

STATE OF COLORADO

Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Mike Coffman

Secretary of State

William A. Hobbs

Deputy Secretary of State

March 15, 2007

Colorado Congressional Delegation:

Senator Wayne Allard (R-CO)

Senator Ken Salazar (D-CO)

Representative Diana DeGette (D-Denver)

Representative Doug Lamborn (R-Colorado Springs)

Representative Marilyn Musgrave (R-Fort Morgan)

Representative Ed Perlmutter (D-Golden)

Representative John Salazar (D-Manassa)

Representative Tom Tancredo (R-Littleton)

Representative Mark Udall (D-Eldorado Springs)

Washington, DC 20515

Re: H.R. 811, the Voter Confidence and Increased Accessibility Act of 2007

Dear Colorado Congressional Delegation:

As Colorado's chief elections official, I view ensuring voter confidence in our electoral process by overseeing properly conducted elections as my highest priority. Since 2002 and the passage of the Help America Vote Act (HAVA), Colorado has made important strides to increase voter accessibility and meet the required standards set forth in HAVA for voting equipment.

The objective of HAVA was simple and commendable: to provide uniform standards for how states conduct elections and to improve voter confidence in our electoral system. Representative Rush Holt's (NJ-D) recently introduced legislation, H.R. 811, the Voter Confidence and Increased Accessibility Act of 2007, echoes this objective. As Colorado's Secretary of State, I commend lawmakers for their commitment to strengthening our electoral process.

However, I am writing to Colorado's congressional delegation to share my concerns about H.R. 811 – specifically the additional mandates that this bill places on states, with an impossible effective date and no federal funding to help states meet the costs of implementing the bill's mandates.

The purpose of this legislation is to ensure additional security and transparency in our election processes – leading to a higher level of confidence in elections. While these are worthy goals, in its current form H.R. 811 presents states with numerous insurmountable obstacles that will certainly leave some, if not all, states out of compliance. Consequently, H.R. 811 may have the exact opposite effect than is intended: with reports of states failing to meet these federal requirements, voter confidence will certainly be further shaken in the ability of governments at every level to conduct sound elections.

Of greatest concern is the re-certification process that would be required with the passage of this legislation. If H.R. 811 were to become law, every electronic voting system would be required to go through the federal Election Assistance Commission (EAC) certification process again. In Colorado, systems would additionally need to be approved against our state standards. There would simply not be sufficient time for this re-certification process to take place before the 2008 elections.

H.R. 811 will additionally require the following:

- States will need to rely on a Voter Verified Paper Audit Trail (VVPAT) as the ballot of record if inconsistencies are found during a post-election audit between the electronic vote count and the paper vote count.
- The VVPATs will need to be made from “durable paper of archival quality capable of withstanding multiple counts and recounts without compromising the fundamental integrity of the ballots.”

Currently, Direct Recording Electronic (DRE) voting machines with VVPATs use thermal paper, and therefore do not meet the above requirements. Colorado counties have invested many hundreds of thousands of dollars in the purchase of DRE’s in order to comply with HAVA. Many have spent additional funds to retrofit DRE’s with VVPATs to further comply with current Colorado law. The passage of H.R. 811 would make those investments worthless; Colorado and its counties would be required to start over, and spend millions more of our taxpayer dollars to comply with this latest federal mandate.

H.R. 811 will also:

- Require states to only deploy electronic voting systems that are capable of converting VVPAT’s into an “accessible media,” so that people with disabilities can verify their vote in paper form.
- Require the National Institute of Standards and Technology (NIST) to “study, test, and develop best practices” surrounding the mechanisms that would be used to meet the above requirement, and tasks the Director of NIST with specifically investigating “existing and potential methods or devices that will assist such individuals and voters in creating voter-verified paper ballots.”

NIST would need to complete the study by no later than January 1, 2010; however states must implement these systems by the November 2008 election. This office is not aware of a system in existence that would meet these requirements. And while the NIST study would provide valuable guidance to states, H.R. 811 does not ask for the study until two years *after* states must have these systems in place.

Finally, H.R. 811 authorizes \$300 million for Fiscal Year 2007 for states to purchase new equipment, or modify existing equipment, in order to comply with the provisions of the bill. However, Congress has already passed a Continuing Resolution through September 30, 2007; the next appropriation cycle will begin later this year for Fiscal Year 2008. Therefore, the funding mechanism for 2007 has passed without the \$300 million attached to fund H.R. 811. However, states would still be required to meet the mandates contained in H.R. 811 by the effective date of November 2008, without federal funding.

For these reasons, I strongly urge members of Colorado’s congressional delegation to oppose H.R. 811 in its current form. As Colorado’s voice in Congress, I hope you will advise Representative Holt to amend H.R. 811 in order to provide states with adequate time and funding to meet its requirements.

The objectives of H.R. 811 are laudable and worthy of pursuit. However, in its current form this legislation sets states up for certain failure, which will do nothing to ensure the accuracy, integrity and security of our nation's elections.

Sincerely,

Mike Coffman

Mike Coffman
Colorado Secretary of State

cc: Representative Rush Holt, (D- NJ)
NASS President, Secretary of State Deb Markowitz (State of Vermont)