

Dear Rep. Fortenberry:

### Concerns on H.R. 811

- H.R. 811 will undermine public confidence in our elections by imposing impractical requirements under unrealistic deadlines and will needlessly subject counties to tremendous financial burdens.
- This legislation will scrap more than a billion dollars of voting equipment and start over.

As often said:

“Those who fail to learn from the mistakes of their predecessors are destined to repeat them.”

- H.R. 811 would be déjà vu. Deadlines would precede standards for voting equipment. Section 2(b) directs the National Institute of Standards and Technology to issue guidelines for experimental new forms of ballot scanning technology by 2010, but every polling place in America would be expected to start using the equipment in 2008.
- Confusion and litigation over how to interpret vague statutory mandates: Section 2(c) adds a long list of new requirements for voting equipment to Title III of the Help America Vote Act. It does not provide for any federal guidance, before these requirements would take effect in 2008. Questions such as;
  - The starting point for documenting the chain of custody for voting system hardware and software
  - The definition of archival quality paper
  - Nor flexibility for each state to determine its own answers to these questions.

\*If you want to ensure public confidence in the next generation of voting equipment, please do not require counties across the nation to purchase another round of voting equipment before we know what we're buying. Do not undermine existing efforts by the National Institute of Standards and Technology and the Election Assistance Commission to develop meaningful federal standards for voting equipment and provide for independent testing and certification of voting systems before you require that it be used to conduct an election for President of the United States.

Even if this legislation simply required every state to use optical scan ballots and ballot-marking equipment, that other states are already using, election officials have stated;

- It would be impossible for them to replace their existing voting equipment by 2008.
- There simply is not enough time to enact state conforming legislation;
- Time to meet testing and procurement requirements;
- Time to develop training manuals; or train election officials, poll workers and voters in the use of new voting equipment.

Canvass audits occur at both the local and state levels to check and recheck numbers to be sure the “official” vote totals are then reported. Certification of official results is a transparent process open to public observation.

Under HR811, you will turn the process of handling live ballots, over to people who have no idea of what goes into protecting those ballots, who have no experience in assuring the protection of the voters’ votes, and who will be handling the ballots without the training of what to look for or what to do if there are problems with the ballots. In the case of a court proceeding or an imposed recount, who has control of the ballots? The election official or the outside auditors?

Franklin County’s experience in 15<sup>th</sup> Ohio Congressional District recount, demonstrates the accuracy of electronic voting systems and the benefit of State and local control over election, audit, and recount definitions and procedures.

- Funding is a concern –this legislation presents an enormous unfunded mandate as Commissioner Feikert will testify.
- The one-size-fits-all approach will simply not fit all.
- Why legislate, to require that a particular sign in the polling place be printed in boldface or in all upper-case letters?
- Do we need or want 14 pages of detailed, federally-mandated procedures for transparent audits and random hand counts?

And last

- Failure opportunities increase, by requiring states and counties to make dramatic and cumbersome changes to their laws and procedures.
- Cost for election administration, for many counties, have doubled even tripled in the last five years, this legislation would continue to escalate these costs. Bringing an understanding of the current cost associated with election administration to our Commissioners, because they hold our purse strings, is like teaching a dead dog new tricks.

Please vote against this legislation.

Respectfully,  
Nancy Josoff  
Election Commissioner  
Cass County, NE

Resources:

Testimony by:

Doug Lewis Director of National Association of Election Officials-Election Center,  
Houston TX.

Matthew Damschroder, Director of the Franklin County Board of Elections Columbus,  
OH  
Commissioner Gail W. Mahoney, Jackson County, MI Chair, NACo Finance &  
Intergovernmental Affairs Committee