



**Testimony to the New York State Senate
Standing Committee on Elections**
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Good morning Chairman Addabbo and members of the Committee. My name is Adrienne Kivelson and I'm here today to speak on behalf of the League of Women Voters. We appreciate this opportunity to address some issues relating to New York's implementation of the Help America Vote Act (HAVA). For more than 90 years the League has been in the forefront of efforts to assure voting integrity, to protect every citizen's right to vote and to encourage active participation in government and elections.

With the passage of the Help America Vote Act in 2002, voting systems became subject to federal requirements and for the first time, federal funds were made available to secure new voting systems which would be accessible for people with disabilities, offer voters the opportunity to review and change their votes and have an auditable paper trail. The national League of Women Voters subsequently resolved to support only voting systems which:

- Provide a voter-verifiable paper record that is the official record of the voter's intent;
- Allow the voter to verify this paper record while still in the process of voting;
- Allow verification of vote totals by an independent hand count of the paper record;
- Allow routine audits of the paper record in every election.

For the League of Women Voters of New York State it was apparent that our lever voting machines met none of these standards and would have to be replaced if we are to have a voting system which is both accessible and accurate. After consideration of all of the options the New York State League endorsed a paper ballot precinct-based optical scanning system with inclusion of ballot marking devices. We then joined with other voting integrity organizations in asking the state legislature to establish high standards for accessibility, security, certification of voting equipment and post-election auditing by local boards of elections. The New York State Election Reform and Modernization Act (ERMA) of 2005

implements the federal HAVA and goes beyond that law to set the highest standards in the nation.

We still have some issues with ERMA, particularly concerning the audits which we believe should be broader and larger than the 3% established in the law. We will continue to press for improved audit requirements.

We were very pleased when the New York counties chose the paper ballot scanning system in 2008. Although there have been delays in certification we understand from preliminary reports from our representative on the Citizen's Advisory Committee that the first week of the public testing component of the certification process went well.

As to the "Pilot Project" being conducted in 47 counties for the 2009 elections, we had and still have reservations. While reports on the experience of the participating counties on Primary Day are still quite sketchy, first impressions are that the problems which did arise were more involved with administration and poll worker training than with the optical scanners. For example, there were repeated concerns about the correct placement of privacy booths, which are new to most of New York State. We have also heard that the amount of training on the new equipment varied from county to county and impacted on how well each election proceeded.

A preliminary report of September 15, on the experience of the Primary Election Pilot Project, by the New York State Board of Elections indicated that "of the 47 counties which opted to participate in the pilot, 13 of them did not have primaries, leaving 34 counties in the Primary Pilot Project" This report which was based on direct observation by State Board staff of procedures in a variety of counties across the state on Primary Day contains some very useful information for immediate correction to processes for the General Election where it is expected there will be a greater turnout and all 47 counties will have an opportunity to test out their procedures. The report calls attention to the need for increased hands-on inspector training to include new procedures and forms, as well as basics like system on and off tasks, etc. "There is a huge learning curve with this new technology and the best remedy is more training, smaller training classes, hands-on sessions, and where necessary the procurement of the services of professional instructors with experience in training adult learners."

The experiences of voters during the General Election with the new equipment should also be documented through a survey prepared by the New York State Board of Elections and utilized by all the counties, as well as the NY State Board in developing procedures for the 2010 election cycle. A survey questionnaire which encompasses all aspects of voting such as the polling place, voting machine technology (ballot format and usability), Inspectors, etc could be very important as we transition to a new voter experience.

It was reported at the NYS Board of Elections meeting of October 6, 2009, that federal appropriations for 2008-2009, 2009-2010, in the amount of \$14 million, will be available for the New York State BOE and local county boards of elections to access for voter education and poll

worker training. Counties should be urged to access this money as soon as possible by working with the NYS BOE to develop plans for 2010.

While the State Board of Elections continues testing, and whether we have "pilot projects" or full elections, the new technology is here. The federal court is requiring us to replace all lever machines. The state accepted money from the federal government to do so and many of our counties have already purchased equipment. The League advocated for the paper ballot-marker scanner system because with rigorous procedures and citizen oversight it is most effective in assuring both access and accuracy.

A major obstacle still exists, and that is adequate funding. While the federal government provided the bulk of the funds necessary to purchase new voting systems and some funds for education and training, the state and counties have new financial burdens as a result of the acquisition and maintenance of the new equipment and the implementation of the regulations and standards in our own state laws. Dire as our fiscal health may be, it cannot be used as an excuse to deny adequate funding to our electoral system. Voting is the bulwark of our democracy. It is not an ancillary service to be swept aside in bad economic times.

We should all be urging the federal government to fully fund HAVA and we urge the State Legislature to assist the State Board of Elections and the counties with the funds necessary to assure that every voter has equal access to the polls and can be confident that their vote is secure and will be counted accurately.