

# Electronic Ballot Counting Device Advisory Committee Meeting Minutes of September 29, 2008 at 1:00 p.m.

71 South Fruit Street, Concord, NH, HAVA Conference Room

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## Members' Attendance:

Chair C. Donald Stritch  
Representative Richard Drisko  
Stephen Edwards, Public Member  
Walter Fries, Moderator  
Representative Suzanne Harvey  
Adrienne Hutchison, Public Member  
Thomas Manning, Assistant Secretary of State  
Representative Robert Perry  
Anthony Stevens, Assistant Secretary of State

## Departments of State and Justice

Deputy Attorney General Orville Fitch, II  
Deputy Secretary of State David Scanlan  
Assistant Secretary of State Daniel Cloutier

## **I. Call to Order**

Mr. Stritch called the meeting to order at 1:09 p.m.

## **II. Meeting Business**

- **Attendance**

Mr. Stritch requested email addresses of all attendees to ensure electronic documents are delivered to committee members and to ensure that email addresses will be secured. There were no concerns about using email for communication to members.

- **Minutes of the August 6, 2008 Meeting**

Mr. Stevens provided copies of the August 6, 2008 Electronic Ballot Counting Device Advisory Committee meeting minutes.

- **New Hampshire Statutes**

Mr. Stritch distributed New Hampshire state statutes (RSA 656:40, 656:41, 656:42, 656:43, 656:43a, 659:60, 659:63, and 659:64) relative to voting machines and ballot counting devices as requested by Representative Perry at the last meeting.

- **Video Presentation: Hacking Democracy**

Representative Perry introduced a video entitled "Hacking Democracy," a documentary on the risks of vote counting using electronic software and devices. After the video had been played, Representative Perry explained that the ballot tabulator in the video is the same as the equipment and software approved by New Hampshire's Ballot Law Commission. He believes more research is needed to find equipment that is open source and understandable by the public. Mr. Stritch thanked Representative Perry and noted that this is a step toward reporting findings.

Representative Drisko provided a brief history of the legislative process and his concerns with vulnerability of the equipment and software.

Ms. Hutchison expressed concerns and mentioned her research into other new technologies.

Representative Perry drew attention to a report of a ballot tabulator that might be rolled out for the 2010 election at the potential price of \$400 per machine. (He was referring to an August 2, 2008 San Francisco Chronicle article which reported that the Open Voting Consortium would demonstrate a Direct Recording Electronic (DRE) voting machine at the forthcoming LinuxWorld exposition. This DRE relies on open source code software and design by a former U-CA Berkeley student, Ka-Ping-Yee.)

Walter Fries acknowledged the AccuVote tabulator's vulnerability and explained that the total process needs to be researched. He said that questions should be raised to legal counsel to obtain answers from vendors. Mr. Fries explained that on election night, as Danville Moderator, he conducts a parallel hand count of one or two selected contests to check the Accuvote tabulator's accuracy.

Representative Harvey had questions regarding the AccuVote tabulator discussed and, after watching the video, was not sure that the AccuVote tabulator would be tamper proof.

Mr. Stevens noted the U.S. Government Accountability Office recently released a report on voting system certification that may be helpful for the Committee. It can be found at <http://www.gao.gov/new.items/d08814.pdf>

Mr. Scanlan explained the role of town moderators in safeguarding the voting machines. Representative Perry and Mr. Fries raised concerns that go beyond moderators' safeguards.

Representative Harvey said that researchers and scientists without conflicts of interest are needed to confirm voting equipment is safe. Mr. Fries believes protocols must be addressed; the Committee's recommendations could be referred to other groups for implementation.

Mr. Edwards asked if the Secretary of State keeps track of machines that have been hacked. Mr. Scanlan said he is not aware of any ballot tabulators that have been hacked; however, LHS reports tabulator failures in each election, and these are public record. Mr. Fitch noted a memory card issue and highlighted the error and how it was discovered. Further, he suggested a statistician should be engaged to track and report on electronic counting versus paper counting.

Representative Perry explained that one of his primary concerns is that a private vendor conducts election programming in state elections. Mr. Fitch noted that observing code function in the computer, if it can be accomplished, may not be particularly productive or helpful. He emphasized the importance of pre-election testing. Mr. Manning said he has watched LHS Associates employees program memory cards, noting that there is no way to confirm that it is being done correctly.

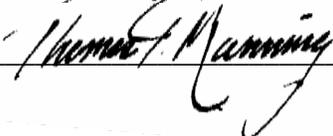
Representative Perry asked Mr. Fitch's opinion of federal law regarding retention of memory cards. Mr. Fitch responded that the U.S. Department of Justice had required a copy of the election programming (the memory card data contents) must be retained for 22 months following each election, but not the memory card itself. Representative Harvey observed that memory cards are returned to the vendor for reprogramming after each election.

Representative Drisko urged all members to reread the law established to ensure the Committee's mission is accomplished.

Mr. Stritch said that the next meeting will be announced shortly and clarified the mission.

The meeting was adjourned at 3:39pm.

Minutes taken and typed by: B. Christopher Maxwell

Received by: , for C. Donald Stritch, Committee Chair