



The League of Women Voters of New York State
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THE LEAGUE
OF WOMEN VOTERS
of New York State

April 22, 2009

Brian F. Heffernan
Office of the U.S. Attorney's Office
445 Broadway, Room 218
Albany, New York 12207-2924

Re United States of America v. New York State Board of Elections, et al.
06-CV-2363 (GLS)

Dear Mr. Heffernan,

The League of Women Voters of New York State, a multi-issue, nonpartisan political organization, which encourages informed and active participation in government, has been a supporter of the Help America Vote Act and the replacement of lever voting machines in New York. Our organization participated in the drafting of the HAVA State Implementation Plan in 2003 and is a member of the current Task Force, which is drafting amendments to the original plan. We were also engaged in the legislative negotiations leading up to the passage of the state enabling legislation, "ERMA" of 2005.

Since that time, our members in fifty local leagues throughout the state have worked closely with county boards of election to assist them in educating voters about all aspects of HAVA including ID requirements, voters' rights, accessibility requirements, and new voting machines. We remain committed to the goal of implementing HAVA in this state so that federal and state standards of security, accuracy, reliability and accessibility occur. These standards will assure voter confidence in the integrity of our voting process.

It is our belief that the New York State Board of Elections has pursued the goals of HAVA with all due diligence in conformity with the federal law and the state statutes. The delays, which have occurred, have been unfortunate because they have prevented the State's compliance with the Court Order; however, they have served the purpose of exposing defects in the federal testing system, which will ultimately benefit the voters of this and the other states. The resumption of the certification testing schedule in May with a proposed date for completion of November 30, 2009, will allow New York to assure the

most rigorous testing of machines and training of election personnel and voters in time for the federal elections in 2010, assuring voters that their votes will be accurately counted. The Board of Elections proposes pilot deployment of scanners for the fall 2009 elections so that county boards of elections and voters can gain the necessary experience with the new voting systems. There is merit in this rationale. However, we cannot support pilot projects using uncertified machines throughout the state unless it were coupled with a mandated 100% hand count of the paper ballots which would become the official count.

For this reason, and on behalf of voters of New York, we ask you to consider the implications of ordering New York to comply with the 2009 implementation order before complete testing of equipment can be accomplished. We are very concerned that such an order would result in the disenfranchisement of many voters because proper and complete testing of equipment and adequate training of election workers would not be possible within an abbreviated time frame. While we are not happy with the delay, we believe that the underlying purposes of HAVA are better served by implementation of voting systems that have been validated by the testing process. Absent such validation, there is no guarantee that the underlying purposes of HAVA will be met.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Martha C. Kennedy". The signature is written in black ink and is positioned above the typed name.

Martha Kennedy, President
LWVNYS

cc: Commissioners Evelyn J. Aquila, Douglas A. Kellner, Gregory P. Peterson,
James A. Walsh, New York State Board of Elections

Stanley Zalen, Co-Executive Director, NYS Board of Elections
Todd Valentine, Co-Executive Director, NYS Board of Elections