



Dear Members of the New York Delegation to the US House of Representatives,

As you may know, the Information Policy Subcommittee held a Field Hearing on May 7, 2007 in New York City about electronic voting issues.

Testimony at that event included support for H.R. 811, the Voter Confidence and Increased Accessibility Act of 2007, which currently has the support of 212 bi-partisan co-sponsors and was passed out of the Committee on House Administration on May 8, 2007. The bill mandates that every state deploy voting systems for federal elections that provide a voter-verified paper ballot for every voter, and mandatory random manual audits to check voting systems for accuracy, among other provisions.

Concerns may arise about the time frame for implementation of H.R. 811 in New York State, due in part to the state's certification process. It is important to view such concerns in context.

(1) New York took action in 2005 to pass a voter-verified paper record requirement, well ahead of federal legislation.¹

(2) According to New York law, the state must deploy such voter-verified paper ballot systems by September of 2007. The requirements of H.R. 811 would become effective by November 2008. Lever voting machines are banned as of the September 2007 date.

(3) The NYS Board of Elections has indeed set high standards for certification of voting systems, requiring that any system used be certified to the 2005 Voluntary Voting System Guidelines (VVSG) promulgated by the Election Assistance Commission (EAC), to the extent that they are consistent with State law.²

The 2005 VVSG standards do not take effect until December 2007, three months *after* New York would be required to deploy its new paper based systems. At present, no voting systems on the market are yet certified to those standards.

To date, all other states are using voting systems tested to earlier standards (1990 or 2002), and states that buy new systems to comply with the requirements of H.R. 811 by November 2008 will likely still be buying equipment certified to prior standards.

Nothing in H.R. 811 binds a state to comply with the VVSG. Whether or not New York meets its own deadline of obtaining voter-verified paper record systems and replacing lever machines by September 2007—is unrelated to the requirements of H.R. 811.

¹ <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS> §7-202.

² *Rules of Bd. of Elec.* § 6209.2(a)

At such time as New York *does* replace its lever machines with new systems, it will no doubt be in full compliance with the voter-verified paper ballot requirements of H.R. 811.

Further, under H.R. 811 as amended by the Committee, every jurisdiction with voting systems meeting accessibility requirements and which produced a voter-verified paper record in the elections of 2006 can keep using that system until 2010. This is true of every county in New York State in 2006. The systems, Automark, Avante and Populex,³ each produced voter-verified paper ballots, and thus could be deployed in 2008 to comply with H.R. 811. Provisions to the contrary would be due to NY state law, *not* to H.R. 811.

None of those voting systems used for accessibility in 2006 are certified to the 2005 VVSG. Nonetheless, if no 2005-certified replacement system is available for the primary voting system (levers) for upcoming elections including those in 2008, then it is highly likely that *New York will again use such systems* to meet the accessibility requirements of the Help America Vote Act (which took effect in January of 2006).

If such systems are acceptable for providing accessible voting in New York State, even temporarily, then surely such systems are acceptable for providing a primary system of voting for New York State also, until such time as 2005-certified systems are available which also meet New York's rigorous standards.

H.R. 811 requires a durable voter-verified paper ballot for every vote cast, ensures that that paper ballot shall be the vote of record in all recounts and audits, and mandates routine random audits using those paper ballots in at least 3% of all precincts – more in close races. The bill bans the use of wireless devices, undisclosed software, and Internet connections to devices on which votes are cast and tabulated.⁴ These common sense requirements are already part of New York's own rigorous standards, but they are essential for every state. H.R. 811 does not contradict New York requirements – it affirms them.

Only through the passage of H.R. 811 can every voter enjoy the assurance that his or her vote will be counted accurately – whether they vote on Manhattan's Lower East Side or in Manhattan, Kansas... in Columbia County, New York or the City of Columbia, South Carolina.

Please support H.R. 811 when it comes to the Floor for a vote. Thank you for your consideration.

Susannah Goodman, Director of Election Integrity Programs, Common Cause
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http://www.elections.state.ny.us/portal/page?_pageid=35,1,35_26319:35_26335&_dad=portal&_schema=PORTAL

⁴ http://holt.house.gov/HR_811.shtml