

HR-2239, HR-550, What Now?

2007 Federal Election Reform Legislation - VotersUnite.Org's Recommendation

November 21, 2006

For three years, we have been among the strongest supporters of Congressman Rush Holt's election reform bills. Having watched the growth of momentum for election integrity, we are fully aware of the essential part his legislation has played in this growth. In 2003 and 2004, HR-2239 gave activists a place to stand — a focus. Working toward gaining sponsorship for the bill was a catalyst for unity among activists across the nation.

Without the introduction of HR-2239 and the subsequent HR-550, the movement would not be where it is today. Our efforts for fair and transparent elections would not have the credibility, the publicity, the public awareness, nor the Congressional support that Congressman Holt's bills have provided. His bills started the national cry that has led to passage of VVPAT/audit mandates in over half the states.

Unfortunately, the implementation of VVPAT is abysmal. The vendors did not take the challenge seriously and have provided inferior, malfunctioning, and hopelessly inadequate technology to add onto the inferior, malfunctioning, and hopelessly inadequate DREs. Federally mandating this failed technology would be a big mistake. We are not alone in this concern. The overall voice we hear now, even from other previous supporters of HR-550, is that the push for VVPAT has served its purpose and, because of the abysmal implementation, should now be dropped.

We have learned from the 2004 demo of the Sequoia Edge in Sacramento and the use of ES&S iVotronics in the 2006 election in Washington County, Arkansas that the VVPAT does not always match the screen. We have learned from the ESI report on Cuyahoga County that the Diebold VVPAT does not always match the record in memory. This new information demonstrates that the VVPAT is nothing more than a placebo for the disease of DREs, and VotersUnite.Org is unwilling to support any bill mandating VVPAT or giving credence to any use of equipment that directly records votes electronically.

What we have learned in the last three years has changed our thinking. We have come to see that one of the most dangerous threats to democracy is the continued corporate involvement in elections. Not only is election software a trade secret — an undemocratic situation, but there are many other dangers as well:

Privatization of Elections. Jurisdictions have become so dependent on voting system vendors that vendors now provide ballots, ballot programming, testing services, maintenance services, and even election administration — all without the oversight of the public.

A shining example of this appalling situation can be seen in Delaware County, Indiana, where MicroVote provides the equipment, maintains and services it, programs the ballots, tabulates results, even counts provisional ballots, and has now asked county officials to obtain a release from all candidates saying they will abide by the final results that MicroVote reports.

Cover-up of Equipment Problems. The dependency of election officials on their vendors causes them to defend vendors and their equipment beyond all reason — emphasizing, for example, that a problem was "human error" even when it was a ballot programming error or a severe flaw in the usability of the system.

Logistical Impossibility. From a practical standpoint, election officials' dependency means that our elections themselves are dependent on adequate supplies and service from essentially four corporations, which, as anyone watching the news knows, have failed again and again to provide the necessary supplies and services adequately and on time — wreaking havoc in many jurisdictions.

Therefore, we believe that one of the highest priorities of the election reform movement must be to reduce the country's dependency on voting equipment vendors and open the election process to the public.

Oklahoma is a sterling example of doing it right. Years ago, they purchased ES&S scanners and then, to quote Michael Clingman, Secretary of the State Elections Board, "they kicked ES&S out of the state." There is absolutely no reason why corporations need to be involved in the software, services, and equipment maintenance needed for election. And there are many important reasons why they must not be.

VotersUnite proposes the following concepts for consideration to include in any election reform bill to be introduced in the 110th Congress.

- 1) Remove any requirement for VVPAT. Mandating VVPAT means, on a practical level, forcing jurisdictions to spend billions of taxpayer dollars on bad technology to add on to their current democracy-endangering technology. Federally mandating yet another change of election equipment is likely to cause even more chaos in the next election and increase the already seething resentment of election officials, poll workers, and the country as a whole. It cannot avoid being yet another unfunded (or partially funded) mandate. Even more egregious, mandating VVPAT implicitly approves the use of DREs.

2) Require disclosed source code for all election equipment and provide penalties for reluctant, tardy, or incomplete disclosure to individual citizens. In addition to increasing the transparency of our elections somewhat, we believe this will have the effect of reducing the use of DREs — partly because many vendors may refuse to disclose their DRE source code, and partly because the complete inadequacy of the software will become more and more apparent very quickly as it is examined by the public.

3) Prohibit the direct recording of votes on any medium other than paper.

4) Offer financial incentives for jurisdictions to hire their own independent computer consultants to write disclosed-source software to operate election equipment and central tabulators and to write and/or revise programs for the centralized registration database.

5) Offer financial incentives for jurisdictions to modify their DREs by removing the vote-recording software and adding an off-the-shelf printer to print paper ballots that can be scanned or hand-counted.

6) Offer financial incentives for jurisdictions to use local printer companies, unassociated with vendors, to print ballots.

7) Prohibit the presence of any equipment vendor or vendor technician in the tabulation room, except as a citizen observer who resides and votes in the jurisdiction.

8) Make it a punishable, federal offense for any technician associated with an election equipment vendor to touch any election equipment or ballots before, during, or after an election — even barring them from being poll workers in their own counties.

9) Specifically prohibit voting through any network connection or by faxing ballots to any office other than the local election office.

10) Require jurisdictions to allow non-partisan citizens to observe all aspects of elections: such as the real pre-election testing (not just the demos), the polls, the transfer of ballots to the central office, the tallying of the votes, any post-election testing. This requirement should include language that requires jurisdictions to allow genuine observation, not just presence in the room.

Respectfully submitted by John Gideon and Ellen Theisen, VotersUnite.Org