

## CASE Ohio comments on HR 811

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CASE Ohio appreciates the effort, good intentions and the numerous improvements that went into the "Voter Confidence and Increased Accessibility Act of 2007" (HR 811).

The most important improvements are:

1. All voting machines must have paper ballots or a paper audit trail
2. The paper ballot is the ballot of record if discrepancies are found in an audit or recount
3. A secure chain of custody for ballots (electronic and paper) must be documented and provided to the Election Assistance Commission (EAC).
4. Every voting place is required to offer voters emergency paper ballots immediately if lines are long
5. Audits are required and must be completed in time to resolve discrepancies before certification of official results
6. If an audit or recount finds compromised paper ballots or audit trail, electronic votes are used only for the voting machine with the compromised ballots.

CASE Ohio supports HR 811, but feel there are a number of important improvements that should be made

### **1. We oppose the exception that lets state skip audits in some cases**

Sec. 327 exempts elections with state-mandated recounts from the HR 811 audit procedure. In Ohio, for example, a half-percent margin of victory requires a recount but not a hand count. Thus, the most suspect elections -- (a) those with "compromised" paper records, or (b) the closest elections -- bypass the very protections which HR 811 claims it mandates. States should be allowed to follow their own audit procedures only if they do more than HR 811 requires.

### **2. We strongly object to using the term "paper ballots," for DRE printout (often called a "voter verified paper trail" or just a "paper trail").**

We have strong concerns about DRE paper audit trails since it appears that relatively few voters check them, the long rolls of paper are very difficult to use in recounts/audits, and the audit trail may often be compromised (as found in a Cuyahoga County audit in Ohio). The language of the bill should use different terms to avoid giving paper audit trails the status of a paper ballot.

### **3. We support complete public disclosure of all election information.**

HR 811 mandates that the EAC disclose information to the public in some situations, but in other cases does not require disclosure. This could be interpreted to mean that disclosure is optional. We believe that all information from election officials and vendors should be disclosed to the public promptly.

**4. We support increasing the level of audits to achieve a 90% probability of detecting problems**

Since all computerized counting methods (including optical scanners) are vulnerable to error, statistically significant audits, conducted by hand counting the paper ballots, are essential for all elections counted by software. Election Archive proposed that we should require that “federal elections are subjected to manual audits of sufficient voter verifiable paper ballots to provide 90% or better probability of detecting at least one corrupt vote count in the case that there were enough corrupt vote counts to wrongly alter the election outcome.” Also, the Brennan Center reports only a 50-50 chance of discovering a miscount in a 10% audit of an election decided by 0.5%.

**5. We support de-certifying any election systems that is found to have more than 1% of compromised paper ballots or paper audit trail in two consecutive audits.**

CASE believes that some electronic voting machines with paper audit trails do not create audit trails of sufficient quality or durability. If this turns out to be accurate, HR 811 will allow election officials to use the electronic totals whenever the ballots or audit trails are compromised. We recommend that language be added to the bill to require a county voting system to be replaced if audits in two consecutive federal elections show that the paper ballots or paper audit trails were less than 99% accurate.