



VOTING INTEGRITY AND VERIFICATION ACT OF NEW YORK (VIVA NY)

Ensuring That Voters Control Their Ballots

[A6287 \(Cunningham\)](#) / [S7116 \(Cleare\)](#)

Since [2010](#), most NY counties have given voters in polling places the choice of using a pen to hand-mark paper ballots or using a ballot marking device to mark paper ballots. Using this system, each voter controls their ballot from the time it is issued until the time they insert it into a ballot scanner to be cast and counted.

When a voter controls their own ballot, they can freely and independently verify their votes and correct any errors before submitting the ballot to a ballot scanner for tabulation, a requirement in NY Election Law [§ 7-202\(1\)e](#).

The Problem: Some NY counties (Erie, Monroe, Nassau, Suffolk) have started to use, or are considering, the ES&S ExpressVote XL (see [Emilie Munson's article "Controversial voting machine gaining use in NY elections" in the Albany Times Union](#)).

This machine prints a “ballot summary card” (see photo [here](#)) that looks different from hand-marked paper ballots, and that cannot itself be marked by hand. To preserve ballot secrecy, NY Election Law [§ 7-104\(26\)](#) requires that every ballot in a polling place be identical. Therefore, once even a single ExpressVote XL has been deployed in a polling place, every voter at a polling place is forced to use the machine, *losing their right to a hand-marked paper ballot*.

No voter, **or any person who legally assists a voter**, can read, verify or correct the votes cast by the ExpressVote XL voting machine.

A Legislative Solution: VIVA NY clarifies existing NYS law to guarantee that in-person voters have the right to hand-mark their ballot (or to choose a BMD to mark an identical ballot): “Each voter voting in a polling place is entitled to the use of an individual, voter verifiable paper ballot of the voter’s vote and the opportunity to mark it privately and independently.” This would prohibit *any voting machine* that encodes votes in a barcode – not just the ExpressVote XL.

WHY ARE PAPER BALLOTS BEST?

- Hand-marked paper ballots allow for recounts and can be sealed and safeguarded against tampering, as required by law. In November 2025, in Rensselaer County, initial machine counts “defeated” a ballot proposition for the Stephentown Memorial Library. A later recount of the hand-marked paper ballots *reversed that result*. See the Dec. 30, 2025, [editorial in the Albany Times Union](#).

EXCESSIVE COSTS

- The ExpressVote XL costs over \$12,000 each ([2025 prices](#)) and, ultimately, is unnecessary. Moreover, per SBOE regulations, each one of these machines can only serve a few hundred voters per day, which could create long wait times to vote, especially if county BOEs do not buy enough voting machines. Because per NYS Election Law all ballots in a polling place must be identical, and the XL prints an unusual “ballot summary card,” not an actual ballot, if one of these machines fails, voters will be unable to complete a paper ballot to deposit in an emergency ballot box.

HOW WILL PAPER BALLOTS PROTECT NY ELECTIONS?

- President Trump’s March 25, 2025, [Executive Order 14248](#) attempted to prohibit voting machines in which the vote is contained in a barcode or QR code. [Article I, Section 5 of the U.S. Constitution](#) allows the Congress to judge the elections of its members. The Trump Administration might attempt to interfere with any NY election that records votes in barcodes. Passing VIVA NY would prevent the use of all voting machines that encode votes as barcodes and cut off such an attack.

The Let NY Vote Coalition strongly supports passage of VIVA NY as early as possible to protect the 2026 mid-term elections and the 2028 presidential elections.