

March 28, 2007

Dear:

The County Commission of Boone County, along with our County Clerk and Election Authority, seek to go on record opposing HR 811. While we support any fully funded effort by Congress to improve the reliability and accuracy of the election process, we believe the specificity of requirements and imposition of impossible deadlines contained in HR 811 will yield the opposite effect.

The latest round of unfunded mandates proposed in HR 811 comes on the heels of implementation of HAVA requirements that, due to the Congressional failure to appropriate authorized funds, were under funded by 25% in purchase costs. The full implementation of HAVA has tripled the ongoing cost of the election process for the County and other jurisdictions – schools, municipalities, fire districts, and library boards.

Please keep in mind as you evaluate HR 811:

- Although most jurisdictions have implemented a paper trail for voters based on state imposed requirements, HR 811 would legislate new requirements that make our most recent equipment purchase and implementation efforts obsolete upon passage.
- HR 811 contemplates the rushed implementation of a new generation of equipment for the 2008 Presidential Election for which no standards will be developed, no testing will occur and no field trials will be possible.
- Boone County, in keeping with best practices, has been successfully conducting random manual audits of ballots since 1990 – with punch cards, central count optical scan, precinct based optical scan and DRE with paper trail. The excessive hand audit requirements imposed under HR 811 will create the kind of federal bureaucratic nightmare that will surely undermine our ability to provide timely certification and increase our costs dramatically. This mandate comes without any sufficient research conducted on what constitutes a reliable manual audit process and a failure to recognize the unreliability of large scale hand counts due to human error.
- Our election authority strongly supports the concept of source code review under the auspices of a state or local certifying agency as well the appropriate body charged with determining the outcome of an official election contest. In contrast, the opening of source code to any member of the public, as is required in HR 811 has not yet been evaluated to determine whether it will help or hinder the process. Without appropriate controls on source code review, the certification of your own elections may drag out for months as line by line challenges to code by novices are evaluated.
- Our poll workers, the backbone of the election system, are reeling under the multiple and highly complex expectations from the last round of procedural and equipment implementation. The months

leading up to the 2008 Presidential Election need to be spent on training programs that allow poll workers to master the techniques required for our last round of mandates. In contrast, HR 811 will impose a whole new set of training obstacles that will again be rushed into production. The poll worker issue will come to haunt the process unless we can develop their skill set to the level necessary. That is not possible with HR 811.

- The rushed implementation of HAVA, which required us to purchase the last round of equipment prior to the development of hardware, software and security standards, should serve as a primer to the kinds of problems you are creating with an even greater transformation in an even more condensed timetable.
- The requirement that the paper trail become the official ballot will only serve to lose votes as the legislation does not address issues of paper jams, operations error or other printer malfunctions. We will be faced with certifying results to your own election that we know are invalid. In a full recount of one race in August 2006 by our workers, the paper trail on DRE equipment was not reliable in 15 of 78 precincts. This is a clearly a result of poor design from the rushed implementation of paper trails without sufficient standards and testing.
- We believe you must allow the specialists at NIST and in the election community the time to appropriately evaluate technology needed to accurately record votes. The legislating of equipment specifications, as many states did with the current paper trail, has proved that it only is a “quick fix” to the last election problem. The next problem, potentially in your own election, can only be prevented through thorough research, development, testing and adequate funding of the next generation of equipment.

The goals contained in HR 811 are admirable but the unintended consequences, as well as the unfunded mandate on governments unable to properly fund successful implementation, is not in the interest of our voters, our taxpayers and your own candidacy.

Sincerely yours,

Kenneth M. Pearson
Presiding Commissioner

Wendy S. Noren
Boone County Clerk and Election Authority