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TESTIMONY IN OPPOSITION TO 19-S 477, RELATING TO WRITE-IN CANDIDATES

March 21, 2019

This bill would eliminate the counting of write-in votes for persons who have not filed in advance a "declaration of intent." The ACLU opposes this change. We believe that this bill inappropriately minimizes the value of write-in votes. Voters should have the right to have their votes tallied, even if it is for an obviously losing cause. A voter is making a statement by deciding to cast a write-in vote, regardless of whom that vote is for. It should be respected and counted.

We understand that write-ins are almost inevitably futile and occasionally trivial, but they nonetheless remain a valid exercise of a person's individual right to vote. People using this option are often attempting to make a point, and while the time spent tallying them may seem wasteful, it should be considered part of the process of recognizing the role of the franchise. If we truly believe that each vote counts in a democracy, write-ins should not be ignored or uniformly treated as frivolous. Instead, they are an exercise of the franchise that should be respected. Contrary to what we in a democratic society like to say, this proposed legislation would literally mean that every vote does not count.

To the extent that the Board feels some need to address the number of write-in votes cast and the need to tally thousands of them, we would offer one suggestion, without necessarily endorsing it. That would be to require the individual tallying of particular write-in candidates only if a request for tallying that candidate is made by the time the polls close, as long as the request can come from either a write-in candidate or voter. However, the advance notice required by this bill should be rejected.