

March 11, 2024

Dear Honorable Members of the Senate State Government Committee,

We write jointly as the chairs of both the Democratic and Republican parties in Northampton County regarding recent concerns with the use of electronic voting machine technology in our county.

Our county uses the ExpressVote XL machine, an all-in-one ballot marking device (BMD). This device has caused errors in two elections in the last four years.

This ballot marking device produces a paper ballot card marked by machine. The ballot card has a barcode and a human-readable portion of text for each selection the voter makes. The voter has an opportunity to review the printed text, but the barcode is what the built-in scanner counts and tabulates.

In 2019, these all-in-one BMDs were debuted with many voter complaints that the touch screens were registering selections that were shifted from where their finger pressed. Following the election, vendor ES&S determined that roughly 40% of the machines delivered had missed going through a touch screen calibration step before shipping from their manufacturer. An even bigger problem surfaced after polls closed, when these machines tabulated zero (0) votes for several candidates. This was explained as a misconfiguration of the ballot definition loaded into the machines. Voters were assured that their votes were fully and properly recorded on the paper ballot cards (audit trail), which gained attention as the way they could make sure their votes registered properly when the touch screen seemed less reliable.

In 2023, a different mistake in configuration of the ballot definition caused the text heading of two statewide Yes/No questions to be switched on the printed card. This caused a mismatch from the screen selection for voters who voted Yes for one and No for the other. This time, voters were assured that their selections (as made and visible on the screen) were correctly recorded in the barcodes, even though the printed text for voters to verify showed them swapped. This contradicted the public assurances four years earlier that the text voters could verify on the audit trail (cards) ensured their votes were accurately counted, causing great confusion.

Poll workers switched voters to using emergency paper ballots when machines were taken out of service for over an hour, but many polls exhausted their small supply. Some polls even temporarily closed without any method to vote, after running out of emergency and then provisional ballots. Officials got a court order to return to machines so voting could resume, but there were reports afterwards that some poll workers incorrectly instructed voters to switch their vote selection on the screen for those two questions, which therefore would have recorded the opposite of what the voter intended.

During the computation and canvassing of returns, the return board was apparently instructed to switch the vote totals from poll tapes for the two affected questions, in order to reconcile with the printed result totals. Then the obvious mismatch surfaced again during the statutorily required 2% statistical sample audit, with nothing to document this "adjustment." Both raise questions

about the results reconciliation and audit processes and how discrepancies should properly be addressed.

We share a joint concern for election integrity and confidence, particularly with the 2024 race approaching. Let us be very clear, the voter-verified, human-readable selections on the ballot card are NOT used in tabulation of the votes. Voter verification of the ballot from the ES&S ExpressVote XL is impossible. The county and equipment vendor have repeatedly failed to ensure proper programming of these machines to ensure an error-free election. These continued failures are further fomenting distrust in the election systems used in Northampton County. Therefore, we respectfully request that the Legislature look into solutions as follows.

1. Election Code must be clarified to clearly indicate the official record of the vote when a bar-coded ballot marking device is in use. We've now experienced the ambiguity between the barcode and human-readable portion of the ballot (card) - the Election Code must define which is the official record.
2. In counties that use ballot marking devices for all, any voter who wishes to vote by a hand-marked paper ballot must be provided the opportunity to do so upon request. This would require each precinct to stock an adequate supply of paper ballots, as well as secure storage receptacles for them. Our experience demonstrated to everyone that many more paper ballots are needed at precincts to cover any situation when machines are out of service for more than a few minutes. With a need for significant numbers of paper ballots and the necessary training of poll workers and supplies to use them in "emergency" situations, we believe voters should be provided the choice to hand-mark a paper ballot by right, especially after confidence in these machines has been shaken a second time.
3. Robust chain of custody requirements for ballots cast at any stage of elections should be in place to ensure the integrity of the process.

We believe that the above will help prevent potential errors which contribute to mistrust of election workers and the electoral process.

Sincerely,



Matthew Munsey
Chairman
Northampton County Democratic Committee



Glenn A. Geissinger
Chairman
Northampton County Republican Committee