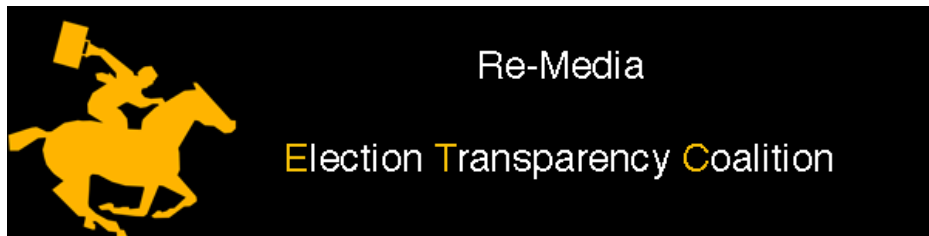


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### Only a Transparent Vote-Counting System Can Protect Democracy

Democracy (demos = people, kratos = rule) requires that all citizens have equal access to power. In order for citizens to retain control over government created for their benefit, regular people must be able to observe, understand and safeguard every aspect of the process by which government is chosen. In New York, both our manual paper ballot and lever-count voting system have provided full transparency, enabling the election results to be 100% knowable.

Currently, throughout the State, over 327,000 election officials and watchers collectively witness the vote counting process from the moment error or fraud can intervene, until the count is completed. That count must be verified and concluded on election night. The reason for this is election security. For as long as we've been a state, New York has forbidden post-election recounts of paper ballots because experience teaches that once the ballots leave the public view, the possibilities for fraud are too great to sufficiently prevent.

Professor Bryan Pfaffenberger, who received a Scholar's Award from the National Science Foundation to study the history of lever voting machines, wrote:

*In my analysis, **the lever machine deserves recognition as one of the most astonishing achievements of American technological genius**, a fact that is reflected in their continued competitiveness against recent voting technologies in every accepted performance measure. .... Today, there are widespread calls to bring paper back into the picture, but the reason is that people do not trust the [new] machines. ....*

*Having studied the history, I strongly believe that there would be no such call for paper if the ugly history of fraudulent practices enabled by paper ballots were known. .... In New York, the people, in their wisdom, created a system of election administration AND a technology that solved the characteristic problems of American elections; **to abandon lever machines for new technologies that will not gain voter confidence and, at the same time, re-introduce paper audit trails or paper ballots which have long proven to be prone to election fraud, amounts in my opinion to a potentially disastrous mistake.***

It is New York's history of election fraud that required paper ballots to be counted openly and publicly in order to best deter such fraud. If we are to return to a paper ballot system, we must count the ballots openly and publicly -- and not adjourn until the count is completed. Our history and our constitutional system of government require no less. If we are to use machines to count our votes, then the way the machine is programmed to count must be open and observable before and after the election -- and must *not be subject to change during the election*. Only the immutable operation of the lever machine permits this transparency and reliability.

Paper ballot elections counted by software-driven optical scanners are the opposite of what democracy demands. The software invisibly tabulates the votes so that none of the 327,000 New Yorkers who currently safeguard the process can see how the scanner's been programmed to count -- nor how it in fact did count.

**Certifying the software system does not make concealed vote counting secure.** This is the assessment of the National Institute of Standards and Technology (NIST) – the same experts who advise the US Election Assistance Commission on the writing of the very federal voting system standards to which New York is trying to adhere! NIST has already rejected certification as the panacea the State Board of Elections, NYVV and LWV are representing it will be, finding that:

**"[T]esting to high degrees of security and reliability is from a practical perspective not possible."**

**It is solely because the software-based voting machines are so deficient,** that New York is following a path that ignores the lessons of its history by relying on **post-election audits and recounts of paper ballots that are also vulnerable to tampering.** Only a state already saddled with concealed software-based vote counting should need to resort to post-election hand counts. We in New York are indeed fortunate to have a superior system that doesn't necessitate a paper trail in an effort to ascertain whether the lever machine's results were wrong because the machine had been undetectably rigged, or misprogrammed, or had simply erred in some unobservable way. **Everything about the lever machine's functioning is visible and within our control.** The immutable operation of the lever machine enables us to observe, before the election, that it has been properly programmed to count votes, and, after the election, how it counted the votes that were cast upon it. Inferior software technology makes all of this unobservable.

This ability to be able to detect and observe error or tampering is essential to protecting the constitutionally guaranteed franchise, as demonstrated by State Board of Elections Commissioner Kellner's explanation of how New York's lever system successfully prevailed in a scandal in the 1940s:

*The fraud of the 1940s was uncovered because volunteers from the polling stations noticed that the numbers on their machines at the counting location were not the same as when they left the polling station. Similarly, any **tampering with a lever machine today would be plainly visible to the volunteer preparing it for poll opening. Becoming aware of fraud on an e-voting machine would be much more difficult, because so much of their inner-workings are invisible to all but the software programmers.***

***Fighting fraud carried out by code is also particularly expensive. Some e-voting systems run on 150,000 lines of code and to uncover whether fraud has occurred, or by whom and how, requires an army of programmers, a number of years, and millions of dollars. Even then, there is no guarantee that their examination will produce results.***

We must fight to preserve our superior and democracy-compliant technology, which combined with New York's Election Laws mandating that regular people be able to detect and deter fraud, provides us with the most secure voting system in America.

HAVA did not require the replacement of our levers. Section 301(a)(1)(A) expressly states that so long as: "the voting system (**including any lever voting system**, optical scanning voting system, or direct recording electronic system) shall..." comply with five federal standards, the system is HAVA-compliant. As Commissioner Kellner testified, "Our lever machines satisfy all but one of those standards, that there be at least one machine at each poll site that is 'accessible for individuals with disabilities.'"

New York added accessible ballot marking devices (BMDs) to its lever voting system in 2008, resulting in a HAVA-compliant voting system. However, as the well respected election integrity organization, Voters Unite, has noted: today's accessible voting machines have failed to fulfill the promise of HAVA across the nation. We must now strive to improve New York's accessible devices so they truly enable citizens with special needs to vote independently. By retaining our lever voting system, augmented with non-tabulating BMDs and election night hand counts of accessible paper ballots, New York can continue to have the best of both worlds. And the most affordable.