

June 10, 2009

To: The New York State Board of Elections
James A. Walsh, Co-Chair
Douglas A. Kellner, Co-Chair
Evelyn J. Aquila, Commissioner
Gregory P. Peterson, Commissioner

From: Catskill Center for Independence
Citizens' Union
E-Voter Education Project
New Yorkers for Verified Voting
New York Public Interest Group
New York State League of Women Voters
Task Force on Election Integrity, Community Church of New York

Re: Urgent steps toward election integrity with the 2009 Pilot Program

While acknowledging that Judge Sharpe's June 4 order says that the pilot program for deploying the uncertified scanners (referred to here as "the planned program") must be implemented in the 2009 elections, we urge the Board's close attention to the inadequacies of the planned program as identified in the "[Comments on the New York State Board of Elections Proposed 2009 Pilot Plan](#)" by Citizen Election Modernization Advisory Committee member Bo Lipari. At your May 2009 meeting you invited comment from the CEMAC committee.

Failure to modify the current plans for the pilot use of uncertified scanners could lead to a decrease in the public's confidence in the results. Lipari's report identifies five main areas in which the planned program needs improvement. Four of these point out major requirements for election integrity about which the Proposed Plan is silent. The first four steps below urge you to fill these gaping holes in your plan to deploy uncertified ballot scanners. We believe these corrections of inadequacies in the planned program are essential and quite realistic.

The fifth step below calls for limiting the size of the pilots, in recognition of best practices for pilots with new technologies as recognized by experts. The sixth calls for a real audit of the scanners through which New York voters can gain confidence that they are reliable.

1. We urge the State Board of Elections to develop and require adequate auditing provisions for the planned program. Priority must be given to specific articulation of Section 6210.18 of state regulations so that it provides for statistically meaningful risk-limiting audits. Auditing experts should be consulted to determine the number of election districts appropriate to audit with these new systems, which have not yet been used in real elections anywhere in the country, and which still have not completed New York State's certification tests.
2. We urge the State Board to develop a detailed contingency plan specifying backup and recovery procedures for all stages of the process that counties must follow in the event of problems.
3. We urge the State Board to specify the system, ballot security, and chain of custody requirements for the proposed plan. Compliance with the "Voting System and Ballot

Marking Device Security Policy” being prepared by NYSTEC should be explicitly required by the State Board.

4. We urge the State Board to develop and publish a plan for evaluating the 2009 pilot program after completion. The evaluations should be performed by an independent agency and should review all policies and procedures, system performance and the auditing process.
5. In addition, we urge the State Board to provide a process by which counties can reduce their participation to 10% of registered voters. The publication of Lipari’s comments may encourage some counties to recognize that this is the appropriate size for a pilot. We urge the Board to allow counties to limit deployment of the new machines to 10% of registered voters, even if they earlier agreed to do a full county wide implementation.
6. Furthermore, we believe that the proposed plan does not rule out verifying the scanner results through 100% hand-counts. We urge the State Board to encourage counties to carry out full hand recounts of paper ballots in the pilot deployment.

New York needs these additional steps if this pilot is to be credible. If we are to increase voter confidence and participation we must make every effort to ensure that every vote will be correctly counted, not only in 2009, but in all future elections.

Please let us know how you plan to correct the inadequacies of the pilot plan as identified above and explained more fully in Lipari’s “Comments.”

Sincerely yours,

Helen Benlisa, Project HAVA Coordinator, Catskill Center for Independence,
 Protection and Advocacy for Voter Access/Upstate New York
 Dick Dadey, Executive Director, Citizens’ Union
 Howard Stanislevic, Founder, E-Voter Education Project
 Wanda Warren Berry, Director, New Yorkers for Verified Voting
 Neal Rosenstein, New York Public Interest Group
 Aimee Allaud, Elections Specialist, New York State League of Women Voters
 Teresa Hommel, Chair, Task Force on Election Integrity, Community Church of New York

cc. Todd D. Valentine, Co-Executive Director, NY State Board of Elections
 Stanley L. Zalen, Co-Executive Director, NY State Board of Elections
 Brian Hefferman, Esq., Voting Right Division, U.S. Department of Justice
 Jeffrey M Dvorin, Office of the New York State Attorney General