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**THE LEAGUE
OF WOMEN VOTERS**
of New York State

**TESTIMONY REGARDING THE ADMINISTRATION OF ELECTIONS IN
NEW YORK STATE IN COMPLIANCE WITH THE
FEDERAL HELP AMERICA VOTE ACT
BEFORE THE
NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON ELECTION
LAW, ASSEMBLY STANDING COMMITTEE ON EDUCATION, ASSEMBLY
STANDING COMMITTEE ON LIBRARIES AND EDUCATION TECHNOLOGY
OCTOBER 22, 2009**

Good Morning members of the Assembly Election Law Committee, Education Committee, and Committee on Libraries and Education Technology.

My name is Adrienne Kivelson. I am the Election Specialist for the League of Women Voters of New York City. I am here today representing the League of Women Voters of New York State as well as the League of Women Voters of New York City. Thank You for the opportunity to address the relevant committees today about the impact of the enacted 2009-2010 State Budget on New York State's implementation of the Help America Vote Act (HAVA) on the State Board of Elections, local boards of elections and other public entities that conduct elections, such as school districts, public and association libraries and fire districts.

The League of Women Voters of New York State is a nonpartisan political organization which encourages informed and active participation in government and works to increase understanding of major public policy issues, and influences public policy through education and advocacy. Voting is fundamental to citizenship and the League has worked on the issues surrounding exercise of the franchise since women became enfranchised in 1920.

We work in coalition with many other like-minded organizations to educate voters and to advocate for laws which will secure the integrity of the vote while expanding opportunities for using it. With respect to implementing the Help America Vote Act in New York State, we have worked in coalition with other organizations whose mission is also to ensure that all eligible citizens can vote, and that their votes will be accurately counted. These organizations have endorsed a voting system based on voter-marked paper ballots. This goal was achieved when the paper ballot-scanner voting system was chosen by New York counties in 2008. We advocated for the paper ballot-ballot marker-scanner system because *with rigorous procedures and citizen oversight* it will meet the League of Women Voters of the United States' "SARA" test of security, accuracy, reliability and accessibility.

The League and many other organizations representing many constituencies, believe that the newer technology can provide better verifiability and a voter verifiable paper record that is the official record of the voter's intent. A joint statement by New Yorkers for Verified Voting and League of Women Voters of New York State "Do Lever Machines Provide a Better Voting System for Democracy?" is attached to this testimony.

The familiar lever voting machine, though it has performed fairly well for over 100 years, does not meet current standards for voting systems. The League and other election integrity organizations recognized that our efforts should be directed toward selecting a voting system based on voter marked paper ballots and establishing through legislation the highest standards for certification of the new voting equipment. The Election Reform and Modernization Act of 2005 implements the Federal law and, indeed, goes beyond that law, to set higher standards for accessibility, certification of voting equipment, and post-election auditing by local boards of elections. The lever machines cannot meet these standards. They cannot truly be audited since they provide no record of individual votes. To provide accessibility, counties have to deploy another machine with completely different technology. In this regard, a local elections commissioner commented, "with the optical scanner system, we now have two records to compare to verify the vote: a machine count and the paper ballots. With the levers we have ***had no backup to recount the vote; all we can do is recheck the numbers on the machine to make sure the inspectors recorded them correctly.***"

ERMA states that lever voting machines will no longer be permitted for use in New York State once new voting systems have been certified, approved and implemented throughout the state. It is presumed that the effective date for implementation of the law will be 2010. This has been interpreted to mean that all elections where voting machines are used must conform to this law. Localities, public and association libraries and fire districts that currently use lever machines are subject to the same law.

We still have some 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.

Forty-seven New York counties are participating in a pilot program using the optical scanners in the 2009 elections. Early reports of the counties' experiences in the primaries are positive. It is our understanding that no significant machine malfunctions were reported. The problems which did arise had more to do with voter privacy and poll worker training. For example, there were repeated complaints about the placement of privacy booths, which may be new to our poll workers and voters. It was apparent to observers that the degree to which poll workers had hands-on training on the equipment impacted on how well the election proceeded.

The optical scanners which are being used in the pilot program are those now being tested for certification by State BOE. Our representative on the Citizens Advisory Committee has reported that the initial public component of the testing went well.

Everyone acknowledges that hands-on training is a key component in the transition to a new voting system. In this regard, we strongly support legislation amending the Election, Labor and Education laws to authorize persons seventeen years of age to serve as election inspectors and poll workers. More than forty states permit 16-17 year old persons to serve in some capacity at the polls and these

states have reported satisfactory results. This young tech-savvy population would be an asset at the polls when new voting machines come online in 2010 and opening the doors to active participation in the electoral process will stimulate life-long participation as a voter.

Concerns have been raised about added costs which will accrue to the counties to administer the new voting system, over and above the federal funds the state is receiving for HAVA implementation. We urge the state and counties to explore collaborative arrangements for purchasing equipment such as privacy booths and ballot printers, consolidating training costs and sharing EMS ballot programming consultants' services.

The NYSBOE should authorize the use of HAVA money for EMS purchase, as well as other systems' support funds. We are pleased to hear that the State Board is already exploring the possibility of reducing poll site staffing requirements as the precinct-based optical scanner can handle multiple ballot types so it may not be necessary to have multiple inspectors for each election district. We should all be pressing Congress for full funding of the Help America Vote Act.

The League position on election law supports uniformity in election laws and procedures in their implementation and enforcement, as well as the promotion of measures that ensure the integrity of all ballots. Uniformity in procedures and equipment and the schedule of elections enhances the experience of the voter by creating the optimum conditions for providing the most complete provision of information on issues and candidates and inspires confidence in the results because of a transparent process.

While school elections are the province of the NYS Education Law, other municipal elections (town, village, fire district, water district) are solely or jointly administered by the entity and the larger jurisdiction, the county board of elections. As a result, these elections occur throughout the year (March, April, May, June, November, and December). This patchwork of election administration does not lend itself to a "one size fits all" solution particularly as the State transitions to the new era of changing over to a more technically challenging voting process. The electronic voting machines which will be the standard machine in use require more stringent operational procedures to safeguard their integrity and to protect the investment which the state and counties have made in their purchase.

The NYS Commission on Local Government Efficiency and Effectiveness ("The Lundine Commission"), issued their final report in April 2008, and addressed some issues germane to the discussion today in the section entitled, "*Elections and Voter Participation.*" In recommending possible solutions which might bring about positive improvements to election administration in New York State, they note that

- Surprisingly, very little data are available on elections, particularly for offices below the state level.
- The State BOE receives from the County BOEs the voting results of federal, state, and county offices, as well as for statewide ballot proposals. The State BOE *does not* routinely collect information on town, village and city elections, or on elections for fire districts or other special districts with elected commissioners. They also do not conduct school-related elections, such as votes for school board members, school budgets, or school-related propositions.

- There is no central repository in the state for information about how many people are voting, voter enrollment information for each municipality, who is elected, what propositions were put before the voter; and what the results of the vote were. Therefore, it is difficult to get a good picture of voter participation rates in local elections.

The Commission report highlights some of the problems of voting and election administration in New York. The impact of any decisions necessitated by the change to new voting equipment must be carefully examined. Creating more uniformity in election dates by realigning the dates of local elections throughout the state so that they would be synchronized might increase voter participation as well as simplify election administration. It would also be fiscally prudent as the state and local governments work to maintain mandated services at current levels. The Commission “encourages regional solutions, cooperative services and consolidation” where possible as one of its recommendations for the delivery of local government services. An objective examination of how changes in election administration in New York State might yield more economy, efficiency and accuracy to this vital governmental function would be a wise investment.

Thank You.

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