



Saving Our Lever Voting System Before Democracy Goes Down for the Count

"If you have something that works and something that doesn't work, I vote for the thing that works." -- SBoE Commissioner Gregory Peterson

The Current Situation:

In response to the Help America Vote Act of 2002 (HAVA), 49 states used federal monies to purchase software-based voting machines, only to discover the machines are vulnerable to malfunction and undetectable malicious tampering.¹ This has left county election boards dependent on a handful of irresponsible vendors,² undermining the counties' ability to conduct secure and affordable elections. The cost of conducting computerized elections is exorbitant and will not be covered by federal or state funds.

In 2005, NYS enacted the Election Reform and Modernization Act (ERMA) mandating the replacement of the lever voting machines, although HAVA does not require their replacement.³ In 2005, NY's lever voting system satisfied all but the accessibility requirement of HAVA. In 2008 NY became HAVA-compliant by installing accessible Ballot Marking Devices (BMDs) in every polling site. HAVA permits counties to use different types of voting machines in order to meet all citizens' needs. Despite compliance with the federal statute, ERMA requires we abandon our trusted lever voting machines along with every constitutional safeguard that has protected our elections for centuries. The State voluntarily entered into an agreement in the Federal court by which to comply with a timetable to implement ERMA. An agreement based on an unconstitutional law would be null and void.⁴

- Lever machines have reliably proven themselves over a century, requiring minimal, predictable and affordable maintenance. Parts are readily available. With proper care the lever machines can last another century.⁵ Software-based machines demand "exorbitant"⁶ maintenance costs, annually recurring fees that have been reported to have "skyrocketed"⁷ in just a few years. Due to technological obsolescence or limited useful lives, these machines will have to be replaced in short order at whatever price the vendor demands.
- Use of electronic voting machines makes counties dependent upon vendors who exploit this reliance with ever-escalating costs. Furthermore, "the myriad of breakdowns,"⁸ late deliveries and other contractual breaches have destroyed the counties' ability to properly administer their elections.⁹ Vendors, such as Sequoia and ES&S, "are taking billions of tax-payer dollars and, in return, giving us inaccurate, inaccessible, unauditible, unreliable voting equipment that counts our votes in secret."¹⁰
- Democracy requires a transparent, theft-detering system. Officials program and observers examine each lever machine, *with their own eyes*, to see that it will properly count the votes. Software machines are secretly programmed. Lever machines cannot switch, flip or add votes; software machines can. Scientific studies¹¹ concur that concealed software-based machines can be attacked, *regardless of whether they have been certified for use*, with "no way to know that any of these attacks occurred."¹² Pre or post testing will not demonstrate an accurate tally at the election, as required by ERMA,¹³ because malware can't be detected.¹⁴
- Lever machines produce verified, accurate results of the count on election night. Software-based machines are so unreliable and exploitable they necessitate an extensive hand-count in an effort to verify the machine count. ERMA requires that the counties commence hand counting an increasingly large number of ballots each election, potentially even 100%, adding yet *another* unlimited expense for taxpayers.
- In March, a CIA cybersecurity expert agreed that computerized voting is vulnerable to hacking, expressing his belief that Hugo Chavez's election was rigged. Smartmatic, a Venezuelan-owned voting vendor, owns the intellectual property rights to Sequoia: the vendor programming the software for most NY counties.¹⁵
- The Election Transparency Coalition has prepared litigation challenging ERMA as unconstitutional.¹⁶ Last month Germany's Constitutional Court declared its computerized vote counting system unconstitutional.¹⁷
- NY's Counties are passing resolutions urging the State to preserve the superior technology of our lever voting system.¹⁸ Supporting documentation of all statements herein available at: <http://tinyurl.com/o93qvj>

The Election Transparency Coalition is a non partisan, not for profit organization dedicated to transparent elections in New York through the use of non-computerized electoral systems. <http://re-mediaetc.blogspot.com/> ETC is a project of International Humanities Center, a 501(c)(3) organization.