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Government Administration and Elections Committee Public Hearing March 9, 2015 Testimony

Good Afternoon Chairman Jutila and Chairman Cassano. For the record my name is Denise Merrill and I am Connecticut's Secretary of the State. I will be testifying on several bills before the committee this afternoon concerning elections.

I would like to start with **Senate Bill No. 1051, "AN ACT STRENGTHENING CONNECTICUT ELECTIONS."**

The goal of this legislation is to improve how we manage and administer elections in Connecticut. I will offer some context, describe how Connecticut administers elections compared to other states, and provide a bit of relevant history. I have a much more detailed written testimony with accompanying documentation that I request be entered into the record.

The right to vote is the most fundamental right in our democracy. I'm here today because I represent the 2 million voters of Connecticut, and I feel it is my job to ensure that right to vote, and easy access to the ballot. And I am here today because I believe that Connecticut's Election system is at a crisis point. We need to rethink the way we administer our elections in Connecticut.

In the last few years, election-day problems – court interventions, long lines at the polls, and numerous other breaches of the law – have become all too common. These breaches have shocked the public, and rightly so. The time has come to undertake some major reforms to Connecticut's election system to bring our elections into the 21st century. We need a vision for the future of what our elections can and should become, a vision of an election system that is more efficient, more accountable and more productive. The crisis we face can be an opportunity to do better.

Last November, we again found ourselves in court on Election Day because of a systemic breakdown that never should have happened. As in 2010, the mistakes caused voters to be at best inconvenienced, at worst disenfranchised and in all cases have their faith in the system shaken. In 2011, after problems arose in Bridgeport and elsewhere on Election Day 2010, again regarding a failure to provide voting opportunities to the public, here in this General Assembly we came together in a nearly unanimous show of support, to enact a series of new accountability measures, with the fervent hope that problems would not recur. While these were meaningful changes that have helped bring more certainty to our process, the problems have continued.

And I am here today to tell you, with my four years of experience as Chief Elections Officer, it could happen again today, in any town, large or small. I believe a combination of factors have brought us to this point: two close gubernatorial races, with the scrutiny that this brings, shrinking local budgets in some cases impacting our elections, and a cumbersome and arcane process of election administration. As stewards of the public trust, we can and must do better.

What happened in Bridgeport in 2010, Hartford in 2014 and in many cities and towns in those and other years was not just the result of personality conflicts or incompetence on the part of a few registrars. And it has happened in many places in the state. I won't belabor the point here, but there is a packet of data on the issues that have been litigated and otherwise emerged over the past few years in your possession.

As the state's chief election official I have spent a great deal of time since November envisioning a more efficient, modern election system. Today I place before you a series of bills to strengthen our elections.

PROFESSIONAL ELECTION ADMINISTRATORS

SB 1051 re-envisioning accountability, strives to make voting more accessible and efficient and ensures that we can embrace emerging technologies. It actually reduces a state mandate on towns, introducing more flexibility to manage elections, and has potential cost savings in the long term. SB 1051 concerns Election Administration. It re-envisioning the position of registrar of voters; addresses ways to improve the speed of collecting and displaying results on election night; unifies the voter registration deadlines; and clarifies the candidate information collected by my office.

This bill does not eliminate the registrars of voters, nor does it require a full time registrar. Instead, this legislation redefines the role of the registrar as a single professional, nonpartisan administrator in each municipality. I want to emphasize that there are many talented, conscientious registrars in our state. But they are struggling in a system that leaves no one in charge and no definitive way of resolving basic workplace issues that have too often impacted voter rights and opportunity. We need change, and with an election cycle just ended, let us begin.

In crafting this bill I identified the most vulnerable elements of our current system and developed a set of principles. Whatever solution the General Assembly may develop should include these principles: (1) allow more flexibility for local towns and cities to select election officials and manage the election process; (2) promote professionalism and knowledge of state and federal law for election officials; and (3) ensure accountability at both the state and local levels.

Currently, state statute dictates that each town have two registrars, one from each of the two major political parties. They are nominated by the local parties, and then elected separately, not competitively. Once chosen, they win. There are no minimum qualifications for this position, and no minimum salary or hours set, so the positions vary widely by town. This is because they are elected officials so it is difficult, if not legally impossible, to impose qualifications to run for office.

This unusual and awkward means of selection sets up conflict in many offices throughout the state. They are not subject to usual workplace supervision by the Town Manager or First Selectman or Mayor because they are technically "elected." But the town pays most costs of elections, so their salaries and benefits are borne by the town. Local town officials have no meaningful way to enforce basic workplace standards.

OTHER STATES

Connecticut is the *only state* that requires two partisan local election officials per local government unit. Most states have a professional administrator who is nonpartisan, and elections are a function of county government. A number of states have one professional administrator but elect a "Board of Elections" with representation from both parties as well as non-partisan representatives.

In New England, where town government is strong, the municipal or county clerk runs the elections, with the exception of Rhode Island, where a bipartisan local board of elections in each town chooses a nonpartisan administrator. In larger states with the bipartisan county board of elections model, the board hires professional staff locally to manage elections. In those states, elections are managed at the regional or county level, with all local election officials reporting to a regional executive. Some of these counties have a larger voting population than the entire state of Connecticut, and they have vastly more streamlined election administration than we do. We should look to the best practices in these other states to re-envision our election system in Connecticut despite some differences in government structure.

The first challenge for us is that we conduct elections locally. Towns range from populations of over 100,000 in cities to 1000 in small towns. Without a county level of government, it is difficult to enforce standards – technology varies, hours vary, responsibilities vary. So this presents a challenge when each town is expected to elect two people to the position of

Registrar. Some towns are having trouble finding one person – and have no way to compel the parties to find someone if no one steps up.

For now, we must continue to rely largely on the local towns to administer and pay for elections, although there is a provision in this bill to allow towns to regionalize election administration partially or completely. At this point, we simply do not have the infrastructure needed to manage at a regional level. But we must find a way to ensure that every voter, whether they live in Bridgeport or Union, will have the same access to the ballot. With that challenge in mind, the proposal before you does a number of things, including restructuring the role of the Registrar, streamlining certain functions, and providing more training and support for election management from the state level.

First, the bill before you today provides for one appointed Registrar, full or part time, in each town. In this proposal, the legislative body, in consultation with the clerk, would appoint the Registrar. I believe more flexibility might be needed here to recognize the variety of town governance structures. There are other ways to do this. This person could be appointed by the town legislative body, or by the chief executive of the town, or perhaps by a Board of Elections with representation from all parties to ensure fairness. The accountability would rest with one person, minimizing conflict that exists in many towns between two, co-equal workers, and provides for a reporting structure at the local and the state levels.

Secondly, this bill places the newly defined registrar of voters inside the office of the town clerk, who already has election responsibilities and is an admitting authority in statute. We recommend that the registrar be placed under the town clerks for a reason. Town clerks in Connecticut are sometimes elected, and often appointed. Clerks have a rigorous certification program, go through regular training, and can be removed from office for dereliction of duty. There are many towns in Connecticut where the clerk has been a Republican or a Democrat for decades, yet no one questioned their professionalism or partisanship in carrying out their duties, including those involving elections. This is what I would like people to think of our registrars of voters as well.

This bill further integrates the election administrators into municipal government because it proposes that the registrar of voters be an appointed employee, rather than a patronage appointment by the Town Committee. This bill promotes professionalism by requiring training and certification of election officials. Protecting the right to vote and ensuring fair and honest elections is important. And if we are going to do it well, we need to select the right team of people.

Currently, the selection process is entirely political, controlled by the two major parties. This process does not recognize that more and more voters do not belong to any party and third party activity is on the rise. As a result of this selection process, there are no criteria or skills required to be able to run for the office. Therefore, those that select them do not normally consider those factors.

Currently, there are also no requirements for training or certification of our election officials. This makes enforcing standards or ensuring that the laws are followed extremely difficult,

especially since hours and responsibilities vary widely by town. In some towns the Registrars might only be in their office two or three times a month and be paid only \$1000 per year to perform their duties. In some larger towns and cities, it is a full time job with pay up to \$80,000 per year and benefits. This also means that some Registrars have other jobs, sometimes full time jobs, elsewhere, and little time to devote to the duties of registrar.

Registrars have a critical role to play in our process. We need to recognize their importance and raise the standards for performance. They and the public will be better served if we transform their role into a professional one.

You will recall that in the 2012 presidential election voters in several states experienced administrative problems – most notably long lines where voters waited several hours during Election Day and early voting periods leading up to Election Day. Shortly thereafter President Obama assembled a bipartisan Presidential Commission on Election Administration that made several recommendations, including a section advocating for professionalism in Election Administration.

I will briefly quote from the report: “the Commission found general agreement that election administration is public administration. That means that in every respect possible, the responsible department or agency in every state should have on staff individuals who are chosen and serve solely on the basis of their experience and expertise. The Commission notes that this is often the case in departments across the country, and it is a model to which all jurisdictions should aspire.”

It goes on to say “Elected officials are well-served having professional support, and it would also bolster the voting public’s confidence in the voting process. Professionalism in administration assumes particular importance in a field characterized by scarcity of resources and increased public demand for a high quality of administration with keen political sensitivities. It is evident to the Commission that the core competencies required of today’s election administrator are different from those in the past. The last decade’s heightened demand for more professional administration of elections and modernization of the process demonstrates that there is an increasing need for technology acumen, public relations skills, and data savvy.”

As elected officials, registrars enjoy a certain level of independence—actual or perceived – that is contrary to my office’s statutory role as commissioner of elections. In the event that a registrar’s actions are egregious – and there are times when they are – there are few tools to hold them accountable. There is no provision in state law for their removal from office. While they may be subject to a complaint at the State Elections Enforcement Commission (SEEC), the results of those investigations take a long time, in most cases well after the offending action was taken and the damage done.

By transforming their role into an appointed, professional one we can also provide them with greater support and guidance. Already, we are close to launching a new certification program for registrars. Modeled after the clerk’s certification, the program will be administered through UConn branch campuses and address topics such as managing a budget, election

administration laws and regulations, maintaining accurate voter lists, preparing for and conducting elections, primaries and referenda, absentee voting & supervised absentee voting, post-election audits, recounts, and other topics.

It is time for my office to be more directly involved in training registrars. But we won't achieve the improvements if only the same people participate every time. Here's an example: This fall my office hosted three statewide conference calls to help registrars plan for the election. We reviewed the Election Day registration process, including how to estimate the number of additional staff needed for the day. We also covered topics such as subjects to cover in their own training of moderators; the volunteer attorney program that we have with the CT Bar Association, press access at the polls and Election Day registration.

Only 48 towns participated in all three calls and 52 towns did not participate in any of the conference calls. The large packet of background material has a list of towns who participated and those who did not. Some of the towns that are not participating in the trainings are the towns where we have had numerous problems on Election Day. So as you can see, we try to provide support for these important people who safeguard our democracy, but we have few tools to compel compliance.

In addition to the advantages this creates for voters, it also forges a real career track for registrars. Right now, other than someone's personal dedication, there is little incentive for registrars to pursue professional development. By law, Registrars are reimbursed \$35 per day plus mileage from their town to attend two conferences a year called by the Secretary of the State to discuss election laws and procedures.

If they were to be appointed officials, that would change. A knowledgeable, talented registrar could compete for a job in another town that paid more, perhaps serve two or more merged towns under this bill, or be offered more opportunities to advance into a different management position. If this new position is created, many of our existing registrars would be excellent, qualified candidates for the new role.

This is about the voters of Connecticut. All of us in Election Administration work with one purpose in mind: to give the voters the best Election Day experience they can have.

OTHER PARTS OF SB 1051

This bill will improve the speed of collecting and displaying results on election night. There are two reasons that announcing results takes longer than we think they should. The moderator return forms are many pages long, requiring information beyond candidate totals. It requires proportional allocation of "unknown" votes for cross-endorsed candidates, turnout statistics, and more. The more polling places a town has the more time it takes to fill out this report. Our polling places still work with paper and pens. When we finally implement e-pollbooks we will be able to streamline some of the more cumbersome reporting entries, such as how many people voted at the polling place. Harnessing the power of technology is where

we need to focus—for improving our results reporting and many other aspects of our elections.

First, we propose bifurcating the reporting process. On election night we do not need information related to turnout statistics, for example. What we do need is candidate results and little else—like when we used to open the lever machines, call out the results and write them down. So, that information will still be required. In fact the transmittal of those results will be improved by both an online system that I hope to demonstrate for you as soon as we can get it on the calendar.

I also include language that will allow us to upload information from the tabulator memory cards into this online system. To do this we will need to provide software to the towns, and develop some security protocols--but the benefits would be great. By uploading rather than manually inputting data we eliminate accidental human errors and transmit information in the quickest way possible.

The bill also unifies voter registration deadlines. Current law has a myriad of voter registration deadlines based on what method you are using to register. If you are registering by mail or using the online voter registration system then the deadline is 2 weeks in advance of the general election. If you are registering in-person it's one week in advance. All these deadlines cause confusion among voters. I propose that the deadline to register be 1 week in advance of Election Day regardless of whether the voter is registering online, in person or by mail.

Additionally, the bill adjusts the flow of some candidate information. Specifically, we would require that my office receive notification if someone is using the petitioning process to force a primary. For a municipal office in a state election, a candidate can force a primary if they obtain signatures of 5% of the enrolled party members in that district.

Currently, my office does not receive notification that there is a possible primary in a single town House district, though we do receive notifications of multi-town legislative districts. Consequently, it is very challenging for us every two years to compile a complete list of legislative primaries because we don't get all the filings. Since these filings are for state office, it is only logical that they all come to our office. This change will allow me to better notify the public about where primaries are being held.

One other section of this bill gives an expedited timeframe for the investigation of complaints by the State Elections Enforcement Commission if they are brought by my office. The laws supporting elections are many and very prescriptive. The State Election Enforcement Commission has the authority to fine and punish those who violate those laws. But those complaints can take months to investigate – long after voters are harmed, and violators can sometimes remain in positions of authority for elections who really need to be held accountable.

To be fair, there are many complaints filed, and some are frivolous or done for political reasons. But the complaints filed by my office are few and they are also carefully vetted by

my elections team so they are substantive in nature about serious problems that need to be addressed. I feel that these complaints should be given extra priority when they are filed because we need to do everything possible to minimize harm to voters.

I know I've given you a lot of information today, but the fact is we can do better. This is a critical issue. The voters are counting on all of us to take action to guard their most precious right – the right to vote.

Now I'd like to turn my attention to two other bills on the committee's agenda today.

SB 1042 "AN ACT CONCERNING MUNICIPAL OPTIONS FOR ELECTIONS"

This bill gives cities and towns in more flexibility to reduce the cost and burdens of holding elections.

Section one of the bill would allow the Secretary of the State in coordination with the University of Connecticut Voting Technology Center to authorize the use of electronic equipment for the purposes of conducting our post-election audits. As you on the committee are surely aware, ever since we started to use optical scan voting technology to count votes in Connecticut as a replacement for the old lever voting machines, we have by law audited the machine totals from 10% of the voting precincts in our state. For a statewide election, that can be more than 70 precincts who must conduct this audit.

While I believe these post-election audits are vital to ensuring the accuracy of our machine counts, we have been looking for technological solutions for years that would make this process easier and less expensive for our municipalities. It can take hours to count each ballot by hand in a given precinct to compare to the machine totals. Staff has to be hired at town or city expense, and this can get expensive as well. Since the audits are random, the towns cannot budget for this item.

Together with computer scientists at the UCONN V.O.T.E.R. Center (Voting technology research center), my office applied for and won a federal grant four years ago to develop a new software prototype to automate this post-election audit process. This was a very competitive grant and only four states were awarded monies from the federal Election Assistance Commission. So we are very proud of that.

This legislation would authorize the software prototype developed at UCONN to be used to conduct post-election audits in Connecticut. A high-speed scanner is fed hundreds of ballots per minute and makes facsimile images of the ballots that are then reviewed by machine. The audit results would then be compared to the totals on Election Day and a full report on this would still be sent to the VoTeR Center for analysis. With this technology, a full day's work by individuals conducting an audit by hand could be condensed into a couple of hours.

Towns conducting audits could bring their ballots to a regional location or one central location at the Secretary of the State's office, run their ballots through the high-speed

scanner, and be done. This is very exciting technology; in fact, we have other states looking at what Connecticut is doing with post-election audits, and possibly wanting to work with our experts at UCONN to adopt the same type of new automation in their states. So we should all be proud of the work we have done to develop this cutting edge technology. We just need enabling legislation to make it a reality for Connecticut. And that is what this bill does, so I hope you can support your local communities by passing this bill.

Another section of this bill presents some significant cost savings for cities and towns by giving them the option of holding municipal elections every four years, instead of every two years as currently required. This would allow cities and towns the luxury of not having to hold an election and/or primary every year. It would give them the option of taking a break from elections for a year and that will could save municipalities significant sums of money.

Also, with some municipal offices on the ballot some years but not on other years, you get situations where the city or town has to hold a full municipal election but with only candidates for one office on the ballot; this depresses voter turnout in those years. This happened in Hartford in 2013 – only a couple of seats on the Board of Education were on the ballot yet all 24 polling places had to be open and fully staffed all day. Only 5% of registered voters in Hartford turned out to cast a ballot in 2013. All of the other municipal offices were on the ballot in 2011 and will be again this year. With the option of just putting municipal offices on the ballot every four years, cities like Hartford could have chosen not to face the expense of another full election and used those funds for something else in 2013.

Another section of this bill offers towns an option that could reduce election costs if there are boroughs within them. There are borough elections in some smaller jurisdictions or pieces of towns for local office like district fire commission, etc. But these elections have so few participants -that is raises the question of whether we need to have a fully functional and staffed polling place conducting a borough election.

So this section of the bill provides a local option to eliminate borough elections and replace them with borough meetings for the election of borough officers. Town meetings are a much simpler and less costly process than a fully staffed and equipped polling place that must remain open from 6:00 a.m. until 8:00 p.m. For town meetings, towns can post notices for voters to show up at 7:00 p.m., for instance, and vote.

One more section of this bill fixes an inconsistency in how candidates are listed on the ballot for some municipal offices. Our election laws state that for some candidates for municipal office, their name appears on the ballot however they want it to appear. But for other municipal offices, the candidate's name appears on the ballot by law as it appears on the voter registry.

So that means someone everyone knows as Bob and who has his name as Bob on campaign signs, etc would have to have his name listed on the ballot as Robert and that might be confusing for voters. The same goes for someone with a ubiquitous nickname like Buddy, Tori, Tony, etc. So we think this inconsistency doesn't make any sense. All candidates

should have their names appear on the municipal ballot as they approve them on the endorsement form. The law should be the same for all candidates.

And one last bill I would like to testify about today is **HB 6900 "AN ACT CONCERNING ELECTION ADMINISTRATION."** This bill also cleans up some inconsistencies in our election laws.

If you will remember, a couple of years ago for our municipal elections we ran into a problem with some municipal candidates from minor parties who did not sign their endorsement paperwork. They were not allowed on the ballot and had to go to court to get ballot access. That was due to a 2011 change in the election statutes that applied to minor parties. That change in the law was enacted so that a candidate could not be endorsed for office by a minor party without their knowledge or consent – as had happened to former Senator Chris Dodd in 2010, who was endorsed by the Connecticut for Lieberman party.

But this change was not consistently applied under the law, and as a result municipal candidates from major parties do not have to sign endorsement paperwork. This inconsistency that was pointed out – and rightly so – by the minor parties during some of the court proceedings in 2013 over whether they could appear on the ballot. I think out of a sense of fairness and consistency that the election laws should apply equally to major and minor party candidates in municipal elections. All candidates should have to sign their endorsement paperwork for municipal office. The same requirement of both major and minor parties exists for state and federal elections, so why not also extend that for municipal elections.

Another section of this bill addresses yet one more inconsistency in our election laws – namely, do candidates need to live in the district in which they are seeking office? Currently, major party candidates must reside in the district where they are seeking office. But the same requirement is not placed on minor party candidates, petitioning candidates or write-in candidates.

It is fairly obvious why people would find it important to have candidates for office who actually live in that city, town or district. But here again, out of a sense of consistency and fairness, we should make that a requirement for all candidates. Otherwise we could have – like we did last year – a candidate running for more than one state representative district. So this bill fixes that and I hope you support it.

One more section of this bill eliminates discretionary supervised absentee balloting. Supervised absentee balloting is when the local registrar of Voters or their designee goes into a location set aside by law where there are substantial numbers of people who would have a hardship making it to the polls on Election Day. At this location, the registrar or their designee goes in to distribute and collect absentee applications at one time. They return to the office to confirm the individuals are indeed eligible voters. They then return to the site another time to and supervise while the voters who applied actually cast their ballots.

Right now under our state law there are certain places mandated as supervised absentee balloting centers – they are referred to in statute as "institutions" and they include places like

nursing homes, assisted living facilities, rehabilitation centers, veterans health care facilities, and others. In general, the institutions are places where residents would find consistent hardship actually getting to the polls to participate in elections. It is a great way to collect a number of absentee ballots from people living in the same location who would all need to use them to vote.

However, there also exists under state law a provision that if the town clerk receives 20 or more absentee ballot applications from people residing in the same building, then registrars of voters have the discretion to choose to conduct supervised absentee balloting at that location. There are a few problems with discretionary supervised balloting.

First of all it is generally a good thing to keep discretion to a minimum with these things and have the rules clearly spelled out in the law. There is no requirement that such a balloting location being designated. For instance, it could be an apartment building with 100 units of able-bodied people in their 30's who don't really fit the regular profile of needing supervised balloting.

Also, let's say someone lives in a building that has been chosen as a supervised absentee balloting site. By law that person can only vote supervised absentee in their building and cannot exercise their right to vote by absentee ballot by mail from their current location. So for example if someone is in Florida tending to an ailing relative and they won't be back in time for Election Day, but their apartment building is designated as supervised absentee ballot location – that person cannot get an absentee ballot sent to them in Florida. That voter is then disenfranchised.

Another reason we should do away with discretionary supervised absentee balloting is that once a location is designated as a site the registrar of voters or their designee must return to that location as many times as necessary until every voter who wants to vote has done so. Even though this is the way regular mandated locations do it as well, this is a lot of work for local election officials while they are busy preparing for the election. We regularly get calls saying that the local Registrar has not done a sufficient job collecting the ballots, etc.

So those are the fixes to state election laws contained in this bill – I hope you will support them and now I am happy to take any questions. Thank you.