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## ACLU of Utah Statement on Electronic Voting

The right to vote, and to have one's vote accurately and fairly counted, is fundamental to our democracy. The ACLU of Utah opposes the adoption of direct recording electronic (DRE) voting until a system is devised that is secure, reliable, accurate, accessible, transparent and makes possible a full and independent audit of all election results.

### Guidelines

**Security:** It is vital that each vote is cast and recorded in a secure environment. Several recent reports strongly suggest that the current crop of DREs is incredibly susceptible to tampering by voters, election workers, hackers and employees of DRE software developers. Before Utah voters use DREs there must be increased security on several levels, including smart cards, voter terminals, servers and the source code. Furthermore, there must be a system to securely store the voting terminals both before and after the election. Independent audits before, during and after Election Day, can help insure the security of the system by reviewing the source code for tampering.

**Reliability:** It is important that any election technology function appropriately on Election Day. Recent election problems in Florida, California and other states have demonstrated that DREs are not without their mechanical problems. The California primary was plagued with malfunctioning machines which delayed voters for hours. In Florida, 134 votes were not counted in a tightly contested election won by only 12 votes. These problems only serve to underscore the crucial importance of reliability.

**Accuracy:** It is critical that each voter's intention is accurately recorded and counted. It is difficult to assess the accuracy of DRE technology without the ability to audit each vote. Currently, there is not a DRE voting system that allows for independent audits. Many organizations have called for a Voter Verified Paper Audit Trail (VVPAT). However, there is not a VVPAT that has been certified for use. Furthermore, a paper trail is plagued with security and technical problems. While the ACLU of Utah advocates the need for audits, we recognize that systems other than a VVPAT are available and would allow for a full and independent audit.

**Accessibility:** It is essential that each qualified individual have the access and ability to exercise his or her right to vote. DREs have the potential to provide access for millions of disabled voters by allowing blind, deaf, and non-English speaking voters full access to the voting process. One of the strongest criticisms of a VVPAT is that it diminishes the accessibility of the vote to disabled voters. However, there are other technologies, such as an optical scan voting system, that provide accessibility without sacrificing security.

**Transparency:** It is crucial that voters have confidence in the outcome of any election. In order for voters to truly have confidence in the election outcome, any voting system must be open to public scrutiny. In addition to the steps mentioned above, another means of insuring transparency would be to require all vendors to use open source software for vote tallying and recording. An open source code provides full access to the public. Furthermore, such a code has the potential to be more secure because it has been reviewed by numerous individuals.

## Recommendations

Based on the preceding guidelines, the ACLU of Utah makes the following recommendations regarding electronic voting in Utah:

- DREs should have two separate source codes. The source code running the voting terminal may be proprietary. However, the code responsible for tallying and recording the vote should be open source. This will allow the company to create a platform suitable for its customers' needs. It will also respond to valid concerns of the public regarding the reliability and integrity of the DREs.
- The source code must be thoroughly evaluated, by an independent agency, for security and other flaws before Election Day. The state of Utah has required that all DREs meet federal election guidelines in order to be certified. This will require that the DREs meet guidelines proposed by the Election Assistance Commission and the National Institute of Standards and Technology. These measures include protocols for software and hardware security that can best be addressed by election officials.
- DREs should be randomly audited during election day to insure that the source code is the same as the certified copy. These audits must insure that, on Election Day, the machines are functioning properly and that security protocols are being followed.
- DREs need to have the capability for an independent audit in the event that a recount is necessary. The ACLU of Utah does not recommend that DREs be outfitted with VVPAT because there are many valid concerns that need to be addressed. However, before the state of Utah begins using DREs, there must be a system in place to audit the vote.
- The Lieutenant Governor and the State Elections Office should audit the accuracy of all voting technologies used in the state in the upcoming November election. This will give voters a better sense of the reliability and accuracy of different technologies.
- Election officials must be appropriately trained on the use of the new electronic technology. Numerous safety issues can be addressed by election officials if they are aware of the possibility for specific problems and have the ability to efficiently and effectively correct the problem.
- The state must implement a voting system that will allow full access to disabled, non-English speaking, and illiterate voters.

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