## Minutes for the "Electronic Ballot Counting Device Advisory Committee"

## August 6, 2008

## Attendees:

Secretary of State William Gardner County Commissioner Donald Stritch (Committee Chairman)

David Scanlan, Deputy Secretary of State

Representative Richard Drisko Representative Suzanne Harvey Representative Robert Perry

Mr. Stephen Edwards, Public Member Ms. Adrienne Hutchinson, Public Member James Kennedy, Assistant Attorney General Anthony Stevens, Assistant Secretary of State Daniel Cloutier, Assistant Secretary of State

## Not in Attendance:

Thomas Manning, Assistant Secretary of State Mr. Wally Fries, Moderator, Town of Danville (Invitation letter mailed to town office, but not received by member.)

The first meeting of the Electronic Ballot Counting Device Advisory Committee ("EBCDAC") commenced at 3:00 PM on August 6, 2008 in the conference room located at "Archives and Records Building", 71 S. Fruit Street, Concord, NH.

Secretary William Gardner opened the meeting with handouts to the members, including a map of the New Hampshire Executive Councilor Districts (2002), a map of the city/towns that hand count, an itemized list of the hand count towns, an 1872 lithograph of putting the ticket into the ballot containers, a copy of the Baker Ballot Law and an ancient coin representing an early example of voting.

Secretary Gardner thanked everyone attending and for serving on the committee. He started by giving a brief history on the importance of casting a vote, identifying the human history of the voting process, and by describing the voting systems New Hampshire has used throughout its history. He explained the handouts, one of a coin showing voting approximately two thousand years ago, and an 1898 photo of voting "tickets" being handed to the moderator to place in a ballot container. He discussed the adoption of the first secret ballot process, known as the Australian Ballot, in the United States. It was used first in Louisville, KY in 1888. New Hampshire adopted the secret ballot in1891. New Hampshire's first printed ballot was in 1892. Thomas Edison invented the first voting machine. The lever machine was introduced in the 1890's. New Hampshire relied on 100% hand-counted paper ballots until 1949, when Portsmouth was the first to purchase lever machines. Only a few of these voting machines were used until 1970, when Manchester purchased some of them, due to a 1968 election problem in two wards, in which poll workers were discovered to be estimating stacks rather than counting

votes separately for a question on the ballot. Election officials had counted 100 ballots and were placing the counted stack beside the stacked ballots to guestimate the election results reported in the official "Return of Votes."

By the mid 1970s, three cities - Portsmouth, Nashua and Manchester - and one town – Exeter - were using lever voting machines (with no paper trail). Also, in the 1970s, one city, Concord, and a few towns had purchased punch card machines. In 1986, the Ballot Law Commission (BLC) banned the lever and punch card machines. In 1987, the BLC approved electronic scanners. In 1988, the first presidential election was held using electronic scanners and now we have used electronic scanners in six presidential election cycles. In 1994, New Hampshire was the first state to adopt a law requiring that voters must vote on paper ballots. About 85% of the state's voting (population) have their paper ballots counted by an optical scan device.

Secretary Gardner thanked the committee for agreeing to devote the time necessary to examine electronic ballot counting issues over the next fifteen (15) months. He stated that the committee should do everything it needs to do (i.e. bring in the public, talk to voting technology experts, clerks and moderators, etc.) in order to investigate the subject and present findings by November, 2009.

Secretary Gardner introduced Representative Bob Perry and Representative Richard Drisko, House members who had drafted the final version of House Bill 285, the legislation that established the committee; Representative Suzanne Harvey; Ms. Adrienne Hutchison, a Public Member from the Democratic party committee in Amherst; Mr. Stephen Edwards, Public Member and former Chief of Staff for Governor Merrill; and the Chairman, Former Representative Don Stritch, currently Rockingham County Commissioner, who has over 30 years experience as a town and school moderator. The Secretary turned the meeting over to Chairman Stritch.

Secretary Gardner introduced Assistant Secretary of State Anthony Stevens who has been involved with HAVA since its adoption in 2002. Secretary Gardner referred to Assistant Secretary of State Thomas Manning (not present) who is involved with voting and disability issues. He gave a brief description of the challenges to meet all the needs of persons with disabilities.

Chairman Stritch thanked Secretary Gardner for introductions and the history lesson. Chairman Stritch asked James Kennedy from the Attorney General's office to introduce himself.

Attorney James Kennedy introduced himself as Assistant Attorney General, from the Attorney General's office ("AG"). Attorney Kennedy stated he has handled all the election issues for the past couple of years with the AG; he noted that, in general, counting errors he observed had been the result of human error. He explained that human error was more of a training issue and the Secretary of State's office has set forth best practice procedures with Election Law Training throughout the state, reaching an audience of about 1200 election officials. Attorney Kennedy mentioned a new online training program for election officials that the AG and SOS HAVA office have been working on, called "NHVotes". Funding has been through the PEW Charitable Trusts and the JEHT Foundation. Currently it is going through modifications. He stated it

should be launched prior to the September 9<sup>th</sup> State Primary Election. It is the AG's hope that they would be able to reach a greater set of election officials through a computer based on-line program, and help train poll workers that had not attended previous live trainings. Attorney Kennedy offered the assistance of his office with anything the committee may need.

Representative Drisko noted the equipment chosen for the Accessible Voting System (AVS) was the least expensive but the most efficient to cover all the needs of the community, including the requirement that it must produce a paper ballot.

Secretary Gardner introduced Assistant Secretary of State Daniel Cloutier, who is on the technology side of HAVA, indicating that the committee could use him as a resource.

Chairman Stritch noted that the purpose of this meeting was to get to know each member and develop a plan where and when to meet. The meetings could be roughly on a monthly basis, and held in the HAVA conference room or in other locations to get the moderator's and clerk's input. Chairman Stritch suggested the next meeting should be in September after the primary election; it would lay out an agenda to pursue for the rest of the year. He wants the commission to gather ideas of what to tackle first and look into.

Representative Perry observed that most people do not understand the operations and works of voting machines. He noted the video "Hacking Democracy" points out the vulnerabilities of the machines and wanted the committee to view it at one of the meetings. It is 81 minutes long, he said.

Representative Drisko spoke of Representative Perry's experience with investigating voting machines and indicated that Harry Hursti, the Finnish gentleman who did the hacking in Florida, attended a NH subcommittee meeting. Attorney Kennedy added the documentary was important to observe, and we might possibly invite John Silvestro of LHS for discussion.

Mr. Edwards asked whether there are alternative perspectives to give a balance to the situation described in the "Hacking Democracy" documentary.

Representative Perry said that the documentary establishes a baseline and a non-partisan viewpoint and identifies some of the challenges that lie ahead.

Deputy Secretary Scanlan noted there would be an Accuvote machine available for the committee. Dan Cloutier mentioned he could open the machine up and explain how it works.

Representative Harvey asked for someone from the HAVA office to send out the statutes on this subject, as it is important to know what laws the clerks and moderators rely on. The committee agreed it was a good idea.

Chairman Stritch noted he would like the committee to have everyone's email addresses for the next meeting.

Representative Drisko stated that Pam Smarling should be available to the committee as she had been for the election law research recently.

Secretary Gardner mentioned that, in as many as thirty (30) states, some jurisdictions will have no effective paper trail in the November election. The committee wanted to know if the other states spent their funds too quickly. Secretary Gardner stated the states are upset about the high maintenance costs of HAVA programs. Overall, the states have spent about two thirds of their HAVA funds. Part of the problem was that they did not fully understand the consequences of purchasing the DRE machines and understanding them inside and out.

Representative Drisko noted it was the goal of HB 285 to have a model that met all the requirements.

Representative Perry stated that a new voting machine model is being demonstrated in San Francisco and we should be aware of the cost differences between our existing model – the Accuvote - and the new model.

Representative Harvey noted the committee should not wait too long to hold a public hearing to get the public's input and identify issues to analyze.

Ms. Hutchinson wanted to invite activist groups to a meeting and get their perspective up front.

Chairman Stritch wished to make a note to view the video documentary at the next meeting to be held after the State Primary Election in September. He asked for a showing of hands regarding what days were good to meet for the committee. The committee indicated by a show of hands that Mondays and Wednesdays were the best days to meet. The chairman asked Dan Cloutier to attend a meeting before Christmas to explain the details of the Accuvote machine.

Chairman Stritch asked for a letter to go out stating the date and the time of the next meeting, one that would provide sufficient time to watch the video. It would be held in the same conference room, if there were no objection. No one objected and the meeting was adjourned at 4:20 PM.

Received by \_\_\_\_\_\_ Thomas F. Manning Interim Chair