

110TH CONGRESS  
1ST SESSION

# H. R. 811

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.

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## 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. MATHESON, Ms. MATSUI, Mr. MELANCON, Mr. MICHAUD, Mr. MILLER of North Carolina, Mr. GEORGE MILLER of California, Mr. MITCHELL, Mr. MOLLOHAN, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. ORTIZ, Mr.

PALLONE, Mr. PASTOR, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. PRICE of North Carolina, Mr. REYES, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SHERMAN, Mr. SHULER, Ms. SLAUGHTER, Mr. SMITH of Washington, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STUPAK, Ms. SUTTON, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Mr. WALZ of Minnesota, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Ms. WOOLSEY, Mr. WU, Mr. WYNN, and Mr. ALTMIRE) introduced the following bill; which was referred to the Committee on House Administration

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## 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.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

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

6       **SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECUR-**  
 7                               **ITY THROUGH VOTER-VERIFIED PERMA-**  
 8                               **NENT PAPER BALLOT.**

9       (a) **BALLOT VERIFICATION AND AUDIT CAPACITY.—**

10               (1) **IN GENERAL.—**Section 301(a)(2) of the  
 11       Help America Vote Act of 2002 (42 U.S.C.  
 12       15481(a)(2)) is amended to read as follows:

1           “(2) BALLOT VERIFICATION AND AUDIT CAPAC-  
2           ITY.—

3           “(A) IN GENERAL.—

4                   “(i) The voting system shall require  
5                   the use of or produce an individual voter-  
6                   verified paper ballot of the voter’s vote  
7                   that shall be created by or made available  
8                   for inspection and verification by the voter  
9                   before the voter’s vote is cast and counted.  
10                  For purposes of this clause, examples of  
11                  such a ballot include a paper ballot marked  
12                  by the voter for the purpose of being  
13                  counted by hand or read by an optical  
14                  scanner or other similar device, a paper  
15                  ballot prepared by the voter to be mailed  
16                  to an election official (whether from a do-  
17                  mestic or overseas location), a paper ballot  
18                  created through the use of a ballot mark-  
19                  ing device or system, or a paper ballot pro-  
20                  duced by a touch screen or other electronic  
21                  voting machine, so long as in each case the  
22                  voter is permitted to verify the ballot in a  
23                  paper form in accordance with this sub-  
24                  paragraph.

1           “(ii) The voting system shall provide  
2           the voter with an opportunity to correct  
3           any error made by the system in the voter-  
4           verified paper ballot before the permanent  
5           voter-verified paper ballot is preserved in  
6           accordance with subparagraph (B)(i).

7           “(iii) The voting system shall not pre-  
8           serve the voter-verifiable paper ballots in  
9           any manner that makes it possible, at any  
10          time after the ballot has been cast, to asso-  
11          ciate a voter with the record of the voter’s  
12          vote.

13          “(B) MANUAL AUDIT CAPACITY.—

14          “(i) The permanent voter-verified  
15          paper ballot produced in accordance with  
16          subparagraph (A) shall be preserved—

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

23                  “(II) in the case of votes cast at  
24                  the polling place prior to the date of  
25                  the election or cast by mail, in a man-

1                   ner which is consistent with the man-  
2                   ner employed by the jurisdiction for  
3                   preserving such ballots in general; or

4                   “(III) in the absence of either  
5                   such manner or method, in a manner  
6                   which is consistent with the manner  
7                   employed by the jurisdiction for pre-  
8                   serving paper ballots in general.

9                   “(ii) Each paper ballot produced pur-  
10                  suant to subparagraph (A) shall be suit-  
11                  able for a manual audit equivalent to that  
12                  of a paper ballot voting system.

13                  “(iii) In the event of any inconsist-  
14                  encies or irregularities between any elec-  
15                  tronic vote tallies and the vote tallies de-  
16                  termined by counting by hand the indi-  
17                  vidual permanent paper ballots produced  
18                  pursuant to subparagraph (A), and subject  
19                  to subparagraph (D), the individual perma-  
20                  nent paper ballots shall be the true and  
21                  correct record of the votes cast and shall  
22                  be used as the official ballots for purposes  
23                  of any recount or audit conducted with re-  
24                  spect to any election for Federal office in  
25                  which the voting system is used.

1           “(C) SPECIAL RULE FOR VOTES CAST BY  
2 ABSENT MILITARY AND OVERSEAS VOTERS.—In  
3 the case of votes cast by absent uniformed serv-  
4 ices voters and overseas voters under the Uni-  
5 formed and Overseas Citizens Absentee Voting  
6 Act, the ballots cast by such voters shall serve  
7 as the permanent paper ballot under subpara-  
8 graph (A) in accordance with protocols estab-  
9 lished by the Commission, in consultation with  
10 the Secretary of Defense after notice and op-  
11 portunity for public comment, which preserve  
12 the privacy of the voter and are consistent with  
13 the requirements of such Act and this Act, ex-  
14 cept that to the extent that such protocols per-  
15 mit the use of electronic mail in the delivery or  
16 submission of such ballots, paragraph (11) shall  
17 not apply with respect to the delivery or sub-  
18 mission of the ballots.

19           “(D) SPECIAL RULE FOR TREATMENT OF  
20 DISPUTES WHEN PAPER BALLOTS HAVE BEEN  
21 SHOWN TO BE COMPROMISED.—In the event of  
22 any inconsistency between any electronic vote  
23 tallies and the vote tallies determined by count-  
24 ing by hand the individual permanent paper  
25 ballots produced pursuant to subparagraph (A),

1 any person seeking to show that the electronic  
2 vote tally should be given preference in deter-  
3 mining the official count for the election shall  
4 be required to demonstrate, by clear and con-  
5 vincing evidence, that the paper ballots have  
6 been compromised (by damage or mischief or  
7 otherwise) and that a sufficient number of the  
8 ballots have been so compromised that the re-  
9 sult of the election would be changed. For pur-  
10 poses of the previous sentence, the paper ballots  
11 associated with each voting machine shall be  
12 considered on a voting-machine-by-voting-ma-  
13 chine basis, and only the sets of paper ballots  
14 deemed compromised, if any, shall be consid-  
15 ered in the calculation of whether or not the  
16 election would be changed due to the com-  
17 promised paper ballots.”.

18 (2) CONFORMING AMENDMENT CLARIFYING AP-  
19 PPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSI-  
20 BILITY.—Section 301(a)(4) of such Act (42 U.S.C.  
21 15481(a)(4)) is amended by inserting “(including  
22 the paper ballots required to be produced under  
23 paragraph (2) and the notice required under para-  
24 graph (8))” after “voting system”.

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

4                   (A) in subparagraph (A)(i), by striking  
5                   “counted” and inserting “counted, in accord-  
6                   ance with paragraphs (2) and (3)”;

7                   (B) in subparagraph (A)(ii), by striking  
8                   “counted” and inserting “counted, in accord-  
9                   ance with paragraphs (2) and (3)”;

10                  (C) in subparagraph (A)(iii), as amended  
11                  by paragraph (2), by striking “counted” each  
12                  place it appears and inserting “counted, in ac-  
13                  cordance with paragraphs (2) and (3)”;

14                  (D) in subparagraph (B)(ii), by striking  
15                  “counted” and inserting “counted, in accord-  
16                  ance with paragraphs (2) and (3)”.

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

19                   (1) IN GENERAL.—Section 301(a)(3)(B) of  
20                   such Act (42 U.S.C. 15481(a)(3)(B)) is amended to  
21                   read as follows:

22                           “(B)(i) satisfy the requirement of subpara-  
23                           graph (A) through the use of at least one voting  
24                           system equipped for individuals with disabilities  
25                           at each polling place; and



1           “(ii) meet the requirements of subpara-  
 2 graph (A) and paragraph (2)(A) by using a sys-  
 3 tem that—

4           “(I) allows the voter to privately and  
 5 independently verify the content of the per-  
 6 manent paper ballot through the conver-  
 7 sion of the printed content into accessible  
 8 media, and

9           “(II) ensures that the entire process  
 10 of ballot verification and vote casting is  
 11 equipped for individuals with disabilities.”.

12           (2) SPECIFIC REQUIREMENT OF STUDY, TEST-  
 13 ING, AND DEVELOPMENT OF ACCESSIBLE BALLOT  
 14 VERIFICATION MECHANISMS.—

15           (A) STUDY AND REPORTING.—Subtitle C  
 16 of title II of such Act (42 U.S.C. 15381 et seq.)  
 17 is amended—

18           (i) by redesignating section 247 as  
 19 section 248; and

20           (ii) by inserting after section 246 the  
 21 following new section:

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

24           “(a) STUDY AND REPORT.—The Director of the Na-  
 25 tional Institute of Standards and Technology shall study,

1 test, and develop best practices to enhance the accessibility  
2 of ballot verification mechanisms for individuals with dis-  
3 abilities, for voters whose primary language is not English,  
4 and for voters with difficulties in literacy, including best  
5 practices for the mechanisms themselves and the processes  
6 through which the mechanisms are used. In carrying out  
7 this section, the Director shall specifically investigate ex-  
8 isting and potential methods or devices that will assist  
9 such individuals and voters in creating voter-verified paper  
10 ballots and in reading or transmitting the information  
11 printed or marked on such ballots back to such individuals  
12 and voters.

13       “(b) DEADLINE.—The Director shall complete the re-  
14 quirements of subsection (a) not later than January 1,  
15 2010.

16       “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated to carry out subsection  
18 (a) \$1,000,000, to remain available until expended.”.

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

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

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

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

1           (3) CLARIFICATION OF ACCESSIBILITY STAND-  
2           ARDS UNDER VOLUNTARY VOTING SYSTEM GUID-  
3           ANCE.—In adopting any voluntary guidance under  
4           subtitle B of title III of the Help America Vote Act  
5           with respect to the accessibility of the ballot  
6           verification requirements for individuals with disabil-  
7           ities, the Election Assistance Commission shall in-  
8           clude and apply the same accessibility standards ap-  
9           plicable under the voluntary guidance adopted for  
10          accessible voting systems under such subtitle.

11          (c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—

12           (1) REQUIREMENTS DESCRIBED.—Section  
13          301(a) of such Act (42 U.S.C. 15481(a)) is amend-  
14          ed by adding at the end the following new para-  
15          graphs:

16           “(7) INSTRUCTION OF ELECTION OFFICIALS.—  
17          Each State shall ensure that all election officials are  
18          instructed on the right of any individual who re-  
19          quires assistance to vote by reason of blindness,  
20          other disability, or inability to read or write to be  
21          given assistance by a person chosen by that indi-  
22          vidual under section 208 of the Voting Rights Act  
23          of 1965.

24           “(8) INSTRUCTION REMINDING VOTERS OF IM-  
25          PORTANCE OF VERIFYING PAPER BALLOT.—

1           “(A) IN GENERAL.—The appropriate elec-  
2           tion official at each polling place shall cause to  
3           be placed in a prominent location in the polling  
4           place a notice containing the following state-  
5           ment, in boldface type, large font, and using  
6           only upper-case letters: ‘THE PAPER BAL-  
7           LOT REPRESENTING YOUR VOTE  
8           SHALL SERVE AS THE VOTE OF  
9           RECORD IN ALL RECOUNTS AND AU-  
10          DITS. DO NOT LEAVE THE VOTING  
11          BOOTH UNTIL YOU HAVE CONFIRMED  
12          THAT IT ACCURATELY RECORDS YOUR  
13          VOTE’.

14           “(B) SYSTEMS FOR INDIVIDUALS WITH  
15          DISABILITIES.—All voting systems equipped for  
16          individuals with disabilities shall transmit by  
17          accessible media the statement referred to in  
18          subparagraph (A), as well as an explanation of  
19          the verification process described in paragraph  
20          (3)(B)(ii).

21           “(9) PROHIBITION OF USE OF UNDISCLOSED  
22          SOFTWARE IN VOTING SYSTEMS.—No voting system  
23          used in an election for Federal office shall at any  
24          time contain or use any software not certified by the  
25          State for use in the election or any software undis-

1 closed to the State in the certification process. The  
2 appropriate election official shall disclose, in elec-  
3 tronic form, the source code, object code, and exe-  
4 cutable representation of the voting system software  
5 and firmware to the Commission, including ballot  
6 programming files, and the Commission shall make  
7 that source code, object code, executable representa-  
8 tion, and ballot programming files available for in-  
9 spection promptly upon request to any person.

10 “(10) PROHIBITION OF USE OF WIRELESS COM-  
11 MUNICATIONS DEVICES IN VOTING SYSTEMS.—No  
12 voting system shall contain, use, or be accessible by  
13 any wireless, power-line, remote, wide area, or con-  
14 cealed communication device at all.

15 “(11) PROHIBITING CONNECTION OF SYSTEM  
16 OR TRANSMISSION OF SYSTEM INFORMATION OVER  
17 THE INTERNET.—No component of any voting de-  
18 vice upon which votes are cast shall be connected to  
19 the Internet at any time.

20 “(12) SECURITY STANDARDS FOR VOTING SYS-  
21 TEMS USED IN FEDERAL ELECTIONS.—

22 “(A) IN GENERAL.—No voting system may  
23 be used in an election for Federal office unless  
24 the manufacturer of such system and the elec-  
25 tion officials using such system meet the appli-

1 cable requirements described in subparagraph  
2 (B).

3 “(B) REQUIREMENTS DESCRIBED.—The  
4 requirements described in this subparagraph  
5 are as follows:

6 “(i) The manufacturer and the elec-  
7 tion officials shall document the secure  
8 chain of custody for the handling of all  
9 software, hardware, vote storage media,  
10 and ballots used in connection with voting  
11 systems, and shall make the information  
12 available upon request to the Commission.

13 “(ii) The manufacturer of the soft-  
14 ware used in the operation of the system  
15 shall provide the appropriate election offi-  
16 cial with updated information regarding  
17 the identification of each individual who  
18 participated in the writing of the software,  
19 including specific information regarding  
20 whether the individual has ever been con-  
21 victed of a crime involving election, ac-  
22 counting, or computer security fraud.

23 “(iii) The manufacturer shall provide  
24 the appropriate election official with the  
25 information necessary for the official to

1 provide information to the Commission  
2 under paragraph (9).

3 “(iv) After the appropriate election of-  
4 ficial has certified the source code, object  
5 code, and executable representation of the  
6 voting system software for use in an elec-  
7 tion, the manufacturer may not—

8 “(I) alter such codes and rep-  
9 resentation; or

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

13 “(v) The appropriate election official  
14 shall ensure that all voting machines and  
15 related supplies to be used in the election  
16 shall remain secured within storage facili-  
17 ties arranged for by the election official,  
18 and shall not be removed from such facili-  
19 ties until such time as they are to be deliv-  
20 ered to the relevant polling place and se-  
21 cured at the polling place until used in the  
22 election.

23 “(vi) The manufacturer shall meet  
24 standards established by the Commission  
25 to prevent the existence or appearance of

1 any conflict of interest with respect to can-  
2 didates for public office and political par-  
3 ties, including standards to ensure that the  
4 manufacturer’s officers and directors do  
5 not hold positions of authority in any polit-  
6 ical party or in any partisan political cam-  
7 paign, and shall certify to the Commission  
8 not later than January 31 of each even-  
9 numbered year that it meets the standards  
10 established under this clause.

11 “(vii) At the request of the Commis-  
12 sion, the appropriate election official shall  
13 submit information to the Commission re-  
14 garding the State’s compliance with this  
15 subparagraph.

16 “(13) DURABILITY AND READABILITY REQUIRE-  
17 MENTS FOR BALLOTS.—

18 “(A) DURABILITY REQUIREMENTS FOR  
19 PAPER BALLOTS.—All voter-verified paper bal-  
20 lots required to be used under this Act (includ-  
21 ing the emergency paper ballots used under  
22 paragraph (14)) shall be marked, printed, or re-  
23 corded on durable paper of archival quality ca-  
24 pable of withstanding multiple counts and re-  
25 counts without compromising the fundamental



1 integrity of the ballots, and capable of retaining  
2 the information marked, printed, or recorded on  
3 them for the full duration of the retention and  
4 preservation period called for by title III of the  
5 Civil Rights Act of 1960 (42 U.S.C. 1974 et  
6 seq.) or under applicable State law, whichever is  
7 longer.

8 “(B) READABILITY REQUIREMENTS FOR  
9 MACHINE-MARKED OR PRINTED PAPER BAL-  
10 LOTS.—All voter-verified paper ballots marked  
11 or printed through the use of a marking or  
12 printing device shall be clearly readable by the  
13 naked eye and by a scanner or other device  
14 equipped for voters with disabilities.

15 “(14) PROHIBITING TURNING INDIVIDUALS  
16 AWAY FROM POLLING PLACES BECAUSE OF PROB-  
17 LEMS WITH OR SHORTAGES OF EQUIPMENT, BAL-  
18 LOTS, OR SUPPLIES.—

19 “(A) ENSURING ADEQUATE EQUIPMENT  
20 AND SUPPLIES.—Each State shall ensure that  
21 the voting systems it uses to conduct elections  
22 for Federal office are designed in a manner  
23 that ensures that no voter will be unable to cast  
24 a ballot at a polling place due to a shortage or

1 failure of voting equipment, ballots, or nec-  
2 essary supplies.

3 “(B) USE OF EMERGENCY PAPER BALLOTS  
4 IN CASE OF SYSTEM OR EQUIPMENT FAIL-  
5 URE.—In the event of the failure of voting  
6 equipment or other circumstance at a polling  
7 place that causes a delay, any individual who is  
8 waiting at the polling place to cast a ballot in  
9 an election for Federal office and who would be  
10 delayed due to such failure or other cir-  
11 cumstance shall be advised immediately of the  
12 individual’s right to use an emergency paper  
13 ballot, and upon request shall be provided with  
14 an emergency paper ballot for the election and  
15 the supplies necessary to mark the ballot. Any  
16 emergency paper ballot which is cast by an indi-  
17 vidual under this subparagraph shall be counted  
18 and otherwise treated as a regular ballot and  
19 not as a provisional ballot, unless the individual  
20 casting the ballot would have otherwise been re-  
21 quired to cast a provisional ballot if the voting  
22 equipment at the polling place had not failed.”.

23 (2) REQUIRING LABORATORIES TO MEET  
24 STANDARDS PROHIBITING CONFLICTS OF INTEREST

1 AS CONDITION OF ACCREDITATION FOR TESTING OF  
2 VOTING SYSTEM HARDWARE AND SOFTWARE.—

3 (A) IN GENERAL.—Section 231(b) of such  
4 Act (42 U.S.C. 15371(b)) is amended by add-  
5 ing at the end the following new paragraphs:

6 “(3) PROHIBITING CONFLICTS OF INTEREST;  
7 ENSURING AVAILABILITY OF RESULTS.—

8 “(A) IN GENERAL.—A laboratory may not  
9 be accredited by the Commission for purposes  
10 of this section unless—

11 “(i) the laboratory certifies that the  
12 only compensation it receives for the test-  
13 ing carried out in connection with the cer-  
14 tification, decertification, and recertifi-  
15 cation of the manufacturer’s voting system  
16 hardware and software is the payment  
17 made from the Testing Escrow Account  
18 under paragraph (4);

19 “(ii) the laboratory meets the stand-  
20 ards applicable to the manufacturers of  
21 voting systems under section  
22 301(a)(11)(B)(vi), together with such  
23 standards as the Commission shall estab-  
24 lish (after notice and opportunity for pub-  
25 lic comment) to prevent the existence or

1 appearance of any conflict of interest in  
2 the testing carried out by the laboratory  
3 under this section, including standards to  
4 ensure that the laboratory does not have a  
5 financial interest in the manufacture, sale,  
6 and distribution of voting system hardware  
7 and software, and is sufficiently inde-  
8 pendent from other persons with such an  
9 interest;

10 “(iii) the laboratory certifies that it  
11 will permit an expert designated by the  
12 Commission to observe any testing the lab-  
13 oratory carries out under this section; and

14 “(iv) the laboratory, upon completion  
15 of any testing carried out under this sec-  
16 tion, discloses the test protocols, results,  
17 and all communication between the labora-  
18 tory and the manufacturer to the Commis-  
19 sion.

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

1           “(4) PROCEDURES FOR CONDUCTING TESTING;  
2           PAYMENT OF USER FEES FOR COMPENSATION OF  
3           ACCREDITED LABORATORIES.—

4           “(A) ESTABLISHMENT OF ESCROW AC-  
5           COUNT.—The Commission shall establish an es-  
6           crow account (to be known as the ‘Testing Es-  
7           crow Account’) for making payments to accred-  
8           ited laboratories for the costs of the testing car-  
9           ried out in connection with the certification, de-  
10          certification, and recertification of voting sys-  
11          tem hardware and software.

12          “(B) SCHEDULE OF FEES.—In consulta-  
13          tion with the accredited laboratories, the Com-  
14          mission shall establish and regularly update a  
15          schedule of fees for the testing carried out in  
16          connection with the certification, decertification,  
17          and recertification of voting system hardware  
18          and software, based on the reasonable costs ex-  
19          pected to be incurred by the accredited labora-  
20          tories in carrying out the testing for various  
21          types of hardware and software.

22          “(C) REQUESTS AND PAYMENTS BY MANU-  
23          FACTURERS.—A manufacturer of voting system  
24          hardware and software may not have the hard-

1           ware or software tested by an accredited labora-  
2           tory under this section unless—

3                   “(i) the manufacturer submits a de-  
4                   tailed request for the testing to the Com-  
5                   mission; and

6                   “(ii) the manufacturer pays to the  
7                   Commission, for deposit into the Testing  
8                   Escrow Account established under sub-  
9                   paragraph (A), the applicable fee under the  
10                  schedule established and in effect under  
11                  subparagraph (B).

12               “(D) SELECTION OF LABORATORY.—Upon  
13               receiving a request for testing and the payment  
14               from a manufacturer required under subpara-  
15               graph (C), the Commission shall select at ran-  
16               dom, from all laboratories which are accredited  
17               under this section to carry out the specific test-  
18               ing requested by the manufacturer, an accred-  
19               ited laboratory to carry out the testing.

20               “(E) PAYMENTS TO LABORATORIES.—  
21               Upon receiving a certification from a laboratory  
22               selected to carry out testing pursuant to sub-  
23               paragraph (D) that the testing is completed,  
24               along with a copy of the results of the test as  
25               required under paragraph (3)(A)(iii), the Com-

1 mission shall make a payment to the laboratory  
2 from the Testing Escrow Account established  
3 under subparagraph (A) in an amount equal to  
4 the applicable fee paid by the manufacturer  
5 under subparagraph (C)(ii).

6 “(5) DISSEMINATION OF ADDITIONAL INFORMA-  
7 TION ON ACCREDITED LABORATORIES.—

8 “(A) INFORMATION ON TESTING.—Upon  
9 completion of the testing of a voting system  
10 under this section, the Commission shall  
11 promptly disseminate to the public the identi-  
12 fication of the laboratory which carried out the  
13 testing.

14 “(B) LABORATORIES WITH ACCREDITA-  
15 TION REVOKED OR SUSPENDED.—If the Com-  
16 mission revokes, terminates, or suspends the ac-  
17 creditation of a laboratory under this section,  
18 the Commission shall promptly notify Congress,  
19 the chief State election official of each State,  
20 and the public.”.

21 (B) CONFORMING AMENDMENTS.—Section  
22 231 of such Act (42 U.S.C. 15371) is further  
23 amended—

24 (i) in subsection (a)(1), by striking  
25 “testing, certification,” and all that follows

1 and inserting the following: “testing of vot-  
2 ing system hardware and software by ac-  
3 credited laboratories in connection with the  
4 certification, decertification, and recertifi-  
5 cation of the hardware and software for  
6 purposes of this Act.”;

7 (ii) in subsection (a)(2), by striking  
8 “testing, certification,” and all that follows  
9 and inserting the following: “testing of its  
10 voting system hardware and software by  
11 the laboratories accredited by the Commis-  
12 sion under this section in connection with  
13 certifying, decertifying, and recertifying  
14 the hardware and software.”;

15 (iii) in subsection (b)(1), by striking  
16 “testing, certification, decertification, and  
17 recertification” and inserting “testing”;  
18 and

19 (iv) in subsection (d), by striking  
20 “testing, certification, decertification, and  
21 recertification” each place it appears and  
22 inserting “testing”.

23 (C) DEADLINE FOR ESTABLISHMENT OF  
24 STANDARDS AND ESCROW ACCOUNT.—The  
25 Election Assistance Commission shall establish



1 the standards described in section 231(b)(3) of  
2 the Help America Vote Act of 2002 and the  
3 Testing Escrow Account described in section  
4 231(b)(4) of such Act (as added by subpara-  
5 graph (A)) not later than January 1, 2008.

6 (3) SPECIAL CERTIFICATION OF BALLOT DURA-  
7 BILITY AND READABILITY REQUIREMENTS FOR  
8 STATES NOT CURRENTLY USING PAPER BALLOTS.—  
9 If any of the voting systems used in a State for the  
10 regularly scheduled 2006 general elections for Fed-  
11 eral office did not operate by having voters cast  
12 votes on paper ballots (such as through the use of  
13 an optical scan voting system), the State shall cer-  
14 tify to the Election Assistance Commission not later  
15 than 90 days after the date of the enactment of this  
16 Act that the State will be in compliance with the re-  
17 quirements of section 301(a)(13) of the Help Amer-  
18 ica Vote of 2002, as added by paragraph (1), in ac-  
19 cordance with the deadline established under this  
20 Act, and shall include in the certification the meth-  
21 ods by which the State will meet the requirements.

22 (d) AVAILABILITY OF ADDITIONAL FUNDING TO EN-  
23 ABLE STATES TO MEET COSTS OF REVISED REQUIRE-  
24 MENTS.—

1           (1) EXTENSION OF REQUIREMENTS PAYMENTS  
2           FOR MEETING REVISED REQUIREMENTS.—Section  
3           257(a) of the Help America Vote Act of 2002 (42  
4           U.S.C. 15407(a) is amended by adding at the end  
5           the following new paragraph:

6           “(4) For fiscal year 2007, \$300,000,000, except  
7           that any funds provided under the authorization  
8           made by this paragraph shall be used by a State  
9           only to meet the requirements of title III which are  
10          first imposed on the State pursuant to the amend-  
11          ments made by section 2 of the Voter Confidence  
12          and Increased Accessibility Act of 2007, or to other-  
13          wise modify or replace its voting systems in response  
14          to such amendments.”.

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

18          “(b) STATE ALLOCATION PERCENTAGE DEFINED.—

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

23                         “(A) the voting age population of the State  
24                         (as reported in the most recent decennial cen-  
25                         sus); and

1           “(B) the total voting age population of all  
2 States (as reported in the most recent decennial  
3 census).

4           “(2) SPECIAL RULE FOR PAYMENTS FOR FIS-  
5 CAL YEAR 2007.—

6           “(A) IN GENERAL.—In the case of the re-  
7 quirements payment made to a State for fiscal  
8 year 2007, the ‘State allocation percentage’ for  
9 a State is the amount (expressed as a percent-  
10 age) equal to the quotient of—

11                   “(i) the number of remedial precincts  
12                   in the State; and

13                   “(ii) the total number of remedial pre-  
14                   cincts in all States.

15           “(B) REMEDIAL PRECINCT DEFINED.—In  
16 this paragraph, a ‘remedial precinct’ means any  
17 precinct (or equivalent location) within the  
18 State for which the voting system used to ad-  
19 minister the regularly scheduled general election  
20 for Federal office held in November 2006—

21                   “(i) did not use paper as the medium  
22                   for vote casting, or if the system used  
23                   paper, did not use durable paper of archi-  
24                   val quality; or

1           “(ii) did not provide that the entire  
2           process of ballot verification was equipped  
3           for individuals with disabilities.”.

4           (3) INCREASE IN STATE MINIMUM SHARE OF  
5           PAYMENT.—Section 252(e) of such Act (42 U.S.C.  
6           15402(e)) is amended—

7           (A) in paragraph (1), by inserting after  
8           “one-half of 1 percent” the following: “(or, in  
9           the case of the payment made for fiscal year  
10          2007, 1 percent)”; and

11          (B) in paragraph (2), by inserting after  
12          “one-tenth of 1 percent” the following: “(or, in  
13          the case of the payment made for fiscal year  
14          2007, one-half of 1 percent)”.

15          (4) REVISED CONDITIONS FOR RECEIPT OF  
16          FUNDS.—Section 253 of such Act (42 U.S.C.  
17          15403) is amended—

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

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

23          “(f) SPECIAL RULE FOR FISCAL YEAR 2007.—Not-  
24          withstanding any other provision of this part, a State is

1 eligible to receive a requirements payment for fiscal year  
2 2007 if—

3 “(1) not later than 30 days after the date of  
4 the enactment of the Voter Confidence and In-  
5 creased Accessibility Act of 2007, the State certifies  
6 to the Commission the number of remedial precincts  
7 in the State (as defined in section 252(b)(2)(B));  
8 and

9 “(2) not later than 90 days after the date of  
10 the enactment of such Act, the chief executive officer  
11 of the State, or designee, in consultation and coordi-  
12 nation with the chief State election official, has filed  
13 a statement with the Commission describing the  
14 State’s need for the payment and how the State will  
15 use the payment to meet the requirements of title  
16 III (in accordance with the limitations applicable to  
17 the use of the payment under section 257(a)(4)).”.

18 (5) PERMITTING USE OF FUNDS FOR REIM-  
19 BURSEMENT FOR COSTS PREVIOUSLY INCURRED.—  
20 Section 251(c)(1) of such Act (42 U.S.C.  
21 15401(c)(1)) is amended by striking the period at  
22 the end and inserting the following: “, or as a reim-  
23 bursement for any costs incurred in meeting the re-  
24 quirements of title III which are imposed pursuant  
25 to the amendments made by section 2 of the Voter

1 Confidence and Increased Accessibility Act of 2007  
2 or in otherwise modifying or replacing voting sys-  
3 tems in response to such amendments.”.

4 (6) RULE OF CONSTRUCTION REGARDING  
5 STATES RECEIVING OTHER FUNDS FOR REPLACING  
6 PUNCH CARD, LEVER, OR OTHER VOTING MA-  
7 CHINES.—Nothing in the amendments made by this  
8 subsection or in any other provision of the Help  
9 America Vote Act of 2002 may be construed to pro-  
10 hibit a State which received or was authorized to re-  
11 ceive a payment under title I or II of such Act for  
12 replacing punch card, lever, or other voting ma-  
13 chines from receiving or using any funds which are  
14 made available under the amendments made by this  
15 subsection.

16 (7) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply with respect to fiscal  
18 years beginning with fiscal year 2007.

19 **SEC. 3. ENHANCEMENT OF ENFORCEMENT OF HELP AMER-**  
20 **ICA VOTE ACT OF 2002.**

21 Section 401 of such Act (42 U.S.C. 15511) is amend-  
22 ed—

23 (1) by striking “The Attorney General” and in-  
24 serting “(a) IN GENERAL.—The Attorney General”;  
25 and

1           (2) by adding at the end the following new sub-  
2 sections:

3           “(b) FILING OF COMPLAINTS BY AGGRIEVED PER-  
4 SONS.—

5           “(1) IN GENERAL.—A person who is aggrieved  
6 by a violation of section 301, 302, or 303 which has  
7 occurred, is occurring, or is about to occur may file  
8 a written, signed, notarized complaint with the At-  
9 torney General describing the violation and request-  
10 ing the Attorney General to take appropriate action  
11 under this section.

12           “(2) RESPONSE BY ATTORNEY GENERAL.—The  
13 Attorney General shall respond to each complaint  
14 filed under paragraph (1), in accordance with proce-  
15 dures established by the Attorney General that re-  
16 quire responses and determinations to be made with-  
17 in the same (or shorter) deadlines which apply to a  
18 State under the State-based administrative com-  
19 plaint procedures described in section 402(a)(2).

20           “(c) CLARIFICATION OF AVAILABILITY OF PRIVATE  
21 RIGHT OF ACTION.—Nothing in this section may be con-  
22 strued to prohibit any person from bringing an action  
23 under section 1979 of the Revised Statutes of the United  
24 States (42 U.S.C. 1983) (including any individual who  
25 seeks to enforce the individual’s right to a voter-verified

1 paper ballot, the right to have the voter-verified paper bal-  
 2 lot counted in an election, or any other right under subtitle  
 3 A of title III) to enforce the uniform and nondiscrim-  
 4 inatory election technology and administration require-  
 5 ments under sections 301, 302, and 303.

6 “(d) NO EFFECT ON STATE PROCEDURES.—Nothing  
 7 in this section may be construed to affect the availability  
 8 of the State-based administrative complaint procedures re-  
 9 quired under section 402 to any person filing a complaint  
 10 under this subsection.”.

11 **SEC. 4. EXTENSION OF AUTHORIZATION OF ELECTION AS-**  
 12 **SISTANCE COMMISSION.**

13 (a) IN GENERAL.—Section 210 of the Help America  
 14 Vote Act of 2002 (42 U.S.C. 15330) is amended by strik-  
 15 ing “each of the fiscal years 2003 through 2005” and in-  
 16 serting “each fiscal year beginning with fiscal year 2003”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 subsection (a) shall take effect as if included in the enact-  
 19 ment of the Help America Vote Act of 2002.

20 **SEC. 5. REQUIREMENT FOR MANDATORY MANUAL AUDITS**  
 21 **BY HAND COUNT.**

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



1     **“Subtitle C—Mandatory Manual**  
2     **Audits by Election Audit Boards**

3     **“SEC. 321. ESTABLISHMENT OF ELECTION AUDIT BOARDS.**

4           “(a) ESTABLISHMENT.—Not later than 60 days be-  
5 fore the date of each election for Federal office held in  
6 the State, the chief auditor of each State shall appoint  
7 an Election Audit Board to administer, without advance  
8 notice to the precincts selected, random hand counts of  
9 the voter-verified paper ballots required to be produced  
10 and preserved pursuant to section 301(a)(2) for each such  
11 election held in the State (and, at the option of the State  
12 or jurisdiction involved, of elections for State and local of-  
13 fice held at the same time as such election).

14           “(b) COMPOSITION.—

15           “(1) IN GENERAL.—Each political party in the  
16 State with a candidate in any of the regularly sched-  
17 uled elections for Federal office held in the State  
18 whose candidates in the most recent regularly sched-  
19 uled general elections in the State received at least  
20 5% of the aggregate number of all votes cast in such  
21 elections, together with any independent candidate  
22 who received at least 5% of the aggregate number  
23 of all votes cast in the most recent regularly sched-  
24 uled general elections in the State, shall select a

1 qualified individual for appointment to the Election  
2 Audit Board of the State.

3 “(2) UNAFFILIATED MEMBERS.—In addition to  
4 the individuals serving on the Board pursuant to  
5 paragraph (1), the chief auditor of the State shall  
6 appoint qualified individuals who are not nominated  
7 by any political party or candidate and who are not  
8 employees or agents of any political party or can-  
9 didate to serve on the Board. The number of individ-  
10 uals appointed pursuant to this paragraph shall be  
11 sufficient to ensure that the total number of individ-  
12 uals serving on the Board is an odd number not less  
13 than 7.

14 “(3) QUALIFICATIONS.—An individual is quali-  
15 fied to be appointed to the Board if the individual  
16 has professional experience in carrying out audits on  
17 an impartial basis, and does not have any conflict of  
18 interest with the manufacturer or vendor of any vot-  
19 ing system which was used in any of the elections  
20 that will be audited by the Board.

21 “(4) DIVERSITY IN APPOINTMENTS.—In mak-  
22 ing appointments to the Board, the chief auditor of  
23 the State shall (to the greatest extent practicable)  
24 ensure that the members of the Board reflect the de-

1       mographic composition of the voting age population  
2       of the State.

3       “(c) SPECIAL RULE FOR RUNOFF AND SPECIAL  
4 ELECTIONS.—

5               “(1) RUNOFF ELECTIONS.—If a runoff election  
6       for Federal office is held in the State, the Election  
7       Audit Board which was appointed for the initial elec-  
8       tion which resulted in the runoff election shall serve  
9       as the Election Audit Board with respect to the run-  
10      off election.

11              “(2) SPECIAL ELECTIONS.—If a special election  
12      for Federal office is held in the State (other than a  
13      special election held on the same date as the date of  
14      a regularly scheduled election for Federal office), the  
15      Election Audit Board which was appointed for the  
16      most recent regularly scheduled election for Federal  
17      office in the State shall serve as the Election Audit  
18      Board with respect to the special election.

19              “(d) CHIEF AUDITOR DEFINED.—In this subsection,  
20      the ‘chief auditor’ of a State is an official of the State  
21      government, who, as designated by the Attorney General  
22      of the State and certified by the Attorney General of the  
23      State to the Commission, is responsible for conducting an-  
24      nual audits of the operations of the government of the  
25      State under the laws or constitution of the State, except

1 that in no case may an individual serve as the chief audi-  
2 tor of a State under this subsection if the individual is  
3 the chief State election official.

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

5       “(a) IN GENERAL.—Except as provided in subsection  
6 (b), the number of voter-verified paper ballots which will  
7 be subject to a hand count administered by the Election  
8 Audit Board of a State under this subtitle with respect  
9 to an election shall be determined as follows:

10           “(1) In the event that the unofficial count as  
11 described in section 323(a)(1) reveals that the mar-  
12 gin of victory between the two candidates receiving  
13 the largest number of votes in the election is less  
14 than 1 percent of the total votes cast in that elec-  
15 tion, the hand counts of the voter-verified paper bal-  
16 lots shall occur in 10 percent of all precincts (or  
17 equivalent locations) in the Congressional district in-  
18 volved (in the case of an election for the House of  
19 Representatives) or the State (in the case of any  
20 other election for Federal office).

21           “(2) In the event that the unofficial count as  
22 described in section 323(a)(1) reveals that the mar-  
23 gin of victory between the two candidates receiving  
24 the largest number of votes in the election is greater  
25 than or equal to 1 percent but less than 2 percent

1 of the total votes cast in that election, the hand  
2 counts of the voter-verified paper ballots shall occur  
3 in 5 percent of all precincts (or equivalent locations)  
4 in the Congressional district involved (in the case of  
5 an election for the House of Representatives) or the  
6 State (in the case of any other election for Federal  
7 office).

8 “(3) In the event that the unofficial count as  
9 described in section 323(a)(1) reveals that the mar-  
10 gin of victory between the two candidates receiving  
11 the largest number of votes in the election is equal  
12 to or greater than 2 percent of the total votes cast  
13 in that election, the hand counts of the voter-verified  
14 paper ballots shall occur in 3 percent of all precincts  
15 (or equivalent locations) in the Congressional district  
16 involved (in the case of an election for the House of  
17 Representatives) or the State (in the case of any  
18 other election for Federal office).

19 “(b) USE OF ALTERNATIVE MECHANISM.—Notwith-  
20 standing subsection (a), a State may adopt and apply an  
21 alternative mechanism to determine the number of voter-  
22 verified paper ballots which will be subject to the hand  
23 counts required under this subtitle with respect to an elec-  
24 tion, so long as the National Institute of Standards and  
25 Technology determines that the alternative mechanism

1 will be at least as effective in ensuring the accuracy of  
2 the election results and as transparent as the procedure  
3 under subsection (a).

4 **“SEC. 323. PROCESS FOR ADMINISTERING AUDITS.**

5 “(a) IN GENERAL.—The Election Audit Board of a  
6 State shall administer an audit under this section of the  
7 results of an election in accordance with the following pro-  
8 cedures:

9 “(1) Within 24 hours after the State announces  
10 the final unofficial vote count in each precinct in the  
11 State, the Board shall determine and then announce  
12 the precincts in the State in which it will administer  
13 the audits.

14 “(2) With respect to votes cast at the precinct  
15 or equivalent location on or before the date of the  
16 election (other than provisional ballots described in  
17 paragraph (3)), the Board shall administer the hand  
18 count of the votes on the paper voter-verified ballots  
19 required to be produced and preserved under section  
20 301(a)(2)(A) and the comparison of the count of the  
21 votes on those ballots with the final unofficial count  
22 of such votes as announced by the State.

23 “(3) With respect to votes cast other than at  
24 the precinct on the date of the election (other than  
25 votes cast before the date of the election described

1 in paragraph (2)) or votes cast by provisional ballot  
2 on the date of the election which are certified and  
3 counted by the State on or after the date of the elec-  
4 tion, including votes cast by absent uniformed serv-  
5 ices voters and overseas voters under the Uniformed  
6 and Overseas Citizens Absentee Voting Act, the  
7 Board shall administer the hand count of the appli-  
8 cable voter-verified ballots required to be produced  
9 and preserved under section 301(a)(2)(A) and sec-  
10 tion 301(a)(2)(B) and compare the count it admin-  
11 isters with the count of such votes as announced by  
12 the State.

13 “(b) SPECIAL RULE IN CASE OF DELAY IN REPORT-  
14 ING ABSENTEE VOTE COUNT.—In the case of a State in  
15 which, under State law, the final count of absentee and  
16 provisional votes is not announced until after the expira-  
17 tion of the 7-day period which begins on the date of the  
18 election, the Election Audit Board shall initiate the proc-  
19 ess described in subsection (a) for administering the audit  
20 not later than 24 hours after the State announces the final  
21 unofficial vote count for the votes cast at the precinct or  
22 equivalent location on or before the date of the election,  
23 and shall initiate the administration of the audit of the  
24 absentee and provisional votes pursuant to subsection

1 (a)(3) not later than 24 hours after the State announces  
2 the final unofficial count of such votes.

3 “(c) ADDITIONAL AUDITS IF CAUSE SHOWN.—

4 “(1) IN GENERAL.—If the Election Audit  
5 Board finds that any of the hand counts adminis-  
6 tered under this section do not match the final unof-  
7 ficial tally of the results of an election, the Board  
8 shall administer hand counts under this section of  
9 such additional precincts (or equivalent jurisdictions)  
10 as the Board considers appropriate to resolve any  
11 concerns resulting from the audit and ensure the ac-  
12 curacy of the results.

13 “(2) ESTABLISHMENT AND PUBLICATION OF  
14 PROCEDURES GOVERNING ADDITIONAL AUDITS.—

15 Not later than January 1, 2008, each State shall es-  
16 tablish and publish procedures for carrying out the  
17 additional audits under this subsection, including the  
18 means by which the State shall resolve any concerns  
19 resulting from the audit with finality and ensure the  
20 accuracy of the results.

21 “(d) PUBLIC OBSERVATION OF AUDITS.—Each audit  
22 conducted under this section shall be conducted in a man-  
23 ner that allows public observation of the entire process.



1 **“SEC. 324. SELECTION OF PRECINCTS.**

2       “(a) IN GENERAL.—Except as provided in subsection  
3 (c), the selection of the precincts in the State in which  
4 the Election Audit Board of the State shall administer the  
5 hand counts under this subtitle shall be made by the  
6 Board on an entirely random basis using a uniform dis-  
7 tribution in which all precincts in a State have an equal  
8 chance of being selected, in accordance with such proce-  
9 dures as the Commission determines appropriate, except  
10 that—

11               “(1) at least one precinct shall be selected at  
12 random in each county; and

13               “(2) the Commission shall publish the proce-  
14 dures in the Federal Register prior to the selection  
15 of the precincts.

16       “(b) PUBLIC SELECTION.—The random selection of  
17 precincts under subsection (a) shall be conducted in pub-  
18 lic, at a time and place announced in advance.

19       “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-  
20 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a  
21 State establishes a separate precinct for purposes of  
22 counting the absentee ballots cast in an election and treats  
23 all absentee ballots as having been cast in that precinct,  
24 and if the state does not make absentee ballots sortable  
25 by precinct, the State shall include that precinct among  
26 the precincts in the State in which the Election Audit

1 Board shall administer the hand counts under this sub-  
2 title.

3 **“SEC. 325. PUBLICATION OF RESULTS.**

4       “(a) SUBMISSION TO COMMISSION.—As soon as prac-  
5 ticable after the completion of an audit under this subtitle,  
6 the Election Audit Board of a State shall submit to the  
7 Commission the results of the audit, and shall include in  
8 the submission a comparison of the results of the election  
9 in the precinct as determined by the Board under the  
10 audit and the final unofficial vote count in the precinct  
11 as announced by the State, as well as a list of any discrep-  
12 ancies discovered between the initial, subsequent, and final  
13 hand counts administered by the Board and such final un-  
14 official vote count and any explanation for such discrep-  
15 ancies, broken down by the categories of votes described  
16 in paragraphs (2) and (3) of section 323(a).

17       “(b) PUBLICATION BY COMMISSION.—Immediately  
18 after receiving the submission of the results of an audit  
19 from the Election Audit Board of a State under subsection  
20 (a), the Commission shall publicly announce and publish  
21 the information contained in the submission.

22       “(c) DELAY IN CERTIFICATION OF RESULTS BY  
23 STATE.—

24               “(1) PROHIBITING CERTIFICATION UNTIL COM-  
25 PLETION OF AUDITS.—No State may certify the re-

1 sults of any election which is subject to an audit  
2 under this subtitle prior to the completion of the  
3 audit and the announcement and submission of the  
4 results of the audit to the Commission for publica-  
5 tion of the information required under this section.

6 “(2) DEADLINE FOR COMPLETION OF AUDITS  
7 OF PRESIDENTIAL ELECTIONS.—In the case of an  
8 election for electors for President and Vice President  
9 which is subject to an audit under this subtitle, the  
10 State shall complete the audits and announce and  
11 submit the results to the Commission for publication  
12 of the information required under this section in  
13 time for the State to certify the results of the elec-  
14 tion and provide for the final determination of any  
15 controversy or contest concerning the appointment  
16 of such electors prior to the deadline described in  
17 section 6 of title 3, United States Code.

18 **“SEC. 326. PAYMENTS TO STATES.**

19 “(a) PAYMENTS FOR COSTS OF CONDUCTING AU-  
20 DITS.—In accordance with the requirements and proce-  
21 dures of this section, the Commission shall make a pay-  
22 ment to a State to cover the costs incurred by the State  
23 in carrying out this subtitle with respect to the elections  
24 that are the subject of the audits conducted under this  
25 subtitle.

1       “(b) CERTIFICATION OF COMPLIANCE AND ANTICI-  
2 PATED COSTS.—

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

7                       “(A) a certification that the State will con-  
8 duct the audits required under this subtitle in  
9 accordance with all of the requirements of this  
10 subtitle;

11                      “(B) a notice of the reasonable costs an-  
12 ticipated to be incurred by the State in carrying  
13 out this subtitle with respect to the elections in-  
14 volved; and

15                      “(C) such other information and assur-  
16 ances as the Commission may require.

17               “(2) AMOUNT OF PAYMENT.—The amount of a  
18 payment made to a State under this section shall be  
19 equal to the reasonable costs anticipated to be in-  
20 curred by the State in carrying out this subtitle with  
21 respect to the elections involved, as set forth in the  
22 statement submitted under paragraph (1) a notice  
23 submitted by the State to the Commission (in such  
24 form and containing such information as the Com-  
25 mission may require).



1 **“SEC. 328. EFFECTIVE DATE.**

2 “This subtitle shall apply with respect to elections for  
3 Federal office beginning with the regularly scheduled gen-  
4 eral elections held in November 2008.”.

5 (b) AVAILABILITY OF ENFORCEMENT UNDER HELP  
6 AMERICA VOTE ACT OF 2002.—Section 401 of such Act  
7 (42 U.S.C. 15511), as amended by section 3, is amend-  
8 ed—

9 (1) in subsection (a), by striking the period at  
10 the end and inserting the following: “, or the re-  
11 quirements of subtitle C of title III.”;

12 (2) in subsection (b)(1), by striking “section  
13 303” and inserting “section 303, or subtitle C of  
14 title III,”; and

15 (3) in subsection (c)—

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

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

21 (c) CLERICAL AMENDMENT.—The table of contents  
22 of such Act is amended by adding at the end of the item  
23 relating to title III the following:

“Subtitle C—Mandatory Manual Audits by Election Audit Boards

“Sec. 321. Establishment of Election Audit Boards.

“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 automatic recount within 24 hours  
under State law.

“Sec. 328. Effective date.”.

1 **SEC. 6. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**  
2 **COMMISSION FROM CERTAIN GOVERNMENT**  
3 **CONTRACTING REQUIREMENTS.**

4 (a) IN GENERAL.—Section 205 of the Help America  
5 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-  
6 ing subsection (e).

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply with respect to contracts entered  
9 into by the Election Assistance Commission on or after  
10 the date of the enactment of this Act.

11 **SEC. 7. EFFECTIVE DATE.**

12 Except as otherwise provided, this Act and the  
13 amendments made by this Act shall apply with respect to  
14 elections for Federal office occurring during 2008 and  
15 each succeeding year.

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