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**Department of the Public Advocate testimony on certification of voting machine printers, delivered by Deputy Public Advocate Flavio Komuves, before the New Jersey State Voting Machine Examination Committee, July 24, 2007**

In this age of electronic voting, the thorough and scientific testing and certification of voting machines can make the difference between a fair election and an unfair one. The right to vote is the hallmark of citizenship and the foundation of democracy. It is too important to be left prey to machines that may malfunction, printers that may jam or hackers who may seek to alter election results.

For many months, the Public Advocate has urged the Attorney General, as the state's chief election official, to ensure adequate testing and certification of the voting systems that we will all use in upcoming elections. This mandate is especially pressing as the state prepares to comply with a statute that takes effect on Jan. 1, 2008, requiring that all voting machines produce a paper record that will allow voters to verify that their votes were properly recorded. In the next several months, the state must purchase and install more than 10,000 voting machine printers.

While the Attorney General has taken the positive step of seeking independent testing of the printers under consideration, the Public Advocate continues to have serious concerns about both the standards under which the testing took place and the results of the tests.

This week, the state's voting machine examination committee is hearing evidence to determine whether the printers proposed for three of the voting systems in use in New Jersey have been thoroughly tested to meet state law requirements of reliability, secrecy and accuracy. The committee will then make a recommendation to the Attorney General about whether to approve the new printers.

The current record fails to establish that the printers conform to state law. The Public Advocate's testimony outlines the following problems, among others:

- The “criteria” the state promulgated for evaluating the reliability and accuracy of the printers do not establish any definition of failure or any failure rate. Thus, testers cannot know what malfunctions or other problems “count” as failures or when the number of such problems amounts to a failure of the system.
- Credible, national organizations have recommended standards for voting machine certification. The federal Election Assistance Commission, in both its 2002 Voting System Standards and its 2005 Voluntary Voting System Guidelines, says a voting system should not be certified if it malfunctions more than once during every 163 hours of voting. The National Institute on Standards and Technology advises that a system should not be certified if it malfunctions more than once in every 10,000 voters. The state did not adopt these standards or any other benchmark for failure.
- Had either of these standards been in place, it seems that one of the printers would have failed. The New Jersey Institute of Technology, which performed the tests, reports that the proposed printer for the Sequoia AVC Advantage (the system now in use in 18 of New Jersey’s 21 counties) jammed, resulting in 56 lost paper ballots, in what appears to have been less than 25 hours of testing.
- The state’s criteria for testing, and the testing actually undertaken, focused on the printers alone rather than on the voting system as a whole. Given that the addition of printers affects the workings of the entire system, the state should test and certify the whole system.
- One of the printers tested, the Sequoia Edge, records votes on a continuous spool of paper. This would allow poll workers, challengers and others to match voters (who sign in on consecutively numbered voting slips) with their votes, thus violating the right to a secret ballot.

Voters deserve reasonable assurance that voting machines and printers are reliable, accurate, private, and secure. The record before the committee does not provide such assurance. The statute requiring a paper record has been in place since July 2005. The state’s late start in moving toward compliance and the now looming deadline of January 2008 cannot be allowed to undercut the committee’s statutory obligation to ensure that the machines we buy with public money are fit for public use.