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**COMMENTS ON 2013-H 5660,
AN ACT RELATING TO ELECTION LAW
March 13, 2013**

The ACLU supports this bill, which proposes a number of changes to state election law, many of them designed to address problems that have arisen in recent elections in Rhode Island. The amendments are based on the premise that the state should try to ensure that every qualified vote is counted and that speculative concerns about administrative convenience should not trump the fundamental right to vote. Although the Board of Elections has raised objections in the past about the burdens that passage of this law would have on their duties, experience from recent elections teaches that these concerns are vastly overblown.

The major aspects of this bill would ensure that provisional ballots are counted to the maximum extent possible, provide for a fair recount process in those small number of elections where a recount is necessary, make sure that voter intent was considered before discarding ballots that were cast by voters, establishing an audit procedure to ensure the accuracy of election day vote tallies, and make the Board of Elections subject to the rule-making provisions of the Administrative Procedures Act.

Rather than address each amendment individually, we wish to briefly respond in advance to some of the arguments that have been advanced in the past by the Board of Elections against portions of the bill.

First, the Board has asserted that a determination of voter intent would allow the agency to arbitrarily determine which candidate should be credited with a vote. But the Board of Elections already looks at some ballots to determine voter intent. Specifically, mail ballots are reviewed with that goal in mind, and the Board also manually counts provisional ballots.

Second, the Board argues that allowing provisional ballots to count in statewide and citywide races, when a voter votes at the wrong precinct, would create havoc and an undue burden on the agency. But since the Board allows provisional ballots by voters at the wrong precinct to count in federal races, why not count them in statewide and citywide races? A voter who happens to go to the wrong precinct to vote simply should not see virtually all of his or her franchise rights extinguished. The scenario that Board staff has raised in the past about people going to any polling place in the state they want to if this change took effect is absurd on its face and should be rejected.

In terms of recounts, the Board has argued that allowing inspection of ballots would take too much time. But elections qualifying for recounts are few and far between. In 2006, in three races where candidates sought court intervention during the recounts, all three candidates conceded their races within 24 hours of being able to review questionable ballots. The differing machine-read recounts in last September's District 58 primary, and the Board's acknowledgement that the

machines can read the same ballot differently, are more than sufficient reasons to provide for manual recounts and post-election audits of the machines.

This bill provides important and positive changes to promote the right to vote, and we urge the Committee's support for those changes.