

Madison, Wisconsin  
January 11, 2008

Dear Representative Rush Holt and Staff:

Thank you for presenting your new “Confidence in Voting” bill. Here are some suggestions for changes to the draft version dated January 9, 2008

Perhaps the most important change is the first one, regarding the definition of a ballot.

**Change #1: Use of the word “ballots”**

Printouts from the Direct Reading Electronic (DRE) machines should be called “records”, not ballots.

The draft (page 5 (4)) correctly defines “paper ballot voting system” as one that “uses a paper ballot marked by the voter by hand or with the assistance of non-tabulating ballot marking devices...”.

However, in several places, it uses the word “ballot” to describe the printout of a DRE. In these instances, the word “ballot” should be changed to “paper record”. The term “paper record” is used properly in Wisconsin's statute 5.90.

This change should occur on page 2 line 18; page 4 line 1; page 10 lines 11 and 22; page 12 line 15; page 19 line 9; and page 21 line 14 and line 24.

“Paper ballots” should be changed to “paper ballots and paper records” on page 11 line 1 and 25; page 12 line 11; and page 13 line 19.

According to dictionary.com, the first definition of a ballot is “a slip or sheet of paper, cardboard, or the like, on which a voter marks his or her vote.”

According to the EAC glossary of key election terms, a ballot is “The official presentation of all the contests to be decided in a particular election.” The definition of paper record is “Paper cast vote record that can be directly verified by a voter.”

**Change #2: Time of random selection**

The draft says that random selections of precincts for auditing must be made without advance notification (page 10, line 7), but it does not specify whether this means in advance of Election Day, the audit, or another event. Please consider adding to page 16, (2), under public selection, that the random selection must not be made before \_\_\_ hours in advance of the audit; or not before 10:00 a.m. on the day after the election. The state or county should be allowed to pick which criteria to follow.

**Change #3: Audit all contests**

Page 7 section 3 (a) (1) mentions “any” regularly scheduled general elections for Federal office in November 2008. Under this wording, a jurisdiction might qualify for the audit reimbursement without auditing the presidential contest. Please consider a change so that the audits will include all federal offices that are on the November ballot.

**Change #4: Precincts without voters**

Due to boundary changes and annexations, there are some small precincts without ballots cast. Page 11, (1) should be changed to indicate that only precincts with ballots cast shall count towards the 3% minimum to be audited. Madison, Wisconsin has 139 wards, 27 of which had zero ballots cast in November 2006. Another 9 had between 2 and 10 ballots cast.

**Change #5: Ballot security**

Please add a clause that the jurisdiction shall provide assurances that the ballot security rules of the state have been adhered to. Security of the ballots is essential to the integrity of an audit. In Wisconsin the ballot security rules have a history of being ignored.

**Change #6: Notice of public observation**

Page 15 (5) mandates public observation. Please consider adding to this paragraph a clause mandating adequate public notice.

Sincerely,

Paul Malischke  
malischke@yahoo.com