



**STATEMENT OF NEW JERSEY APPLESEED PILC
WITH RESPECT TO A-3991 (VOTING MACHINE SECURITY) BEFORE
THE ASSEMBLY STATE AND LOCAL GOVERNMENT COMMITTEE
(May 23, 2018)**

Ass. Mazzeo, Ass. Sumter and Members of the Committee:

New Jersey Appleseed Public Interest Law Center, a nonprofit, nonpartisan legal advocacy center has been active in electoral reform since its inception in 1998. Specifically, our mission in this area is to **empower voters** to protect fair access to the election system, to support groups seeking such access, and to pursue systemic and specific changes to enhance public participation and ensure the integrity of the voting process.

Toward that end, we have been an early and ardent supporter of voting systems that employ paper ballots/records to permit a manual audit of the election to ensure the integrity of the ballot and accuracy of the election. As early as 2005, New Jersey legislators recognized the importance of employing voting systems that include "an individual permanent paper record for each vote cast," N.J.S.A. 19-48-1(b)(1) and N.J.S.A. 19:53A-3; and two years later, New Jersey Appleseed was one of the lead organizations to support our State's enactment--the first in the

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nation--of a statistical audit bill that relies on a manual count of such paper ballots. P.L. 2007, c. 349 (codified at N.J.S.A. 19:61-9 (the "Statistical Audit Law"). Because no county relies wholly on either paper ballots or paper records which provide evidence of the content of each ballot cast, the Statistical Audit Law has not been implemented. Nonetheless, New Jersey is generally recognized as **one of only five states that still use wholly paperless systems statewide** (although one county, Warren County, deploys DRE machines that are configured to produce a paper record). We thus welcome the introduction of A-3991, and look forward to assisting this Committee in making a version of this bill law.

First, we support the notion of a demonstration project in three counties, which, if successful, would expand to other counties over a period of three additional years, as a means to ensure adequate state funding for the purchase of new voting equipment and to reduce any voter, poll worker and election official anxiety created by the use of new machines with new procedures. However, a demonstration project must be evaluated and a decision point has to be built into this legislation (which it currently does not have) to enable the Secretary of State to decide whether to expand the program exactly as proposed and implemented in the first three counties or whether to expand the program with changes; changes that would emerge

after an open and transparent evaluation that includes voters as well as election officials.

New Jersey Appleseed also wants to make clear that the Legislature must appropriate adequate financial resources not only to enable counties to purchase new equipment to replace the existing inventory of voting machines, which is now about 12-15 years old, but also to undertake additional poll worker training and voter education to ensure a smooth transition to the new voting equipment. For many years, New Jersey Appleseed has advocated for additional poll worker training to ensure the nonpartisan administration of our elections, and to eliminate the complaints we receive from voters who believe that they have been treated dismissively, disrespectfully or illegally at the polls, or who have witnessed practices that they believe to be biased or illegal. This is an opportunity to take measures to enhance not only the security of the voting equipment but also the security of the voting process itself.

Furthermore, there is no reason why this legislation does not call for implementation of the Statistical Audit Law in the three counties that are the first to transition to voter-verified paper records. The Statistical Audit Law, though more rigorous—meaning the audit is performed to a higher statistical confidence level than current limited risk audit measures adopted in other states, is ready to be implemented, and does

not require a drawn out process of rulemaking. Also, in the nature of demonstration projects, once the Statistical Audit Law, which has been on the books for ten years, is implemented, election officials can figure out what is right with the audit process and what is wrong, costly or impracticable, and changes can then be proposed to the statutory provision or rules and regulations can be adopted that clarify or correct (if appropriate) any unintended consequences.

New Jersey Appleseed also wants to make clear that we are not wedded to the voting system presented in A-3991, even if we, as voting rights advocates, prefer it. We do advocate for equipment that meets the following criteria: New systems must use a paper ballot that may be hand counted in an audit and is marked by the voter or a ballot marking device. Such ballot must be counted by a scanning device, which means that the ballot that is used for the audit is the same ballot that is counted for purposes of tabulating the vote. Whether the scanner is physically separate from the marking device, or whether the voter is the one feeding the ballot into the scanner in contrast to a mechanical device, is not determinative of our support. What is essential is the use of a paper record that can be hand counted in a recount and routine audit.

A 2009 report issued by the Office of Public Advocate, at [http://www.njleg.state.nj.us/OPI/Reports to the Legislature/publ](http://www.njleg.state.nj.us/OPI/Reports%20to%20the%20Legislature/publ)

[ic advocate voting machines 2009.pdf](#), noted numerous problems with the varied contracts signed by counties with voting equipment companies throughout the State. Accordingly, we believe acceptance of money from the State must also be conditioned on the county receiving approval of its purchase contracts by the Division of Purchase and Property, a division that in turn should be authorized to enter into voting system purchase contracts in multiple counties.

Lastly, New Jersey Appleseed does not support the creation of yet another commission, this one charged to advise on the security of New Jersey's elections. We believe that such responsibility should be borne by the Secretary of State and the Division of Elections. However, we do support the concept of an advisory committee or council consisting of election officials, voters, advocates, and experts knowledgeable about technology and human-factors issues. Such a commission would provide updated and periodic advice to the Division in regard to all election matters, and while its advisory mandate would include voting system security, it would also include voting practices, poll worker training, voter records, voting rights enforcement, and the like. Specifically, this proposal envisions post-election reports that detail what went on during the election, what went right, and what went wrong. Systematic advice on the entire election process to the Division is important, but we

believe the ultimate responsibility for "the security of New Jersey's elections" should be within the mandate of the Division of Elections. Such periodic after-action reports can include factual findings, and recommendations to the Secretary of State and/or the Legislature with respect to all election practices and thus the report would not be limited to issues of security with respect to voting machines and SVRS. In this way, working with local officials, the State will be able to take a more active role in ensuring the nonpartisan administration of elections and protecting the integrity and accuracy of elections on behalf of voters and candidates.

Thank you for your consideration of our comments. We look forward to working with this Committee to propose a bill that will move through both legislative houses quickly, with substantial support and a willingness to allocate the necessary State financial resources needed to ensure a successful transition to more secure voting systems.

Respectfully submitted,

Renée Steinhagen