

Response to National Association of Counties (NACo)'s concerns about HR811ⁱ.

*Vote "YES" on the Voter Confidence & Increased Accessibility Act of 2007 (HR811) and
Vote "NO" on any unfunded mandate amendment to HR811.*

NACo Statement	Fact
“Requires every county in the nation to replace current equipment”	Most counties would not have to replace current equipment. Optical scanners meet the bill's requirements – as is. Some existing ballot marking devices can be easily upgraded before 2012. ⁱⁱ The 2012 deadline gives ample time to develop, test, certify and implement improvements for voters with disabilities.
“Multibillion-dollar unfunded mandate“	Current authorizations are sufficient to cover the costs, including the 2008 requirements for voter verifiable paper ballots and audits. HR811's CBO score says authorizations are sufficient and the bill authorizes appropriation of such sums as may be required. ⁱⁱⁱ
“Preempts state laws allowing a reel-to-reel paper trail“	The bill allows reel-to-reel paper through 2011. Reel-to-reel paper roll ballot records are proven to be prone to errors and paper jams, violate ballot secrecy, are not durable, and permit hackers to manipulate manual audits.
“Requires many counties to replace their equipment twice – once in 2008 and again in 2012“	Counties required to replace paperless voting systems by November 2008 may purchase equipment today which will meet the 2012 requirements, such as optical-scan paper ballot systems and upgradeable ballot marking devices or ballot printers. ^{iv}
“Requires parallel voting systems – new electronic systems that don't yet exist along with sufficient pre-printed paper ballots for all voters“	No parallel systems are required. Existing optical scan paper ballot voting systems are auditable, less costly, simpler to operate, can be simply upgraded to meet the bill's 2012 requirements for voters with disabilities, and are less vulnerable to Denial of Service attacks, power outages, electronic failures, and hacking.
“Imposes cumbersome and untested audit process which postpones the certification of election results“	Manual independent auditing is a routine procedure in virtually all fields, can be conducted in a few days, and will improve the accuracy of election outcomes and increase voter confidence. ^v
“Prohibits recounts using any automated equipment“	The bill does not prohibit machine counts, but it does require that between 3% and 10% of precincts be manually counted to ensure the accuracy of electronic tallies. ^{vi}
“Prevents the use of vote centers and early voting unless county officials print thousands of different ballot styles in multiple languages for each location“	Many States currently use optical-scan paper ballots for early voting, accommodating multiple languages in multiple precincts. New Mexico uses a "ballot on demand" system with great success to eliminate the need to print ballots ahead of time.
“Ignores EAC standards and voting system certification“	HR811 does not change Federal certification or voting system standards. The Election Technology Council says that it takes 4 to 9 months to Federally certify new products. HR811 provides four years, plenty of time until 2012, to certify and implement accessibility improvements. Federally testing and certifying software prior to an election does <i>not</i> ensure its proper functioning during an election; and States do not use certified software to count votes because ballot definitions which control vote counting are never Federally tested or certified. Hence the focus is on audits. ^{vii}

Why HR811?

The Voter Confidence and Increased Accessibility Act of 2007 (HR811) would benefit the integrity and security of US elections by requiring independent manual audits of the accuracy of Federal election outcomes, checking the machine counts. The bill allows States to adopt alternative methods of recounts and audits for Federal elections as long as NIST approves the alternative methodology. There is ample time for states using paperless voting systems to implement auditable voting systems by November 2008. Historically it has taken 4 to 12 months for States to change voting systems.^{viii} Virtually every jurisdiction is familiar with using optical scan paper ballots for military, absentee, and over-seas voting.

Please vote "YES" on HR811 and "NO" on any unfunded mandate amendment.

Some Groups Supporting the Voter Confidence & Increased Accessibility Act of 2007 (HR811)

The National Election Data Archive
Verified Voting
VoteTrustUSA
The Electronic Frontier Foundation
Brennan Center for Justice at NYU School of Law
Southern Coalition for Secured Voting
People for the American Way
Common Cause
Move On
Americans United for Democracy Integrity, & Transparency in Elections, AZ (AUDITAZ)
Voting Integrity Alliance of Tampa Bay (VIA Tampa Bay)
Sarasota Alliance for Fair Elections (SAFE)
Florida Voters Coalition
Count the Vote (GA)
Defenders of Democracy (GA)
Georgians for Verified Voting
Iowans for Voting Integrity
Secure, Accessible, Verifiable Elections - SAVE Our Votes (MD)
True Vote MD
Citizens for Election Integrity Minnesota
Coalition for Peace Action (NJ)
North Carolina Coalition for Verified Voting
Voting Matters/Oregon
VotePA
VoteAllegheny (PA)
Election Reform Network (PA)
Concerned Voters of Centre County (PA)
Gathering To Save Our Democracy (TN)
Utah Count Votes
Doug Jones, Computer Scientist, Iowa University
Aviel D. Rubin (Avi), Computer Scientist, John Hopkins University
Douglas A. Kellner, Co-Chair, New York State Board of Elections
Barbara Simons, Former President of the Association for Computing Machinery

ⁱ NACo is distributing an anti-HR811 flier. See a copy: <http://electionmathematics.org/em-legislation/vote-no-NACo.doc> and NCSL likewise has an action alert opposing HR811 <http://www.ncsl.org/statefed/ACTALRThr811.htm>

ⁱⁱ Some ballot markers like AutoMARK could be upgraded with a simple firmware upgrade and self-sealing ballot envelopes.

ⁱⁱⁱ A September 7, 2007 letter from the Congressional Budget Office to Representative Ehlers explains that the bill is fully funded: <http://electionarchive.org/ucvInfo/US/CBO-HR811.pdf>. Also, FY 2008 HAVA disability access funding was increased from \$15,720,000 to \$36,720,000. FY 2008 Financial Services Appropriations bill in the House includes \$300 million in HAVA funding, and such funding should be able to be used to replace equipment purchased with HAVA funds. \$100 million each fiscal year is authorized to fund the audits. \$1 billion in funding is authorized for FY 2008 for system replacement and upgrading. A report released by the EAC on July 31, 2007 concludes that the states collectively have more than \$1.3 Billion in HAVA funds remaining unspent as of December 2006 with respect to Title I funding and as of September 2006 with respect to Title II funding which has been collecting interest. See state-by-state summary on pages 8 and 9 of the EAC report: <http://www.eac.gov/docs/Congressional%20Report%20Public%20Release%20Final.pdf> Cost comparisons show that optical scan paper ballot systems pay for the initial cost in operations cost savings and begin to save taxpayer monies within four years. See <http://electionmathematics.org> "Voting Systems". HR811 provides States the opportunity to reduce on-going election administration costs, as well as to ensure Federal election outcome accuracy.

^{iv} Available existing ballot marking devices for voters with disabilities need only a firmware upgrade and self-sealing ballot privacy envelopes to meet all the 2012 requirements for voters with disabilities and foreign language needs.

^v See the Brennan Center's letter http://www.brennancenter.org/dynamic/subpages/download_file_48231.pdf Some states such as Florida which only allows ten days between Election Day and the date for state certification of results, may wish to pass legislation giving themselves more time before certification. Many states allow about 30 days between election and certification and election officials often take vacations during this canvass period.

^{vi} The bill makes the paper ballots the vote of record in all recounts and audits. Alternatively the bill permits states to manually count an average of about 2% of ballots as long as the amount gives at least as high certainty for detecting outcome-changing errors as the audit proscribed in HR811.

^{vii} The failure of certification to ensure the accuracy of election results is why HR811 emphasizes manual audits. Federal certification and voting system standards are voluntary for States. It is important to note that every single voting system that failed in an election was tested and certified on some level – including federal. That is why paper ballots and routine audits are the heart of the bill. Software security requires frequent security updates. Yet Federal certification is too costly and time-consuming to certify software updates. Even with EAC standards and voting system certification processes, software is vulnerable to ongoing, new threats

^{viii} "How Long Does it Take to Change a Voting System?" by Verified Voting <http://electionmathematics.org/em-voting-systems/VotingSystemChange.pdf>