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# Committee Meeting

of

## ASSEMBLY SELECT COMMITTEE ON BALLOT DESIGN

*"The Select Committee will have its organizational meeting and receive testimony from invited guests, including the National Conference of State Legislatures and New Jersey election officials, on ballot design, ballot accessibility, and election infrastructure"*

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**LOCATION:** Committee Room 11  
State House Annex  
Trenton, New Jersey

**DATE:** October 29, 2024  
1:00 p.m.

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Al Barlas, Co-Chair  
Assemblyman Benjie E. Wimberly, Co-Chair  
Assemblywoman Verlina Reynolds-Jackson, Co-Vice Chair  
Assemblyman Brian E. Rumpf, Co-Vice Chair  
Assemblyman Dan Hutchison  
Assemblyman Michael Inganamort  
Assemblywoman Michele Matsikoudis  
Assemblyman Antwan L. McClellan  
Assemblywoman Ellen J. Park  
Assemblywoman Eliana Pintor Marin  
Assemblyman Gabriel Rodriguez  
Assemblyman Gerry Scharfenberger



**ALSO PRESENT:**

Ryan Brinkerhoff  
Mary Lawlor  
*Office of Legislative Services  
Committee Aides*

Sarah Ballentine  
Andrew McAllister  
*Assembly Majority  
Committee Aides*

Kevin Logan  
*Assembly Republican  
Committee Aide*

*This transcript was prepared using an outside recording not designed for transcription purposes. Therefore, portions of this transcript may not be completely accurate as portions were inaudible and/or indiscernible.*

**Meeting Recorded and Transcribed by**  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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Benjie E. Wimberly  
Co-Chairs

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Gabriel Rodriguez  
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## NEW JERSEY STATE LEGISLATURE

### ASSEMBLY SELECT COMMITTEE ON BALLOT DESIGN

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### COMMITTEE NOTICE

**TO:** MEMBERS OF THE ASSEMBLY SELECT COMMITTEE ON BALLOT DESIGN  
**FROM:** ASSEMBLYMEN BARLAS AND WIMBERLY, CO-CHAIRMEN  
**SUBJECT:** COMMITTEE MEETING - OCTOBER 29, 2024

*The public may address comments and questions to Ryan Brinkerhoff, Mary Lawlor, Committee Aides, or make bill status and scheduling inquiries to Sophie Love, Secretary, at (609)847-3890 or email: [OLSAideABD@njleg.org](mailto:OLSAideABD@njleg.org). Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Assembly Select Committee on Ballot Design will meet on Tuesday, October 29, 2024 at 1:00 PM in Committee Room 11, 4th Floor, State House Annex, Trenton, New Jersey.**

**The select committee will have its organizational meeting.**

**The select committee will receive testimony from invited guests, including the National Conference of State Legislatures and New Jersey election officials, on ballot design, ballot accessibility, and election infrastructure.**

Issued 10/25/24

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

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ASSEMBLYMAN BENJIE E. WIMBERLY (Co-Chair): Good afternoon.

Could we please rise for the flag salute?

(Pledge of Allegiance is recited)

ASSEMBLYMAN WIMBERLY: Good afternoon, everyone.

I am excited to open this first hearing of the bipartisan committee with my Co-Chair, Al Barlas.

Last March, the courts invalidated our primary ballot design. But, before that happened, the Legislature committed to reviewing our ballot design through an inclusive public process. We are here today to make first steps at fulfilling that commitment.

We don't already have a design in mind; no decisions have been made. The Select Committee's primary purpose is to learn about best practices; about ballot designs across the country; and what solution will best be for our state.

Today, we are focused on experts. This includes the folks from the National Conference of State Legislators, who know how elections and ballots are designed in states around the country. They will be able to explain many, many different ways states design their ballot and conduct their elections. Their expertise will help us understand the diverse approaches that other states take in conducting their elections effectively.

We will also hear from some of our county clerks and election administrators who are at the frontlines of our democratic process. They have valuable, practical experiences -- one of the reasons we'll implement whatever is decided on.

And, in the near future, we will hold additional open meetings -- those dates have not been set yet -- to hear from the public. If you are watching this hearing and wish to have your thoughts known about what our ballot should look like, please keep your eye out for those meeting notices so that you can participate. We want to make sure that everyone has their voice heard, so we plan to hold multiple open meetings, including a virtual one, to accomplish that.

Now, I will turn it over to my Co-Chair.

**ASSEMBLYMAN AL BARLAS (Co-Chair):** Thank you, Co-Chair.

Good afternoon, everybody.

I would like to applaud Speaker Coughlin and Leader DiMaio for convening this Committee to receive input from election professionals, subject-matter experts, and the public, as we undertake this important process regarding how our elections are conducted.

Integrity in our elections is of utmost importance to everyone, and it is evidenced by the fact that this is a truly bipartisan committee. In the history of the Legislature, it is very rare to have a committee of equal members. For the first time in a long time, we have a committee comprised of equal membership: six Republicans and six Democrats, all committed to ensuring we get this right.

Over the course of our hearings, it is our goal to ascertain as much relevant information as possible. A recent court case has set this in motion, but there is more to it than just one case. Ballot design is more than just a layout of a ballot; more than just blocks and columns, or rows; landscape versus portrait. Technology and the capability of our existing election

infrastructure is also very important. We must ensure that whatever changes we make are done in a manner that those who actually preside over elections have the necessary resources to do so.

Sometimes, in a quest to make voting easier, we create unintended consequences. Let's not forget that there are more than just June and November elections in our state -- we also have May nonpartisan; November nonpartisan; School Board; fire districts. Just because a court case related to primaries brought us here does not mean we shouldn't take a holistic look at all of our elections. Certainly, fairness should apply to every election held in our state.

For all those paying attention to this Committee and opining on what they think they know, as a Co-Chair of this Committee, here is what I do know: There is no pre-ordained outcome; nor is there legislation already drafted sitting in a drawer someplace. We start here today on this process to get as much information as possible so that we can tackle these issues and come together on a bi-partisan solution that is best for the voting public and our democracy. Elections are complex undertakings; a lot goes into planning and executing them. Often, as candidates, you have no idea what actually needs to happen before a ballot is printed or a voting machine is turned on.

Co-Chair Wimberly and I thank all of our fellow members and subject-matter experts for being here today, and we look forward to very fruitful and insightful hearings.

Thank you, Co-Chair.

ASSEMBLYMAN WIMBERLY: At this time, we'll have a roll call.

MR. BRINKERHOFF: Assemblyman Scharfenberger.

ASSEMBLYMAN SCHARFENBERGER: Here.

MR. BRINKERHOFF: Assemblyman Rodriguez.

ASSEMBLYMAN RODRIGUEZ: Present.

MR. BRINKERHOFF: Assemblywoman Pintor Marin.

UNIDENTIFIED SPEAKER: She's on her way; she's present.

MR. BRINKERHOFF: Assemblywoman Park.

ASSEMBLYWOMAN PARK: Here.

MR. BRINKERHOFF: Assemblyman McClellan.

ASSEMBLYMAN McCLELLAN: Present.

MR. BRINKERHOFF: Assemblywoman Matsikoudis.

ASSEMBLYWOMAN MATSIKOUDIS: Present.

MR. BRINKERHOFF: Assemblyman Inganamort.

ASSEMBLYMAN INGANAMORT: Here.

MR. BRINKERHOFF: Co-Vice Chair Rumpf.

**ASSEMBLYMAN BRIAN E. RUMPF (Co-Vice Chair):**

Present.

MR. BRINKERHOFF: Assemblyman Hutchison.

ASSEMBLYMAN HUTCHISON: Present.

MR. BRINKERHOFF: Co-Vice Chair Reynolds-Jackson.

**ASSEMBLYWOMAN VERLINA REYNOLDS-JACKSON**

**(Co-Vice Chair): Present.**

MR. BRINKERHOFF: Co-Chair Wimberly.

ASSEMBLYMAN WIMBERLY: Here.

MR. BRINKERHOFF: Co-Chair Barlas.

ASSEMBLYMAN BARLAS: Here.

MR. BRINKERHOFF: You have a quorum.

ASSEMBLYMAN WIMBERLY: At this time, can I have a motion that we can move -- have a motion to move the organizational setup?

UNIDENTIFIED SPEAKER: Motion.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Second.

ASSEMBLYMAN WIMBERLY: It's been properly moved and seconded.

Can we have a roll call?

MS. LAWLOR: An Assembly Select Committee on ballot-design resolution, organizing the Committee and authorizing the issuance of communications by the Committee, requesting information from and attendance by persons regarding election ballot design and relevant documents as may be necessary to further the Committee's research on all aspects of the design of primary election and general election ballots, which may be utilized in the conduct of elections in this state.

Assemblyman Scharfenberger.

ASSEMBLYMAN SCHARFENBERGER: Yes.

MS. LAWLOR: Assemblyman Rodriguez.

ASSEMBLYMAN RODRIGUEZ: Yes.

MS. LAWLOR: Assemblywoman Pintor Marin.

(No response)

MS. LAWLOR: Assemblywoman Park.

ASSEMBLYWOMAN PARK: Yes.

MS. LAWLOR: Assemblyman McClellan.

ASSEMBLYMAN McCLELLAN: Yes.

MS. LAWLOR: Assemblywoman Matsikoudis.

ASSEMBLYWOMAN MATSIKOUDIS: Yes.

MS. LAWLOR: Assemblyman Inganamort.

ASSEMBLYMAN INGANAMORT: Yes.

MS. LAWLOR: Assemblyman Hutchison.

ASSEMBLYMAN HUTCHISON: Yes.

MS. LAWLOR: Co-Vice Chair Rumpf.

ASSEMBLYMAN RUMPF: Yes.

MS. LAWLOR: Co-Vice Chair Reynolds-Jackson.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Yes.

MS. LAWLOR: Co-Chair Wimberly.

ASSEMBLYMAN WIMBERLY: Yes.

MS. LAWLOR: Co-Chair Barlas.

ASSEMBLYMAN BARLAS: Yes.

ASSEMBLYMAN WIMBERLY: At this time, we're going to ask Wendy Underhill from the National Conference of State Legislatures to come forward.

W E N D Y U N D E R H I L L: Thank you, Chairman Wimberly and Chairman Barlas and members of the Committee for inviting me to be here with you today.

I am Wendy Underhill, the Director of Elections and Redistricting at the National Conference of State Legislatures.

I expect you all know who NCSL is, but I am really not allowed to come out into the states without saying that we are the nation's bipartisan organization supporting the work of legislators and legislative staff throughout the states and the territories. And, it is important to note that we do not take positions on anything that might come before your Committee or any other committee in the states. Our job instead is to focus

on providing accurate and comparative information so that you all, who got elected to be the decision-makers, have what you need to be able to do your job well.

And, I will just also add that NCSL's bread and butter is answering questions from folks such as yourselves or your staff. So, by all means, if there's something that relates to elections ask me later and I'll be happy to get back to you; your staff can do the same thing. And, if it's not about elections, of course I know how to get it to the right person, so do feel free to send other kinds of questions through me as well.

The question that you've invited me to discuss today is ballot design -- especially in light of the *Kim v. Hanlon* case decided last spring, of course. And, I know that you will be hearing from county clerks and election administrators later today, which is really great. Those folks know exactly how it works in your state, and they know the details. What I can offer instead is sort of a scan of the whole nation from a bird's-eye view.

My plan is to take about 10 minutes to cover a few things related to New Jersey's traditional ballot design, and compare it to what you might call the office block ballot design. Then, I'll address other ways that parties and states can support voters through the nominating processes and on through the general election related to ballot design and ease of access for those -- ease of use -- for those voters. And, then, I've got a list of policy questions for your consideration towards the end.

My thought would be that I would just keep talking and that we take questions at the end -- great.

By far, the most-- Across the nation, most states and jurisdictions do use what's called an "office-block" design for their ballots.

And, on an office-block ballot -- which I know you all know, because you've had to see it for the democrats in your primary -- but the name of an office and all of the candidates running for it are sort of grouped together. And, when I say, "By far that's the most common," that does not mean that it is the best option -- just that it's the most common one.

The system that New Jersey has used over time, I am going to call it the rows-and-columns approach. You might have some different words for it. It is used in other places as well. I would probably-- I see that it's used in at least some jurisdictions in Pennsylvania, Connecticut, Delaware, and New York. And, some folks call this a "full face" ballot as opposed to the office block, but, again, I'm going to go with the rows-and-columns approach to it.

I did take a look at some of these other ballots from other states, and one that I saw in Connecticut uses the column for the party and the row -- and the first -- the rows are the parties, and the columns are the offices, but it could be the other way around, like with a spreadsheet, you could put stuff on either of the two axes.

My point by saying all of this is that there is definitely more than one way to design a ballot and still give voters an easy way to select the candidates that they most prefer. And, systems that-- There are more than one system that leads to winners and losers based on those voters' choices, and that's what an election, of course, is all about.

Kim v. Hanlon specifically called out the county line that's included on New Jersey's primary ballots, which indicates the candidates who are preferred by the local party. Where I vote -- which is in Colorado, I've come here from Denver -- a party can send a mailing to their local supporters

that indicates their preferred candidates. And, that does happen; I'll get those kinds of mailings at my house. And, I think of it as sort of a cheat sheet for myself to use when I vote -- if I choose to.

On the ballots themselves, states vary on several other issues. For instance, on an office-block ballot, state law dictates which candidate gets the first place on the ballot, which I guess would be similar to, in New Jersey, which party gets their candidate in the first column. Ballot order does matter, because being listed first has been shown to provide an advantage to that candidate. On general election ballots, the most common way to order candidates for any given office is to give the candidate representing the same party that received the most votes in the most recent governor's election the first slot. So, there is an advantage for those who are of the party that takes the governor's position. And, then, the second-most votes goes in the second slot, and onward from there. That's-- This does have benefits for the majority party and it is standard procedure in many locations.

There are some states that have chosen not to take advantage of that preference, and they are trying to order them in a way that doesn't give any advantage to any party or any candidate. And, some of those use the alphabet, but they don't necessarily start with A; they could start at any letter. And, there are at least a couple of states that literally randomize the 26 letters first, put them in a new order -- so A doesn't come first and Z doesn't come last -- and alphabetize according to that.

And, other states use ballot rotation. So, for a given precinct -- for a given district -- some of the ballots might have the candidate from party A at the top; other ballots would have the candidate from party B at the top.

And, therefore, you are printing more ballot styles in total. But, on average, nobody gets an advantage from being in that top slot.

Now, I've got a couple of comments on how primaries work, because I think that the ballots in the primaries all work together. And, one option would be to not use primaries at all. We all know that primaries are sort of a newer invention in the 1970s and onward. But, recently, Virginia Republicans in 2021 decided to not hold a primary, and instead should make their selections for who their party wanted to put on the general ballot at a state party convention. Obviously, it's not very often that a party decides to not have a primary.

States can also choose to have a hybrid nominating system that includes caucuses and conventions, as well as a primary. In Colorado -- again, where I vote -- and in Utah and in some other states, candidates can get on the primary ballot either by going to the convention and getting enough votes there, *or* by gathering enough signatures. Now, if the candidates go that process of going to the convention, the candidate that gets the most votes gets the highest place on the ballot. So, this does relate to ballot order. And, candidates who don't get at least 30% don't move forward to the general election. So, candidates might say, "I don't think I got a chance with all of the delegates who are going to the state convention, so I'm going to gather signatures," or they can say, "I think I know these people who are going to go to the state convention and try that route to get on the primary ballot."

States can also require that there be some kind of a connection between the candidates and their parties before the primary ballot is done. In Arkansas, candidates who want to be a party's nominee for a legislative office must complete a party pledge; pay a party filing fee; and file a party

certificate. So, those three steps before they can get onto the primary ballot. And, that does mean that they are more engaged with the party, and it might be something of a disincentive for somebody who is more of a frivolous candidate to want to go through those steps. In fact, it's not uncommon for states to have some kind of a notification requirement where would-be candidates must signal their intention to their party. Delaware, for instance, requires candidates to pay a party filing fee.

Another way to regulate the candidates for primaries is to increase either that filing fee for running for office, or to increase the number of signatures that must be collected. As for the filing fees -- and, this is just legislative offices; I didn't investigate all the many offices out there -- I have several examples.

In Florida, the fee -- the filing fee -- is set at 6% of the first-year salary, as a lawmaker. That salary in Florida is \$30,000, so that filing fee is \$500. I have to admit, I did not double check my math; someone might want to pull out a phone and see if I did that right. In California -- I got this one right -- it's set at 1% of the first-year salary, but that first-year salary is \$123,000. So, the filing fee is \$1,230. In Montana the fee is \$15; in Pennsylvania, \$100. And, a third of states do not set a filing fee at all, and I believe that New Jersey is in that category.

As for signatures, again, if you require more signatures, it might defer frivolous candidates from wanting to file. And, what I understand is that for New Jersey 100 signatures collected from that district is what's required. And, that is on the low end of requirements across the nation. It's hard to compare precisely, because some use a set number -- such as New Jersey -- and others use a percentage of a given vote total. In North Carolina,

for instance, signatures from 5% of the registered voters in the district are required. And, I'm pretty sure that 5% of the registered voters is going to be a much higher number than strictly 100 signatures.

And, now I'd like to move on to some of the smaller pieces of ballot design that still have an impact on voters and on parties and candidates. And, these do have an impact, whether it's office-block style or row-and-column style. For instance, in some states an icon or an emblem for the party can be included on the ballot. This was a common practice decades ago because it gave voters a shorthand to know which candidate might be from the party that they most favored. Now, I'm fairly sure that most voters are just not so much looking for symbols as they are looking either for the "R" and the "D" or the word Republican and Democratic. But, I'll note that Delaware does still include party emblems on its ballots.

And, then, incumbency can be either on the ballot or not on the ballot. I can imagine a voter might see that as an important or useful piece of information, not the *only* piece for sure. In California, Florida, and Georgia, incumbency *can* be noted. In most other states it's not noted, but at least we've got those three large significant states as examples. And, in many of the other states that may not put it on the ballot, they do include that information in government-provided voter information pamphlets, so there is a way to get that message out.

And, I'd like to offer that perhaps it's not so much whether it's better to include incumbency or not, but to be clear in the law about whether incumbency can be added to the ballot or not. And, similarly, some states vary on whether nicknames can be printed on the ballot. Is it OK to be Richard R.C. Smith, or are you just Richard Smith? Hawaii allows nicknames

and Hawaiian equivalent names; and, in Indiana, candidates can choose their given name or their nickname. In North Carolina, the state Board of Elections set standards, and those standards say, "Shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. Again, what matters most, probably, is to have a clear lot on it, rather than whether the nicknames are approved or otherwise.

And, no surprise, the same thing with titles or honorifics. This would be rather under a Ph.D., perhaps. Can they be printed on the ballot? It depends on what state. It is most common to prohibit the use of those, but it's not universal. For instance, in Vermont, statute says professional titles such as Dr., Esq., or CPA shall *not* be used as part of a candidate's name on the ballot. Again, what might matter most is clarity.

What more of those, in that slogans-- Can we put a slogan on the ballot? California is an exception to the general rule, the general rule being, "No, no slogans." In California, they do permit candidates to have one -- and only one -- of the following designations appear on the ballot: words designating the office the candidate holds at the time of filing; the incumbent -- or appointed incumbent; or, no more than three words designating either the current principle professions, locations, or occupations of the candidate in the year prior to the filing. Those are intended to be biographical, you might say, but those few words -- up to three words -- could be a hint for the voters on something important about a candidate.

Now, I'd like to offer you that set of questions that I suggested. And, these will be for now -- or later, at any point during the course of the Committee's work. The first is, "Can your existing technology be adapted to

easily switch from rows and columns to office blocks?" I did have a chance to look at one of the ballots from the primary, and I could see that it had one kind at the top and one kind at the bottom, so I think the answer is probably yes, your vendors can do it, but it would be way better to get that yes from your vendors or from your local election officials than from me. So, basically is there any administrative hurdle in making changes?

Then, you could consider whether you want -- you would prefer to have the whole state design ballots in the same way. There are advantages to consistency, but, also, elections are traditionally run at the local level with local control. So, knowing how your local election officials feel about this question might be important.

What trends do you expect in the future on what voting method voters might choose? For instance, will you imagine that, in the future, more people will be voting on a mail ballot -- something that gets mailed to them -- or will they be coming in person? And, if so, is it important that those two kinds of ballots mirror each other? Again, I just now had a chance to see a New Jersey ballot, and the ones that go out in the mail *do* look like what you're familiar with, the rows and columns. I was surprised to see that, so I am glad I had a chance to come here and expand my knowledge on how ballots work in other places.

You can consider whether ballots are written in plain language. Is the ballot -- and, probably, also, all the ancillary materials -- those could be the signage in the polling place; the instructions on how to vote the ballot. Are these all done in plain language that normal people can easily understand? And, one place this is particularly important is with any statewide ballot measures that show up on the ballot. And, New York

recently passed a law that has a requirement for statewide ballot measures to be written at or below an eighth-grade reading level, and to be written in a yes-or-no format.

And, you could consider how New Jersey meets the needs of citizens who have limited English proficiency. I'm fairly sure at this point some of your counties are required by Federal law to provide language assistance in Spanish, Korean, and at least one Southeast Asian language. And, as time goes on, perhaps there will be more languages that would be required by Federal law. But, regardless of the Federal law, it is possible that written translations are required. Or, it's also possible that you might have audio translations. If it's a written translation, the clearer the English version is, most likely the clearer the translation will be as well.

And, I thought you might like to know that Los Angeles County supports at least 18 languages other than English. So, we have three; we've got a ways to go before you're at the top.

Then, also, does your state want to specify details such as font size or any specific language that must show up on the ballot? New York did require a certain font size at one point, and they also required that certain parts of the ballot be printed in all caps. And, that might have made sense in 1930 when all caps -- there were only a very few ways that you could make language stand out from each other, and all caps certainly makes something stand out. But, reading-- Academics now know that it's harder to read all caps than it is to read lowercase and uppercase. So, it's an example of something that, in the law long ago, if you are still working with that then you've got some ballots that are a little harder than they need to be. So, perhaps, flexibility in the way you design your new standards would be

appropriate. And, that might be something like “adhere to the best practices for voter usability.” Now, I’ll tell you that I made up those words just now; I didn’t pull them from another state. Almost the only thing I’m providing for you today that came from me rather from the states.

And, my last thought about this is maybe the most important thing to be thinking about is what do voters want, and what will voters find to be easy? What’s intuitive for a voter? And, of course, in New Jersey, voters are familiar with the row-and-column approach, and we’ll change from that (indiscernible) needed. We’re not sure about, and we’ll change from that, it’ll be difficult for the voters; I’m not sure about that, either. Voters are adaptable, but, still, field testing some of ballot-design options might be in order. In fact, ballot-design experts suggest field testing for all ballots always, but specifically, when you’re at this inflection point it would make sense to see if your vendors, or other academics, might be able to do that for you.

And, with that, I am done with what I’ve prepared for you. Happy to take questions; if I don’t know the answers to the questions, I will go back home and figure it out.

ASSEMBLYMAN WIMBERLY: Well, thank you for your very in-depth testimony.

And, our first person asking questions will be Co-Vice Chair Reynolds-Jackson.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Good day.

Thank you so much. You are very, very knowledgeable.

I’m trying to take notes and go through my list of questions, so if I ask something, I just need it in a little bit more detail, because it’s very

interesting, I think, how other states are doing it. And, so, we're really-- This is really a great listening and learning session.

So, again, thank you so much, Ms. Underhill.

My first question is -- is about the ballot for different -- the primary and the general. What's your experience when we have the two -- are they-- What do you see in different states? Are they the same layout: rows and columns? I just want to get your thoughts around that.

MS. UNDERHILL: Thank you, Assemblywoman, for asking that question.

I had sort of put something in and now I took it back out again on this. In general, it's my impression that the same system would be used both for the primary and for the general election. The reason being that the voter begins to see this as just the pattern and easier on the voter. I don't think that there's any reason why they *have* to be the same. As you well know, the parties have much more stake. They can be the deciders on certain things for the primaries. It's an event held on their behalf, so if they wanted to do it in a different way, I don't see a reason that they couldn't. But, my experience is *not* universal, so I don't know every state and every nook and cranny, but they are the same design.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Gotcha. All right, thank you.

My next question is, how do states communicate with candidates? You said it a little bit earlier about the incumbents for current office holders. How is that-- Can you give us an example of how that's communicated in another state?

MS. UNDERHILL: I'll do my best on that one, too.

If it's not on the ballot, it would likely be in a voter information pamphlet that is mailed out to the voters. Now, I don't know if that's done here in New Jersey. The states that have lots, and lots, and lots of ballot measures tend to have more robust voter information campaigns, so maybe that's something that the state wants to look at again. I don't know if we mail something to all voters, but we do get something that is written, in fact, by a nonpartisan staff at the Colorado Legislature and mail that to all the voters.

And, in that, it will include that extra information. And, some of these voter information pamphlets -- the one in Oregon, I'm pretty sure -- does allow candidates to provide a snippet of information they'd like to share.

ASSEMBLYWOMAN REYNOLDS-JACKSON: That's what I was thinking about. So, is there additional information to educate the voter about the way the design is laid out? Like, how they are in the rows or the columns? They get a separate pamphlet that talks about how to read it.

Because, I've seen some, and it was *very* confusing to me.

MS. UNDERHILL: If you don't mind, I'd like to just ask if the staff would be willing to keep track of the questions that I'm being asked, so I can answer them later -- thank you, Mary -- if I need to go back for them.

The experience I want to draw from in thinking about this is when states or local jurisdictions shift from what we think of as a winner-take-all election system to rank-choice voting. Now, the voter is going to look at a different kind of ballot. So, what do you need to do to -- I'm not going into whether ranked-choice voting is a good thing or not, that's a different conversation -- but, I'm just saying it's a chance for voters to see a new kind of ballot, and local election officials to have to do some ramp-up on that.

And, what I've seen is that it's mostly falling on the local election officials, or the state level officials, to do that education.

So, yes, going to public places -- town halls, community fairs; sending things through the mail; doing PSAs that show the old ballot versus the new ballot -- it is an effort to show people a new way. Also, people do know how to read left to right, and they know how to read up and down, so the minute they see that shift, it's not going to be too hard. And, they know how to rank ice cream, because if they go to the ice cream parlor and there's no vanilla, they know how to order something else.

So, it's-- Our voters are smart enough to get it, but they do need some ramp up to it, and that would be, perhaps, something that would be considered in a-- Would the state pay for some of the funding for that kind of voter education? I don't know.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much.

And, my last question is-- You talked about it a little bit earlier, in terms of the filing fees. How do other states-- You said some go by a percentage, some have to pay a fee. I had never heard of that before but, you know, it's based off the-- Some have signatures, some have the filing fee.

Can you give us an example of a filing fee for another state?

MS. UNDERHILL: Yes, ma'am.

We do have a webpage -- which I'd be happy to provide to the Committee -- that does break this down. It's a little complex, because it's either a dollar figure, or it's a percentage of something. And, obviously, it varies by office.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Ms. Wendy, that part -- something -- what is that? What is "something?" Percentage of something? What is that?

MS. UNDERHILL: Oh, (indiscernible) familiar with are the percentage of the salary that you would earn in that new office. So, you're going to be a legislator, you're going to get X number of dollars, and the filing fee is going to be a percentage of that salary.

So, again, there's more than one way to organize it. And, something that crossed my mind as I was working on this for you is that if a filing fee of \$100, say, or the \$15 in Montana, was set in 1950, what would that filing fee be today? A lot more than \$15. So, I don't know whether it makes sense to build in an inflation adjustment, or something else, or just to review it every five years -- I don't know. But, I did wonder when I looked at \$15; I even saw one state that said \$2. Was it even worth it to collect that \$2 in terms of processing it? So, tricky stuff, but I'd be happy to share more about those filing fees, if you'd like.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Do you have the data that shows, like, if it-- How many states have filing fees versus signatures? Do you have that type of (indiscernible)

MS. UNDERHILL: Yes. It's-- Again, it's a little complex, because they overlap each other. Sometimes you can use signatures in lieu of a filing fee. And, particularly for candidates who are indigent, there must be a way for them to be able to get on the ballot that doesn't include funding.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much.

Thank you, Chairman.

ASSEMBLYMAN WIMBERLY: Co-Vice Chair Rumpf.

ASSEMBLYMAN RUMPF: Thank you, Co-Chair.

Going to defer most of the questions to my fellow members. Just one issue on one area, if you may be able to clarify for me.

Are you aware of any other litigation involving ballot design in any of our other states around the nation?

MS. UNDERHILL: Assemblyman, I'm pretty sure-- I can't bring anything to mind. I do know who the national expert on this is, and I would be happy to go back and ask Richard Winger of Ballot Access News. I assure you he is keeping track of every tiny detail ever, and I will ask that question on your behalf and see if I can get a no, or if I get a yes, what other cases have been similar.

ASSEMBLYMAN RUMPF: And, thank you very much for all the information that you've provided. I think it's been very helpful to myself and the other members.

Thank you.

MS. UNDERHILL: You're welcome.

ASSEMBLYMAN WIMBERLY: Assemblyman Rodriguez.

ASSEMBLYMAN RODRIGUEZ: Thank you, Chair.

Going back to office-block design, is New Jersey the only state that does not use it? Is that accurate? And, what would you say is the most common format?

MS. UNDERHILL: I would not say that New Jersey is the only state that doesn't. You *might* be the only state that doesn't statewide -- I want to go look at Delaware. But, I know for sure that some counties, at least in Pennsylvania and New York and Connecticut, use a similar system.

So, you're-- And, if we went back some decades, there would have been many more states that went -- that used row-and-column approach. And, this is maybe something you already know, but I'll just offer that in the days of lever machines, it was put out, and you went this way across that great big machine. And, so, when the row-and-column concept was developed, it was so that voters weren't confused. They shifted from the machine to a piece of paper; had that same crosswise look to it.

That might have been more than you needed; I'm sorry if I got off base there.

ASSEMBLYMAN RODRIGUEZ: Is it the most common, you would say?

MS. UNDERHILL: The office block is by far more common.

ASSEMBLYMAN RODRIGUEZ: And, so, ballot placement is obviously one of the reasons why we're having these conversations. And, so, what methods would you say may be most common, perhaps, due to other states using (indiscernible) drawing for ballot placement?

MS. UNDERHILL: There are several ways you could do it, and you could have a drawing -- and, I'm sorry I didn't think of that before -- but you could literally say we've got three candidates and we're going to just draw one, two, three. That's fine and random and an equal way to do it.

The ways that I'm more familiar with are ballot rotation, where some of the ballots have one at the top; some have another at the top; some have another at the top. And, so, not all of the ballots look exactly identical, but they're done by precinct, so it's not like your neighbor is going to have one that's different than yours.

And, then, by doing it alphabetically -- and, again, you could randomize the alphabet. So, there are several ways to do it, and adding the drawing lots makes a lot of sense to me, to my list.

ASSEMBLYMAN RODRIGUEZ: You mentioned that, in terms of uniformity-- Do states require ballots to be uniform across all local subdivisions, and how common is that? Obviously (indiscernible), counties, and even municipalities have done things certain ways for many years. Their voters get accustomed to it. Do you find that it's easier to have less options throughout a state, or is that too random of a--

MS. UNDERHILL: There are pros and cons to consistency throughout the state, and this would be probably on anything at all that you might want to take up, not just ballot design, and not just elections.

If-- You probably do want consistency on some things, and I would guess that the ballot order would be something where you'd want a consistent approach. But, do the ballots need to look the same in one county from another? I'm not sure that they do. So, when I think about educational standards, they say, "We want all the kids to learn these things," but some schools might teach them through this avenue, and some schools might teach them through another avenue. So, the standards at the state level could be, "What do we want the voter to experience?" But, then each county can make its own decision.

And, in most states, there is variation in how the ballots are done, and it's mostly driven by which vendors they use. So, each vendor has its own proprietary software for laying out ballot design, and the local jurisdiction can work with them on it, absolutely -- and, probably should -- and they are flexible if needs change. But, that's-- You won't get the exact

same looking ballot out of two different vendors. So, there's already going to be some amount of difference.

And, then, I'll just tag onto that that a small percentage of states do run everything at the state level and do have consistency throughout. But, that's maybe a small handful -- maybe five or fewer -- that do have that kind of absolute consistency across the state.

ASSEMBLYMAN RODRIGUEZ: Five or fewer states that have-

MS. UNDERHILL: --Consistency like that.

ASSEMBLYMAN RODRIGUEZ: Thank you.

MS. UNDERHILL: And, those states all-- I think I'm on safe ground here. Those states pay for the voting equipment, as opposed to the local jurisdictions paying for them. And, so, you know, if you--

ASSEMBLYMAN RODRIGUEZ: Which would give them authority to (indiscernible).

MS. UNDERHILL: You got it.

ASSEMBLYMAN RODRIGUEZ: Thank you.

ASSEMBLYMAN WIMBERLY: Thank you.

Assemblywoman Matsikoudis.

ASSEMBLYWOMAN MATSIKOUDIS: Thank you.

Thank you, Wendy, for being here. You are clearly a wealth of information, and we are very lucky to have you.

At the beginning, you said that most of the states -- a lot of states -- use the exact -- use block-style ballot. How many states would you say use this office ballot?

MS. UNDERHILL: I'd say the office block is 45 or 46 states--

ASSEMBLYWOMAN MATSIKOUDIS: Oh, OK.

MS. UNDERHILL: --pretty consistency. So, it's a large majority of the states.

Now, I don't know the details within the category of office block. It is possible that there is variation within that, so it's not necessarily A or B. Your choices could be something in the A category or something in the B category, and so there's more to be known about how those office blocks differ from one state to another.

ASSEMBLYWOMAN MATSIKOUDIS: And, do you know which ones don't use it, and how they differ?

MS. UNDERHILL: So, I am familiar with these mostly northeastern states that have what I think of as your style, and I was so struck this morning -- or, maybe it was yesterday -- when I looked at one of the ballots from Connecticut and realized that they had the axes different than you do.

So, it's a pretty small number of states and, even there, I'm not sure that it's consistent within those states. I think it's some of the counties, and some of those four or five states do it with rows and columns.

ASSEMBLYWOMAN MATSIKOUDIS: OK, great.

For the states that you mentioned that don't use primaries, do they all use conventions? Or, how do they set up hybrid models?

MS. UNDERHILL: So, if we go back to 1965, most states used caucuses. You gathered with your precinct, and then you went to the county caucus -- or county convention -- and then you went onto the state convention and they chose the candidates. And, then, from then onward,

there was a move towards the use of more primaries, with the concept being that more people could be involved.

And, I am not here to weigh in on whether one system is better than the other. But, parties that do want to have -- maintain -- more control might say, "I'd rather do it myself, thank you very much." We've got presidential primaries, which are a little different than state primaries. I know something about presidential primaries, so I'm going to offer you that first, and we'll see if I know anything on the other side.

In Kansas and Wyoming and for sure in Alaska, the Democrats are very much in the minority and have chosen the last couple of presidential cycles to not have a primary. And, instead, they are doing a convention or they're mailing out ballots, you might say -- running their own mail ballot operation with their members. And, I think from their point of view, we -- mounting a full primary -- didn't have much to offer them above what they would get from meeting with their like-minded folks. So, that's a place with presidential primaries where individual parties within a state can make a decision.

In the case of Colorado, we used to just have the primary, and then the parties get through the legislature and determine that they'd prefer to do a mix of having the convention and the primary, given those two ways to get on the ballot. And, Utah has done something very similar, and they've tweaked it two or three times in the last 10 years from the point of view of the parties. They may have felt -- the "party elders," let's call them -- may have felt that the candidates who were coming forward were not from within their group. They were more outliers, and so they preferred to have a mechanism by which people who know each other can help each other get on

the primary ballot. And, that would be a pretty big shift to make, and I've just listed two states -- maybe there's a third or a fourth that have gone that way -- but it's not like there's a rush to the door to move to hybrid primaries. It's sort of state by state, and mostly depends on what's the politics in that state.

ASSEMBLYWOMAN MATSIKOUDIS: Right.

And, I'm curious on the convention one. Is it any party members who can participate, or just delegates who actually pick them?

MS. UNDERHILL: It's my impression-- I'm not a member of either party, because I work for a nonpartisan organization. It's my impression that the precinct captains send two people to the county, and they have the voting capacity there at the county, and then those county conventions send delegates who have voting power to the state convention, and it's those delegates who are seated at the convention -- *not* the people back home who vote through that convention modality.

ASSEMBLYWOMAN MATSIKOUDIS: OK.

And, just, finally, one last question.

Have other states recently redesigned their ballots, and whether--  
- Is technology changing how the ballots are being designed?

MS. UNDERHILL: I feel confident with my answer here that New Jersey is leading the pack on making -- even considering -- large-scale design questions. I looked at some bills from this year, and there were less than a dozen changes, and they were all itsy-bitsy little things about the ballot design. So, New Jersey is really on its own thinking this through, sort of from scratch.

When I was speaking earlier, it crossed my mind that if the kind of ballot design that you're familiar with came from lever machines, at some point, all of these other states had to move away from that. So, I will be happy to go back, and I don't know that I can go back further than 20 years to figure this out, but I will look for some other examples of how different states 10 years ago, 15 years ago, that made a major shift on what were the thoughts and processes that they went through.

But, right now, you're alone.

ASSEMBLYWOMAN MATSIKOUDIS: Thank you.

ASSEMBLYMAN WIMBERLY: Thank you, Assemblywoman.  
Assemblyman Scharfenberger.

ASSEMBLYMAN SCHARFENBERGER: Thank you.

And thank you, Wendy.

I'm going to echo what everybody else said. We're getting an education and a (indiscernible) and a half from you; this is great.

Most of my questions are going to be for the clerks, but I have a few for you, if it's OK.

One is, do you know offhand how many states do not have a primary?

MS. UNDERHILL: I believe that there are, again, either zero or one or two that don't have any kind of a primary.

Again, I gave you the example of Virginia's Republicans choosing not to, and that was such an anomaly it stuck in my brain. So, it would be a very small number.

ASSEMBLYMAN SCHARFENBERGER: OK, and that was--

MS. UNDERHILL: Approaching zero.

ASSEMBLYMAN SCHARFENBERGER: It's hard for us to fathom what that must be like.

The other thing, too, I have one more question for you. You had mentioned a hybrid system among the various choices. Do you think a hybrid system of convention and primary would be acceptable here in New Jersey, given our requirements? Since all candidates would be able to screen at the convention, it would be open to everybody, and then the preferred candidates would be chosen after that screening. Do you think that would work for the requirements that we have here in New Jersey?

MS. UNDERHILL: I don't have enough of an understanding of the political culture in New Jersey to be able to give you much of an answer. I am the granddaughter of -- well, actually, I'm the daughter of New Jerseyites (*sic*), my parents were both raised up here. But, I just don't know how you all do your work. I'm guessing that that would be-- To change how the primaries work would be a huge shift. To change how the ballot works would be a big shift. So, huge, big.

So, maybe touching how the primaries work would be a heavier lift. When I think about changes to how primaries work, the one that comes up most often for me is whether unaffiliated voters should be able to participate. And, so, that's a question we could talk about another time if you'd like. I don't know what your feelings on that would be, but there's a small incremental addition to states that are allowing unaffiliated voters to vote in whichever primary they prefer. And, I'm another example of that -- I've already told you I'm an unaffiliated voter -- and they literally send me two ballots -- two primary ballots -- and they say, "Vote one. If you vote

both, they're both going to be thrown out." So, it does mean printing more ballots if you would let the unaffiliated voters participate.

ASSEMBLYMAN SCHARFENBERGER: OK, and just one more quick question. I don't know if you're very familiar -- you're probably very familiar, having prepared for this -- with how our ballots are currently laid out.

Do you know how they compare? Are they similar to surrounding states, like New York, Connecticut, Delaware?

MS. UNDERHILL: It is interesting to me that it is, in fact, your surrounding states that it's most similar to. That all of the-- There are no states west of the Mississippi; there are no states in the south that use the kind of system that you have, to the best of my knowledge. So, it is kind of a localized -- this region.

ASSEMBLYMAN SCHARFENBERGER: OK, thank you.

Thank you, Mr. Co-Chair.

ASSEMBLYMAN WIMBERLY: Assemblywoman Pintor Marin.

ASSEMBLYWOMAN PINTOR MARIN: Thank you, Assemblyman.

Thank you, Wendy, for being here, so much.

Just a quick question. So, I represent District 29, which is obviously in some of the areas -- in most of the areas -- in the City of Newark. English is not a first language. So, we had an example of what the office block looked like in the past election, and it was, like, people were confused, because that's very normal. They were used to pulling the lever. Then we had just clicking on the X, and now we have the Scantrons, almost looking like you're taking a test. So, it was very-- People were taken aback by it.

And, I say that just because even learning what the positions and what the office that you're voting for, I think there's a critical component that needs to be done, which is, obviously, education on what the ballot will be looking like.

In the other states, when they move to the office block, can you share-- Do you have any information how they were able to kind of do it? Obviously, I would think, in some areas, it would take some time, right? Because I think that people go in and they get frustrated. Just like if they, for some reason, did a vote by mail, and they go there, and they see that their name-- They're not allowed to vote because they never submitted it. They get very upset, and they don't want to do a provisional.

So, there's all these little kinks and-- Can you give me -- or us -- any idea if there was voter education along with the redesigning of the ballot that took place in some of these states?

MS. UNDERHILL: I can tell that the voter education piece is going to be very important as you go forward. On the voters who have limited English proficiency, there's a couple of ways you can address their needs. And, one is with a multi-lingual ballot. And, I will say that once you get past two ballots -- once you get beyond a bi-lingual ballot, a tri-lingual or more becomes quite a confusing thing to--

ASSEMBLYWOMAN PINTOR MARIN: Yes--

MS. UNDERHILL: --to look at.

So, an alternative is to -- here's a stack of English ballots; and here's a stack of Spanish ballots; and here's a stack of Korean ballots; so that there's just a little more breathing space on the page. So, that's one solution.

Another is to have audio translation available, and even if -- even if it's-- Let's go with the bi-lingual ballot, or the tri-lingual ballot. You can still be looking at it here, and you could be hearing it here.

Another option is, if they're using a ballot-marking device -- and, when I say ballot-marking device, some people call it a fancy pencil, but another way to think of it is a machine, and you make your selections on the machine, but it then prints out paper. So, the voter is interacting first with a machine. That can be set so that they only see the language that they need, and then you can have as many languages provided as possible, just instead of just English and Spanish you could have as many buttons as you needed. And, so that might help a little bit with the process.

ASSEMBLYWOMAN PINTOR MARIN: And, even prior to election, was there-- Are you aware of anything that some of the states did to kind of promote the-- Did you say the most popular one is the office-block voting? Because, let's be honest with you, even if we look at our constituents -- whether they're highly educated or medium or not so much -- they don't even know what assembly people do or let alone know what a U.S. -- the difference between a U.S. Senator and the difference between a State Senator. So it makes it difficult because-- And, how elections change-- There's always an election. So, the difference between a municipal; the difference between a county; all of that.

So, I guess I'd be interested to see the educational component of it, because as we do move on from the line-- Everybody was used to going and seeing the line; it was clear whether people agree with it or not. It was just very simplistic. Now when you're talking about office-block voting,

you're really talking about voting for a person in a specific office and understanding what they do.

MS. UNDERHILL: I understand-- I appreciate that you spelled that out for me; I understand now what you mean.

So, there's a difference between a voter who says, "I don't get all of this stuff about all of these people, but I do know I like--"

ASSEMBLYWOMAN PINTOR MARIN: I think a lot of the voters are just looking for the-- At least-- And, I'm saying from a lot of the voters who I represent, even in my ward, I'm an Ironbound girl in Newark, New Jersey, so my voters are predominantly Portuguese, Brazilian, Hispanic, you name it, it's all of that. So, for them, they're just looking, "OK, what does -- what does this person do," or, like, "What do these boxes represent?"

MS. UNDERHILL: Right.

ASSEMBLYWOMAN PINTOR MARIN: And, I think how we move forward is the teaching component of what we can tell folks of what those boxes represent and how to figure them out.

MS. UNDERHILL: So, I love the concept, which we don't-- This is not the world we live in now, but we could at some point -- that when you see an assembly member, there's a link, and they could click through and say, "Oh, that's what assembly members do, OK." Now I'm assuming that they would be able to click through and do it, so I realize that's not the world we live in.

Can I bring up straight-ticket voting as kind of a variation on the county line? There are some states that do allow a person to just select, "I want to vote for all of the Democrats," or, "I want to vote for all of the Republicans." This, too, is lessening over the course of the years. There--

Maybe 10 years ago, there were eight states that had this, and now maybe six states have it. So, we're not talking about it's going away, but it's very much a minority position. But, it is kind of a convenience to the voter if they don't want to spend-- I mean, they're working on just getting the family fed--

ASSEMBLYWOMAN PINTOR MARIN: Right--

MS. UNDERHILL: --and they're not spending time reading what comes through the mail or otherwise, and they just want to say, "Good enough for me to know that I want all the Democrats or I want all the Republicans."

So, a straight ticket on the general election ballot is an option that would be in front of you. I don't know how to make that happen on the primary ballot. Maybe you all have that solution and now don't.

ASSEMBLYWOMAN PINTOR MARIN: Thank you.

But, I guess my understanding is, as you're thinking about it, I would assume -- and whatever information you *do* have from maybe other states and just the educational component that went out, in rolling out when you fully move on, if that is the case, to block -- office-block voting.

MS. UNDERHILL: Yes, and-- So, when we talk about voter education, there's probably some amount that happens every year. If you make a change like this, you want to really give it two or three years of kind of a solid push to get voters over the hurdle.

And, this is where, if you were able to get some of -- a sample of voters to look at some stuff -- it might be harder than you think, or it might be easier than you think, to get them into the new system.

And, it kind of relates to the civics, and is civics taught in schools, and there could be a requirement if -- maybe there is in New Jersey already

-- for something about voting to be included in a high school curriculum. So, there are other ways. This, what you're offering, is part of a bigger thing that just the ballot, and getting -- getting these folks -- any of our people around us -- to focus on something that's not the presidential election is pretty darn hard.

ASSEMBLYWOMAN PINTOR MARIN: Yes.

No, but thank you, because I think you did bring up some good points with the educational component, and even-- My oldest is in seventh grade, and she just knows a little bit more, just because of what the family dynamic is, but it's very interesting when you hear the kids talk about just election as a whole, and everyone focuses on just the one, just the president.

But, that trickle down is very important, and it's -- for me and for the district I represent -- is the educational component is going to be very important, even moving forward.

MS. UNDERHILL: And, I would be interested to hear what the election officials have to offer, because I bet many of them have some program where they're going into the high schools, or they're going to the ceremonies where people become citizens. There's probably some amount of that going on, and could it include, "Hey, let's use the new system for Mickey Mouse and ice cream." You know.

ASSEMBLYWOMAN PINTOR MARIN: Thank you very much.

MS. UNDERHILL: You're welcome.

ASSEMBLYMAN WIMBERLY: Assemblyman Inganamort.

ASSEMBLYMAN INGANAMORT: Thank you very much, Co-Chair.

By the way, just on that last point, I think mock elections are an excellent piece to include in school curricula and teaching students how elections work, but also how to develop the familiarity to both win elections and lose elections -- which we all need to come to grips with sometimes. So, maybe we can start that at a younger age.

That was a really interesting exchange you had, and I was not going to ask a question. I have some good ones for the clerks coming up, but when-- Ms. Underhill, you started talking about a pile of English ballots; a pile of Spanish ballots; a pile of Korean ballots. It made me think about New Jersey's history of sending sample ballots in the mail. I just got mine last week, or thereabouts. Election day is coming up, this is what your ballot is going to look like. A lot of New Jerseyans take them with them -- take the sample ballot with them to the polls. You fill it out at the kitchen table, and you take it with you.

I don't know how we'll solve for what was just described here with the different languages, but setting that aside for a second, what states - - what other states -- send sample ballots?

MS. UNDERHILL: Many do. I won't go so far as to say all. I know, for instance-- I know in Alabama there's a requirement that you post a sample ballot in the newspaper of record for the three Saturdays before an election. That is not getting the message to the folks who need it. So, that's the most bottom, least amount of sharing a sample ballot with the voters.

I think most states do. Let me get back to you on that. Here in Colorado -- and, I'm fairly certain that everywhere that they send one of these voter pamphlets, that can be quite a thick thing from the state, it's got the sample ballot right in there.

Now, you'll notice of course that they're printing it. The sample ballot for *me* isn't going to be the same as the next precinct over. So, they might only have the sample ballot for the races that would be countywide or citywide -- that kind of a thing.

ASSEMBLYMAN INGANAMORT: We do them all.

MS. UNDERHILL: OK.

ASSEMBLYMAN INGANAMORT: We do them all in New Jersey. So, that's something to consider.

MS. UNDERHILL: That's a thing I can figure out. You might be ahead of the game on that.

ASSEMBLYMAN INGANAMORT: Thank you.

Thank you very much, Co-Chair.

ASSEMBLYMAN WIMBERLY: Assemblywoman Park.

ASSEMBLYWOMAN PARK: Thank you, Ms. Underhill, for being here. Your testimony thus far has been quite-- I'm learning a lot.

So, there are many places in New Jersey that have multi-member offices where voters select more than one person for an office. Are there ways to show candidates are associating together inside of an office block? And, could this be done and still give everyone a fair shot as to top placement within a block?

MS. UNDERHILL: Thank you for that question, and you have stumped me.

So, where I live, there is a city council, and they do sometimes make sort of allegiances, and they'll share their advertising. Candidates who are on the same slate -- it's an informal slate -- and they advertise it that way.

But, I am drawing a blank on whether there's a way to indicate it on a ballot, so let me get back to you.

I am going to try to prove the negative on that.

ASSEMBLYWOMAN PARK: And then, obviously, my second follow-up question would be that in cases of where there's multiple candidates, how does the draw come in? Would the draw be for each candidate, or would it be for the block -- office block?

MS. UNDERHILL: I am fairly sure that it would -- that within that office block, there could -- if it's a nonpartisan primary, so we're not concerned with the party organization of it-- I'm guessing it would be randomized either through a lot like what was described or, potentially, a randomized alphabet.

So, if you are not going to use the party way, you've got to choose some other way, and what matters is that you use the same way all the time. You don't shift it because you know somebody's last name is (indiscernible), and you're going to want to do the alphabet backwards to favor them.

ASSEMBLYWOMAN PARK: OK.

And, then, my one last question is, do you think using lines or space delineation is helpful within the office block to differentiate candidates or their--

MS. UNDERHILL: I'm-- What I can see in my mind is a ballot with name with a bubble, name with a bubble, name with a bubble, name with a bubble, and an extra line between them wouldn't-- As long as there's enough space between them, I don't think it would be confusing for the voters. But, I'm not sure I'm understanding the question.

ASSEMBLYWOMAN PARK: I've looked at a lot of ballots, and it seems that a lot of-- In order to fit into the page, they haven't used any line delineation. So, I guess my question is, do you think, if we're to use, somehow, spacing or line delineation, would that be helpful in being more distinct with the candidates?

MS. UNDERHILL: I can imagine that. I know that, often, office blocks might be sort of one is greyed in and then the other is white; and one is greyed in and the next one is white, so that you know that you're looking at everything within that either grey or white box. So, in that way, there are lots of design experts who work in the sort of the civic space. For all of the forms that we fill out, there's experts now who know how to make the form be more intuitive. So, I think that bringing in some folks who have done this study -- and, something tells me Rutgers might have people who know this kind of thing -- could think about, are lines helping or are they cluttering? Yes, it divided it, but did the division work in the brain, or did it clutter the brain?

So-- And, I know there's a group called Center for Civic Design, we could put those folks in touch with you as a first starting point for thinking about, academically, what do we know about how people really do interact with a ballot or a form.

ASSEMBLYWOMAN PARK: Thank you so much.

ASSEMBLYMAN WIMBERLY: Co-Chair Barlas.

ASSEMBLYMAN BARLAS: Thank you, Co-Chair.

Good afternoon, Ms. Underhill.

A couple questions for you. You mentioned our surrounding northeast states that have something similar on an X-Y axis. Do you know when those states implemented this X-Y axis for their ballot?

MS. UNDERHILL: I don't know exactly. I mean, I couldn't say Pennsylvania is 1922 and Connecticut 1918. But, I would like to offer that I'm fairly sure that it was at the moment that they replaced their lever machines with a paper ballot.

ASSEMBLYMAN BARLAS: OK, got it.

So, then, you also don't know who started it first?

MS. UNDERHILL: No, I don't. I mean, I'm pretty sure New York is where lever machines were invented--

ASSEMBLYMAN BARLAS: OK--

MS. UNDERHILL: --and, also, New York is where the last lever machines were moth balled. But, not sure where the going -- shifting to the office block was invented.

ASSEMBLYMAN BARLAS: OK.

You talked about Utah, and how they made some changes and they tweaked it over the last decades a few times, or something like that. Do you know what was the reason for the tweaking?

MS. UNDERHILL: I do. Would you mind if I backed up just a minute?

ASSEMBLYMAN BARLAS: Sure.

MS. UNDERHILL: I wonder if one of the reasons that the office block idea was invented was for the cost of printing the paper. The ballots that I get are either on 8.5x11 paper, or they're on 11x14, or even 11x17 --

sort of all normal, standard kinds of paper. Ballot stock, just to be clear, is a different weight of paper than others.

But, I wonder if it was when they shifted away from the lever machine, if somebody said, "Huh, it's going to be hard for us to get paper." Just a thought.

OK, so, in Utah, there was a sense, 10 years ago or so, in the Republican party, that the candidates who were coming forward were not necessarily those who had served as city council members and county clerks and up through the chain of elected offices, and that it might be better if there was a little bit more oversight from the party. And, so, it's been a couple of tweaks with that in mind--

ASSEMBLYMAN BARLAS: And, that was through trial and error, in essence.

MS. UNDERHILL: Yes.

ASSEMBLYMAN BARLAS: Error might be the wrong word, but trial and whatever, right? OK.

Next question. You talked about straight-ticket voting, and you said it's probably easier to do in a general, but not in a primary?

MS. UNDERHILL: I did say that, because it seems like your county line functioned as a straight-ticket party option. And, now you have a court that says that's not OK, at least in the most recent primary. So, if -- So, I'm just saying that I don't know how to make that happen, how to have a straight ticket. It kind of gets to the question we had over here about if there's a way to create a slate within a set of candidates. And, I don't know what that answer is, probably people with better political brains than mine will be able to come up with that.

ASSEMBLYMAN BARLAS: Do you mind sending to OLS the states that have straight-ticket voting? Because I'd be curious to see how you do straight-ticket voting within an office block in the general--

MS. UNDERHILL: Absolutely. Absolutely.

ASSEMBLYMAN BARLAS: --where, presumably, you may have more than one candidate who considers themselves to be a Democrat.

MS. UNDERHILL: Absolutely.

ASSEMBLYMAN BARLAS: On those states that do straight to the general -- so no primary; they have whatever their party processes are -- how do other candidates file?

MS. UNDERHILL: In all states, whether it's those with a primary or not, the rules for a major party tend to be a little different than the rules for a minor party or for an independent candidate. So, first you have to establish some rules on what's the major party, and the rules vary from state to state, but these (indiscernible) are in that category in all the states, and the Libertarians and the Greens kind of come in and out, they might get over the hurdle and then they fall back out again.

So, you've got that. And, then, if they are a minor party, they have the opportunity to make choices as they want to, and it would almost assuredly be convention. They might call it a meeting of their members, and they're delighted when they can get a candidate who they can get behind. And, their choice to get on the ballot comes later; usually the primaries are decided -- usually the major parties have to have their process in place prior to independent candidates, or minor (indiscernible)--

ASSEMBLYMAN BARLAS: OK, so, here's-- OK, so, maybe this is a New Jersey thing.

So, we have a couple of different issues here when it comes to what's considered an independent candidate. The county clerks can correct me, but typically, when we say "independent candidate" that doesn't necessarily mean you are not affiliated with a political party, it means you are running independent of either the Republican moniker or the Democratic moniker in a primary. You choose to run straight in a general election. And, if you run in a primary and you lose, we also have sore-loser laws that prevent you from then running in November, again.

So, if you did away-- If we followed some of these states that have the model of no primary straight to the general, and you did away with the primary process-- And, I'm a Republican, Assemblyman Scharfenberger is a Republican, the party picks me, they don't pick him, how does he then get on the ballot? How would he then run in November?

MS. UNDERHILL: I--

ASSEMBLYMAN BARLAS: Unless you're telling me I don't have to let him run, which I'm OK with.

(laughter)

ASSEMBLYMAN BARLAS: Sorry, Gerry.

MS. UNDERHILL: I'll let you guys work that out.

It's my impression -- and, you've got me really out on some limbs here -- that only one of you would be the candidate of the party.

ASSEMBLYMAN BARLAS: OK

MS. UNDERHILL: So, now you are the Republican candidate, and you are simply Gerry Scharfenberger -- no title, no honorific, no nickname in there. So, the way I'm familiar with this is you get there however

the major party puts you up there or you go through this other door for independent candidates--

ASSEMBLYMAN INGANAMORT: Oh, OK--

MS. UNDERHILL: --and minor parties and you can't call yourself that thing.

ASSEMBLYMAN INGANAMORT: Got it, OK.

And, one last question. We have nonpartisan elections here in our state, in May and in November.

MS. UNDERHILL: Right.

ASSEMBLYMAN INGANAMORT: Are we the only state that has potential -- and school board, and -- like-- We have a lot of elections that happen year over year. Are we the only state that does that? Does every other state put *every* office on the ballot, and whatever their primary date is, and whatever their general election date is, and that's it?

MS. UNDERHILL: Well, now, remember you have me out on a ledge, so I'm backing up from--

ASSEMBLYMAN INGANAMORT: You're walking off that plank, or you're coming back?

MS. UNDERHILL: But, I'm not really safe at home yet.

ASSEMBLYMAN INGANAMORT: OK.

MS. UNDERHILL: You're not unusual in the way you do it. It is very common to have a nonpartisan election in the spring -- a little less common to have another one in the fall of the same year. There is a slight trend towards putting all of those lower-level offices onto a general election ballot, or to reducing the number of elections run in the course of the year from, let's say, four standard ones to three, or two. And, then, of course,

you're going to have your specials. And, that trend is driven by a desire to -- by a cost savings, potentially, to reduce voter fatigue. And, then you get more eyes on those ballots of those smaller elections.

Now, we all know that more eyes isn't necessarily the right answer. You want the eyes of the people who care about the decision that you're looking for, so there might be some reasons to not consolidate onto fewer election dates.

And, that idea of some non- -- Here's a nonpartisan ballot, and here's your partisan ballot at another time. It make a lot of sense historically, and still logically, but it is possible to have, on the very same ballot, here's your partisan races up here for the Senate and the House and the Legislatures, and then still (indiscernible)--

ASSEMBLYMAN INGANAMORT: Right, we do that similar for those nonpartisan towns that run in November.

MS. UNDERHILL: OK.

ASSEMBLYMAN INGANAMORT: They're on the general election ballot, just in a separate section.

MS. UNDERHILL: Yes.

ASSEMBLYMAN INGANAMORT: OK.

MS. UNDERHILL: Very common.

ASSEMBLYMAN INGANAMORT: OK, that's all I have.

Thank you, Chair.

ASSEMBLYMAN WIMBERLY: Thank you very much, Ms. Underhill.

You were outstanding. I have a feeling you're going to receive a lot of emails from this crew right here and anybody who is listening.

So, we appreciate you for coming forth with your outstanding testimony and better ability to answer many tough questions. Even though we grilled you in and out, you handled it very well, so--

MS. UNDERHILL: Thank you--

ASSEMBLYMAN WIMBERLY: --we appreciate it.

Thank you very much.

MS. UNDERHILL: Thank you.

ASSEMBLYMAN WIMBERLY: At this time, we'd like to call up the six county officials we have in Trenton today: Chris Durkin, the Essex County Clerk; Steve Peter, the Somerset County Clerk; Mary Melfi, the Hunterdon County Clerk; Rita Rothberg, the Cape May County Clerk; Shona Mack-Pollock, the Superintendent of Passaic County Board of Elections; and, Linda Hughes, the Administrator of the Burlington County Board of Elections.

And, before we-- Before we hear from our clerks, we would like to acknowledge our Congressman, Andy Kim, who is here with us today. Congressman Kim, we look forward to hearing from you in the future, testifying in the future in our public hearings, and we will have the dates to you and your office shortly -- within the next two days or so. We will have a date for you to come out and testify. So, you have ample time. It's kind of set now, but we appreciate you being here.

Mr. Durkin.

**C H R I S T O P H E R J. D U R K I N:** Yes, good afternoon, Assembly Select Committee members; Chairs Barlas and Wimberly.

My name is Chris Durkin, and is it my privilege to serve as the Essex County Clerk.

I would like to thank you for your service and allowing me to testify this afternoon. It is an honor to be here with my colleagues, who I hold in high esteem.

I would like to thank Speaker Craig Coughlin and Minority Leader John DiMaio for organizing this nonpartisan Select Committee to research and recommend new election laws.

A very brief history. At the Constitutional Convention of 1787, the most debated decision at the convention wasn't the Virginia Plan, or Madison's plan, it was who should make the laws governing elections for United States Senator and House of Representatives, along with state and local elections. It was decided by our founding fathers, covered in Article I section IV of our Constitution, that the state legislatures would be the primary authority making the laws that would govern and regulate elections.

Elections in America are managed by the counties who follow the direction of state law. There are 3,143 counties in the United States and 21 in New Jersey -- as you are aware. Therefore, we have 3,143 unique elections taking place on November 5, which helps to protect us from election interference, having no central network to compromise or hack. Each voting machine is programmed individually; not in a central network.

In the 2000 Presidential Election of George W. Bush and Al Gore, the State of Florida received a lot of attention, not only because of how close the election was in Florida, but also because of the methods of voting being used by certain counties, with butterfly ballots and hanging chads. Because of these controversial voting methods utilized by certain counties in Florida -- and across our country -- President George W. Bush signed the Help America Vote Act, also known as HAVA -- in 2002 -- which, among many

other updates to election security in America, made it a requirement that counties could only purchase and utilize voting systems that had been certified by the respective Secretary of State.

In New Jersey, the Secretary of State's Office has certified multiple voting systems from five separate companies. Essex County chose to utilize the Dominion Voting System's optical scan paper ballot voting for each form of voting. We are the only county in New Jersey that utilizes paper for every form of voting. Whether you vote by mail, early vote, or at your polling place on election day, each paper ballot is hand-marked by the voter so that, in the case of an audit or a recount, we accurately have the voter's intent.

Our paper ballots are landscape -- 8.5 inches high by 14 inches wide. We can go up to 8.5 inches wide by -- 8.5 inches high by 22 inches wide for more offices if that is needed for that cycle. We utilize both pages -- both sides of the ballot.

Elections are all about hard deadlines, as you're aware. The election process begins a lot earlier and lasts a lot longer. County clerks must meet the deadline of initiating the mailing of vote-by-mail ballots 45 days before election day. Therefore, the preparation of ballot design and ballot programming must be completed in a short window. In the last seven years, New Jerseyans have seen many updates to the election process. Your decision to update the ballot design -- coupled with an educational program -- will benefit the experience of New Jersey voters.

Thank you.

ASSEMBLYMAN WIMBERLY: Thank you very much, Mr. Durkin.

At this time, Assemblyman Hutchison.

ASSEMBLYMAN HUTCHISON: Mr. Durkin, have you received any feedback from voters on changes to the State's ballots?

MR. DURKIN: Some feedback. Especially being -- when we mailed the sample ballots out, and you saw in the primary the difference between the primary for the Democratic side and the primary for the Republican side showing different -- a different design.

So, some feedback, but overall, I thought the voter handled the change; understood the block-ballot voting; and overall, I think it was pretty seamless. Now, you're going to get concerns, or people who are questioning the change in the method, but, overall, I think it was a good experience -- and positive.

ASSEMBLYMAN HUTCHISON: Did the poll workers at all indicate that there was a time component for those voting in the Democrat primary versus the Republican primary?

MR. DURKIN: I did not hear any difference.

ASSEMBLYMAN HUTCHISON: OK.

I should have probably asked this question to the last individual. What justifications exist -- in your opinion -- to have filing fees and signature requirements? If that's something you could comment on.

MR. DURKIN: Well, filing fees I don't understand, but signature requirements I do.

People who are-- That's a nomination process requiring people to place your name on a ballot. And, in New Jersey, we have a variation of requirements for signatures. I know we just mentioned it -- about 100 signatures for Assembly. Here's what's interesting: For nonpartisan

elections, it is not a hard number like it is for county office, for Congress -- Congress is 200 -- for county offices, it's 100. For municipal nonpartisan offices, it's 1% of the total amount of registered voters. So, in the City of Newark, to run for at-large Council, you need 1,650 signatures. To run for school board in the City of Newark, you need 10 signatures. So, that just shows you the variation in the differences in the requirements for nominations.

ASSEMBLYMAN HUTCHISON: Are you in favor of signature requirements?

MR. DURKIN: I am.

ASSEMBLYMAN HUTCHISON: Could you give us your impression of what might be a signature requirement?

MR. DURKIN: I just mentioned it, the nominating process of a petition verifying a commitment to place your name on a ballot I think is a good thing.

ASSEMBLYMAN HUTCHISON: Mary -- I think it's Mary, right?

MARY H. MELFI: Yes.

ASSEMBLYMAN HUTCHISON: There's been testimony that in California, there was a 6% signature requirement. How do you feel about imposing that type of requirement for, let's say, a legislative position?

MS. MELFI: About the number of signatures?

ASSEMBLYMAN HUTCHISON: Yes.

MS. MELFI: Truthfully, that's not my wheelhouse, that would be--

ASSEMBLYMAN HUTCHISON: OK--

MS. MELFI: --yours.

ASSEMBLYMAN HUTCHISON: OK.

MS. MELFI: And, actually, what I did-- I didn't get there yet, but I thought it was important that we go back and look at what we actually have now before we change whatever we're doing. And, I know as 17 years of clerk, Title XIX is a very interesting animal. And, it's like *This Old House* - - if you take that panel off, you don't know what you're going to find.

And, what I did hear -- I don't know if I can have somebody -- I made a packet for each of you. If I can have somebody--

ASSEMBLYMAN BARLAS: I'll have somebody come get it.

MS. MELFI: --distribute it.

And, I'm not going to get into -- into the weeds on it, but-- And, what I focused on was the primary election and how each of the clerks used a framework of Title XIX to create a ballot. So, as 17 years, I can tell you that it is my position that there is no such thing as a county line. I have been in here 17 years, and I do not believe there is a county line. What there *is*, is there is a joint petition at the county level. And, if you look through the packet, I pulled 2013 because I actually had a Republican primary, which doesn't occur often for County Commissioners -- or Freeholders -- at that time.

But, I've gone through -- and, you'll see the packet -- and you'll see, the first step is for the candidate to file their petition, which is a joint petition, and that's under 49-2. So, I have two joint petitions -- which was under the law. It also said that a joint petition has to name a campaign manager. That's under the law. And, most of the time, the campaign

manager turns out to be the County Chairman. Which is still the candidate's choice to have their count -- to have their campaign manager.

So, they have-- They give me a letter telling me that they appointed the Chairman. Then, they give me a slogan, and the slogan is something that the party organizations typically incorporate that belong to them. So, if I am the "Hunterdon County Party Organization," he can't use that slogan because it's incorporated, and it's signed off by whoever owns the slogan. Now, there are some smart people out there who'll go buying slogans, and then you try to use it, then you find out that it's owned by somebody. But, there's a slogan letter.

Then, if you look at the ballot going back to -- again, this was the gubernatorial -- and, you'll see right down the ticket, from Governor Christie to Senator Doherty, to Assemblyman DiMaio, Assemblyman Peterson, and then -- there was -- and then the Chairman. But, they all sent a letter into me asking to be placed on the line with the jointly filed Freeholder petition, in accordance with 49-2, and to use Hunterdon County's slogan.

So, that-- That was what drove me. It wasn't anybody coming in. I went to the-- I went to Title XIX. Now, if you go to the back, and you go to my ballots, I am one of the few counties that I actually do have a ballot -- a block-style ballot -- for my vote by mail. I've done that since 2017. The blunt answer why I kept it was because of cost. For me to switch to a machine-style vote by mail was too expensive. So, our voters are used to this ballot; they're happy with it.

But, if you look at the machine ballots-- Now, I also did the draw; I did the draw under the law. We held a draw for position, which was 23-4. Now, back on that draw, on the Democratic party, Governor Christie

got the first draw and Seth Grossman pulled second. So, Governor Christie, under 26-1 with Governor and U.S. Senate, chose not to have the first position; he wanted to be moved down, and he wanted to be with the jointly filed Freeholder petition.

So, you'll see that Seth Grossman was first on the ballot, Lanza and Lagay, who were the challenging Freeholder candidates, pulled the first position; they kept it. And, then, Mennen and Borkowski, who were the jointly-filed county-endorsed candidates, pulled second. So, Seth Grossman got to be by himself, Lanz and Lagay by themselves, and then the rest of the county candidates who wanted to be associated together were together on the ballot.

So, that's the framework that all of us use, is Title XIX. And, what's concerning about a block-style ballot is there is currently no framework, which I guess is what, hopefully, the Legislature is going to come up with, because I can look to my peers, but we have concerns that if somebody says to us, "You've just got to do a block-style ballot," I mean, what's a block-style ballot? What's it going to look like? You know, is my block-style ballot going to look like Steve and Rita's? Then we're going to end up in trouble again.

And, then, the other thing is that it was the court order required us to do a drawing for every race, for every candidate. And, in the case of poor Monmouth County, who had, like, I think 500 or 600 County Committee seats on the ballot with no challenges. So, it didn't matter -- a County Committee race, you're going to win. So, if it's Steve and I -- not that it'll happen, because it's kind of different, but--

(laughter)

MS. MELFI: If it's Steve and I, and it's me first and then he draws first, it doesn't make a difference. So, why are you taking hours -- *hours* -- drawing when it's not going to make a difference? So, I mean, at least it needs to be addressed, you know, if you think about things.

Then, also, there's no regard for association, and county clerks got sued -- I don't know if any of you remember that Lautenberg, Andrews v. Rajoppi. You know, Clerk Rajoppi got sued because of the association on the ballot. And, I know on a local level, the local candidates want to be with-- They want to be in a club; they want to be together. And, they seek that grouping through the County Committees and through the county conventions, which, of course, they're all covered under Title XIX, too, as well. And, Senator Weinberg did a tremendous job in making sure that the County Committees were done fairly. You can't-- You can't just dump somebody off a County Committee now; you need a notarized signature that they really want to be off. So, there was lots of things the Legislature has addressed, and I think they have some good framework. Now, whether you want to continue with that is of course is up to you.

And, I speak for all of us, we're so grateful that you have us at the table; truly grateful because nothing's worse than being landed something that we don't know that we can do. And, I will speak for myself-- I will do whatever policy you want, but, please make sure we can actually do it. That's-- That's what I beg of you very politely.

That's basically what-- And, the other thing that I gave you which is very, *very*, very important, is I did a dummy draft of the 2020 primary election dates. Now, I didn't get into challenging petitions and stuff, I cared about ballot design. So, our big, big date is March 24, because that's

when the petitions will start being filed unless you change that date. So, if everything remains status quo, *that's* the key date for us. Because, we go into ballot design on March 24, and regardless of the testimony that people have heard, a ballot isn't just put together on a piece of paper and you say, "I don't like this, change this." It's not a Microsoft Word document. It's proofing, and proofing, and proofing, and making sure that the municipal is correct, the state's correct. Putting up with challenges to petitions.

So, that's basically my input.

ASSEMBLYMAN WIMBERLY: Thank you very much.

And, before we move forward, any more questions? (no response)

I apologize; I should have asked you guys to introduce yourselves. We'll start off on my left.

Mr. Durkin, can you start and introduce yourself. We'll start from left--

MR. DURKIN: Chris Durkin; Essex County Clerk.

STEVE PETER: Hi, I'm Steve Peter. I'm the Somerset County Clerk, and the President of the Constitutional Officers Association of New Jersey, which is a tough thing to say, so we just call it COANJ.

MS. MELFI: I'm Mary Melfi. I'm the Hunterdon County Clerk, and I'm also the Constitutional Officer's Legislative Liaison.

RITA ROTHBERG: I'm Rita Rothberg, Cape May County Clerk; past President of COANJ; and, happy to be here.

SHONA MACK - POLLOCK: Good afternoon, I am Shona Mack-Pollock, Passaic County Superintendent of Elections and current President of the New Jersey Association of Election Officials.

L I N D A H U G H E S: And, I'm Linda Hughes, Administrator of the Burlington County Board of Elections, and Legislative Chair of the New Jersey Association of Election Officials.

ASSEMBLYMAN WIMBERLY: Thank you very much.

Assemblywoman Matsikoudis.

ASSEMBLYWOMAN MATSIKOUDIS: Thank you, Chair.

And, thank you all for being here.

My first question is, how did you comply with the order issued by the judge in Kim v. Hanlon?

MR. DURKIN: I'll begin.

What I did was, the judge's ruling was that there should be an office-block ballot where each office is set unto itself, where it is contained in a block with the title of the office and the candidates in the order that they were selected. So, we -- like I talked about before -- our voting system is a landscape ballot; as I said, 8.5 high, 14 inches wide. So, our ballots go from left to right. Which, we could run into some complications with the amount of candidates in the future. And, as I said earlier, we do use both sides of the ballot, which is not beneficial to the voter because not every voter turns the ballot over to vote.

But, we just followed State statute, where the highest office went first -- Federal offices to State offices to county offices to local offices. We actually had to put on the bottom right, below county offices, we put municipal offices to fit them on the ballot on one side, on the front side. So, that's how we did it.

MR. PETER: In Somerset County, we utilize ES&S machines, and one of the things that was very difficult to deal with was the court ruling

that the line was unconstitutional for the Democrats, but not for the Republicans. I, too, brought a handout which you should have in front of you now, specifically looking at design issues. So, the first two pages on this show you that -- in the first case, it's a printed copy; it doesn't show as well; second is a photograph of my screen; shows it even better that the-- Even in office-block format, everything is arranged to a grid. And, that grid is of a pre-set size that can't really be changed. So, here you see that the presidential candidates have five units going across. Now, I can pull everybody in by one unit at a time, or expand it by one unit at a time, but I can't do an arbitrary amount. I can't do a half-unit, or anything like that.

And, that oval -- that space where that oval is from marking the choice of the candidate -- that must be completely free of any words. So, I can't have the label for the candidate slightly overlapping any part of that square that contains the oval.

The third page of this is actually my first attempt to do an office-block ballot, which looks beautiful. I was very proud of this design, would like to have used it, but I had to throw it away because our machines -- which you'll see on the next page -- are set up in such a way that you can't have this office-block format for one party and not the other. So, what I had to do was I had to create a pseudo office-block format for the Democrats, which you may have seen some of those awful-looking L-shaped items -- I wish I had taken a shot of that to bring with you -- where you could have the candidates listed in the way that the judge ruled, but the write-ins were set by the system to be side by side. So, if it was a vote for two -- I ended up with an L, through no choice of my own, even though the experts testified that we could do it.

So, I guess it's kind of like the question, "Could you walk to New York City right now?" You could, but would you?

And, the last page of this just shows you what our design software looks like. And, I am one of the few clerks who actually does all the design myself. So, I actually programmed the ballots. But, here, you see what I have to do to get an office-block set up on these machines. These machines were set up specifically for New Jersey and the county line system that we had in place. So, to create an office block, I've got to basically put each one of those out, individually, and size it on its own. So, we got it done, it wasn't pretty, and now that you've seen how the sausage is made, I don't know what appetite you have.

MS. MELFI: In Hunterdon, we were fine, we just -- we just took it -- you go into the machine, a different ballot pulls up. So, the Republican ballot looked normal, and the Democratic ballot was a block style, but we modeled it after a school board election, because school board candidates kind of run, like, in a block style.

But where I ran into problems was with the sample ballot. Election officials are under a lot of stress lately because of trust issues, and people don't trust us, and they think something's going on and -- both sides thought we were messing around with them with the different ballots. And, so-- But, we did get it done I mean, that-- But it was really stressful, and I'm glad it happened last year and not this year.

MS. ROTHBERG: And, in Cape May, we also have ES&S. And, until the very last minute, we didn't know if it could be programmed to do tally for two different ballot styles. So, we were making preparations to run two separate elections, which they are, but that would be problematic with

running the tally. It's so much better to run one primary election with one tally for auditing purposes, etc.

And, at the last minute, the programmer from ES&S figured out a way to make it work. But, it was somehow a workaround with write-ins off to the side; they didn't look right. We had to-- There was really very little voter education that could be done, because we were up to the minute. We had statements on the ballot, that, because of a court order, the Democrat ballot appears in a block style.

And, I am not an expert on ballot styles and so forth, but I'm in my 20<sup>th</sup> year as County Clerk and my 40<sup>th</sup> year working for the County Clerk doing this work. I feel that I'm an expert with voters and the people. We're a small county; we're very close. I received so many telephone calls very fearful of this sort of a change for Democrat voters -- "What is going on?"

I can tell you in 2020, when we had universal mail voting that was by executive order, that in the month of October when we normally would log in about 3,000 phone calls, we logged in 14,000 phone calls from voters who were very upset and fearful about a change.

So, what I would like to tell the Committee is that when you make a change, let's do it properly; let's do it right; let's do it with education. I don't have a problem with office-block style. We did it in Cape May County for our absentee ballots prior to 2014. But, what we found after the law changed in 2009 when absentee ballots -- now known as vote-by-mail ballots -- were the changes, so that it didn't have to be for a reason -- no reason. The absentee vote-by-mail ballots increased, and voters were not understanding, after having lived a lifetime as a voter with a certain style, that now the office

block took a while for them to understand and get it. So, there is an educational component that has to be done. Take it easy; one step at a time.

One thing that is very important to candidates -- and also to voters -- is to understand who's associated with whom. And, so, those candidates who file joint petitions -- who file together -- they have a philosophy together. They expect to be together on the ballot. I think that's very important.

And, also, the week before election when voters become -- for some reason -- become mindful that they can no longer go to a polling place and vote. They broke their leg, or they're so elderly that they can't go. I go to their homes, and I take a ballot to them. So, what I have learned in that experience is that voters will vote for who they know, and they look for those clues to see if there are candidates who have their same values. And, whether that's Republican, Democrat, or if they're associated with a certain ticket -- they want to know that.

So, that's -- yes. And, the other thing I wanted to share with you is I have, my whole career, been troubled by the fact that taxpayers pay for primary elections to small turnout. It is a party election, and why don't the parties decide who their candidates are going to be in November? That's just something I would like you to think about.

ASSEMBLYMAN WIMBERLY: (indiscernible)

MS. MACK-POLLOCK: I'm not a clerk; I am a Superintendent of Elections, and for checks and balances, I don't handle the ballot design, but I do want to echo what Clerk (indiscernible) said, and also what Assemblywoman Pintor Marin said earlier. The voter education is a huge issue.

I do go out into the high schools, and I do a lot of voter education, civic engagement campaigns. And, I know after the court order was entered for the primary, our clerks hit the ground running. They made every effort with the very short time that they had to educate the voters. But, it still-- We had a lot of feedback from voters. They were unsure about the number of candidates to vote in the contest, with multiple choices.

So, we in Passaic County saw a lot of undervotes on the machine. And, on the vote by mail and provisional ballots we had a lot overvotes. So, a lot of voters were disenfranchised. Voters were clearly confused, despite the best efforts of our clerks, because, in order for the effect that the court order had, there was just no statewide voter education campaign. There was no funding. And, this happens over and over and over again. We've seen *a lot* of legislative changes and implementations over the past two years with election laws.

And, to be clear, it was-- The best efforts have been made with regard to election laws, and the intent has been to improve our systems and our processes. We get it; voters are unaware of all of the changes that have been made. We have-- Just look at this election right now -- early voting. We have had *incredible* turnout -- incredible turnout. But, we see -- one in every 10 voters I've seen -- they had no idea about early voting. They love it; it's an incredible system; but, we've had early voting in place for the past three years. Lines are out the door. This is the very first election where we've seen this kind of turnout. It's great. We want more of it; we want it on election day. We've asked for you guys to sign into law something called the Voter Convenience Act, so we can see this on election day.

I am concerned because people are going to go on election day and we're *not* going to see this. We're going to have voters coming in on election day thinking they can go any place in our county to vote. That's going to be a problem because of what they see during early voting right now.

But, we're asking, please, if you're going to sign -- if you're going to make any changes to the ballot design -- make sure that there is adequate funding in place; that you have the voter education in place; that you provide the resources for the clerks, for the election officials; and you make sure that all of the stakeholders are at the table, including the vendors. Like Rita said, Mary said, even Steve said, there's certain things that we can't put into place because you -- the legislation -- is in place, but the people who do the work, including the vendors, can't make it happen.

We have ES&S (indiscernible) as well, and I had-- We had conversations with our vendors and said they were concerned about the machines being able to tabulate the ballots at the end of the election. And, it was really, literally, at the very last minute where they said, "OK, this is going to be a viable option for us." So, having these discussions are great. Thank you for having us at the table, but, it's really necessary to make sure that all the partners are participating in the discussions as well.

So, I mean, we're all here, but please include Dominion; ES&S as well; even Tenex; all of the vendors, including the early -- the (indiscernible) as well.

MS. HUGHES: So, I'll just add that from the Board of Elections side, I'm really here to advocate not just for voters, but for the poll workers. They've been through a lot the last six years. We went through a period of

time where five elections in a row all had five different sets of rules. There's been a lot changing in elections over the last few years.

And, while each individual piece of policy I know was meant to enfranchise voters, bring more people to the table, it's sewn a lot of distrust and a lot of confusion. I've never had a voter call my office and say that they didn't like the way candidates were grouped together on a ballot. They *have* called my office and said, "Why am I getting a vote-by-mail ballot?" "Why *aren't* I getting a vote-by-mail ballot?" "Why do I have to use these machines?" "Why can't I use the machine that I want?" "Why do I have to now use an e-poll book?"

So, those are the types of things that changed the last few years that have really thrown a lot of monkey wrenches into the election's process and made people less trustful instead of more trustful. So, I just would echo all my colleagues to please, when you make this change -- and, I understand that it's necessary -- is to give us a breather. Let our poll workers understand what's happening. And, more importantly, let the voters understand what's happening, without making more changes and giving them more reasons.

The one caveat, of course, would be the Voter Convenience Act. If we could do something to streamline our process and to make it easier for the voters, we would very much appreciate that. But, if we can *not* add more burdens and more confusion to the process, I think that would make people trust elections much more.

ASSEMBLYWOMAN MATSIKOUDIS: That's great, and thank you all for answering.

And, I also want to thank you, because we do-- We do hear you, and that's why we want you in the room, at the table.

There have been a lot of changes over the last four years. We had the all-mail elections; we have the machine touchscreen display changes; and, now, the ballots are changing. And, I can hear education is tantamount at this point, so we are all in agreement with that, because, as Ms. Underhill pointed out, it takes two to three years for people, really, to get comfortable with these changes.

So, my last question is kind of a two-parter. Some of you have mentioned that you've heard from voters about changes to the State's ballots in this year's Democratic primary, and you've gotten a lot of inquiries over it. So, some of-- I'd like to hear from some of the rest of you; and, also, I'd like to know if voters have expressed an opinion to you about ballot reforms and changes that they would like to see.

ASSEMBLYMAN WIMBERLY: And, everybody doesn't have to answer it; if one or two people can answer, that's fine.

MS. ROTHBERG: The voters don't ask for changes to the ballot and to reforms and so forth. I mean, they will vote when they're interested. Primary elections are low-turnout elections, so that's, you know, for the parties. And, the general election is where they -- the voters -- come out en masse like this election. It's like no other. Early voting has gone through the roof. We're about 70% in Cape May with mail ballots that have already been returned. It's incredible; I have never seen this in my time.

So, they just want to get there, they want to get their ballot, and they want to get on with their life.

MR. PETER: I would say, to the extent that I hear anything about ballot design, it does dovetail into the educational component. I had some advocates in the county who very much wanted us to go to an office-

block format, and then when we did, called the office saying, "My God, nobody's going to understand this. Do something."

(laughter)

MR. PETER: So, we need the education.

ASSEMBLYWOMAN MATSIKOUDIS: Thank you, Chair.

Thank you.

ASSEMBLYMAN WIMBERLY: Assemblywoman Parks.

ASSEMBLYWOMAN PARKS: I just want to thank everyone for being here. I am, again, learning a lot.

But, I-- My question is specifically to Mr. Peter, since you were so nice to provide us with your mockup of the software.

So, obviously we have a multi-member -- as an Assembly, there's going to be multi-member offices. And, I am in the predicament, coming to our primary, having somebody with the same last name, who is challenging me.

So, with your software-- Because, I'm noticing all the ballots, it's bolding the last name, so we have the same last name. Is there-- Can you change it so you can bold in the first name? Is that an option?

MR. PETER: For the ES&S software, yes, that is an option. There are some things that it can do, some things that it can't do. This particular election, I have a municipality that has a public question. And, if you delve into Mary's favorite book, Title XIX--

(laughter)

MR. PETER: --it says, "Public questions are to be written in red ink," or, "to be printed in red ink."

So, I can do that on my vote by mail. I cannot do that on the machine. It simply will not allow me to do it. It has to be black text, or white text. So, I could do it in a blood red block with white text, but that's going to cause peoples' eyes to bleed, and I would not want to do something like that.

(laughter)

MR. PETER: But, there is the ability to bold different parts of the name.

ASSEMBLYWOMAN PARK: OK.

MS. MELFI: And, then, again all of us are in the political arena, and I'm sure that we've all received at least one phone call about who to vote down ballot. I mean, it doesn't necessarily happen in a general because, you know, the D's go this way, the R's go this way; the D's go this way, the R's go this way, you know. But, now it's a school election. They don't know what to do. So, they're like, you know, "Who do you like for school election?" And, I get people calling me up and they say, you know, "Who should I vote for?" I'm a county clerk, I can't tell you who to vote for. "OK, what party are they?" What party are they? They're school board, they're nonpartisan--

ASSEMBLYWOMAN PARK: Right--

MS. MELFI: --it doesn't matter what party they are.

ASSEMBLYWOMAN PARK: Right.

MS. MELFI: "Oh, yes it does. Oh, yes it does." No, it doesn't. But, party affiliation is public record. Do you want me to go through the ballot? I'll go through the ballot.

So-- But, again, I feel bad for you, like, having the same name, because your signs probably have your last name. So, how do I know that that's you? I mean, how do I know? But, if you were associated with a vote row B, vote row A, vote row 1, they'd know how to find you, you know, and that's--

ASSEMBLYWOMAN PARK: I have just a question.

I read an article recently about-- A lot of people are voting by mail, or provisionals. And, what if there is an error, like a technical error? So, instead of let's say circling the dot, they circle the name, right? When it comes in to you, when obviously it goes through a machine and the machine doesn't read that there's a dot there, because they circled the name of the candidate, what is your process then?

MS. HUGHES: So, New Jersey, you would be surprised with how much flexibility there is with so many other laws in New Jersey with elections. But, when it comes to voter intent, the Board cannot determine voter intent. So, whether they circle a circle or circle a name, that is not something that Board members would be able to say, "We believe that this is what this person meant."

We do have software that flags when there's only some of the circle filled in to say, "Hey, is this -- was this a mistake? Did they kind of just rest their pen, or are they trying to put it in?" So, they-- We can do that level of-- But, if it comes to checking next to a box or something like that, the statute doesn't allow for us to determine that a voter meant to make that choice.

ASSEMBLYWOMAN PARK: And then, so, the article I read, they were maybe entertaining the idea to let the voter know that their ballot

has been rejected and they would have a second chance to actually come in and vote, because, for whatever reason, the machine didn't read it.

Are you guys for that, or against that? Or, I guess--

MS. HUGHES: So, in order to do that, we would lose the secret ballot system. Because, by the time a ballot gets to us, all identifying information has been stripped. So, if we were to know that, that would mean that we know how an individual person voted.

So, I believe in the secret ballot system.

ASSEMBLYWOMAN PARKS: Thank you very much.

ASSEMBLYMAN WIMBERLY: Assemblyman McClellan.

ASSEMBLYMAN McCLELLAN: Good afternoon.

So, with our military-- So, any type of change of date, how does that affect you getting ballots overseas to allow the military to properly vote when they're overseas, you know, trying to protect our country and needs?

MS. ROTHBERG: Well, there's a Federal Overseas -- Federal FVAP voting. And, we're required to send the ballots out to them 45 days in advance. So, they would get a different ballot style, but they-- It wouldn't change anything else except the ballot style that they receive.

MS. MELFI: I don't see any issue with a military or an overseas, because overseas, for the most part-- I mean, we've never seen so many overseas ballots as we have this year, because everybody and their brother wants to vote for the President of the United States. So, if they're not coming back, they don't get the full ballot. So, I don't-- I don't personally see an issue, because it's typically an email ballot, which can be a Microsoft Word document; you're not programming anything. I mean, you'd have to hand count them, but you can get around it.

ASSEMBLYMAN McCLELLAN: OK.

As far as providing any information on how ballots have changed over the years, so, where are we at with that? So, I know Ms. Rothberg has had 40-plus years of time. And, how has ballot change over the years affected your job title -- your job abilities?

MS. ROTHBERG: Well, I can tell you at the time of the revolution, the way they voted in Cape May County was that all the eligible voters got in a room, and those who were with one particular candidate or one issue would go to that side of the room. And, that's how it was; and that's how it was done.

I mean, it-- This has changed quite a bit. But, I see that the changes have come with voting equipment over the years. So, in the 1940s, we started with a (indiscernible) lever equipment, and then around 2004 we started to get the electronic equipment, and the laws did change to conform with that.

MS. MELFI: And, I think one of the other biggest changes that we've seen in my lifetime was how long the election goes on, and on, and on, and on.

(laughter)

MR. PETER: And, we should note, for the record, that Rita was not there at the beginning in Cape May.

(laughter)

ASSEMBLYMAN McCLELLAN: Good to know.

Even along the lines of uniformity-- And, I know procurement issues have their way-- As far as the ballot machine, and different counties using different machines, and things of that nature, do you feel it's necessary

to possibly even look at the State Legislature to use one machine throughout the state to try and make it easier? Or, you don't even think that's necessary, you're good with the procurement process, how it is?

MR. PETER: Are you offering to pay for them?

(laughter)

ASSEMBLYMAN McCLELLAN: I'm not personally, but I'll -- Co-Chair Barlas will, so--

(laughter)

ASSEMBLYMAN McCLELLAN: (laughter)

That's all I have.

ASSEMBLYMAN WIMBERLY: Assemblywoman Reynolds-Jackson.

ASSEMBLYWOMAN REYNOLDS-JACKSON: All right, thank you so much. So, I just-- You know, we're talking about a lot of voter education and I just, for the record -- for the people who are watching -- can you give us the difference between the clerks and the superintendents? What roles do each of you play differently?

MS. HUGHES: I can take this.

So, of the three elections offices, the Board of Elections is everything polling-place related. So, identifying, inspecting polling locations; certifying them; hiring poll workers; handling everything that happens within that polling location. But, then, also, the Board of Elections is considered a polling location itself, because it receives vote-by-mail ballots. So, while the clerks mail out the vote-by-mail ballots, the Board of Elections receive them and is considered a polling place, as far as that goes.

Superintendents is everything voter related. There *are* some counties that have it as a combined function, but for those that's with everything separate, the superintendent is everything voter related. So, they handle voter registration, party-change affiliations, and then the machines and the poll books that the voters use. And, the clerk is really candidate related. So, petitions; putting candidates on the ballots; and, then, sending out those ballots that the candidates are on, whether that be vote by mail, or Federal overseas.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much. I think that will help a lot of people who are watching and even educating us all while we're here today.

I just wanted to follow back up on the ballot positioning questions. Because, we heard from Ms. Underhill, and I just wanted to get a sense from you, how do you-- When we start to talk about the whole office-block design, and we're talking about technology, we have new machines. But, I am concerned because I think I heard some machines aren't able to accommodate this office-block style. Did I hear that?

MR. PETER: What I said is that it could not accommodate the office block the way it's currently programmed and certified in New Jersey.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Got you.

MR. PETER: And, not a difference between the parties.

ASSEMBLYWOMAN REYNOLDS-JACKSON: But, it can be changed, we can reprogram--

MR. PETER: Yes, it can be changed, and it can be re-certified for this state.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Got you.

If the ballot-- So, another question I have is about, the ballot position is *not* fixed. What precludes you from sending out sample ballots and verifying voter addresses? How do we do that?

MS. ROTHBERG: Linda, would you like to answer that?

Because the sample ballots are sent out, and then if they're not received by the voter, they're returned in the mail. And, we do voter education that if you receive a piece of election mail for a voter who is no longer there, please mark it "refused" and send it back. And, that helps the Board of Elections to update -- or, the superintendent -- the Commissioner of Registration to update their records.

MS. MACK-POLLACK: So, the Commissioner of Registration handles the return of the sample ballots, but the-- I'm sorry, what was your question initially?

ASSEMBLYWOMAN REYNOLDS-JACKSON: It was about, if the ballot position is not fixed, how could we-- How are we going to verify the sample ballots and verify voter addresses?

MS. MACK-POLLOCK: Yes, it has to be-- I think, once the clerk designs the ballot, we just send them out. We're responsible for mailing them, so once the clerk, you know, handles and designs the ballots appropriately, we mail them out and, you know, it's really the clerk's design of the ballots.

But, we-- I don't think it affects the mailing.

MR. DURKIN: If I could, I-- So, the county clerks mail out the sample ballots. State law says you cannot remove a voter without a process, just because they don't vote. If you register to vote and you just decide to

not vote for 50 years, you remain on the voter rolls. You don't *have* to vote to stay on the voter rolls.

The process for being removed from the voter rolls is obviously if you are deceased and it comes to Social Security; if you make a change of address in the voter registration system; or if your election mail is returned to the county as undeliverable. But, you're not removed when it returns to the county as undeliverable. When that happens, you become an inactive voter. And, then, you have to miss two Federal elections to be removed. So, once your election material is returned to the county as undeliverable, you're made inactive. You then miss two Congressional races, and then you're removed from the system. You can't just automatically remove someone.

The voter rolls are inflated -- someone just mentioned this -- in New Jersey because people who are no longer living as a residence, but still have family members there, keep accepting the election material; they keep accepting the sample ballots and throwing them in the garbage, not returning them as undeliverable.

So, that person-- So, I grew up in a household of seven people. The five children left the house, but there's still seven people registered. My parents are there just accepting the sample ballots, and we have seven voters who aren't-- There's only two real ones. So-- And, then, when we divide the costs for a primary, we're dividing it by the amount of voters. So, towns are overpaying because it's based on the amount of voters they have in their municipality. So, if there was an education program to -- right, less than that number -- it would help financially.

MR. PETER: And, if I think I understand your question correctly, the-- It goes to whether the sample ballot is a true representation

of what the voter is seeing on election day. Already, there is an issue with that, because the statute says the sample ballot is supposed to be as close to possible as a facsimile of the machine ballot. But, as we saw, the ExpressVote machines that we use can be set per-language. So, I do all of my stuff in English and Spanish, but if you're a Spanish-language voter, you're going to set it to Spanish and you'll only see the Spanish in the machine -- or, likewise, English.

But, this is actually from my sample ballot, and you can see that I've got it bilingual on here; that was my attempt to make sure that both sides are properly served. Although, strictly speaking, I'm going against the statute because it's an impossibility to represent both.

MS. MELFI: And, I would add that the sample ballots are very important to the voters. You guys did a great thing when you-- I mean, sample ballots used to have to go out seven days prior to an election, that was the law. Of course, everybody knows what the United States Post Office is like, so you moved it up to three days before early voting starts. But, I get them calling on October 1, "Where is my sample ballot?" And, they-- It's golden to them.

And, in addition, the United States Post Office is not allowed to forward election mail. Period. You know, because, honestly-- And, what I'm finding in this election is there's do-gooders out there who are pre-populating vote-by-mail ballots, and, you know, my son -- he's 34 years old, he's now in California with three kids--

MR. PETER: Mary, applications.

MS. MELFI: Yes, the applications; he's filling out the applications. But--

UNIDENTIFIED SPEAKER: Not filling out ballots.

MS. MELFI: They sign the application, and I see that he's born in, you now, 1989, and the ballot is going to California, and I'm like, "Something's not right," so I'll send it to the Board. They'll do an investigation and find out that he's lived in California for 10 years. But, that's because the parents will say, "I'm going to shred it; let's put it in the shredder." So, it's dangerous.

ASSEMBLYWOMAN REYNOLDS-JACKSON: And, last question, Chairman.

I just-- Ms. Hill (*sic*) also talked about randomizing ballot draws. And, so -- by precinct. And, so, because you all actually do this, my question is, is that feasible for vote by mail? So, when we have the drawings, and it's done by precinct, is that something we can do? Is that ballot going to be the same, is it going to be different, from the date of? And, if there's barriers that exist in between making sure that they both match -- and, I think you talked about it a little bit--

MR. PETER: Yes, and the ExpressVote machines *can* randomize per voter. So, even if you're in the same voting district, it can show you a different ballot order. None of us do that, obviously.

I don't see any easy way to square that with vote-by-mail ballots or other paper ballots.

MS. MELIFI: Yes, but don't forget, then you're going to get in trouble with your audit and your audit testing. And, I would defer to the Board, because that's opening a big can of worms--

MR. PETER: Yes, I'm just saying the machine is capable--

MS. MELFI: Yes -- capable, but then you have your audits. And, I mean, that's what our proof to the public--

MS. HUGHES: So, every ballot style is a separate file. And, when we're doing our logic and accuracy testing, we have to have a certain number of each type of ballot go through the system to make sure that it's counting the ballots the right way and we're getting the right number of votes per candidate.

So, for an example, we're basically running three elections at the same time: We're running election day; we're running early voting; and we're running mail in. And, they're kind of three separate units that we have different planning for. So, for this election that we're currently in, when we were testing all three of those elections, we had to print off 42,625 ballots to run through our equipment to confirm that every single series of votes for different candidates was recorded correctly to industry standards. So, that's with 366 voting districts. In a primary, that would be 732 different vote ballot styles that we would have, and then, if each one of them had different random orders, you'd be getting into the tens of thousands, hundreds of thousands of options, which would then, you know, exponentially be more ballots that we had to do for testing that I think would be prohibitive both with time and cost.

ASSEMBLYMAN WIMBERLY: Ms. Melfi, you brought up a point in reference to concerns, I guess, where somebody is getting a vote-by-mail application and it brings a red flag up. Are there any other concerns like that when it comes to vote by mail, or (indiscernible) that comes to your attention -- or you work with the superintendent's office?

MS. MELFI: See, I don't even need this.

I focus on the vote by mail. And, you know, and I don't think that-- I don't think that the voter is doing this, you know, maliciously. I think that they're just thinking, "Oh, I can vote." Especially the kids.

And, the other thing that we see is helpful parents. Very helpful parents--

ASSEMBLYMAN WIMBERLY: Too helpful parents.

MS. MELFI: (laughter) We call them helicopters.

ASSEMBLYMAN WIMBERLY: I'm a coach (indiscernible).

MS. MELFI: But, you know, they're filling out the kid's application, they're signing it, and the only thing that we have in New Jersey to verify a voter is their signature. That's the *only* thing that we have on the books that can verify a voter. And, you know, the parent tries and then you say to the voter, you know, if your signature doesn't match, your vote's not--  
- You have the signature (indiscernible)--

ASSEMBLYMAN WIMBERLY: So, it's going to get thrown out anyway.

MS. MELFI: Yes, you know, so--

ASSEMBLYMAN WIMBERLY: OK, that's all I was (indiscernible)--

MS. MELFI: I don't know about the Board coming in on the ballots, but, you know, the pre-populated -- and, especially this year, one of the pre-populators targeted 2020 voters who haven't voted in four years, and that's what they pre-populated. So, if you take all the 2020 voters who haven't voted in four years, how many of them are still living in the state?

ASSEMBLYMAN WIMBERLY: Got you. Got you.

Assemblywoman Pintor Marin.

ASSEMBLYWOMAN PINTOR MARIN: Hi, thank you all for being here.

I just want to say recent elections, well, in the past, have brought up a lot of questions with regards to security and all of that.

But, I really want to congratulate all of you, because in New Jersey, the separate offices-- But, what they do, it's really fascinating because, you know, you really have to work together. But, yet, it's so separate and so individualized that, you know, people talk about "security," but the checks and balances that occur between the clerk's office and the Commissioner of Registration and the Superintendent of Elections, it's really quite amazing because you all don't have a choice but to get along with each other because there's a constant connectivity.

And, I just want to say that, you know, we did a lot of election laws recently, in the past couple of years. And, actually, the Speaker had kind of said, "All right, we need to have pencils down," because there is that moment where, you know, the voter needs to understand the changes; you all need to make sure that you have everything in place; and, also, come back to us and let us know what it is that you might need, that you feel like that there needs to be tweaking done.

I know that we've talked about, even vote by mails, and how many get thrown out just because the envelope is not sealed correctly. That's a big issue that, you know, we've been hearing about it more and more recently. Or, because depending on which county you're voting in, if they're, you know, just not signing it correctly or that they're not filling in the Scantron -- depending if you do have a Scantron.

So, these are all kinds of things that, you know, are bad, but they're good, so you hear some of the feedback that happens in the election. Because we did it with-- And, I would say to the speaker and some of those, to try and really help the voters. Times are changing; the way that people are voting, not only in the state by just really nationwide-- One of the things that always comes up to question -- and, I know that this is something that I've been talking about recently, and I know that even the election departments -- is security. Do you feel that you guys are being supported when it comes to security? You know, whether it's election day or whether people forget that, you know, election day for the state of New Jersey starts days in advance, do you feel that there's anything else that we might need to do, or that you need support with?

MS. HUGHES: I would say we're incredibly well-supported by the Division of Elections and Homeland Security. They're fantastic partners for us; a lot of training, a lot of information that they provide. So, I think that we felt very confident going into this year.

I know that there's some talk about the one piece of legislation as far as law enforcement by polling locations; that there was some confusion over that. We were hoping to have some guidance letting law enforcement officers know what they *can* do, rather than what they *can't* do, because there are circumstances where they *are* able to go in or near a polling location. So, we wanted to make sure that that was clear, because we have some departments that are very hands-off -- they don't want to cross lines they're not supposed to do, and they know there's this question mark in this bill out there -- or this law out there.

So, that's something that they are wary of, even though there are exceptions that they can. But, overall, we very much appreciate our partnerships at the State.

ASSEMBLYWOMAN PINTOR MARIN: OK.

And, then, with regards to the voter registration, it being able to use online: I know that there were some issues even with people who were voting, who were registering to vote online, but then somehow was causing duplicates. Has that kind of been fixed, somewhat, from what I've heard in the last couple of years?

MS. MACK-POLLOCK: Voter registration-- Well, they're-- When we're working with voter registration online, you have to, before your voter registration is actually able to go process online, you have to make sure that your information is correct. So, unless your information is absolutely accurate, you're not going to be able to register online.

So, you have to have, you know, the correct last four digits of your Social Security number or, you know, the spelling of your name has to be accurate. All of your information has to be accurate or you're not going to be able to register online.

That's what we've been told at the Division of Elections, so that will, you know, prevent you from having duplicate information go into the system.

But, if you do-- If you're able to process your information, paper registration, or otherwise, sometimes there are, you know, going to be duplicates, but we try and make sure that all that information is up to date, and we make sure that we, you know, keep-- You know, all of our staff goes through and minimize all of the duplicate information in the system. It's not

100%, of course, but we go through it regularly and work with the State Division of Elections to make sure that it's as accurate as possible.

MS. MELFI: One of the other issues that's happening that hasn't really been cleared up -- I don't know what the extent is -- but, the problem is the ability for non-citizens to vote at DMV. They get through DMV. And, I don't think they do it intentionally, but there is not -- and, the Board can -- I mean, I need some help here. It's happening, you know. I don't know the extent, but it has been, to the best of my knowledge, been brought to their attention. But, they get through, and the ones who do get through-- We had a voter call us who was really upset, because they're going to go through U.S. citizenship, and they don't want that. That'll throw them out of the country.

So, you know, the guy was really upset that he was registered to vote, and he didn't know how it happened, but he was at Motor Vehicle. So, that's an issue that needs to be addressed.

ASSEMBLYWOMAN PINTOR MARIN: Yes, because I think it's just-- I think it's just one little checkmark, if I remember. I haven't done that in a long time, but if I remember, correctly, right Chris? I think it's--

MR. DURKIN: Yes, it might be a Motor Vehicle issue.

If I can add two misconceptions: One is in 2005, it was required -- so, the last 19 years -- everyone pre-2005 was grandfathered in, as far as registered voters. Post 2005, you had to include the last four digits of your Social Security number or your driver's license number with the voter registration. It takes about 48 hours, right, to verify who this person says they are -- that they are. So, that is a form of identification -- a form of ID -- in New Jersey that we have. If you do not include that information, then you are required to show ID.

Also, that -- as I said earlier -- elections are managed on a county-by-county basis. Every vote, whether it be the Board of Elections, Superintendent of Election's Office, is counted and verified by bipartisan commissioners. So, half Republicans, half Democrats. Whether it be on the Board of Elections or programming the voting machines, every vote is verified and counted in a bipartisan manner. Whether or not that county is considered Democrat or considered Republican, it's bipartisan verification of every vote.

ASSEMBLYWOMAN PINTOR MARIN: OK.

MS. MACK-POLLOCK: (indiscernible) that the non-citizens voting in New Jersey is automatic voter registration unless you opt out. So, people who are registering, it's not intentional, and that's what we become-- We've been made aware of. And, we do have people coming to our office, and when they do learn that they've been registered, they're very, you know-- They are really apologetic; they ask to be removed automatically; we do honor that request.

And, it's my understanding as well that the screen at DMV is only in English. That's what I've been told, that it is not a bilingual screen. So, that's one of the issues I think that you should also address with the Motor Vehicle Commission.

ASSEMBLYWOMAN PINTOR MARIN: OK, and then--

MR. PETER: But, overall -- before you (indiscernible) -- overall, I think that the State does need some serious infrastructure investment in its computer systems.

ASSEMBLYWOMAN PINTOR MARIN: No way.

(laughter)

ASSEMBLYWOMAN PINTOR MARIN: We haven't been--

MR. PETER: Just putting that on the record.

ASSEMBLYWOMAN PINTOR MARIN: We haven't been talking about that since forever -- since before I got here.

But, you're right, because this is what causes-- I was asking the registration question because initially there was a lot of feedback and complaints of -- I know that I was getting that people were being duplicated in the system, or election day, and if you go to the polling sites, you find that people are upset because they registered to vote but now they're not in the books so now they're having to do a provisional. So, it's-- And, we know where it's coming from in the sense that it's not intentional, it really is a technology gap. And, we've been, you know, trying to do little bits at a time, but the more we've kind of gotten sophisticated with elections, because of just the electronic component, it is-- It has hindered us in other avenues. So, you are absolutely correct.

And, then, just one last question from me. What percentage of vote by mail gets rejected, more or less? Chris, do you have that number? Or--

MS. HUGHES: About 5%.

ASSEMBLYWOMAN PINTOR MARIN: Five percent. I would assume in other counties, if the vote -- if the turnout is higher or bigger? Correct? Or, is it about the same?

MR. DURKIN: Well, it depends on the county. I know Middlesex and Camden have a higher percentage of vote by mail based on voter population, but I'm not sure of their percentage of rejection.

ASSEMBLYWOMAN PINTOR MARIN: OK.

Well, I just wanted to say, again, you know, I really appreciate -- we all appreciate -- all the hard work that you do. Because in the weeks before and the weeks to; the night of and the days after, right -- even when it comes to certification -- everybody forgets that, and all the work you have to do with certifying the election. Just thank you very much, because it is a lot of work. But, a lot of you have been doing this for a long time, and I do know that it's a task of love as well. And, all of your employees.

So, thank you for being here.

ASSEMBLYMAN WIMBERLY: Thank you.

Assemblyman Rumpf.

ASSEMBLYMAN RUMPF: Thank you, Co-Chair.

I have a series of questions. Before I get to that, I would just like to mention that one key takeaway for me from all of you is that we really need to focus on education. Regardless of what the ultimate outcome might be, education is going to be key.

I heard a lot about freedom of association, and I agree as well. If there's a way to do that in a justifiable, constitutional manner, that's not something to be forgotten.

If I may ask each of the clerks and voting officials -- you may have already answered this in part in some of the previous responses -- but what type of voting machines do you use, and do you use a screen to print out, or is it a paper ballot only?

MR. DURKIN: Assemblyman, one interesting point that County Clerk Mary Melfi brought up was there was a 1980 law that was passed which required statewide candidates -- Governor, U.S. Senate -- to run in an open primary to not be bracketed with other like-minded candidates.

And, it appeared that that law was only for one year; it was only for the 1981 Gubernatorial race. It seemed like it was directed at that race because, after that race, over the next 27 years, it went right back to association with statewide candidates and state, county, local candidates.

And, then, in 2008, when Congressman Andrews was running for U.S. Senate against Frank Lautenberg, it was Andrews v. Rajoppi, a case filed where he wanted that law to be enforced. That was an open primary between the U.S. Senate candidates. He did not want to be -- to have bracketing. So, it went to court in Mercer County, Judge Jacobson, and she ruled in favor of Senator Lautenberg that he had the 1<sup>st</sup> Amendment right to bracket with like-minded candidates. So, I think the law is still on the books, right?

UNIDENTIFIED SPEAKER: Oh yeah.

MR. DURKIN: But it's, you know-- It was ruled unconstitutional by Judge Jacobson.

To answer your question, we utilize Dominion Voting System's optical scanner, and we have paper ballots for every form of voting -- whether that's early voting, vote by mail, provisional voting, emergency ballots, election day voting -- and, it's in landscape. And, we're limited as far as the height, because it's 8.5 inches high -- but you don't utilize all that space -- by 14 inches wide; we're able to go up to 22 inches wide. But, we find that the 14 inches wide is easier for the voter to handle, to understand, instead of an unwieldy, bigger ballot.

But, that's what we utilize.

ASSEMBLYMAN RUMPF: Thank you for that.

MR. PETER: So, Somerset County uses the ES&S ExpressVote (indiscernible) machines. It is a machine that, with the activation card for election day voting, early voting, and provisional voting on those machines. And, then our vote by mail, our paper ballots, that are then scanned.

ASSEMBLYMAN RUMPF: And, that's a great point. I should have added, do you use a different process for the early voting?

Thank you for sharing.

MR. PETER: Yes, it's the same machines and, again -- to push the Voter Convenience Act -- it's something that, now that we have that machine, we do have more flexibility on election day.

ASSEMBLYMAN RUMPF: Thanks.

MS. MELFI: We use the same equipment as Somerset.

The only thing I would add to this is, when the law changed, anybody that bought new voting equipment had to have a paper trail. So, Chris has the actual ballots, the Express-- I don't know if any of you see it, but your little paper comes up and it drops into the box, so, if there was a recount, you're counting papers; you're not looking at tapes.

MS. ROTHBERG: And, the same for Cape May County as Somerset and Hunterdon.

MS. MACK-POLLOCK: Passaic County uses the same as Somerset, Hunterdon, and Cape May.

I just want to add, though, after the court order was entered this past spring, we were concerned with the office-block ballot design because we thought that it may lead to a paginated ballot for the Democratic primary ballot, because of the different contests and candidates.

Now, that would have been an issue for Passaic County and also for Board of Education, because we had some contests, some candidates, where it would have been -- it possibly could be -- and, we talked to the vendor about this may be not for the election but possibly in the future -- four to five pages. And, we were concerned that, you know, with that particular ballot style, the voter would have to vote every single page before they could cast their ballot. And, that-- We would have a lot of incidents of a fleeing voters, and, again, undervotes and so forth. So, we were very, very concerned about that, and we discussed it with the vendor.

So, I think that's also something that this Committee would have to consider going forward. And, again, have that discussion with the vendor as well.

MS. HUGHES: And, Burlington County has the Dominion equipment for election day, early voting, and mail in, where they go up to the ballot-marking device; make the selections on a touch screen; print it out; and then feed their ballot into the printer once they've verified their selections.

ASSEMBLYMAN RUMPF: I very much appreciate it.

And, if I may, through the Chair, if I could also ask, how many machines do you have? How many voting districts do you have? What is the cost of each machine, and where do you get them?

I'm adding all those together for simplicity, rather than keep going back and forth.

MR. DURKIN: We purchased 600 voting machines with the option of renting 100 more. So, we have 700 to utilize per election. We spent \$2.2 million on the 600 machines, which works out about I guess \$4,000 a machine.

But, the real cost is in the paper; is in the programming; is in the (indiscernible) certifying; with the different variation -- different ballot, I guess, options of voting for a voter.

So, that's the real cost per election. The one-shot cost at the beginning doesn't compare to what it cost per election to keep it up; to program and run the (indiscernible).

ASSEMBLYMAN RUMPF: And, maintenance, I'm sure, as well.

MR. DURKIN: Yes.

ASSEMBLYMAN RUMPF: Thanks.

MR. PETER: So, my answer is we've got 267 voting districts, and we've got somewhere in the range of about 400 machines. And, I'm not entirely certain what we paid for it, because it didn't come out of my budget.

ASSEMBLYMAN RUMPF: Appreciate it.

MS. MELFI: Hunterdon has 117 voting districts, and 175 machines. And, I don't know what the cost was.

MS. ROTHBERG: Cape May County has 127 voting districts. We purchased 180 ES&S voting machines in 2021 at \$3,500. And, so that was bonded from the county for \$1.5 million.

ASSEMBLYMAN RUMPF: Thanks.

MR. DURKIN: If I could just add, we have 500 -- Essex County has 575 voting districts.

MS. MACK-POLLOCK: So, Passaic County has 283 districts. We send out two machines per district. We also send out-- That's on election day. And, then, for early voting, we have-- We have 10 early voting polling locations and we send out about -- about 40 machines for those early voting

polling locations as well. We purchased about 800 or so machines in 2021, and that cost about \$10 million that we bonded for.

ASSEMBLYMAN RUMPF: Appreciate that.

MS. HUGHES: And, then Burlington County has 366 voting districts. The way the Dominion equipment is set up is we can kind of mix and match the number of touch screens and the number of tabulators, so instead of giving a per-machine, we basically have 914 pieces of equipment, and, were there to be any changes that require us to get a new fleet of machines, it would be about \$5.8 million.

ASSEMBLYMAN RUMPF: Wow.

Just as a brief follow up, can the machines that are being utilized for early voting be used for the regular election as well? Or, do they have to be isolated, impounded?

MS. HUGHES: They certainly could, but I think best practice would be to keep them impounded and to use separate equipment.

ASSEMBLYMAN RUMPF: Appreciate that.

And, final question, Chairs. Is anyone able to estimate what the cost might be to implement any changes that might come about through legislation produced by this Committee and passed by the respective houses?

MS. HUGHES: We sure can, because we did it. So, as you know in 2021, early voting happened. And, when we instituted early voting, we had to get all new equipment, because that required the use of the e-poll books, not just at the voting locations, but at all the individual election day polling locations. So, when it came from-- I think most of us up here were part of not only implementing this for our counties, but also on the statewide

working groups to try to make sure that we had all the processes and procedures statewide for people to use.

So, when it comes to between the equipment, and the training, and the signage, and the planning, and all of the things, it was about \$80 million to implement early voting in 2021.

ASSEMBLYMAN WIMBERLY: Statewide?

MS. HUGHES: Yes.

ASSEMBLYMAN RUMPF: Thank you.

MS. HUGHES: And, again, as we talked about with paper and renewables types of resources, that was just the one-time shot. And, then, we all had costs since then every year.

ASSEMBLYMAN WIMBERLY: Assemblyman Rodriguez.

ASSEMBLYMAN RODRIGUEZ: Many of you mentioned the Voter Convenience Act, and it sounds like you're in support of it. One of the things that it would do, it would allow a voter to, in essence, vote at any polling site in their municipality.

In our district, we have three of the most densely populated municipalities in the nation, which translates into voters often moving from one block to another. We have voting sites that are sometimes across the street from each other, or a block away, so it causes confusion. And, you have voters that go vote and say, "I waited on line and I was told I can't vote here, and they don't know where I can vote." Long story short, it sounds fantastic because you can vote *anywhere* you show up.

Do you guys foresee any issues that that can bring about? Because I don't see one, but with your knowledge, do you see that it could--

MS. MELFI: I think the voters would be thrilled, because they don't understand why they can go to three different ones right now, but come November 5, they're not at the Bloomsbury Fire House; their vote isn't going to count.

The only thing that happens, though, is we had one voter who went to Mercer County because he has a Mercer County town -- you know how crazy New Jersey is, you have a town but you're in the other county? So, he went, he voted in Mercer County -- of course he wasn't in the rolls, so he got a provisional. But, he was happy because there was a fire truck on the thing, so he voted for the fire truck.

(laughter)

MS. MELFI: But, you know -- but he came back, and, you know, he said, "They wouldn't let me vote; they said I'm not registered," and the municipal clerk looked him up and she said, "Well, that's because you live in Hunterdon."

So, that would be the learning curve for the voter; that, yes, they can vote anywhere they want, as long as they remain in their own county.

ASSEMBLYMAN RODRIGUEZ: Right.

Thank you.

ASSEMBLYMAN WIMBERLY: Assemblyman IN-A-GER --  
ING-A-MORT.

ASSEMBLYMAN INGANAMORT: IN-GAN-A-MORT.

Thank you--

ASSEMBLYMAN WIMBERLY: IN-GAN-A-MORT; there you  
go.

ASSEMBLYMAN INGANAMORT: No sweat.

Thank you very much.

I have a couple of different questions related to grouping and bracketing, and, ultimately, ballot draw -- the names out of the hat.

And, I'm looking at the clerk from Cape May, because you touched on the grouping in your original testimony. So, I'm going to ask a question of you, but if anybody has a different opinion, certainly -- certainly say so.

Can you explain for folks the difference between grouping and bracketing?

MS. ROTHBERG: Well, I mean, bracketing and grouping is sometimes used interchangeably. We-- Those candidates who file a joint petition are grouped together. They need to have the same slogan. And, may associate with the jointly filed County Commissioner candidates, who are using the same slogan, and have selected a manager -- a campaign manager -- to make decisions.

ASSEMBLYMAN INGANAMORT: Right.

Thank you for that.

And, that aligns with my understanding of it. Grouping comes first; bracketing comes later -- if it comes at all. So, when I think of grouping, that seems to me like it's closer to the petition you file. Obviously, if it's a joint petition, we're talking about grouping. And, bracketing is something that occurs once you're jumping across different offices, right?

So, if you have two seats up for Town Council, let's say, and two candidates are running together for those two seats, and two other candidates -- you know, two incumbents, let's say, and two challengers. And, each slate decides to group together, they can do so through a joint petition, and be,

you know, next to each other on the ballot. Whether they're bracketed with an additional mayoral candidate, or county clerk candidate, or county Commissioner candidate, is a whole other ball of wax, and that's when we're talking about bracketing. Do I have that right?

MS. ROTHBERG: 19:49-2 deals with that. That issue of bracketing.

ASSEMBLYMAN INGANAMORT: OK; OK, got it.

Anybody has a different view on that? So, OK, I just want to make sure I'm using the correct terminology.

Grouping, coming from a joint petition; bracketing when you're talking about putting people together who are running for different offices more along the lines of that county line that we're talking about.

If you were-- Let's say, hypothetically, that grouping went away, and you couldn't file a joint petition -- let's just say; this is all hypothetical. Would that presumably require a change to the statute disallowing joint petitions?

MS. ROTHBERG: Yes.

ASSEMBLYMAN INGANAMORT: I assume.

MS. ROTHBERG: Yes.

ASSEMBLYMAN INGANAMORT: OK; OK.

When we talk about-- Let's go back to that example, where there are two seats for Town Council that are up in a given year. And, you have two incumbents running for those two seats. You have two challengers running for those two seats who are grouped together. The two incumbents are grouped; the two challengers are grouped. And, then, a fifth candidate --

an additional challenger, who is riding solo. So, there are five candidates for two seats; three teams, if you will.

How many capsules are you putting in the hat? Three? Or five?

MS. MELFI: Three.

MS. ROTHBERG: Three.

ASSEMBLYMAN INGANAMORT: That's for everybody, three?

MS. MELFI: I hope so.

MR. PETER: Right now, yeah.

ASSEMBLYMAN INGANAMORT: OK.

Is that based-- What is that based on? Is that part of the law that it should be three, not five?

MS. MELFI: It's 49-2; it says, "Candidates that are grouped together go into the capsule together." If you look in the draw, that's in the law.

ASSEMBLYMAN INGANAMORT: OK; OK.

And, would that extend also to School Board races, let's say -- those totally nonpartisan ones?

MS. MELFI: School Board is kind of crazy, because they can bracket together. But, then, after the draw--

ASSEMBLYMAN INGANAMORT: Group together -- group together. They can group together.

MS. MELFI: And, bracket. Well, OK, group--

ASSEMBLYMAN INGANAMORT: What do you mean by that?

MS. MELFI: In using your terminology, group together on a joint petition--

ASSEMBLYMAN INGANAMORT: Right--

MS. MELFI: --but, after the draw, they can change the order.

So, if Rita and Shona are running together, and Steve and I are running together, and I draw first and Shona draws first, but Steve is more popular and might be a better candidate to go against Shona, we can switch our-- But, that's only School Board.

ASSEMBLYMAN INGANAMORT: Uh-huh.

(laughter)

ASSEMBLYMAN INGANAMORT: So, that's-- My brain just broke.

(laughter)

ASSEMBLYMAN INGANAMORT: So, is that five capsules, or three? Let's say it's--

MS. MELFI: School Board -- it's still, if it's on -- if they're on the same petition together, our school board can write a letter and say, "We want to be on the thing together; put us together in the draw."

ASSEMBLYMAN INGANAMORT: Got it -- OK.

MR. PETER: Now, the oddball thing about the school board is, they can be joint candidates with different slogans.

(laughter)

MR. PETER: And, that's something you all passed.

(laughter)

ASSEMBLYMAN INGANAMORT: OK.

MS. MELFI: But, we follow Title XIX.

MR. DURKIN: But, if I could, I understand your point, because on one hand, you're grouped, but you're still an individual candidate. So, in the first draw, why shouldn't candidates be treated as individuals, where there's five people -- and, I see that point -- because then someone comes out, then it's presumed that the person who is still in there was going to be grouped with them, and they'll come out eventually, but, it would go in that order.

But, I--

ASSEMBLYMAN INGANAMORT: Yes--

MR. DURKIN: --I see the point of that argument.

ASSEMBLYMAN INGANAMORT: Yes, and I don't have the answer to it, by the way. I've talked to numerous clerks in my neck of the woods about it.

Does each candidate get a 33% chance, or a 20% chance? I don't have the answer to that.

MR. DURKIN: Right.

ASSEMBLYMAN INGANAMORT: OK, that's very interesting.

All right, you-- I'm going to leave School Board where it is.

(laughter)

ASSEMBLYMAN INGANAMORT: I'm not even going to follow up on that.

I just have one last question related to the pagination issue that you raised in Passaic County. And, I don't want to put words in your mouth, but I think you said something about, you know, when you went to office block, that's when you started to get concerned, I think, about pagination. Why is that? What is it about office block that triggers pagination issues?

MS. MACK-POLLOCK: We spoke to the vendor about that, and the vendor said, based on the number of columns, the number of contests, and the number of candidates, you-- Right now, we have a full-page ballot, and we can put all of our contests and candidates on one full page. That's the way the clerk designs it; she can put everything on one page.

If we go to an office-block ballot design -- based on the number of contests, we -- it may require multiple pages of the ballot.

ASSEMBLYMAN INGANAMORT: Go ahead.

MS. MACK-POLLOCK: So, for us, and our ballot, that would require multiple pages, and our-- That, based on our machines, it would require the voter to cast every single page of the ballot before finishing -- before casting their vote.

ASSEMBLYMAN INGANAMORT: Gotcha; gotcha.

And, you're right, Clerk. I was looking at yours, which you called "not pretty." I think it *is* pretty; I think it works. But, I think, in layman's terms, what you're saying -- this is a question -- is that office block takes more room?

MS. MACK-POLLOCK: Yes.

MS. ROTHBERG: Yes.

ASSEMBLYMAN INGANAMORT: OK.

Thank you all very much.

MS. MELFI: Another thing to consider, too, when you're looking at grouping and affiliation is the San Francisco v. (indiscernible) case, which is really big on-- I mean, that's one of the reasons I think you saw a county committee where it used to be, vote for one male, one female. Kind

of, like, not really right, you know? And, that's the law that -- and, that's Federal law.

So, that's another interesting case when you decide whether you can or cannot bracket.

ASSEMBLYMAN INGANAMORT: Got it.

Thank you very much, I appreciate it.

Thank you, Chair.

ASSEMBLYMAN BARLAS: Thank you, Assemblyman.

Assemblyman Hutchison.

ASSEMBLYMAN HUTCHISON: Shona, one more question for you.

Is it that the office block takes more room? Or, encourages more participation -- in your opinion?

MS. MACK-POLLOCK: I'm not concerned about the participation. It's definitely going to take up more landscape on the ballot.

ASSEMBLYMAN HUTCHISON: Gotcha.

ASSEMBLYMAN BARLAS: OK.

Assemblyman Scharfenberger.

ASSEMBLYMAN SCHARFENBERGER: Thank you, Mr. Co-Chair.

And, I just want to put your mind at ease. I don't ever foresee an instance where I will be in the same boat as my colleague, Assemblywoman Park, where somebody with the same name will be running against me on the same ballot.

(laughter)

ASSEMBLYMAN SCHARFENBERGER: So, that's one you won't have to sweat out.

Just, a few questions about slogans, anyway. Could you just walk through, briefly, how that works? You know, somebody approaches you and wants to run under a particular slogan? What's the process for that? Because that may come into play more and more now, depending on how the ballot design shakes out.

MS. MELFI: I mean, we have a letter come in, which, you know, the current law requires you to have a letter. Usually it kind of, like, depends on, like, if you're doing something illegal and your neighbor turns you in on zoning. That's how they catch you on the slogans, you know, that's the county's (indiscernible). And, you're not allowed to use anybody's name, you know. You can't use one of the Presidential candidate choice. So, that's -- they automatically get dumped.

But, I mean, if I wanted to be a Regan Republican or a Kennedy Democrat, you know, how am I going to get their permission? But, they have to have the letter. Normally, the party chairs-- And, I know we all put up everybody who's filed along with their slogans, and people watch. The political people watch, and then they'll see-- I mean, they'll see somebody is using the county slogan that doesn't have it, or they flip the words. I mean, you know, it really is you have to have permission. That's what the law says.

ASSEMBLYMAN SCHARFENBERGER: Right, so that would be grounds for denial if they use that without permission.

MS. MELFI: And, to really throw a bailiwick into this, it doesn't come down to us on the municipal level; it goes down to the municipal clerks.

We do the county, and the Department of State does the Federal and the State.

ASSEMBLYMAN SCHARFENBERGER: Got it, got it.

Have you ever heard from voters' feedback on slogans, and do they feel it helps, or confuses? Like, what's the buzz on the street about slogans, and-- Or, does it not matter?

MS. MELFI: I don't-- Personally, in Hunterdon, I don't think they pay attention to the slogan. But, they do pay attention to this.

MR. PETER: And, I think there's a difference, too, between the primary and the general. For the primary, you know, it's, you know, the Somerset County Democratic Organization; Somerset County *Real* Democratic Organization; the Somerset County Democratic Organization of Today -- they're all variations on the same theme. So, it's, you know, do you want truth, justice, and freedom, or freedom, justice, and truth?

(laughter)

MS. MELFI: And, the print is so small.

ASSEMBLYMAN SCHARFENBERGER: Yes, you know, I mean, there's a joke in our circles, too. There's the Real Republicans, then the Real, Real Republicans; then the Real, Real Real -- you know, and it goes on and on. And, you know, peoples' heads just spin with that kind of stuff.

Last thing. Just, how do you balance a party's constitutional protections in selecting their candidates with what's required by law? And, for instance -- and, this is an example I use -- if two candidates file a joint petition together and they go to a convention and they're screened by a county committee, and they're vetted and all of that. In the interest of transparency, isn't that something that should be, you know, reflected on the

ballot somehow? That they've gone through this process to give voters as much information about the candidates?

MS. MELFI: I think that that's what the jointly filed county petition does. It puts that group-- Because, you know that group has gone through the convention process. That's what puts them together.

ASSEMBLYMAN SCHARFENBERGER: I'm saying a way to differentiate them rather than just put a bunch of names. Because, I think everybody's fear on both sides of the aisle here is-- I get calls multiple times a day about the Board of Education, "These are people that are just names; I have no idea who anybody is and what they stand for." And, that's a real dilemma. And, peoples' lives are so busy, they don't have time to research and, you know, dig through this sort of thing.

So, there has to be some sort of way to guide them and give them information, you know, that would help them make an informed decision. I guess that's what I'm getting at. So-- And, I think it would be best to have it reflected, somehow, in the -- on the ballot itself.

So, is there a way that you see that we could accomplish that?

MS. ROTHBERG: We used to do Gubernatorial statements on the ballot. It got to be pretty costly.

Why can't the Board of Education post their resumes on a website? I mean, it would really serve our voters, because I get calls -- the general election -- about school candidates, and, you know, I end up giving out email addresses that are public of the candidates so that the voters can find some information.

ASSEMBLYMAN SCHARFENBERGER: Right--

MS. ROTHBERG: Sometimes the local media handles it, but more times not.

ASSEMBLYMAN SCHARFENBERGER: Yes, I mean, I'm just using that -- using that as an example of where the average guy or gal just sees names and has no way, you know, beyond that, to determine what they stand for or, you know, who they're aligned with -- that sort of thing.

MS. MELFI: And, school board has become-- I mean, I have one district where they got three spots and they got, like, nine candidates running. And, you know, you're learning from us, but this conversation is also making my head spin, because if we turn around and go to a block-style ballot for the primary and then we have to move that model to the general, which, I mean, that would seem the common flow. But, then you get into Shona's point, if you don't have the space and then, you know, I loved when she said put the questions in eighth-grade language. I mean, I thought that was great, you know, because you come out with these school board questions and they take up this much of the ballot.

And, then, if you have a block-style ballot, at the end of the day, you've got to deal with real estate of the ballot as well. And, you know, that's what you got me thinking about, I'm like, "Ooh."

ASSEMBLYMAN SCHARFENBERGER: OK, that's all I have.

Thank you.

ASSEMBLYMAN BARLAS: Thank you, Assemblyman.

A couple questions. Let's start with this: Who-- I'm sorry. Which ballots-- I'm sorry.

Which petitions do you accept as county clerks? Who files with you?

MR. DURKIN: County offices. So, if you're running for any county office -- whether that be County Commissioner; constitutional offices; County Executive; County Commissioner -- they file with us.

ASSEMBLYMAN BARLAS: And--

MS. MELFI: County clerk (indiscernible)--

MR. DURKIN: Yes, constitutional, yes.

ASSEMBLYMAN BARLAS: And, municipal offices go to their municipal clerks, correct--

MR. DURKIN: That's correct--

ASSEMBLYMAN BARLAS: --municipal candidates.

And, Legislative, Congressional, and U.S. Senate and Gubernatorial candidates, and Presidential candidates -- all statewide, I guess -- Legislative, multi-jurisdictional, and statewide go to the Division of Elections.

MR. DURKIN: Right, Division of Elections, Secretary of State, and the municipality -- the municipal clerk and the Secretary of State's Office both certify those candidates to the county clerk.

ASSEMBLYMAN BARLAS: OK.

MR. PETER: And, we also get school petitions--

ASSEMBLYMAN BARLAS: And, you get School Board petitions--

MR. PETER: Fire district petitions, if (indiscernible).

ASSEMBLYMAN BARLAS: Right. So, we'll get to that in one second.

So, based on Mary's handy timeline here for next year, it says, "If nothing changes, then petitions are due on March 27 of next year."

Wherever you file, whatever office you're running for, they're due on March 27.

MR. DURKIN: Correct.

MS. ROTHBERG: That's primary election.

ASSEMBLYMAN BARLAS: Yes, yes, yes, I'm talking primary. I'm talking primary right now.

When are you told who those candidates are? When do you find out eight people filed for mayor; five people filed for county--

MS. MELFI: Yes, you have to wait until after the objection period. So, that's like--

ASSEMBLYMAN BARLAS: Three days, right?

MR. DURKIN: There's a three-day cure period, then there's the date for a hearing if someone is challenging a petition.

MS. MELFI: Yes.

ASSEMBLYMAN BARLAS: So, you don't do anything until then?

MR. DURKIN: Well--

ASSEMBLYMAN BARLAS: As a county clerk.

MS. MELFI: They won't give us-- The petitions come in on the 24<sup>th</sup>; the State won't tell us who filed until April 3.

ASSEMBLYMAN BARLAS: They won't tell you who filed until April 3? And, until--

MR. DURKIN: But, I will say that the State-- I think it's very helpful that the State, on the website, have, as they certify candidates, they put the candidates up there with the number of petitions that they came in with on a rolling basis. So, I think that's very helpful.

ASSEMBLYMAN BARLAS: So, when do you start designing a ballot?

Now, forget-- I refer to design as layout. How much space you need; how far to the right; how far to the left; if you're vertical, horizontal, landscape, portrait, whatever. Do you wait until you get the certified list, or do you start-- Like, my question is, when do you need-- When do you guys start that process?

MR. PETER: I think most of us start as early as we possibly can. Obviously, we're tuned into the grapevine with, you know, who is potentially going to be filing, so, you know, I--

ASSEMBLYMAN BARLAS: So, names are -- at this point -- my point is, names would be irrelevant.

MR. PETER: Exactly.

ASSEMBLYMAN BARLAS: Right.

MR. PETER: Yes.

ASSEMBLYMAN BARLAS: It's sort of how many people--

MR. PETER: Yes--

ASSEMBLYMAN BARLAS: --right?

OK.

So, then, let me ask you this question: And, how far after that do you do the draw?

MS. MELFI: The draw is going to be done on April 3 as well. So-- And, the change of the law, the Secretary of State comes in at noon on the 3<sup>rd</sup> and at 3 o'clock we do the draw.

ASSEMBLYMAN BARLAS: OK, so that's about, what, like a week -- 10 days, I guess? About 10 to 11 days.

MS. MELFI: Yes, about that.

ASSEMBLYMAN BARLAS: Right, 10, 11 days?

So, you don't need to actually wait for the draw to occur in order to start designing -- laying out, whatever you want to call it -- the ballot itself.

MR. DURKIN: That's correct.

ASSEMBLYMAN BARLAS: Correct? Whether you're doing block or the way we did it in the past.

MR. DURKIN: That's correct.

ASSEMBLYMAN BARLAS: Right, everybody's good so far?

MR. DURKIN: Yes.

ASSEMBLYMAN BARLAS: OK.

Let me ask you, going to the actual machines themselves, right, so, Somerset, Hunterdon, Cape May, Passaic, you go to the screen; you touch the screen; you don't actually get a printout to scan, correct?

MR. PETER: Correct.

ASSEMBLYMAN BARLAS: OK.

Burlington, you get a ballot that comes out and you scan it.

MS. HUGHES: Correct.

ASSEMBLYMAN BARLAS: Essex, we travel back to 1925 and we get a piece of paper and we fill it in like a Scantron test, and then we scan it into a machine.

MR. DURKIN: That's correct.

ASSEMBLYMAN BARLAS: OK; OK.

On the ballot draw, we've heard a lot of talk in the past about randomization, right? I'm not that smart, so I don't know math that well. So, there was-- Earlier, there was a discussion of randomizing it by alphabet

as a possible scenario, correct? And, then, you do a random alphabetization, and that's the order that you follow.

We also have the possibility of randomizing the actual ballot once you know who the candidates are, right -- which I believe, Linda, you said is how everybody tests their machines, correct? You randomize the scenario of the people who are on there; who would bubble what, who wouldn't bubble what, right?

MS. HUGHES: So, we randomize the votes for each candidate, so the--

ASSEMBLYMAN BARLAS: Yes, correct; right. You randomize the votes.

MS. HUGHES: The structure stays the same.

ASSEMBLYMAN BARLAS: OK, the structure--

MS. MELFI: Not the position on the ballot.

ASSEMBLYMAN BARLAS: No, I understand; I got it.

So, do we have those? Thank you. Can you hand those out to the folks? Thank you.

So, I'm just handing out a couple of things to everyone here, so I'll let everybody get it before I ask my next set of questions.

While that's going around, let me ask you this question: For those of you who have the machines and not paper, you could randomize the voting experience for the voter, right? Because it's a screen? Right -- everybody agrees with that?

No?

MS. ROTHBERG: Well, we could. I don't know why we would.

ASSEMBLYMAN BARLAS: That's a different question. I'm just asking--

MS. MELFI: I don't know how you'd tally. You know, that I would want to run by the vendor to make sure that the programming -- because -- let me see if I'm understanding you.

A, B, and C. I go into the poll, I see A, B, C; he goes into the poll, he sees B, C, A--

ASSEMBLYMAN BARLAS: For every office--

MS. MELFI: Or, he sees C, B, D.

ASSEMBLYMAN BARLAS: For every office.

MS. MELFI: I don't know that the technology is there to tally the different votes. Because, I'm going to defer to the Board, they -- we take our ballots; it gets programmed into their machines; and, then, it gets tested over and over again. But, the testing is done with this one, two, three, four thing, and that's where they get-- You know, that's where I don't know that the technology is there for random ballots.

ASSEMBLYMAN BARLAS: OK. So--

MR. PETER: Right, and just a quick follow up.

Currently, we do a risk-limiting audit after every election. That, I don't know.

So, do you want to explain the (indiscernible)?

MS. HUGHES: So, we have to do a hand-eye tally for 2% of all ballots.

ASSEMBLYMAN BARLAS: Oh, yes, I remember. I sat on the Board of Elections; I remember that.

MS. HUGHES: So -- so, the human element to that, by itself, is, you know, tedious, we'll say, especially after a long election. But when your eye gets used to seeing a certain candidate on the ballot, you get into a rhythm, and you're able to go through. If you have every single ballot that those humans are looking at, have the names in a different order and they're trying to match the name with the circle, I would imagine that that would make the audits incredibly difficult.

ASSEMBLYMAN BARLAS: OK.

MS. HUGHES: And, the purpose of it is supposed to be to ensure confidence in the election. And, I think we do the opposite.

ASSEMBLYMAN BARLAS: OK.

So, in front of you is a ballot from -- for Victory Gardens, which is a tiny little town in Morris County. You've got the Republican Primary Ballot and the Democratic Primary Ballot; this was pre-block voting, OK.

If you did Republican office-block voting -- number of candidates; various offices all the way -- from Governor, all the way down to council. So, this is a 2021 ballot. The number of unique ways this ballot could be randomized in office block would be 6,912 ways. If you did column voting -- which is what this is right now -- based on all those offices, the unique ordering would be 955 million.

So, the question I have for you is, can you do that.

UNIDENTIFIED SPEAKER: I don't think so.

ASSEMBLYMAN BARLAS: Well, OK, so you may not-- That may be a technical question for the vendor.

Let me ask you this to the county clerk in Essex, where we have paper ballot at every polling place. How do we do that?

MR. DURKIN: Well, also, vote by mail.

ASSEMBLYMAN BARLAS: That's the next question.

MR. DURKIN: Right. (laughter)

At this point -- is it possible? I'm sure it's possible.

ASSEMBLYMAN BARLAS: Right.

MR. DURKIN: And, maybe the Secretary of State's Office, it would take a few years -- maybe two or three years -- to certify--

ASSEMBLYMAN BARLAS: (laughter)

MR. DURKIN: --to do this, obviously, it would take a lot of money.

ASSEMBLYMAN BARLAS: Now, obviously, you wouldn't need 955 million ballots per 575 election districts, like we have in Essex. But, if you went based on the number of voters, is it truly, then, random? If you took 955 and took out 1,700 voters in a voting district, is it then considered random?

MR. DURKIN: Right, it possibly might not be random.

ASSEMBLYMAN BARLAS: Right; OK.

MS. MELFI: But, also, don't forget -- look at this as -- you know, you need to look at voter education as a candidate. And, the candidates come in, and they want this sample ballot as quick as they can get it, because their voter education about getting people to vote for them says, "Go to line B, go to line, column 1," you know. And then, you've got the voter going in -- and, Mary Melfi was on top, and he went in, and Chris Durkin was on top. What are they doing with that ballot? They're screwing around; they're not counting our votes, you know.

I think the voters, if they went in and saw different ballots, I just think we really-- Then we need to talk some more about voter security, or election security, because I just-- I just don't think that the voter experience is gonna want to see them all mixed up.

ASSEMBLYMAN BARLAS: Well, right, and that's sort of the point of this hearing, right, is to have these discussions to flesh out these ideas, right, and the things that are out there in the public sphere of what is realistic and not; what is practical and not; and, what is actually implementable and not.

So, next question: Your sample ballots, your vote-by-mail ballots, and your election day ballots -- whether that be early voting or election day ballots -- Are they all the same?

And, just go right down a line.

MR. DURKIN: No. Our vote-by-mail ballots, election day ballots, are the same, but our sample ballot-- We put whatever would be on the back of the ballot, we put on the front on the bottom. So, that's the only difference.

ASSEMBLYMAN BARLAS: Difference.

MR. PETER: Mine are similar, but not exactly the same.

ASSEMBLYMAN BARLAS: What does that mean?

MR. PETER: So--

(laughter)

ASSEMBLYMAN BARLAS: Are you a lawyer?

(laughter)

MR. PETER: Like Chris-- So, my vote-by-mail ballot is back and front--

ASSEMBLYMAN BARLAS: OK--

MR. PETER: --those are done on two separate pages of the machine.

Speaking not of the office-block format, but for the general, I do make it mimic on the screen the way the print looks.

ASSEMBLYMAN BARLAS: OK.

Mary.

MS. MELFI: Mine are totally different. So, my vote-by-mail -- which, you have a sample from the 2013, and then you have the machine ballot.

But, the sample ballot goes out looking like the machine ballot.

ASSEMBLYMAN BARLAS: Like the machine.

Rita.

MS. ROTHBERG: In Cape May, they're almost always the same unless we have more candidates or questions that require that the mail ballot is back and front. But, for the most part, they're the same.

MS. MACK-POLLOCK: They're the same in Passaic County, and we have bilingual ballots.

MS. HUGHES: Yes; all the same, just different headers.

ASSEMBLYMAN BARLAS: Just different headers; OK.

I want to read something to you. You have, in your handouts there, two addition ballots if you look past Mine Hill. You've got a November 2023 ballot from Jersey City, and a May 2014 -- 2013, sorry -- and a May 2014 ballot from the City of Newark.

So, I would just like to read something to you. It's option A; option B -- you tell me which is which, OK?

This is option A: "Where there is more than one person to be nominated to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot -- each bracket to be treated as a single name -- together with individuals who have filed petitions for nomination for such office shall be determined as above described." That's option A.

Option B: "If several candidates for the same office shall petition that their names be grouped together, and that one designation named by them shall be printed opposite their names, the clerk shall group their names in a bracket, and opposite the bracket, shall print the designation."

So, can you tell me -- is option A partisan, or is option B the partisan election candidates?

This is for the county clerks. Linda, Shona, you're off the hook. The pop quiz isn't for you.

A partisan, or B partisan?

MR. DURKIN: I'm going to say B partisan.

ASSEMBLYMAN BARLAS: B partisan?

MR. PETER: Agree.

ASSEMBLYMAN BARLAS: Don't cheat; you two are cheating.

MS. ROTHBERG: It appears to me that B is partisan.

ASSEMBLYMAN BARLAS: OK.

MS. ROTHBERG: Yes.

ASSEMBLYMAN BARLAS: Mary?

MS. MELFI: I agree.

ASSEMBLYMAN BARLAS: So, option B that I read to you is nonpartisan candidates.

MR. DURKIN: Nonpartisan?

ASSEMBLYMAN BARLAS: Nonpartisan. Not June or November partisan candidates for office.

MR. DURKIN: May--

ASSEMBLYMAN BARLAS: That is the statute for nonpartisan offices.

So, the balance that you're looking at there, for the City of Newark and Jersey City -- for the municipal races -- it appears that, for the multi-candidate offices of Council at Large, there appears to be grouping or bracketing, correct?

MR. DURKIN: Correct.

ASSEMBLYMAN BARLAS: Because there are -- in the case of Newark, one, two, three B all share the same slogan. As a matter of fact, it literally looks like a bracket in the English language, right--

MR. DURKIN: Yes--

ASSEMBLYMAN BARLAS: --and, 16, 17, 18 B also look like the same. And, in Jersey City, in what appears to be Column B -- it's kind of small, so I can't read the slogan -- but it looks like 1, 2, 3 B and then 4, 5, B, and then 6, 7, 8, B are all bracketed or grouped together.

MS. MELFI: I have a question. On this ballot--

ASSEMBLYMAN BARLAS: Yes, ma'am--

MS. MELFI: I'm looking at the May one.

ASSEMBLYMAN BARLAS: Yes.

MS. MELFI: They had 18 people running for four spots? I mean, is this a real ballot?

ASSEMBLYMAN BARLAS: Mr. Clerk, is this a real ballot?

MR. DURKIN: This is a real ballot. And, and on top of that--

ASSEMBLYMAN BARLAS: (laughter)

MR. DURKIN: --as you said, on top of that, not only are they bracketing in nonpartisan, but they are-- There's an extra line that is -- denotes their bracketing added, that draws the eye--

ASSEMBLYMAN BARLAS: Yes--

MR. DURKIN: --to them.

ASSEMBLYMAN BARLAS: So, when we talk about fairness, and we talk about looking at everything -- and, you guys have talked about, for a while now, that almost every election has been different for you, and every ballot you have to structure it differently. Please don't take the word uniformity to apply to a statewide methodology, but would you like to see some uniformity between our statutes in how our elections are conducted, whether they be partisan or nonpartisan? Would that make your lives easier? Would it make the voter experience easier?

MR. DURKIN: Well, I would agree that it would make the voter experience easier if there was continuity.

ASSEMBLYMAN BARLAS: Peter.

MR. PETER: Yes, I mean, depending on what is set out, yes, absolutely.

ASSEMBLYMAN BARLAS: OK.

MS. MELFI: The only thing--

ASSEMBLYMAN BARLAS: Mr. Chair -- yes, ma'am.

MS. MELFI: Can I add -- the only thing is, I'm assuming that you drew all these positions, right--

ASSEMBLYMAN BARLAS: No, yes, actually, that's a great question.

Mr. Clerk, in Essex--

MS. MELFI: No, (indiscernible)--

MR. DURKIN: It is a great question--

MS. MELFI: Municipal clerk--

MR. DURKIN: Yes, a municipal clerk drew this; yes.

ASSEMBLYMAN BARLAS: You know, I was getting tired, but now that Mary brought it up, I got my energy again.

(laughter)

ASSEMBLYMAN BARLAS: Can you please explain to us, on this Committee, how ballot positions are drawn? I understand that the county clerks do -- in the present system, you do the countywide candidates, and so on. But, when you are a nonpartisan candidate for municipal office, who does your draw?

MR. DURKIN: So, for nonpartisan offices that take place in May, the city clerk does the draw.

ASSEMBLYMAN BARLAS: What about November?

MR. DURKIN: In November, it is the town clerk, or city clerk.

ASSEMBLYMAN BARLAS: City clerk as well.

MR. DURKIN: Correct.

ASSEMBLYMAN BARLAS: And, in the case of School Board, it's the--

MR. DURKIN: In April school board -- which, in Essex County, we still have April School Board of Newark and Irvington -- two of the biggest

municipalities not only in the state, still hold their School Board election in April, and the School Board Secretary does the draw.

ASSEMBLYMAN BARLAS: OK.

So, in the case of Newark and Irvington -- is Irvington -- I'm going to get in trouble. Irvington is a November nonpartisan, correct?

MR. DURKIN: No, they're May.

ASSEMBLYMAN BARLAS: They're May; OK.

MR. DURKIN: They're May.

ASSEMBLYMAN BARLAS: So, in the case of Newark and Irvington, you're looking at a year where you have four different elections, between May nonpartisan; School Board April; June primary; and, November general.

MR. DURKIN: That's correct.

ASSEMBLYMAN BARLAS: Where the ballots are drawn differently by different people and they, potentially, look completely different -- or, some look the same, or some don't.

MR. DURKIN: That's correct.

ASSEMBLYMAN BARLAS: OK.

MS. MELFI: Another thing on the draw. If you considered doing things on the draw, if you -- you know, I've heard speculation about possibly letting the State draw the State and Federal candidates, and then the county do the county, and then the municipal do the municipal.

My only input on that would be to please allow the county clerks to have permissive language on the municipal level. Because, for example, in Hunterdon--

MS. MELFI: You know?

ASSEMBLYMAN BARLAS: Is that only for partisan, or nonpartisan elections?

MS. MELFI: I don't have nonpartisan.

ASSEMBLYMAN BARLAS: (laughter)

MR. DURKIN: That's universal.

ASSEMBLYMAN BARLAS: It's universal?

MR. DURKIN: Universal.

The difference in the amount of words per slogans for nonpartisan and for school board, you have three words; for partisan you have six words.

ASSEMBLYMAN BARLAS: OK. And, just like -- partisan is six, right? You're saying school board and nonpartisan is three?

MR. DURKIN: Correct.

ASSEMBLYMAN BARLAS: OK; got it.

MR. DURKIN: Partisan is six.

ASSEMBLYMAN BARLAS: And, they can use a name if they want?

MR. DURKIN: Yes.

ASSEMBLYMAN BARLAS: As long as that person gives them permission.

MR. DURKIN: If they have permission.

MS. MELFI: Not in School Board.

MR. DURKIN: School Board you can.

MS. MELFI: I have never seen anyone--

MR. DURKIN: I've never seen this, but--

ASSEMBLYMAN BARLAS: But you can -- theoretically, you can.

Now, whether that-- Now, can that person be on the ballot?

MR. DURKIN: You're saying can they use their own name for the slogan?

ASSEMBLYMAN BARLAS: Well, if we look at this Newark ballot--

MS. MELFI: I have some guy running in Hunterdon, his last name is Grammer, they're running for School Board, and they put a play on the words, "Grammer for Grammar."

ASSEMBLYMAN BARLAS: OK, but here's my question: So, the May Newark ballot that you have here in front of you. You have, "Team Baraka Believe in Newark" for Ras Baraka and three of his council candidates at the end. Mildred Crump, Patrick Council, Eddie Osborne.

So, if you are a candidate, you can use your name in your slogan, thus having your name appear multiple times on the ballot?

MR. DURKIN: Yes.

ASSEMBLYMAN BARLAS: OK.

That's all I had.

Thank you, Chair.

ASSEMBLYMAN WIMBERLY: Thank you, Co-Chair.

As we wrap up, first I want to thank all of the members for this in-depth period of question and answer.

I thank the clerks for their information, which is going to be very helpful as we move forward.

I just-- At this time, are there anything that we missed, that you may want to offer to us?

Mary, you look like you have one more thing to say. Is that true -- no?

UNIDENTIFIED SPEAKER: Mary's done?

ASSEMBLYMAN WIMBERLY: If Mary is done, we're done. That's it -- I will say that.

MS. MELFI: I just ask that you please commit to meeting with the vendors, because there's also -- the system has to be approved, and I don't know this, the Board can deal with it, but they have to be approved by the EAC, our system. So, I would ask that you meet with the vendors.

And, I would ask that before you do anything, we do something so we can at least make sure that whatever you want us to do, we can do, and then make sure that there's no cost involved. Or, if there's a cost, we know what it is.

ASSEMBLYMAN WIMBERLY: All right, so our staff has already reached out to vendors for the next hearings.

We look forward to the public hearings to get more input, obviously, from, you know-- Many questions from our legislators were concerned about various residents; how they approach it; vote-by mail issues; name issues. I mean, this has been beyond informative.

And, what I will say is, as legislators, I think we've come up with some things already to make this process easier for everybody. From creating early voting; establishing countywide ballot drop boxes; vote by mail has been expanded and made easier for everyone. According to your numbers, that appears to be the case. Election results and reporting more accurately. And,

money for poll workers, and the safety of poll workers has to be an issue that we continue to address.

So, as me and the Co-Chair-- We'll have dates out very soon for our next public hearings. We will have vendors involved in those next hearings, because obviously the cost is a major factor -- for both sides of the aisle, that's going to be an issue.

But, more importantly, that we get more people involved in this process; that we increase the numbers, and the percentages from voters. I know Shona knows it well. We may have a certain amount of people registered, but only a small percentage come out and vote -- in particular in the off-times in May, and when's it not a presidential election. So, that same enthusiasm, that same work that you guys have done, we will continue to work on it as a team -- you know, both sides of the aisle, to make sure this is something that is fair for all New Jersey residents.

And, as always, we will lead the way when it comes to ballot issues. And, I think other people will come to you guys, probably, at a national level, to work and see how it's going to be done.

So, we thank you, and we look forward to the next hearing, which will be announced very soon.

Thank you.

**(MEETING CONCLUDED)**