



March 2, 2009

Dear Members of the Joint State, Veterans, and Military Affairs Committee,

Recommendation #7 – Voting system certification

After the Secretary of State's December 2007 decertification of the electronic voting systems (EVS) used by the majority of Colorado counties, Governor Ritter signed into law House Bill 08-1155, which provided for retesting and interim re-certification of any decertified voting machines. Under current law, the provisions of the bill are repealed on July 1, 2009, resulting in the decertification of systems certified under the bill. Extending the interim emergency certifications allowed for in HB 08-1155 will provide financial relief to cash-strapped counties and ample time to phase in the next generation of technology.

The commission recommends legislation to amend the statutes on voting system certification as follows:

- **House Bill 08-1155. Extend the interim emergency certifications provided for in House Bill 08-1155 through the 2013 election cycle.** Under this recommendation, use of currently certified EVS would be allowed through the 2013 election cycle, subject to all conditions that attached to the 2007 and 2008 certifications of such EVS.
- **Voter-verified paper audit trails (VVPATs). Repeal the requirement that all direct recording electronic (DRE) voting equipment have voter-verified audit trails (VVPATs) by 2010.** Jefferson and Arapahoe counties will not have to perform expensive short-term retrofits on DREs not currently equipped with VVPATs.

Questions to Ask Election Reform Commission Members Regarding Their Recommendation 7

Dan Wallach, a highly-respected associate professor of computer science at Rice University, specializing in computer security and electronic voting systems (and Associate Director of the National Science Foundation-supported ACCURATE project, a six-institution research project to improve auditable and transparent elections), testified before the Commission on December 2, 2008. To quote from the paper he left with you: **“Of course, we can find problems with any voting system, but the present-day electronic systems enable fraud of a scale and simplicity previous unknown in the administration of elections.”**

In addition, Coloradans for Voting Integrity recommended studying whether reallocation of optical scanners or other cost-savings measures would allow paper ballots to replace these machines in a cost-efficient manner. Yet the ERC is advising the legislature to allow the unauditable machines in Arapahoe and Jefferson counties to continue to be used until 2013, extending the present deadline for their retirement or retrofitting by three years.

a. Whom do you listen to on the question of the security of these electronic voting machines?

b. Why are you suggesting Colorado legislators permit insecure machines to continue be used in our elections, rather than recommending researching a way for Arapahoe and Jefferson Counties to temporarily go to all-paper ballot polling place elections, or some other more secure solution than unauditible machines?

c. Election Reform Commission Member and lawyer Mr. Scott Gessler's opinions voiced in his op ed piece in the *Rocky Mountain News* were at odds with the scientific views of electronic voting machines voiced by Professor Wallach. What were Mr. Gessler's sources of information for his op ed piece? (CFVI's response to Mr. Gessler and our full recommendations are at <http://cfvi.us>.)

d. What creative and fiscally responsible solutions were discussed for replacing the paperless EVS machines (DREs) and why were those solutions rejected by the Commission? Why not distinguish between EVS (electronic voting systems) with voter-verified paper audit trails (VVPATs) and those without? Can we accept using EVS with VVPATs through 2013, whereas EVS without VVPATs must be replaced, as currently scheduled by 2010, to assure voters' ability to verify their votes?

e. Why should the voters of two of our most populous counties be prohibited from either having VVPATs on their EVS machines or from just using paper ballots that are centrally counted along with those counties' mail ballots? Is there a concern that equal-access issues may arise? Might the mail voter not be able to address late-breaking changes in the course of an election?

Voting-integrity advocates conclude that central counting of precinct-cast paper ballots would be an immediate, fiscally responsible solution for Jefferson and Arapahoe counties.

Briefly, we support Resolutions 1, 3, 8, and 20. **Recommendation 8** calls for risk-limiting audits, which we heartily support. The Best Practices (www.electionaudits.org/principles) recently formulated need to be implemented.

Recommendation 9 calls for violating the citizens' expressed wishes about not holding all-mail elections in even years. It also seems to promote "ballot chasing," which could lead to compromised voter secrecy. We ask you not to support that recommendation.

We have qualms about aspects of all the other recommendations. We urge caution in adopting any that are not thoroughly studied. For example, the internet seems so insecure that to use it for personal data entry as in voter registration seems inappropriate (**Recommendation 14**).

Finally, we ask you not to lock Colorado in to the limited solutions of today for the next four years.

Thank you for considering our concerns and this document, which seeks to aid you in your decision-making process.

Yours truly,
The Board of Directors, Coloradans for Voting Integrity (CFVI)