6 CHAIRPERSON BREWER: Thank you all very
7 much. I really appreciate it. Jan Levy.
8 [background voices]

9 JAN LEVY: Well, thank you, Chairperson
10 Brewer.

11 CHAIRPERSON BREWER: Hello, Miss Levy.

12 JAN LEVY: Hello, Councilperson Brewer
13 and hello, Councilperson James. Is this
14 gentleman... he's a staff person or is he an
15 elected official? Well, good afternoon to you too.
16 I'm very pleased that that legislation has been
17 drafted and the matter is being reviewed and I
18 think today's hearing I've learned a lot. I'm Jan
19 Levy and I'm fortunate to be a constituent of
20 Council Member Brewer's and I'm a long-term
21 Election Day poll worker, so I maybe can give you
22 some of how it looks from the other side of the
23 desk. This year, registered Democrats went to the
24 polls three times between September 10th and
25 November 5th, proving that we just keep voting 'til

1 we get it right. Now, there was something for
2 everybody all three times. Bringing back the lever
3 machines was a big hit. Those who voted in the
4 general were sorely disappointed by having to mark
5 their ballots by hand, especially given a tight
6 font suitable for inscribing the Declaration of
7 Independence and The Bill of Rights on the head of
8 a pin plus the six proposals. The elections were,
9 as everybody has mentioned, unusually costly.
10 There was a lot of logistics involved in bringing
11 machines in and out and prepping them from one
12 election to next, and the staffing of the polling
13 places involves usually at least where you have to
14 have two inspectors and sometimes there are three
15 and each one is paid \$200.00 plus \$100.00 if you
16 attended the training and have worked two
17 elections, so figure that all out. The \$13 million
18 was a shock to most of us. I think all of us can
19 find at least seven or eight without even working
20 too hard ways that that money could've been better
21 spent, but there it was. So that certainly helps
22 to make the case for preferential voting when there
23 are multiple candidates for the citywide offices.
24 It's far too costly, too labor intensive and too
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1
2 time consuming to review the results and determine
3 if a run-off is required. For the record, the
4 primary Return of Canvass this time required poll
5 inspectors to write in the names of all the
6 candidates. The total for Mayor, Public Advocate,
7 Borough President and City Council came to 27 names
8 in my ED, and had we been voting on the scanners
9 I'd still be in polling place trying to complete
10 the Return of Canvass. [laughter] So let me
11 just... I wanted to... maybe we'll have a little
12 comic relief here. I hope it'll be comic relief.
13 I have to paint the scene for you at the close of
14 the polls after the general election. it's a
15 little after 9:00, the last voter has left the
16 premises and now we're sitting at the desks waiting
17 to complete the Return of Canvass and it is not...
18 I don't think it was a deliberate attempt to
19 mislead, but the totals do not come out of the
20 scanner. The totals are entered from the little
21 cashier's receipts that each ED gets from the
22 scanner, and so you wait until this... well, it's
23 like... I don't how many of you are old enough to
24 remember Jackie Gleason's sketch called Rudy the
25 Repairman, but it's kind of like that via Rube

1 Goldberg. All of a sudden these scanners start
2 spitting out and spewing out these rolls and rolls
3 of paper that slither their way across the floor.
4 They have to be picked up; they have to be cut;
5 each ED gets its results and then you sit there and
6 you enter that in the Return of Canvass. The
7 scanner does not give you a total. The total is
8 dependent on the desk. So what we've got here,
9 folks, is 21st Century technology; 19th Century
10 methodology. It all revolves on the desk.
11 Granted, we have to attach to the Return of Canvass
12 the slips for our ED so that there is proof that we
13 entered the totals accurately. However, in this
14 particular election, we had five scanners and
15 scanner A, the woman who was in charge of that said
16 well, she didn't have a tape, so we thought well,
17 now what do we do? So she came around and she said
18 28. She said that was the number for... we put
19 down 28, and by putting down 28, believe it or not,
20 counting all the ballots and what was used and what
21 wasn't used and all the other mathematical
22 calculations that are involved, we were up by one.
23 We had one too many. We had 551 instead of 550 as
24 a total. So there it is. It's very stressful on
25

1 the polling workers and I take it seriously. I
2 really take the election seriously. I've been
3 doing it for a long time and I believe in people
4 getting the vote, I believe in explaining to them
5 how it works and making sure that they feel
6 comfortable and welcome and that we appreciate
7 their turning out to vote. But I have to say that
8 best of my recollection, New York State was the
9 last of the 50 states to apply for the HAVA federal
10 funding, and although the Empire State prides
11 itself on leadership in many areas of technology,
12 forgive me, but it seems that somehow no one
13 involved in selecting the election computer system
14 made inquiry of any of the other 49 states about
15 how their systems functioned or what were the
16 glitch problems; what were the sources of glitches
17 or other possible disruptions or malfunctions, and
18 so we were just... we were absolutely flabbergasted
19 the first time we went to the computer at how much
20 detail was required of the desk writing things down
21 in six places. It was incredible. It was not only
22 adding vertical columns of numbers, but the first
23 time around we had to add horizontal columns of
24 numbers. Now, we start at 5:00 in the morning and
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1 if you're lucky you'll maybe start to get your
2 results 9:15, 9:30 p.m. Now you're talking a 16-
3 hour day here and so you know you're adding up
4 horizontal columns of numbers and you're thinking
5 to yourself no, there's got to be a better way.
6 And all the more frustrating why we didn't have a
7 system that would spit out the final vote; the
8 total would come out of the computer so that there
9 would be no possibility of human error in marking
10 down the Return of Canvass. However, that's the
11 condition that prevails and I'm hoping that if and
12 when they... we take a look at the possibility of
13 the run-off vote in instant run-off voting, we'll
14 look at some of the other problems that confront
15 getting a fair and accurate canvass and I think
16 that's all I'm trying to do, and I think most of us
17 who work at the polling places we aren't paid
18 enough to have any ulterior motives except to try
19 and get the vote out. And so I just wanted to make
20 that point and hope that this committee will look
21 into it and I have to say it's a matter of regret
22 that are you two members of this committee and next
23 year you're not going to be members of this
24 committee anymore. You will...

2 [crosstalk]

3 CHAIRPERSON BREWER: Others.

4 COUNCIL MEMBER JAMES: We'll be around.

5 JAN LEVY: I know you'll be around, but
6 it won't be the same. You know, you won't have the
7 same... you won't have the hands on that you have
8 now.

9 [crosstalk]

10 COUNCIL MEMBER BREWER: You were about
11 to say influence.

12 JAN LEVY: Yeah, I...

13 COUNCIL MEMBER BREWER: We'll be...

14 [crosstalk]

15 JAN LEVY: No, not influence but hands
16 on, hands on.

17 CHAIRPERSON BREWER: At your desk
18 complaining. [laughing]

19 JAN LEVY: So anyhow, I did want to say
20 that I certainly appreciate the fact that instant
21 run-off should be allocated to the military and
22 absentee ballot voters, who just otherwise are
23 disenfranchised so you can't turn things around
24 that quickly. So I'm glad that there's some
25 practical solutions that have proposed here today,

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not only by the committee, but all of the other good citizens who testified and I think that not only the instant run-off will save the taxpayers a considerable amount of money, but think of the benefit to the candidates' nervous systems. Thanks for the opportunity to be heard. It was a very informative afternoon. Thank you, Council Member Brewer.

CHAIRPERSON BREWER: And with that this hearing is concluded and I thank everyone for your participation.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies 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.



Date: 12/05/2013