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The Honorable Rush Holt
United States House of Representatives
1214 Longworth House
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Washington, D.C. 20515

Dear Congressman Holt,

I am writing to express serious concerns with the newest version of the “Voter Confidence and Increased Accessibility Act.” I understand a formal bill will be introduced soon, and hope the following input is taken into consideration.

I share your passion for integrity and public trust in elections, and thank you for a collaborative approach taken in developing previous versions of this bill. However, I am deeply disappointed to see such a sharp turn from previous drafts. This version contains several provisions that are counter-productive to conducting good elections and unduly burdensome.

Mandatory Manual Audits

Conducting post election audits is good public policy, but this bill exceeds the reasonable use of audit tools. Close elections occur in Washington State, but we have strong clear recount laws, rules and procedures that have served our state well several times in the last decade. The great majority of elections in Washington end with a clear winner. For example, in 2004 U.S. Senator Patty Murray defeated her opponent by 12.2 percent, or 345,000 votes. Under the provisions of this draft Washington would have had to conduct a statewide recount (or “audit”) of 3% of our precincts. Yet the votes cast in 3 percent of our precincts would have amounted to far fewer votes than were in the margin of victory for Senator Murray. This would have been a waste of taxpayer dollars and public employee time and energy.

The requirement that the manual hand count audits be conducted by an “Elections Auditor” further demonstrates the degree to which this draft so greatly steers away from the progress made with earlier versions of the bill. Elections are conducted at the local level and every state employs a slightly different set of election laws to ensure the fair and accurate conduct of elections. As such, elections expertise lies with the state and local election officials who run elections multiple times a year, every year. Yet, this draft proposes that an individual who meets federal standards will be able to manage and conduct a statewide recount that involves every county in a state. This is nearly incomprehensible.

Under Washington State law a random check of ballots up to three precincts or six batches may be conducted upon mutual agreement by the political party observers. The random check includes a comparison of a hand count to the machine count. Also under Washington State law a mandatory recount is required when the difference in the results between two statewide candidates or the two choices in a statewide initiative or referendum is less than 2,000 votes and less than one half of one percent. When the difference is less than 1,000 votes and less than one fourth of one percent, the race will be recounted by hand.

Paper Ballot and Manual Counting Requirements

I commend the attempt to protect the integrity of elections by making all election results auditable. Unfortunately, this bill's effort to prescribe paper ballots, even for accessible voting, bans DRE equipment with verifiable paper trails which meet the auditability requirement in what most disability organizations believe is a superior product for accessible voting. Ironically, the accessible equipment prescribed by this bill is also less auditable than DRE with paper trail. This piece of legislation undermines the hard work election administrators and the disability communities around the country have invested in making voting more accessible to everyone and auditable, both key goals of HAVA.

Testing lab provisions

In observing the EACs efforts over the last 18 months to test and certify voting systems, I have come to conclude that as a matter of good public policy, the federal government should begin funding the testing and certification of voting systems.

Accessibility and Ballot Verification for Individuals with Disabilities

The accessible voting system requirement to allow the voter to verify and cast the permanent paper ballot without requiring the voter to manually handle the paper ballot, in conjunction with the requirement for a paper ballot, strongly favors a single manufacturer and equipment that is not compatible with the vast majority of systems currently used in this country. This generation of equipment has not been nationally certified or deployed for use in any elections

Innovation

In general, this version of the bill stifles innovation. The voting systems market is already unhealthy. While there are several ways to stabilize and encourage growth and innovation in the market, certain provisions of this draft would have the opposite effect. Mandating the use of one manufacturer's system is an example of how this bill negatively impacts the market.

Looking toward the future, establishing a federal ban against casting a ballot on a device connected to the internet appears short sighted. Washington State understands well the current risks in casting a ballot over the internet, but this provision renders moot any innovation, investment or initiative seeking to ensure our overseas citizens – soldiers and civilians alike – might one day be able to cast a secure electronic vote from a remote location.

Funding

The implementation funding authorized in this draft appears to be severely short of what we believe it would cost many states to implement the key reforms proposed in this draft.

In closing, this legislation does not appear to lay out a coherent set of policies for states to follow, rather it mandates overly specific requirements that when applied to the realities of conducting elections are not in the best interest of our all our citizens or the sound administration of elections.

Sincerely,



SAM REED
Secretary of State

Cc:
Leslie Reynolds, NASS Executive Director