H. R. 811

[Report No. 110–154]

To amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 5, 2007

Mr. Holt (for himself, Mr. Tom Davis of Virginia, Mr. Wexler, Mr. Emanuel, Mr. Petri, Mr. Wolf, Mr. Lewis of Georgia, Mr. Langevin, Mr. Cooper, Mrs. Jones of Ohio, Mr. Clay, Mr. Shays, Ms. Kaptur, Mr. English of Pennsylvania, Mr. Hastings of Florida, Mr. Ramstad, Mr. Meek of Florida, Mr. Issa, Mr. Cummings, Mrs. Biggert, Ms. Lee, Mr. Castle, Ms. Kilpatrick of Michigan, Mr. Kuhl of New York, Ms. Corrine Brown of Florida, Mr. Mack, Mr. Scott of Virginia, Mr. Abercrombie, Mr. Ackerman, Mr. Allen, Mr. Becerra, Ms. Berkley, Mr. Berman, Mr. Berry, Mr. Bishop of Georgia, Mr. Blumenauer, Mr. Boren, Mr. Boswell, Mr. Boucher, Mr. Boyd of Florida, Mr. Brady of Pennsylvania, Mr. Braley of Iowa, Mr. Butterfield, Mrs. Capps, Mr. Carnahan, Mr. Chandler, Mr. Cohen, Mr. Costa, Mr. Costello, Mr. Courtney, Mr. Crowley, Mr. Davis of Illinois, Mr. Lincoln Davis of Tennessee, Mrs. Davis of California, Mr. DeFazio, Ms. DeGette, Mr. Delahunt, Ms. Delauro, Mr. Dicks, Mr. Dingell, Mr. Doggett, Mr. Doyle, Mr. Edwards, Mr. Ellison, Mr. Engel, Ms. Eshoo, Mr. Etheridge, Mr. Fattah, Mr. Filner, Mr. Fortuño, Mr. Frank of Massachusetts, Mrs. Gillibrand, Mr. Gonzalez, Mr. Gordon of Tennessee, Mr. Gene Green of Texas, Mr. Grijalva, Mr. Gutierrez, Mr. Hall of New York, Ms. Harman, Ms. Herseth, Mr. Higgins, Mr. Hinchey, Ms. Hirono, Mr. Hodes, Mr. Holden, Mr. Honda, Ms. Hooley, Mr. Inslee, Ms. Jackson-Lee of Texas, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mr. Johnson of Georgia, Mr. Kagen, Mr. Kennedy, Mr. Kildee, Mr. Kind, Mr. Klein of Florida, Mr. Kucinich, Mr. Lantos, Mr. Larsen of Washington, Mr. Loebsack, Mrs. Lowey, Mrs. McCarthy of New York, Ms. McCollum of Minnesota, Mr. McIntyre, Mr. McNulty, Mrs. Maloney of New York, Mr. Marshall, Mr.
A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Voter Confidence and
Increased Accessibility Act of 2007”.

SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECURITY
THROUGH VOTER-VERIFIED PERMANENT
PAPER BALLOT.

(a) Ballot Verification and Audit Capacity.—

(1) In general.—Section 301(a)(2) of the Help
America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is
amended to read as follows:

“(2) Ballot Verification and Audit Capac-
ity.—

“(A) Voter-verified paper ballots.—

“(i) Verification.—(I) The voting
system shall require the use of or produce
an individual, durable, voter-verified paper
ballot of the voter’s vote that shall be created
by or made available for inspection and
verification by the voter before the voter’s
vote is cast and counted. For purposes of
this subclause, examples of such a ballot in-
clude a paper ballot marked by the voter for
the purpose of being counted by hand or
read by an optical scanner or other similar device, a paper ballot prepared by the voter to be mailed to an election official (whether from a domestic or overseas location), a paper ballot created through the use of a ballot marking device or system, or a paper ballot produced by a touch screen or other electronic voting machine, so long as in each case the voter is permitted to verify the ballot in a paper form in accordance with this subparagraph.

“(II) The voting system shall provide the voter with an opportunity to correct any error made by the system in the voter-verified paper ballot before the permanent voter-verified paper ballot is preserved in accordance with clause (ii).

“(III) The voting system shall not preserve the voter-verified paper ballots in any manner that makes it possible, at any time after the ballot has been cast, to associate a voter with the record of the voter’s vote.

“(ii) Preservation.—The individual, durable voter-verified paper ballot produced in accordance with clause (i) shall be used
as the official ballot for purposes of any recount or audit conducted with respect to any election for Federal office in which the voting system is used, and shall be preserved—

“(I) in the case of votes cast at the polling place on the date of the election, within the polling place in the manner or method in which all other paper ballots are preserved within such polling place on such date; or

“(II) in any other case, in a manner which is consistent with the manner employed by the jurisdiction for preserving such ballots in general.

“(iii) MANUAl AUDIT CAPACITY.—(I) Each paper ballot produced pursuant to clause (i) shall be suitable for a manual audit equivalent to that of a paper ballot voting system, and shall be counted by hand in any recount or audit conducted with respect to any election for Federal office.

“(II) In the event of any inconsistencies or irregularities between any electronic vote tallies and the vote tallies deter-
mined by counting by hand the individual, durable voter-verified paper ballots produced pursuant to clause (i), and subject to subparagraph (B), the individual, durable voter-verified paper ballots shall be the true and correct record of the votes cast.

“(B) Special rule for treatment of disputes when paper ballots have been shown to be compromised.—

“(i) In general.—In the event that—

“(I) there is any inconsistency between any electronic vote tallies and the vote tallies determined by counting by hand the individual, durable voter-verified paper ballots produced pursuant to subparagraph (A)(i) with respect to any election for Federal office; and

“(II) it is demonstrated by clear and convincing evidence (as determined in accordance with the applicable standards in the jurisdiction involved) in any recount, audit, or contest of the result of the election that the paper ballots have been compromised
and that a sufficient number of the ballots have been so compromised that the result of the election could be changed,
the determination of the appropriate remedy with respect to the election shall be made in accordance with applicable State law, except that the electronic tally shall not be used as the exclusive basis for determining the official certified vote tally.

“(ii) Rule for consideration of ballots associated with each voting machine.—For purposes of clause (i), the paper ballots associated with each voting system shall be considered on a voting-machine-by-voting-machine basis, and only the paper ballots deemed compromised, if any, shall be considered in the calculation of whether or not the result of the election could be changed due to the compromised paper ballots.”.

(2) Conforming amendment clarifying applicability of alternative language accessibility.—Section 301(a)(4) of such Act (42 U.S.C.
15481(a)(4)) is amended by inserting “(including the paper ballots required to be produced under paragraph (2) and the notices required under paragraphs (7) and (13)(C))” after “voting system”.

(3) OTHER CONFORMING AMENDMENTS.—Section 301(a)(1) of such Act (42 U.S.C. 15481(a)(1)) is amended—

(A) in subparagraph (A)(i), by striking “counted” and inserting “counted, in accordance with paragraphs (2) and (3)”;

(B) in subparagraph (A)(ii), by striking “counted” and inserting “counted, in accordance with paragraphs (2) and (3)”;

(C) in subparagraph (A)(iii), by striking “counted” each place it appears and inserting “counted, in accordance with paragraphs (2) and (3)”;

(D) in subparagraph (B)(ii), by striking “counted” and inserting “counted, in accordance with paragraphs (2) and (3)”.

(b) ACCESSIBILITY AND BALLOT VERIFICATION FOR INDIVIDUALS WITH DISABILITIES.—

(1) IN GENERAL.—Section 301(a)(3)(B) of such Act (42 U.S.C. 15481(a)(3)(B)) is amended to read as follows:
“(B)(i) satisfy the requirement of subparagraph (A) through the use of at least one voting system equipped for individuals with disabilities at each polling place; and

“(ii) meet the requirements of subparagraph (A) and paragraph (2)(A) by using a system that—

“(I) allows the voter to privately and independently verify the individual, durable paper ballot through the conversion of the human-readable printed or marked vote selections into accessible form,

“(II) ensures that the entire process of ballot verification and vote casting is equipped for individuals with disabilities, and

“(III) does not preclude the supplementary use of Braille or tactile ballots; and”.

(2) SPECIFIC REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF ACCESSIBLE BALLOT VERIFICATION MECHANISMS.—

(A) STUDY AND REPORTING.—Subtitle C of title II of such Act (42 U.S.C. 15381 et seq.) is amended—
(i) by redesignating section 247 as section 248; and
(ii) by inserting after section 246 the following new section:

“SEC. 247. STUDY AND REPORT ON ACCESSIBLE BALLOT VERIFICATION MECHANISMS.

“(a) STUDY AND REPORT.—The Director of the National Institute of Standards and Technology shall study, test, and develop best practices to enhance the accessibility of ballot verification mechanisms for individuals with disabilities, for voters whose primary language is not English, and for voters with difficulties in literacy, including best practices for the mechanisms themselves and the processes through which the mechanisms are used. In carrying out this section, the Director shall specifically investigate existing and potential methods or devices, including non-electronic devices, that will assist such individuals and voters in creating voter-verified paper ballots and presenting or transmitting the information printed or marked on such ballots back to such individuals and voters.

“(b) COORDINATION WITH GRANTS FOR TECHNOLOGY IMPROVEMENTS.—The Director shall coordinate the activities carried out under subsection (a) with the research conducted under the grant program carried out by the Commission under section 271, to the extent that the Director and
Commission determine necessary to provide for the advancement of accessible voting technology.

“(c) DEADLINE.—The Director shall complete the requirements of subsection (a) not later than December 31, 2008.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $3,000,000, to remain available until expended.”.

(B) CLERICAL AMENDMENT.—The table of contents of such Act is amended—

(i) by redesignating the item relating to section 247 as relating to section 248; and

(ii) by inserting after the item relating to section 246 the following new item:

“Sec. 247. Study and report on accessible ballot verification mechanisms.”.

(3) CLARIFICATION OF ACCESSIBILITY STANDARDS UNDER VOLUNTARY VOTING SYSTEM GUIDANCE.—In adopting any voluntary guidance under subtitle B of title III of the Help America Vote Act with respect to the accessibility of the paper ballot verification requirements for individuals with disabilities, the Election Assistance Commission shall include and apply the same accessibility standards applicable under the voluntary guidance adopted for accessible voting systems under such subtitle.
(c) Additional Voting System Requirements.—

(1) Requirements described.—Section 301(a) of such Act (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraphs:

“(7) Instruction reminding voters of importance of verifying paper ballot.—

“(A) In general.—The appropriate election official at each polling place shall cause to be placed in a prominent location in the polling place which is clearly visible from the voting booths a notice, in large font print accessible to the visually impaired, advising voters that the paper ballots representing their votes shall serve as the vote of record in all audits and recounts in elections for Federal office, and that they should not leave the voting booth until confirming that such paper ballots accurately record their vote.

“(B) Systems for individuals with disabilities.—All voting systems equipped for individuals with disabilities shall present or transmit in accessible form the statement referred to in subparagraph (A), as well as an explanation of the verification process described in paragraph (3)(B)(ii).
“(8) Prohibiting Use of Uncertified Election-Dedicated Voting System Technologies;

Disclosure Requirements.—

“(A) In General.—A voting system used in an election for Federal office in a State may not at any time during the election contain or use any election-dedicated voting system technology which has not been certified by the State for use in the election and which has not been deposited with an accredited laboratory described in section 231 to be held in escrow and disclosed in accordance with this section.

“(B) Requirement for and Restrictions on Disclosure.—An accredited laboratory under section 231 with whom an election-dedicated voting system technology has been deposited shall—

“(i) hold the technology in escrow; and

“(ii) disclose technology and information regarding the technology to another person if—

“(I) the person is a qualified person described in subparagraph (C) who has entered into a nondisclosure agreement with respect to the technology
which meets the requirements of subparagraph (D); or

“(II) the laboratory is required to disclose the technology to the person under State law, in accordance with the terms and conditions applicable under such law.

“(C) QUALIFIED PERSONS DESCRIBED.—With respect to the disclosure of election-dedicated voting system technology by a laboratory under subparagraph (B)(ii)(I), a ‘qualified person’ is any of the following:

“(i) A governmental entity with responsibility for the administration of voting and election-related matters for purposes of reviewing, analyzing, or reporting on the technology.

“(ii) A party to pre- or post-election litigation challenging the result of an election or the administration or use of the technology used in an election, including but not limited to election contests or challenges to the certification of the technology, or an expert for a party to such litigation, for purposes of reviewing or analyzing the
technology to support or oppose the litigation, and all parties to the litigation shall have access to the technology for such purposes.

“(iii) A person not described in clause (i) or (ii) who reviews, analyzes, or reports on the technology solely for an academic, scientific, technological, or other investigation or inquiry concerning the accuracy or integrity of the technology.

“(D) REQUIREMENTS FOR NONDISCLOSURE AGREEMENTS.—A nondisclosure agreement entered into with respect to an election-dedicated voting system technology meets the requirements of this subparagraph if the agreement—

“(i) is limited in scope to coverage of the technology disclosed under subparagraph (B) and any trade secrets and intellectual property rights related thereto;

“(ii) does not prohibit a signatory from entering into other nondisclosure agreements to review other technologies under this paragraph;

“(iii) exempts from coverage any information the signatory lawfully obtained
from another source or any information in
the public domain;

“(iv) remains in effect for not longer
than the life of any trade secret or other in-
tellectual property right related thereto;

“(v) prohibits the use of injunctions
barring a signatory from carrying out any
activity authorized under subparagraph
(C), including injunctions limited to the pe-
riod prior to a trial involving the tech-
nology;

“(vi) is silent as to damages awarded
for breach of the agreement, other than a
reference to damages available under appli-
cable law;

“(vii) allows disclosure of evidence of
crime, including in response to a subpoena
or warrant;

“(viii) allows the signatory to perform
analyses on the technology (including by
executing the technology), disclose reports
and analyses that describe operational
issues pertaining to the technology (includ-
ing vulnerabilities to tampering, errors,
risks associated with use, failures as a re-
sult of use, and other problems), and de-
scribe or explain why or how a voting sys-
tem failed or otherwise did not perform as
intended; and

“(ix) provides that the agreement shall
be governed by the trade secret laws of the
applicable State.

“(E) ELECTION-DEDICATED VOTING SYSTEM
TECHNOLOGY DEFINED. — For purposes of this
paragraph, ‘election-dedicated voting system
technology’ means ‘voting system software’ as de-
defined under the 2005 voluntary voting system
guidelines adopted by the Commission under sec-
tion 222, but excludes ‘commercial-off-the-shelf”
software and hardware defined under those
guidelines.

“(9) PROHIBITION OF USE OF WIRELESS COMMU-
NICATIONS DEVICES IN VOTING SYSTEMS. — No voting
system shall contain, use, or be accessible by any
wireless, power-line, or concealed communication de-
vice, except that enclosed infrared communications de-

tices which are certified for use in the voting system
by the State and which cannot be used for any remote
or wide area communications or used without the
knowledge of poll workers shall be permitted.
“(10) Prohibiting connection of system or
transmission of system information over the
Internet.—No component of any voting device upon
which ballots are programmed or votes are cast or
tabulated shall be connected to the Internet at any
time.

“(11) Security standards for voting sys-
tems used in federal elections.—

“(A) In general.—No voting system may
be used in an election for Federal office unless
the manufacturer of such system and the election
officials using such system meet the applicable
requirements described in subparagraph (B).

“(B) Requirements described.—The re-
quirements described in this subparagraph are
as follows:

“(i) The manufacturer and the election
officials shall document the secure chain of
custody for the handling of all software,
hardware, vote storage media, ballots, and
voter-verified ballots used in connection
with voting systems, and shall make the in-
formation available upon request to the
Commission.
“(ii) The manufacturer shall disclose to an accredited laboratory under section 231 and to the appropriate election official any information required to be disclosed under paragraph (8).

“(iii) After the appropriate election official has certified the election-dedicated and other voting system software for use in an election, the manufacturer may not—

“(I) alter such software; or

“(II) insert or use in the voting system any software not certified by the State for use in the election.

“(iv) At the request of the Commission—

“(I) the appropriate election official shall submit information to the Commission regarding the State’s compliance with this subparagraph; and

“(II) the manufacturer shall submit information to the Commission regarding the manufacturer’s compliance with this subparagraph.

“(C) DEVELOPMENT AND PUBLICATION OF BEST PRACTICES ON DOCUMENTATION OF SE-
CURE CHAIN OF CUSTODY.—Not later than August 1, 2008, the Commission shall develop and make publicly available best practices regarding the requirement of subparagraph (B)(i).

“(D) DISCLOSURE OF SECURE CHAIN OF CUSTODY.—The Commission shall make information provided to the Commission under subparagraph (B)(i) available to any person upon request.

“(12) DURABILITY AND READABILITY REQUIREMENTS FOR BALLOTS.—

“(A) DURABILITY REQUIREMENTS FOR PAPER BALLOTS.—

“(i) IN GENERAL.—All voter-verified paper ballots required to be used under this Act (including the paper ballots provided to voters under paragraph (13)) shall be marked, printed, or recorded on durable paper.

“(ii) DEFINITION.—For purposes of this Act, paper is ‘durable’ if it is capable of withstanding multiple counts and re-counts by hand without compromising the fundamental integrity of the ballots, and capable of retaining the information marked,
printed, or recorded on them for the full duration of a retention and preservation period of 22 months.

“(B) Readability Requirements for Machine-Marked or Printed Paper Ballots.—

All voter-verified paper ballots completed by the voter through the use of a marking or printing device shall be clearly readable by the voter without assistance (other than eyeglasses or other personal vision enhancing devices) and by a scanner or other device equipped for individuals with disabilities.

“(13) Mandatory Availability of Paper Ballots at Polling Place.—

“(A) Requiring Ballots to be Offered and Provided.—The appropriate election official at each polling place in an election for Federal office shall offer each individual who is eligible to cast a vote in the election at the polling place the opportunity to cast the vote using a pre-printed paper ballot which the individual may mark by hand and which is not produced by a direct recording electronic voting machine. If the individual accepts the offer to cast the vote using such a ballot, the official shall provide the
individual with the ballot and the supplies necessary to mark the ballot, and shall ensure (to the greatest extent practicable) that the waiting period for the individual to cast a vote is not greater than the waiting period for an individual who does not agree to cast the vote using such a paper ballot under this paragraph.

“(B) Treatment of Ballot.—Any paper ballot which is cast by an individual under this paragraph shall be counted and otherwise treated as a regular ballot for all purposes (including, to the greatest extent practicable, the deadline for counting the ballot) and not as a provisional ballot, unless the individual casting the ballot would have otherwise been required to cast a provisional ballot if the individual had not accepted the offer to cast the vote using a paper ballot under this paragraph.

“(C) Posting of Notice.—The appropriate election official shall ensure that at each polling place a notice is displayed prominently which describes the obligation of the official to offer individuals the opportunity to cast votes using a pre-printed paper ballot under this paragraph.
“(D) Training of election officials.—

The chief State election official shall ensure that

election officials at polling places in the State

are aware of the requirements of this paragraph,

including the requirement to display a notice

under subparagraph (C), and are aware that it

is a violation of the requirements of this title for

an election official to fail to offer an individual

the opportunity to cast a vote using a pre-printed

paper ballot under this paragraph.

“(E) Exceptions.—This paragraph does

not apply with respect to—

“(i) a polling place at which each vot-

ing system used in the administration of an

election for Federal office uses only pre-

printed paper ballots which are marked by

hand and which are not produced by a di-

rect recording electronic voting machine

(other than a system used to meet the dis-

ability access requirements of paragraph

(3)); or

“(ii) a polling place in operation prior

to the date of the election, but only with re-

spect to days prior to the date of the elec-

tion.
“(F) Effective date.—This paragraph shall apply with respect to the regularly scheduled general election for Federal office in November 2010 and each succeeding election for Federal office.”.

(2) Requiring laboratories to meet standards prohibiting conflicts of interest as condition of accreditation for testing of voting system hardware and software.—

(A) In general.—Section 231(b) of such Act (42 U.S.C. 15371(b)) is amended by adding at the end the following new paragraphs:

“(3) Prohibiting conflicts of interest; ensuring availability of results.—

“(A) In general.—A laboratory may not be accredited by the Commission for purposes of this section unless—

“(i) the laboratory certifies that the only compensation it receives for the testing carried out in connection with the certification, decertification, and recertification of the manufacturer’s voting system hardware and software is the payment made from the Testing Escrow Account under paragraph (4);
“(ii) the laboratory meets such standards as the Commission shall establish (after notice and opportunity for public comment) to prevent the existence or appearance of any conflict of interest in the testing carried out by the laboratory under this section, including standards to ensure that the laboratory does not have a financial interest in the manufacture, sale, and distribution of voting system hardware and software, and is sufficiently independent from other persons with such an interest;

“(iii) the laboratory certifies that it will permit an expert designated by the Commission to observe any testing the laboratory carries out under this section; and

“(iv) the laboratory, upon completion of any testing carried out under this section, discloses the test protocols, results, and all communication between the laboratory and the manufacturer to the Commission.

“(B) AVAILABILITY OF RESULTS.—Upon receipt of information under subparagraph (A), the Commission shall make the information
available promptly to election officials and the public.

“(4) Procedures for conducting testing; payment of user fees for compensation of accredited laboratories.—

“(A) Establishment of escrow account.—The Commission shall establish an escrow account (to be known as the ‘Testing Escrow Account’) for making payments to accredited laboratories for the costs of the testing carried out in connection with the certification, decertification, and recertification of voting system hardware and software.

“(B) Schedule of fees.—In consultation with the accredited laboratories, the Commission shall establish and regularly update a schedule of fees for the testing carried out in connection with the certification, decertification, and recertification of voting system hardware and software, based on the reasonable costs expected to be incurred by the accredited laboratories in carrying out the testing for various types of hardware and software.

“(C) Requests and payments by manufacturers.—A manufacturer of voting system
hardware and software may not have the hardware or software tested by an accredited laboratory under this section unless—

“(i) the manufacturer submits a detailed request for the testing to the Commission; and

“(ii) the manufacturer pays to the Commission, for deposit into the Testing Escrow Account established under subparagraph (A), the applicable fee under the schedule established and in effect under subparagraph (B).

“(D) SELECTION OF LABORATORY.—Upon receiving a request for testing and the payment from a manufacturer required under subparagraph (C), the Commission shall select at random (to the greatest extent practicable), from all laboratories which are accredited under this section to carry out the specific testing requested by the manufacturer, an accredited laboratory to carry out the testing.

“(E) PAYMENTS TO LABORATORIES.—Upon receiving a certification from a laboratory selected to carry out testing pursuant to subparagraph (D) that the testing is completed, along
with a copy of the results of the test as required under paragraph (3)(A)(iv), the Commission shall make a payment to the laboratory from the Testing Escrow Account established under subparagraph (A) in an amount equal to the applicable fee paid by the manufacturer under subparagraph (C)(ii).

“(5) Dissemination of additional information on accredited laboratories.—

“(A) Information on testing.—Upon completion of the testing of a voting system under this section, the Commission shall promptly disseminate to the public the identification of the laboratory which carried out the testing.

“(B) Information on status of laboratories.—The Commission shall promptly notify Congress, the chief State election official of each State, and the public whenever—

“(i) the Commission revokes, terminates, or suspends the accreditation of a laboratory under this section;

“(ii) the Commission restores the accreditation of a laboratory under this section which has been revoked, terminated, or suspended; or
“(iii) the Commission has credible evidence of significant security failure at an accredited laboratory.”.

(B) CONFORMING AMENDMENTS.—Section 231 of such Act (42 U.S.C. 15371) is further amended—

(i) in subsection (a)(1), by striking “testing, certification,” and all that follows and inserting the following: “testing of voting system hardware and software by accredited laboratories in connection with the certification, decertification, and recertification of the hardware and software for purposes of this Act.”;

(ii) in subsection (a)(2), by striking “testing, certification,” and all that follows and inserting the following: “testing of its voting system hardware and software by the laboratories accredited by the Commission under this section in connection with certifying, decertifying, and recertifying the hardware and software.”;

(iii) in subsection (b)(1), by striking “testing, certification, decertification, and recertification” and inserting “testing”; and
(iv) in subsection (d), by striking “testing, certification, decertification, and recertification” each place it appears and inserting “testing”.

(C) Deadline for Establishment of Standards, Escrow Account, and Schedule of Fees.—The Election Assistance Commission shall establish the standards described in section 231(b)(3) of the Help America Vote Act of 2002 and the Testing Escrow Account and schedule of fees described in section 231(b)(4) of such Act (as added by subparagraph (A)) not later than January 1, 2008.

(D) Authorization of Appropriations.—There are authorized to be appropriated to the Election Assistance Commission such sums as may be necessary to carry out the Commission’s duties under paragraphs (3) and (4) of section 231 of the Help America Vote Act of 2002 (as added by subparagraph (A)).

(3) Special Certification of Ballot Durability and Readability Requirements for States Not Currently Using Durable Paper Ballots.—
(A) In general.—If any of the voting systems used in a State for the regularly scheduled 2006 general elections for Federal office did not require the use of or produce durable paper ballots, the State shall certify to the Election Assistance Commission not later than 90 days after the date of the enactment of this Act that the State will be in compliance with the requirements of sections 301(a)(2), 301(a)(12), and 301(b) of the Help America Vote of 2002, as added or amended by this subsection, in accordance with the deadline established under this Act, and shall include in the certification the methods by which the State will meet the requirements.

(B) Certifications by states that require changes to state law.—In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this paragraph, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.
(4) Grants for research on development of election-dedicated voting system software.—

(A) In general.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following new part:

“PART 7—GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE

“SEC. 297. GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE.

“(a) In general.—The Director of the National Science Foundation (hereafter in this part referred to as the ‘Director’) shall make grants to not fewer than 3 eligible entities to conduct research on the development of election-dedicated voting system software.

“(b) Eligibility.—An entity is eligible to receive a grant under this part if it submits to the Director (at such time and in such form as the Director may require) an application containing—

“(1) certifications regarding the benefits of operating voting systems on election-dedicated software
which is easily understandable and which is written exclusively for the purpose of conducting elections;

“(2) certifications that the entity will use the funds provided under the grant to carry out research on how to develop voting systems that run on election-dedicated software and that will meet the applicable requirements for voting systems under title III; and

“(3) such other information and certifications as the Director may require.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this part $1,500,000 for each of fiscal years 2007 and 2008, to remain available until expended.”.

(B) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end of the items relating to subtitle D of title II the following:

“PART 7—GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE

“Sec. 297. Grants for research on development of election-dedicated voting system software.”.

(d) AVAILABILITY OF ADDITIONAL FUNDING TO ENABLE STATES TO MEET COSTS OF REVISED REQUIREMENTS.—

(1) EXTENSION OF REQUIREMENTS PAYMENTS FOR MEETING REVISED REQUIREMENTS.—Section 257(a) of the Help America Vote Act of 2002 (42
U.S.C. 15407(a)) is amended by adding at the end
the following new paragraph:

“(4) For fiscal year 2007, $1,000,000,000, except
that any funds provided under the authorization
made by this paragraph shall be used by a State only
to meet the requirements of title III which are first
imposed on the State pursuant to the amendments
made by section 2 of the Voter Confidence and In-
creased Accessibility Act of 2007, or to otherwise mod-
ify or replace its voting systems in response to such
amendments.”.

(2) USE OF REVISED FORMULA FOR ALLOCATION
OF FUNDS.—Section 252(b) of such Act (42 U.S.C.
15402(b)) is amended to read as follows:

“(b) STATE ALLOCATION PERCENTAGE DEFINED.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), the ‘State allocation percentage’ for a State
is the amount (expressed as a percentage) equal to the
quotient of—

“(A) the voting age population of the State
(as reported in the most recent decennial census);
and

“(B) the total voting age population of all
States (as reported in the most recent decennial
census).
“(2) Special rule for payments for fiscal year 2007.—

“(A) In general.—In the case of the requirements payment made to a State for fiscal year 2007, the ‘State allocation percentage’ for a State is the amount (expressed as a percentage) equal to the quotient of—

“(i) the sum of the number of non-compliant precincts in the State and 50% of the number of partially noncompliant precincts in the State; and

“(ii) the sum of the number of non-compliant precincts in all States and 50% of the number of partially noncompliant precincts in all States.

“(B) Noncompliant precinct defined.—In this paragraph, a ‘noncompliant precinct’ means any precinct (or equivalent location) within a State for which the voting system used to administer the regularly scheduled general election for Federal office held in November 2006 did not meet either of the requirements described in subparagraph (D).

“(C) Partially noncompliant precinct defined.—In this paragraph, a ‘partially non-
compliant precinct’ means any precinct (or equivalent location) within a State for which the voting system used to administer the regularly scheduled general election for Federal office held in November 2006 met only one of the requirements described in subparagraph (D).

“(D) REQUIREMENTS DESCRIBED.—The requirements described in this subparagraph with respect to a voting system are as follows:

“(i) The primary voting system required the use of or produced durable paper ballots (as described in section 301(a)(12)(A)) for every vote cast.

“(ii) The voting system provided that the entire process of paper ballot verification was equipped for individuals with disabilities.”.

(3) INCREASE IN STATE MINIMUM SHARE OF PAYMENT.—Section 252(c) of such Act (42 U.S.C. 15402(c)) is amended—

(A) in paragraph (1), by inserting after “one-half of 1 percent” the following: “(or, in the case of the payment made for fiscal year 2007, 1 percent)”;}
(B) in paragraph (2), by inserting after “one-tenth of 1 percent” the following: “(or, in the case of the payment made for fiscal year 2007, one-half of 1 percent)”.

(4) REvised Conditions for receipt of Funds.—Section 253 of such Act (42 U.S.C. 15403) is amended—

(A) in subsection (a), by striking “A State is eligible” and inserting “Except as provided in subsection (f), a State is eligible”; and

(B) by adding at the end the following new subsection:

“(f) Special Rule for Fiscal Year 2007.—

“(1) In general.—Notwithstanding any other provision of this part, a State is eligible to receive a requirements payment for fiscal year 2007 if, not later than 90 days after the date of the enactment of the Voter Confidence and Increased Accessibility Act of 2007, the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official—

“(A) certifies to the Commission the number of noncompliant and partially noncompliant precincts in the State (as defined in section 252(b)(2)); and

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“(B) files a statement with the Commission describing the State’s need for the payment and how the State will use the payment to meet the requirements of title III (in accordance with the limitations applicable to the use of the payment under section 257(a)(4)).

“(2) Certification by States that require changes to state law.—In the case of a State that requires State legislation to carry out any activity covered by any certification submitted under this subsection, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.”.

(5) Permitting use of funds for reimbursement for costs previously incurred.—Section 251(c)(1) of such Act (42 U.S.C. 15401(c)(1)) is amended by striking the period at the end and inserting the following: “, or as a reimbursement for any costs incurred in meeting the requirements of title III which are imposed pursuant to the amendments made by section 2 of the Voter Confidence and Increased Accessibility Act of 2007 or in otherwise
modifying or replacing voting systems in response to such amendments.”.

(6) Rule of construction regarding states receiving other funds for replacing punch card, lever, or other voting machines.—Nothing in the amendments made by this subsection or in any other provision of the Help America Vote Act of 2002 may be construed to prohibit a State which received or was authorized to receive a payment under title I or II of such Act for replacing punch card, lever, or other voting machines from receiving or using any funds which are made available under the amendments made by this subsection.

(7) Effective date.—The amendments made by this subsection shall apply with respect to fiscal years beginning with fiscal year 2007.

(e) Effective date for new requirements.—

Section 301(d) of such Act (42 U.S.C. 15481(d)) is amended to read as follows:

“(d) Effective date.—

“(1) In general.—Except as provided in paragraph (2), each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.
“(2) Special rule for certain requirements.—

“(A) In general.—Except as provided in subparagraph (B), the requirements of this section which are first imposed on a State and jurisdiction pursuant to the amendments made by section 2 of the Voter Confidence and Increased Accessibility Act of 2007 shall apply with respect to the regularly scheduled general election for Federal office held in November 2008 and each succeeding election for Federal office.

“(B) Delay for jurisdictions using certain paper ballot printers or certain paper ballot-equipped accessible machines in 2006.—

“(i) Delay.—In the case of a jurisdiction described in clause (ii), subparagraph (A) shall apply to the jurisdiction as if the reference in such subparagraph to ‘the regularly scheduled general election for Federal office held in November 2008 and each succeeding election for Federal office’ were a reference to ‘elections for Federal office occurring during 2010 and each succeeding
year’, but only with respect to the following
requirements of this section:

“(I) Paragraph (3)(B)(ii)(I) and
(II) of subsection (a) (relating to access
to verification from the durable paper
ballot).

“(II) Paragraph (12) of sub-
section (a) (relating to durability and
readability requirements for ballots).

“(ii) Jurisdictions described.—A
jurisdiction described in this clause is—

“(I) a jurisdiction which used
thermal reel-to-reel voter verified paper
ballot printers attached to direct re-
cording electronic voting machines for
the administration of the regularly
scheduled general election for Federal
office held in November 2006 and
which will continue to use such print-
ers attached to such voting machines
for the administration of elections for
Federal office held in 2008; or

“(II) a jurisdiction which used
voting machines which met the accessi-
bility requirements of paragraph (3) of
subsection (a) (as in effect with respect to such election) for the administration of the regularly scheduled general election for Federal office held in November 2006 and which used or produced a paper ballot, and which will continue to use such voting machines for the administration of elections for Federal office held in 2008.”


Section 401 of such Act (42 U.S.C. 15511) is amended—

(1) by striking “The Attorney General” and inserting “(a) IN GENERAL.—The Attorney General”;

and

(2) by adding at the end the following new subsections:

“(b) FILING OF COMPLAINTS BY AGGRIEVED PERSONS.—

“(1) IN GENERAL.—A person who is aggrieved by a violation of section 301, 302, or 303 which has occurred, is occurring, or is about to occur may file a written, signed, notarized complaint with the Attorney General describing the violation and requesting
the Attorney General to take appropriate action under this section.

“(2) Response by Attorney General.—The Attorney General shall respond to each complaint filed under paragraph (1), in accordance with procedures established by the Attorney General that require responses and determinations to be made within the same (or shorter) deadlines which apply to a State under the State-based administrative complaint procedures described in section 402(a)(2).

“(c) Clarification of Availability of Private Right of Action.—Nothing in this section may be construed to prohibit any person from bringing an action under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) (including any individual who seeks to enforce the individual’s right to a voter-verified paper ballot, the right to have the voter-verified paper ballot counted in accordance with this Act, or any other right under subtitle A of title III) to enforce the uniform and nondiscriminatory election technology and administration requirements under sections 301, 302, and 303.

“(d) No Effect on State Procedures.—Nothing in this section may be construed to affect the availability of the State-based administrative complaint procedures re-
quired under section 402 to any person filing a complaint under this subsection.”.

SEC. 4. REQUIREMENT FOR MANDATORY MANUAL AUDITS BY HAND COUNT.

(a) MANDATORY MANUAL AUDITS.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by adding at the end the following new subtitle:

“Subtitle C—Mandatory Manual Audits

SEC. 321. REQUIRING AUDITS OF RESULTS OF ELECTIONS.

“(a) Requiring Audits.—

“(1) In general.—In accordance with this subtitle, each State shall administer, without advance notice to the precincts selected, audits of the results of elections for Federal office held in the State (and, at the option of the State or jurisdiction involved, of elections for State and local office held at the same time as such election) consisting of random hand counts of the voter-verified paper ballots required to be produced and preserved pursuant to section 301(a)(2).

“(2) Exception for certain elections.—A State shall not be required to administer an audit of the results of an election for Federal office under this subtitle if the winning candidate in the election—

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“(A) had no opposition on the ballot; or

“(B) received 80% or more of the total number of votes cast in the election, as determined on the basis of the final unofficial vote count.

“(b) Determination of Entity Conducting Audits; Application of GAO Independence Standards.—The State shall administer audits under this subtitle through an entity selected for such purpose by the State in accordance with such criteria as the State considers appropriate consistent with the requirements of this subtitle, except that the entity must meet the general standards established by the Comptroller General to ensure the independence (including the organizational independence) of entities performing financial audits, attestation engagements, and performance audits under generally accepted government accounting standards.

“(c) References to Election Auditor.—In this subtitle, the term ‘Election Auditor’ means, with respect to a State, the entity selected by the State under subsection (b).

“SEC. 322. NUMBER OF BALLOTS COUNTED UNDER AUDIT.

“(a) In General.—Except as provided in subsection (b), the number of voter-verified paper ballots which will be subject to a hand count administered by the Election
Auditor of a State under this subtitle with respect to an
election shall be determined as follows:

“(1) In the event that the unofficial count as de-
scribed in section 323(a)(1) reveals that the margin
of victory between the two candidates receiving the
largest number of votes in the election is less than 1
percent of the total votes cast in that election, the
hand counts of the voter-verified paper ballots shall
occur in at least 10 percent of all precincts or equiva-
lent locations (or alternative audit units used in ac-
cordance with the method provided for under sub-
section (b)) in the Congressional district involved (in
the case of an election for the House of Representa-
tives) or the State (in the case of any other election
for Federal office).

“(2) In the event that the unofficial count as de-
scribed in section 323(a)(1) reveals that the margin
of victory between the two candidates receiving the
largest number of votes in the election is greater than
or equal to 1 percent but less than 2 percent of the
total votes cast in that election, the hand counts of the
voter-verified paper ballots shall occur in at least 5
percent of all precincts or equivalent locations (or al-
ternative audit units used in accordance with the
method provided for under subsection (b)) in the Con-
gressional district involved (in the case of an election for the House of Representatives) or the State (in the case of any other election for Federal office).

“(3) In the event that the unofficial count as described in section 323(a)(1) reveals that the margin of victory between the two candidates receiving the largest number of votes in the election is equal to or greater than 2 percent of the total votes cast in that election, the hand counts of the voter-verified paper ballots shall occur in at least 3 percent of all precincts or equivalent locations (or alternative audit units used in accordance with the method provided for under subsection (b)) in the Congressional district involved (in the case of an election for the House of Representatives) or the State (in the case of any other election for Federal office).

“(b) USE OF ALTERNATIVE MECHANISM.—Notwithstanding subsection (a), a State may adopt and apply an alternative mechanism to determine the number of voter-verified paper ballots which will be subject to the hand counts required under this subtitle with respect to an election, so long as the alternative mechanism uses the voter-verified paper ballots to conduct the audit and the National Institute of Standards and Technology determines that the alternative mechanism will be at least as statistically effec-
tive in ensuring the accuracy of the election results as the procedure under this subtitle.

“SEC. 323. PROCESS FOR ADMINISTERING AUDITS.

“(a) In General.—The Election Auditor of a State shall administer an audit under this section of the results of an election in accordance with the following procedures:

“(1) Within 24 hours after the State announces the final unofficial vote count (as defined by the State) in each precinct in the State, the Election Auditor shall determine and then announce the precincts in the State in which it will administer the audits.

“(2) With respect to votes cast at the precinct or equivalent location on or before the date of the election (other than provisional ballots described in paragraph (3)), the Election Auditor shall administer the hand count of the votes on the voter-verified paper ballots required to be produced and preserved under section 301(a)(2)(A) and the comparison of the count of the votes on those ballots with the final unofficial count of such votes as announced by the State.

“(3) With respect to votes cast other than at the precinct on the date of the election (other than votes cast before the date of the election described in paragraph (2)) or votes cast by provisional ballot on the
date of the election which are certified and counted by
the State on or after the date of the election, including
votes cast by absent uniformed services voters and
overseas voters under the Uniformed and Overseas
Citizens Absentee Voting Act, the Election Auditor
shall administer the hand count of the votes on the
applicable voter-verified paper ballots required to be
produced and preserved under section 301(a)(2)(A)
and the comparison of the count of the votes on those
ballots with the final unofficial count of such votes as
announced by the State.

“(b) Use of Election Personnel.—In admin-
istering the audits, the Election Auditor may utilize the
services of election administration personnel of the State or
jurisdiction, including poll workers, without regard to
whether or not the personnel have professional auditing ex-
perience.

“(c) Location.—The Election Auditor shall admin-
ister an audit of an election at the location where the ballots
cast in the election are stored and counted after the date
of the election, and in the presence of those personnel who
under State law are responsible for the custody of the bal-
lots.

“(d) Special Rule in Case of Delay in Reporting
Absentee Vote Count.—In the case of a State in which
the final count of absentee and provisional votes is not announced until after the expiration of the 7-day period which begins on the date of the election, the Election Auditor shall initiate the process described in subsection (a) for administering the audit not later than 24 hours after the State announces the final unofficial vote count for the votes cast at the precinct or equivalent location on or before the date of the election, and shall initiate the administration of the audit of the absentee and provisional votes pursuant to subsection (a)(3) not later than 24 hours after the State announces the final unofficial count of such votes.

“(e) ADDITIONAL AUDITS IF CAUSE SHOWN.—

“(1) IN GENERAL.—If the Election Auditor finds that any of the hand counts administered under this section do not match the final unofficial tally of the results of an election, the Election Auditor shall administer hand counts under this section of such additional precincts (or equivalent jurisdictions) as the Election Auditor considers appropriate to resolve any concerns resulting from the audit and ensure the accuracy of the results.

“(2) ESTABLISHMENT AND PUBLICATION OF PROCEDURES GOVERNING ADDITIONAL AUDITS.—Not later than August 1, 2008, each State shall establish and publish procedures for carrying out the additional au-
paragraphs under this subsection, including the means by which the State shall resolve any concerns resulting from the audit with finality and ensure the accuracy of the results.

“(f) Public Observation of Audits.—Each audit conducted under this section shall be conducted in a manner that allows public observation of the entire process.

“SEC. 324. SELECTION OF PRECINCTS.

“(a) In General.—Except as provided in subsection (c), the selection of the precincts in the State in which the Election Auditor of the State shall administer the hand counts under this subtitle shall be made by the Election Auditor on an entirely random basis using a uniform distribution in which all precincts in a Congressional district have an equal chance of being selected, in accordance with procedures adopted by the Commission, except that at least one precinct shall be selected at random in each county.

“(b) Public Selection.—The random selection of precincts under subsection (a) shall be conducted in public, at a time and place announced in advance.

“(c) Mandatory Selection of Precincts Established Specifically For Absentee Ballots.—If a State establishes a separate precinct for purposes of counting the absentee ballots cast in an election and treats all absentee ballots as having been cast in that precinct, and
if the state does not make absentee ballots sortable by precinct and include those ballots in the hand count administered with respect to that precinct, the State shall include that precinct among the precincts in the State in which the Election Auditor shall administer the hand counts under this subtitle.

“(d) Deadline for Adoption of Procedures by Commission.—The Commission shall adopt the procedures described in subsection (a) not later than March 31, 2008, and shall publish them in the Federal Register upon adoption.

“SEC. 325. Publication of Results.

“(a) Submission to Commission.—As soon as practicable after the completion of an audit under this subtitle, the Election Auditor of a State shall submit to the Commission the results of the audit, and shall include in the submission a comparison of the results of the election in the precinct as determined by the Election Auditor under the audit and the final unofficial vote count in the precinct as announced by the State and all undervotes, overvotes, blank ballots, and spoiled, voided or cancelled ballots, as well as a list of any discrepancies discovered between the initial, subsequent, and final hand counts administered by the Election Auditor and such final unofficial vote count and any explanation for such discrepancies, broken down
by the categories of votes described in paragraphs (2) and (3) of section 323(a).

“(b) Publication by Commission.—Immediately after receiving the submission of the results of an audit from the Election Auditor of a State under subsection (a), the Commission shall publicly announce and publish the information contained in the submission.

“(c) Delay in Certification of Results by State.—

“(1) Prohibiting Certification Until Completion of Audits.—No State may certify the results of any election which is subject to an audit under this subtitle prior to—

“(A) to the completion of the audit (and, if required, any additional audit conducted under section 323(d)(1)) and the announcement and submission of the results of each such audit to the Commission for publication of the information required under this section; and

“(B) the completion of any procedure established by the State pursuant to section 323(d)(2) to resolve discrepancies and ensure the accuracy of results.

“(2) Deadline for Completion of Audits of Presidential Elections.—In the case of an election
for electors for President and Vice President which is subject to an audit under this subtitle, the State shall complete the audits and announce and submit the results to the Commission for publication of the information required under this section in time for the State to certify the results of the election and provide for the final determination of any controversy or contest concerning the appointment of such electors prior to the deadline described in section 6 of title 3, United States Code.

“SEC. 326. PAYMENTS TO STATES.

“(a) PAYMENTS FOR COSTS OF CONDUCTING AUDITS.—In accordance with the requirements and procedures of this section, the Commission shall make a payment to a State to cover the costs incurred by the State in carrying out this subtitle with respect to the elections that are the subject of the audits conducted under this subtitle.

“(b) CERTIFICATION OF COMPLIANCE AND ANTICIPATED COSTS.—

“(1) CERTIFICATION REQUIRED.—In order to receive a payment under this section, a State shall submit to the Commission, in such form as the Commission may require, a statement containing—

“(A) a certification that the State will conduct the audits required under this subtitle in
accordance with all of the requirements of this subtitle;

“(B) a notice of the reasonable costs incurred or the reasonable costs anticipated to be incurred by the State in carrying out this subtitle with respect to the elections involved; and

“(C) such other information and assurances as the Commission may require.

“(2) AMOUNT OF PAYMENT.—The amount of a payment made to a State under this section shall be equal to the reasonable costs incurred or the reasonable costs anticipated to be incurred by the State in carrying out this subtitle with respect to the elections involved, as set forth in the statement submitted under paragraph (1).

“(3) TIMING OF NOTICE.—The State may not submit a notice under paragraph (1) until candidates have been selected to appear on the ballot for all of the elections for Federal office which will be the subject of the audits involved.

“(c) TIMING OF PAYMENTS.—The Commission shall make the payment required under this section to a State not later than 30 days after receiving the notice submitted by the State under subsection (b).
“(d) Recoupment of Overpayments.—No payment may be made to a State under this section unless the State agrees to repay to the Commission the excess (if any) of—

“(1) the amount of the payment received by the State under this section with respect to the elections involved; over

“(2) the actual costs incurred by the State in carrying out this subtitle with respect to the elections involved.

“(e) Authorization of Appropriations.—There are authorized to be appropriated to the Commission for fiscal year 2008 and each succeeding fiscal year $100,000,000 for payments under this section.


“(a) Exception.—This subtitle does not apply to any election for which a recount under State law will commence prior to the certification of the results of the election, including but not limited to a recount required automatically because of the margin of victory between the two candidates receiving the largest number of votes in the election, but only if each of the following applies to the recount:

“(1) The recount commences prior to the determination and announcement by the Election Auditor
under section 323(a)(1) of the precincts in the State
in which it will administer the audits under this sub-
title.

“(2) If the recount would apply to fewer than
100% of the ballots cast in the election—

“(A) the number of ballots counted will be
at least as many as would be counted if an audit
were conducted with respect to the election in ac-
cordance with this subtitle; and

“(B) the selection of the precincts in which
the recount will be conducted will be made in ac-
cordance with the random selection procedures
applicable under section 324.

“(3) The recount for the election meets the re-
quirements of section 323(e) (relating to public obser-
vation).

“(4) The State meets the requirements of section
325 (relating to the publication of results and the
delay in the certification of results) with respect to
the recount.

“(b) Clarification of Effect on Other Require-
ments.—Nothing in this section may be construed to waive
the application of any other provision of this Act to any
election (including the requirement set forth in section
301(a)(2) that the voter verified paper ballots serve as the
vote of record and shall be counted by hand in all audits and recounts, including audits and recounts described in this subtitle).

“SEC. 328. EFFECTIVE DATE.

“This subtitle shall apply with respect to elections for Federal office beginning with the regularly scheduled general elections held in November 2008.”.

(b) AVAILABILITY OF ENFORCEMENT UNDER HELP AMERICA VOTE ACT OF 2002.—Section 401 of such Act (42 U.S.C. 15511), as amended by section 3, is amended—

(1) in subsection (a), by striking the period at the end and inserting the following: “, or the requirements of subtitle C of title III.”;

(2) in subsection (b)(1), by striking “303” and inserting “303, or subtitle C of title III,”; and

(3) in subsection (c)—

(A) by striking “subtitle A” and inserting “subtitles A or C”, and

(B) by striking the period at the end and inserting the following: “, or the requirements of subtitle C of title III.”.

(c) GUIDANCE ON BEST PRACTICES FOR ALTERNATIVE AUDIT MECHANISMS.—

(1) IN GENERAL.—Not later than May 1, 2008, the Director of the National Institute for Standards
and Technology shall establish guidance for States that wish to establish alternative audit mechanisms under section 322(b) of the Help America Vote Act of 2002 (as added by subsection (a)). Such guidance shall be based upon scientifically and statistically reasonable assumptions for the purpose of creating an alternative audit mechanism that will be at least as effective in ensuring the accuracy of election results and as transparent as the procedure under subtitle C of title III of such Act (as so added).

(2) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out paragraph (1) $100,000, to remain available until expended.

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end of the items relating to title III the following:

“Subtitle C—Mandatory Manual Audits

“Sec. 321. Requiring audits of results of elections.
“Sec. 322. Number of ballots counted under audit.
“Sec. 323. Process for administering audits.
“Sec. 324. Selection of precincts.
“Sec. 325. Publication of results.
“Sec. 326. Payments to States.
“Sec. 327. Exception for elections subject to recount under State law prior to certification.
“Sec. 328. Effective date.”.
SEC. 5. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE
COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS.

(a) In General.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325) is amended by striking subsection (e).

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to contracts entered into by the Election Assistance Commission on or after the date of the enactment of this Act.

SEC. 6. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall apply with respect to the regularly scheduled general election for Federal office in November 2008 and each succeeding election for Federal office.
A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes.

MAY 16, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.

H. R. 811

110TH CONGRESS

Union Calendar No. 91