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

Mr. HOLT introduced the following bill; which was referred to the Committee on ______________________

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; TABLE OF CONTENTS.
4 (a) Short Title.—This Act may be cited as the
5 “Voter Confidence and Increased Accessibility Act of
6 2009”.
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH VOTER-VERIFIED PERMANENT PAPER BALLOT

Sec. 101. Paper ballot and manual counting requirements.
Sec. 102. Accessibility and ballot verification for individuals with disabilities.
Sec. 103. Additional voting system requirements.
Sec. 104. Availability of additional funding to enable States to meet costs of revised requirements.
Sec. 105. Effective date for new requirements.

TITLE II—ENHANCEMENT OF ENFORCEMENT


TITLE III—REQUIREMENT FOR MANDATORY MANUAL AUDITS BY HAND COUNT

Sec. 301. 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. 303. Guidance on best practices for alternative audit mechanisms.
Sec. 304. Clerical amendment.

TITLE IV—REPEAL OF EXEMPTION OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS

Sec. 401. Repeal of exemption of Election Assistance Commission from certain government contracting requirements.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.
Title I—Promoting Accuracy, Integrity, and Security through Voter-Verified Permanent Paper Ballot


(a) 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) Paper ballot requirement.—

"(A) Voter-verified paper ballots.—

"(i) Paper ballot requirement.—

(I) The voting system shall require the use of an individual, durable, voter-verified, paper ballot of the voter’s vote that shall be marked and made available for inspection and verification by the voter before the voter’s vote is cast and counted. For purposes of this subclause, the term ‘individual, durable, voter-verified, paper ballot’ means a paper ballot marked by the voter for the purpose of being counted by hand or read by an optical scanner or other counting device, or a paper ballot marked
through the use of a nontabulating ballot
marking device or system.

“(II) The voting system shall provide
the voter with an opportunity to correct
any error on the 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 asso-
ciate a voter with the record of the voter’s
vote without the voter’s consent.

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

“(iii) Manual counting require-
ments for recounts and audits.—(I)
Each paper ballot used pursuant to clause
(i) shall be suitable for a manual audit,
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 determined by counting by hand the individual, durable, voter-verified, paper ballots used 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 used 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 (by damage or mischief or otherwise) 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), 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.”.

(b) 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 used under paragraph (2))” after “voting system”.

e) Other Conforming Amendments.—Section 301(a)(1) of such Act (42 U.S.C. 15481(a)(1)) is amended—

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

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

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

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

SEC. 102. ACCESSIBILITY AND BALLOT VERIFICATION FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Section 301(a)(3)(B) of the Help America Vote Act of 2002 (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, including nonvisual and enhanced visual accessibility for the blind and visually impaired, 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 permanent paper ballot through the presentation, in accessible form, of the printed or marked vote selections [from] the same printed or marked information that would be used for any vote counting or auditing;

“(II) ensures that the entire process of ballot verification and vote casting is equipped for individuals with disabilities, including nonvisual and enhanced visual
accessibility for the blind and visually impaired; and

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

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

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

(A) by redesignating section 247 as section 248; and

(B) by inserting after section 246 the following new section:

“SEC. 247. STUDY AND REPORT ON ACCESSIBLE PAPER 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 paper 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 car-
rying out this section, the Director shall specifically inves-
tigate existing and potential methods or devices, including
non-electronic devices, that will assist such individuals and
voters in marking voter-verified paper ballots and pre-
senting or transmitting the information printed or marked
on such ballots back to such individuals and voters.

“(b) COORDINATION WITH GRANTS FOR TECH-
NOLOGY IMPROVEMENTS.—The Director shall coordinate
the activities carried out under subsection (a) with the re-
search 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 re-
quirements of subsection (a) not later than December 31,
2010.

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

(2) CLERICAL AMENDMENT.—The table of con-
tents of such Act is amended—

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

(B) by inserting after the item relating to
section 246 the following new item:
(c) **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.

**SEC. 103. ADDITIONAL VOTING SYSTEM REQUIREMENTS.**

(a) **Requirements Described.**—Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraphs:

“(7) **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—

“(i) which has not been certified by the State for use in the election; and
“(ii) 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 intellectual 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 period prior to a trial involving the technology;

“(vi) is silent as to damages awarded for breach of the agreement, other than a reference to damages available under applicable 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 (including vulnerabilities to tampering, errors, risks associated with use, failures as a result of use, and other problems), and describe or explain why or how a voting system 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:

“(i) IN GENERAL.—The term ‘election-dedicated voting system technology’ means the following:

“(I) The source code used for the trusted build and its file signatures.

“(II) A complete disk image of the pre-build, build environment, and any file signatures to validate that it is unmodified.

“(III) A complete disk image of the post-build, build environment, and any file signatures to validate that it is unmodified.

“(IV) All executable code produced by the trusted build and any file signatures to validate that it is unmodified.

“(V) Installation devices and software file signatures.
“(ii) EXCLUSION.—Such term does not include ‘commercial-off-the-shelf’ software and hardware defined under the 2005 voluntary voting system guidelines adopted by the Commission under section 222.

“(8) PROHIBITION OF USE OF WIRELESS COMMUNICATIONS DEVICES IN SYSTEMS OR DEVICES.—No system or device upon which ballots are programmed or votes are cast or tabulated shall contain, use, or be accessible by any wireless, power-line, or concealed communication device, except that enclosed infrared communications devices which are certified for use in such device 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.

“(9) PROHIBITING CONNECTION OF SYSTEM OR TRANSMISSION OF SYSTEM INFORMATION OVER THE INTERNET.—

“(A) IN GENERAL.—No system or device upon which ballots are programmed or votes are cast or tabulated shall be connected to the Internet at any time.

“(B) RULE OF CONSTRUCTION.—Nothing contained in this paragraph shall be deemed to
prohibit the Commission from conducting the
studies under section 242 or to conduct other
similar studies under any other provision of law
in a manner consistent with this paragraph.

“(10) 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 elec-
tion officials using such system meet the applic-
cable requirements described in subparagraph
(B).

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

“(i) The manufacturer and the elec-
tion officials shall document the secure
chain of custody for the handling of all
software, hardware, vote storage media,
blank ballots, and completed ballots used
in connection with voting systems, and
shall make the information 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 (7).

“(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, software patch,
or other software modification not cer-
tified by the State for use in the elec-
tion.

“(iv) At the request of the Commiss-
ion—

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

and

“(II) the manufacturer shall sub-
mit information to the Commission re-
garding the manufacturer’s compli-
ance with this subparagraph.
“(C) Development and publication of best practices on documentation of secure chain of custody.—Not later than August 1, 2010, the Commission shall develop and make publicly available best practices regarding the requirement of subparagraph (B)(i) and (B)(iii), and in the case of subparagraph (B)(iii), shall include best practices for certifying software patches and minor software modifications under short deadlines.

“(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.

“(11) 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 shall be marked or printed 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 or printed on them for the full du-
ration of a retention and preservation pe-
period of 22 months.

“(B) Readability requirements for
paper ballots marked by ballot marking
device.—All voter-verified paper ballots com-
pleted by the voter through the use of a ballot
marking 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 indi-
viduals with disabilities.”.

(b) Requiring laboratories to meet stand-
ard standards prohibiting conflicts of interest as condi-
tion of accreditation for testing of voting sys-
tem hardware and software.—

(1) 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, 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 identi-
fication 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.”.

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

(A) 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.”;
(B) 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.”;

(C) in subsection (b)(1), by striking “testing, certification, decertification, and recertification” and inserting “testing”; and

(D) in subsection (d), by striking “testing, certification, decertification, and recertification” each place it appears and inserting “testing”.

(3) 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 paragraph (1)) not later than January 1, 2010.

(4) 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 paragraph (1)).

(c) Grants for Research on Development of Election-Dedicated Voting System Software.—

(1) 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 section $1,500,000 for each of fiscal years 2010 and 2011, to remain available until expended.”.

(2) 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.”.
SEC. 104. AVAILABILITY OF ADDITIONAL FUNDING TO ENABLE STATES TO MEET COSTS OF REVISED REQUIREMENTS.

(a) 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 2010, $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 title I of the Voter Confidence and Increased Accessibility Act of 2009, or to otherwise modify or replace its voting systems in response to such amendments.”.

(b) 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 paragraph (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 USED TO MEET REQUIREMENTS IMPOSED UNDER VOTER CONFIDENCE AND INCREASED ACCESSIBILITY ACT OF 2009.—

“(A) IN GENERAL.—In the case of the requirements payment made to a State under the authorization made by section 257(a)(4) for fiscal year 2010 or any fiscal year thereafter, 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 percent of the number of partially non-compliant precincts in the State; and

“(ii) the sum of the number of non-compliant precincts in all States and 50 percent of the number of partially non-compliant 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 2008 did not meet either of the requirements described in subparagraph (D).

“(C) PARTIALLY NONCOMPLIANT PRECINCT DEFINED.—In this paragraph, a ‘partially 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 2008 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 durable paper ballots (as described in section 301(a)(2)(A)(i)(I) and 301(a)(11)(A), as amended or added by
the Voter Confidence and Increased Accessibility Act of 2009) for every vote cast.

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

e) Revised Conditions for Receipt of Funds.—Section 253 of such Act (42 U.S.C. 15403) is amended—

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

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

“(f) Special Rule for Payments Used to Meet Requirements Imposed Under Voter Confidence and Increased Accessibility Act of 2009.—

“(1) In General.—Notwithstanding any other provision of this part, a State is eligible to receive a requirements payment under the authorization made by section 257(a)(4) for fiscal year 2010 or any fiscal year thereafter if, not later than 90 days after the date of the enactment of the Voter Confidence and Increased Accessibility Act of 2009, 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 num-
ber of noncompliant and partially noncompliant
precincts in the State (as defined in section
252(b)(2)); and

“(B) files a statement with the Commis-
sion describing the State’s need for the pay-
ment and how the State will use the payment
to meet the requirements of title III (in accord-
ance with the limitations applicable to the use
of the payment under section 257(a)(4)).

“(2) Certifications by States that re-
quire 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.”.

(d) Permitting Use of Funds for Reimburse-
ment 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 fol-
lowing: “, or as a reimbursement for any costs incurred after November 2004 in meeting the requirements of title III which are imposed pursuant to the amendments made by title I of the Voter Confidence and Increased Accessi-
bility Act of 2009 or in otherwise upgrading or replacing voting systems in a manner consistent with such amend-
ments (so long as the voting systems meet any of the re-
quirements that apply with respect to elections for Federal office held in 2012 and each succeeding year).”.

(e) Rule of Construction Regarding States Receiving Other Funds for Replacing Punch Card, Lever, or Other Voting Machines.—Nothing in the amendments made by this section or in any other provision of the Help America Vote Act of 2002 may be construed to prohibit a State which received or was au-
thorized to receive a payment under title I or II of such Act for replacing punch card, lever, or other voting ma-
chines from receiving or using any funds which are made available under the amendments made by this section.

(f) Rule of Construction Regarding Use of Funds Received in Prior Years.—

(1) In general.—Nothing contained in this Act or the Help America Vote Act of 2002 may be construed to prohibit a State from using funds re-
ceived under title I or II of the Help America Vote
Act of 2002 to purchase or acquire by other means a voting system that meets the requirements of paragraphs (2) and (3) of section 301 of the Help America Vote Act of 2002 (as amended by this Act) in order to replace voting systems purchased with funds received under the Help America Vote Act of 2002 that do not meet such requirements.

(2) WAIVER OF NOTICE AND COMMENT REQUIREMENTS.—The requirements of subparagraphs (A), (B), and (C) of section 254(a)(11) of the Help America Vote Act of 2002 shall not apply to any State using funds received under such Act for the purposes described in subparagraph (A) or (B) of paragraph (1).

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning with fiscal year 2010.

SEC. 105. EFFECTIVE DATE FOR NEW REQUIREMENTS.

Section 301(d) of the Help America Vote Act of 2002 (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 title I of the Voter Confidence and Increased Accessibility Act of 2009 shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.

“(B) DELAY FOR JURISDICTIONS USING CERTAIN PAPER RECORD PRINTERS OR CERTAIN SYSTEMS USING OR PRODUCING VOTER-VERIFIABLE PAPER RECORDS IN 2008.—

“(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 2010 and each succeeding election for Federal office’ were a reference to ‘elections for Federal office occurring during 2012 and each succeeding year’, but only with re-
With respect to the following requirements of this section:

“(I) Paragraph (2)(A)(i)(I) of subsection (a) (relating to the use of voter-marked paper ballots).

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

“(III) Paragraph (11) of subsection (a) (relating to durability and readability requirements for ballots).

“(ii) JURISDICTIONS DESCRIBED.—A jurisdiction described in this clause is a jurisdiction—

“(I) which used voter verifiable paper record printers attached to direct recording electronic voting machines, or which used other voting systems that used or produced paper records of the vote verifiable by voters but that are not in compliance with paragraphs (2)(A)(i)(I), (3)(B)(ii)(I) and (II), and (11) of subsection (a) (as amended or added by the Voter
Confidence and Increased Accessibility

Act of 2009), for the administration of the regularly scheduled general election for Federal office held in November 2008; and

“(II) which will continue to use such printers or systems for the administration of elections for Federal office held in years before 2012.

“(iii) MANDATORY AVAILABILITY OF PAPER BALLOTS AT POLLING PLACES USING GRANDFATHERED PRINTERS AND SYSTEMS.—

“(I) REQUIRING BALLOTS TO BE OFFERED AND PROVIDED.—The appropriate election official at each polling place that uses a printer or system described in clause (ii)(I) for the administration of elections 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 blank pre-printed paper ballot which the individual may mark by hand and which is not
produced by the direct recording electronic voting machine or other system.

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 the lesser of 30 minutes or the average waiting period for an individual who does not agree to cast the vote using such a paper ballot under this clause.

“(II) Treatment of ballot.— Any paper ballot which is cast by an individual under this clause shall be counted and otherwise treated as a regular ballot for all purposes (including by incorporating it into the final unofficial vote count (as defined by the State) for the precinct) and not as a provisional ballot, unless the individual casting the ballot would have otherwise been required to cast a provisional ballot.
“(III) **Posting of Notice.**—The appropriate election official shall ensure there is prominently displayed at each polling place a notice that describes the obligation of the official to offer individuals the opportunity to cast votes using a pre-printed blank paper ballot.

“(IV) **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 clause, including the requirement to display a notice under subclause (III), 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 blank pre-printed paper ballot.

“(V) **Period of Applicability.**—The requirements of this clause apply only during the period in which the delay is in effect under clause (i).”
TITLE II—ENHANCEMENT OF ENFORCEMENT

SEC. 201. ENHANCEMENT OF ENFORCEMENT OF HELP AMERICA VOTE ACT OF 2002.

Section 401 of the Help America Vote Act of 2002 (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 AGRRIEVED 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. The Attorney General shall immediately provide a copy of a complaint filed under the previous sentence to the entity responsible for administering the State-based administrative complaint procedures described in section 402(a) for the State involved.
“(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). The Attorney General shall immediately provide a copy of the response made under the previous sentence to the entity responsible for administering the State-based administrative complaint procedures described in section 402(a) for the State involved.

“(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 required under section 402 to any person filing a complaint under this subsection.”.

TITLE III—REQUIREMENT FOR MANDATORY MANUAL AUDITS BY HAND COUNT

SEC. 301. 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 all 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 used 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—

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

“(B) received 80 percent 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 and as set forth in the Comptroller General’s Government Auditing Standards to ensure the independence (including the organizational independence) of entities performing financial audits, attestation engagements, and performance audits.
"(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 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 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 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).

"(2) In the event that the unofficial count as described in section 323(a)(1) reveals that the mar-
gin 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 lo-
cations (or alternative audit units used in accord-
ance 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).

“(3) In the event that the unofficial count as
described in section 323(a)(1) reveals that the mar-
gin 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 dis-
trict 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.—

“(1) PERMITTING 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 effective in ensuring the accuracy of the election results as the procedure under this subtitle, in accordance with the principles set forth in paragraph (2).

“(2) PRINCIPLES FOR APPROVAL.—In approving an alternative mechanism under paragraph (1), the National Institute of Standards and Technology shall ensure that such mechanism will provide a probability of at least 95% that the post-election audit will detect the minimum amount of margin error that could cause an incorrect election outcome, taking into account the possible margin error within the precinct or other audit unit.
“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—

“(A) determine and then announce the precincts or equivalent locations (or alternative audit units used in accordance with the method provided under section 322(b)) in the State in which it will administer the audits; and

“(B) 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 (2)), begin to administer the hand count of the votes on the voter-verified paper ballots required to be used 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.

“(2) 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 PERSONNEL.—In administering the audits, the Election Auditor may utilize the services of the personnel of the State or jurisdiction, including election administration personnel and poll workers, without regard to whether or not the personnel have professional auditing experience.

“(c) LOCATION.—The Election Auditor shall administer an audit of an election—

“(1) at the location where the ballots cast in the election are stored and counted after the date of the election or such other appropriate and secure location agreed upon by the Election Auditor and the
individual that is responsible under State law for the
custody of the ballots; and

“(2) in the presence of the 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 pe-
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 provi-
sional votes pursuant to subsection (a)(2) 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 Audi-
tor 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, 2010, each State shall establish and publish procedures for carrying out the additional audits 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 in which all precincts in a Congressional district have an equal chance of being selected, in accordance with procedures adopted by the National Institute of Standards and Technology, except that at least one precinct shall be selected at random
in each county, with additional precincts selected by the Election Auditor at the Auditor’s discretion.

“(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 National Institute of Standards and Technology shall adopt the procedures described in subsection (a) not later than March 31, 2010, 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 Com-
mission 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 (1)(B) and (2) 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(e)(1)) and the announcement
and submission of the results of each such audit
to the Commission for publication of the infor-
mation required under this section; and

“(B) the completion of any procedure es-
tablished by the State pursuant to section
323(e)(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 elec-
tion 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 AU-
DITS.—In accordance with the requirements and proce-
dures of this section, the Commission shall make a pay-
ment 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 elec-
tions 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 2010 and each succeeding fiscal year $100,000,000 for payments under this section.
SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO RECOUNT UNDER STATE LAW PRIOR TO CERTIFICATION.

“(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 2 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 subtitle.

“(2) If the recount would apply to fewer than 100 percent 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 accordance with this subtitle; and

“(B) the selection of the precincts in which the recount will be conducted will be made in accordance with the random selection procedures applicable under section 324.
“(3) The recount for the election meets the requirements of section 323(f) (relating to public observation).

“(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 Requirements.—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 2010.”.

SEC. 302. AVAILABILITY OF ENFORCEMENT UNDER HELP AMERICA VOTE ACT OF 2002.

Section 401 of such Act (42 U.S.C. 15511), as amended by section 201, 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.”.

SEC. 303. GUIDANCE ON BEST PRACTICES FOR ALTERNATIVE AUDIT MECHANISMS.

(a) In General.—Not later than May 1, 2010, 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 section 301). 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).
(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $100,000, to remain available until expended.

SEC. 304. 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.”.

TITLE IV—REPEAL OF EXEMPTION OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS

SEC. 401. 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
1 into by the Election Assistance Commission on or after
2 the date of the enactment of this Act.

TITLE V—EFFECTIVE DATE

SEC. 501. 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 2010 and each succeeding election for Fed-
eral office.