

110TH CONGRESS
2D SESSION

H. R. 5036

To direct the Administrator of General Services to reimburse certain jurisdictions for the costs of obtaining paper ballot voting systems for the general elections for Federal office to be held in November 2008, to reimburse jurisdictions for the costs incurred in conducting audits or hand counting of the results of the general elections for Federal office to be held in November 2008, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2008

Mr. HOLT (for himself, Mr. TOM DAVIS of Virginia, Mr. WEXLER, Mr. EMANUEL, Mr. CONYERS, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Ms. SCHAKOWSKY, Mr. WAXMAN, Mr. GEORGE MILLER of California, Mr. ABERCROMBIE, Mr. INSLEE, Ms. BALDWIN, Mr. FARR, Mr. RYAN of Ohio, Mr. HONDA, Mr. DOGGETT, Mr. BLUMENAUER, Mr. HARE, Mr. LOEBSACK, Mr. SIRES, Mr. FRANK of Massachusetts, Mr. WEINER, Mr. BERMAN, Mr. DEFazio, Ms. HIRONO, Mr. GRIJALVA, Mr. DAVIS of Illinois, Mr. ROTHMAN, Mr. OLVER, Mr. FATTAH, Mr. DOYLE, Ms. KAPTUR, Ms. WATSON, Mr. HINCHEY, Mr. KLEIN of Florida, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Administrator of General Services to reimburse certain jurisdictions for the costs of obtaining paper ballot voting systems for the general elections for Federal office to be held in November 2008, to reimburse jurisdictions for the costs incurred in conducting audits or

hand counting of the results of the general elections for Federal office to be held in November 2008, 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 “Emergency Assistance
5 for Secure Elections Act of 2008”.

6 **SEC. 2. PAYMENTS TO CERTAIN JURISDICTIONS CON-**
7 **DUCTING 2008 GENERAL ELECTIONS.**

8 (a) REIMBURSEMENT FOR CONVERSION TO PAPER
9 BALLOT VOTING SYSTEM.—

10 (1) IN GENERAL.—The Administrator of Gen-
11 eral Services shall pay to each eligible jurisdiction an
12 amount equal to the sum of the following:

13 (A) The documented reasonable costs paid
14 or incurred by such jurisdiction to replace any
15 voting systems used to conduct the general elec-
16 tions for Federal office held in November 2006
17 that did not use or produce a paper ballot
18 verified by the voter or a paper ballot printout
19 verifiable by the voter at the time the vote is
20 cast with paper ballot voting systems.

21 (B) The documented reasonable costs paid
22 or incurred by such jurisdiction to obtain non-
23 tabulating ballot marking devices that are ac-

1 cessible for individuals with disabilities in ac-
2 cordance with the requirements of section
3 301(a)(3) of the Help America Vote Act of
4 2002.

5 (C) The documented reasonable costs paid
6 or incurred by such jurisdiction to obtain ballot
7 marking stations or voting booths for the pro-
8 tection of voter privacy.

9 (D) The documented reasonable costs paid
10 or incurred by such jurisdiction to obtain paper
11 ballots.

12 (E) The documented reasonable costs paid
13 or incurred by such jurisdiction to obtain pre-
14 cinct-based equipment that tabulates paper bal-
15 lots or scans paper ballots.

16 (F) The documented reasonable adminis-
17 trative costs paid or incurred by such jurisdic-
18 tion that are associated with meeting the re-
19 quirements for an eligible jurisdiction.

20 (2) ELIGIBLE JURISDICTION DEFINED.—In this
21 subsection, an “eligible jurisdiction” means a juris-
22 diction that submits to the Administrator (and, in
23 the case of a county or equivalent jurisdiction, pro-
24 vides a copy to the State), at such time and in such

1 form as the Administrator may require, an applica-
2 tion containing—

3 (A) assurances that the jurisdiction con-
4 ducted regularly scheduled general elections for
5 Federal office in November 2006 using (in
6 whole or in part) a voting system that did not
7 use or produce a paper ballot verified by the
8 voter or a paper ballot printout verifiable by the
9 voter at the time the vote is cast;

10 (B) assurances that the jurisdiction will
11 conduct the regularly scheduled general elec-
12 tions for Federal office to be held in November
13 2008 using only paper ballot voting systems;

14 (C) assurances that the jurisdiction has
15 obtained or will obtain a sufficient number of
16 non-tabulating ballot marking devices that are
17 accessible for individuals with disabilities in ac-
18 cordance with the requirements of section
19 301(a)(3) of the Help America Vote Act of
20 2002;

21 (D) assurances that the jurisdiction has
22 obtained or will obtain a sufficient number of
23 ballot marking stations or voting booths for the
24 protection of voter privacy;

1 (E) assurances that the jurisdiction has
2 obtained or will obtain a sufficient number of
3 paper ballots;

4 (F) such information and assurances as
5 the Administrator may require to make the de-
6 terminations under paragraph (1); and

7 (G) such other information and assurances
8 as the Administrator may require.

9 (3) DETERMINATIONS OF REASONABLENESS OF
10 COSTS.—The determinations under paragraph (1) of
11 whether costs paid or incurred by a jurisdiction are
12 reasonable shall be made by the Administrator in
13 consultation with the Election Assistance Commis-
14 sion.

15 (4) PAPER BALLOT VOTING SYSTEM DE-
16 FINED.—In this subsection, a “paper ballot voting
17 system” means a voting system that uses a paper
18 ballot marked by the voter by hand or a paper ballot
19 marked by the voter with the assistance of a non-
20 tabulating ballot marking device described in para-
21 graph (1)(B).

22 (b) REIMBURSEMENT FOR PROVISION OF EMER-
23 GENCY PAPER BALLOTS BY JURISDICTIONS USING DI-
24 RECT RECORDING ELECTRONIC VOTING SYSTEMS.—

1 (1) IN GENERAL.—The Administrator shall pay
2 to each eligible jurisdiction an amount equal to the
3 documented reasonable costs paid or incurred by
4 such jurisdiction to obtain, deploy, and tabulate
5 emergency paper ballots (and related supplies and
6 equipment) that may be used in the event of the fail-
7 ure of a direct recording electronic voting system in
8 the regularly scheduled general elections for Federal
9 office to be held in November 2008.

10 (2) ELIGIBLE JURISDICTION DEFINED.—In this
11 subsection, an “eligible jurisdiction” means a juris-
12 diction that submits to the Administrator (and, in
13 the case of a county or equivalent jurisdiction, pro-
14 vides a copy to the State), at such time and in such
15 form as the Administrator may require, an applica-
16 tion containing—

17 (A) assurances that the jurisdiction will
18 post, in a conspicuous manner at all polling
19 places at which a direct recording electronic
20 voting system will be used in such elections, a
21 notice stating that emergency paper ballots are
22 available at the polling place and that a voter
23 is entitled to use such a ballot upon the failure
24 of a voting system;

1 (B) assurances that the jurisdiction counts
2 each such emergency paper ballot cast by a
3 voter as a regular ballot cast in the election,
4 and does not treat it (for eligibility purposes) as
5 a provisional ballot under section 302(a) of the
6 Help America Vote Act of 2002, unless the in-
7 dividual casting the ballot would have otherwise
8 been required to cast a provisional ballot;

9 (C) such information and assurances as
10 the Administrator may require to make the de-
11 terminations under paragraph (1); and

12 (D) such other information and assurances
13 as the Administrator may require.

14 (3) DETERMINATION OF REASONABLENESS OF
15 COSTS.—The determinations under paragraph (1) of
16 whether costs paid or incurred by a jurisdiction are
17 reasonable shall be made by the Administrator in
18 consultation with the Election Assistance Commis-
19 sion.

20 (c) AMOUNTS.—There are authorized to be appro-
21 priated to the Administrator \$500,000,000 for payments
22 under this section. Any amounts appropriated pursuant
23 to the authorization under this subsection shall remain
24 available until expended.

1 **SEC. 3. PAYMENTS FOR CONDUCTING MANUAL AUDITS OF**
2 **RESULTS OF 2008 GENERAL ELECTIONS.**

3 (a) PAYMENTS.—

4 (1) ELIGIBILITY FOR PAYMENTS.—If a State,
5 county, or equivalent location conducts manual au-
6 dits of the results of any of the regularly scheduled
7 general elections for Federal office in November
8 2008 (and, at the option of the State or jurisdiction
9 involved, conducts audits of elections for State and
10 local office and State and local ballot initiatives and
11 referenda held at the same time as such election) in
12 accordance with the requirements of this section, the
13 Administrator shall make a payment to the State,
14 county, or equivalent location in an amount equal to
15 the documented reasonable costs incurred by the
16 State, county, or equivalent location in conducting
17 the audits.

18 (2) CERTIFICATION OF COMPLIANCE AND
19 COSTS.—

20 (A) CERTIFICATION REQUIRED.—In order
21 to receive a payment under this section, a
22 State, county, or equivalent location shall sub-
23 mit to the Administrator (and, in the case of a
24 county or equivalent jurisdiction, shall provide a
25 copy to the State), in such form as the Admin-
26 istrator may require, a statement containing—

1 (i) a certification that the State, coun-
2 ty, or equivalent location conducted the au-
3 dits in accordance with all of the require-
4 ments of this section;

5 (ii) a statement of the reasonable
6 costs incurred by the State, county, or
7 equivalent location in conducting the au-
8 dits; and

9 (iii) such other information and assur-
10 ances as the Administrator may require.

11 (B) AMOUNT OF PAYMENT.—The amount
12 of a payment made to a State, county, or equiv-
13 alent location under this section shall be equal
14 to the reasonable costs incurred by the State,
15 county, or equivalent location in conducting the
16 audits.

17 (C) DETERMINATION OF REASONABLENESS
18 OF COSTS.—The determinations under this
19 paragraph of whether costs incurred by a State,
20 county, or equivalent location are reasonable
21 shall be made by the Administrator in consulta-
22 tion with the Election Assistance Commission.

23 (3) TIMING OF PAYMENTS.—The Administrator
24 shall make the payment required under this section
25 to a State, county, or equivalent location not later

1 than 30 days after receiving the statement sub-
2 mitted by the State, county, or equivalent location
3 under paragraph (2).

4 (4) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated to the Ad-
6 ministrator \$100,000,000 for payments under this
7 section. Any amounts appropriated pursuant to the
8 authorization under this subsection shall remain
9 available until expended.

10 (b) AUDITS DESCRIBED.—

11 (1) IN GENERAL.—An audit conducted in ac-
12 cordance with this section is an audit administered
13 by a State, county, or equivalent location, without
14 advance selection of the precincts or notice of the
15 precincts selected, consisting of the random selection
16 of precincts or alternative audit units to be audited
17 and hand counting of the votes cast on the paper
18 ballots used in the election (including paper ballot
19 printouts verifiable by the voter at the time the vote
20 is cast) attributable to those precincts or alternative
21 audit units, and the comparison of the results of
22 those hand counts with the corresponding final unof-
23 ficial vote count (as defined by the State, county, or
24 equivalent location) of the votes cast in the election.

1 (2) COMPLETENESS.—With respect to each pre-
2 cinct or alternative audit unit audited in accordance
3 with the method selected under subsection (c)(2),
4 the State, county, or equivalent location shall ensure
5 that a voter verified paper ballot or paper ballot
6 printout verifiable by the voter at the time the vote
7 is cast is available for every vote cast in the precinct
8 or alternative audit unit, and that the tally produced
9 by counting all of those paper ballots by hand is
10 compared with the corresponding final unofficial
11 vote count (as defined by the State, county, or
12 equivalent location) announced with respect to that
13 precinct or audit unit in the election.

14 (3) DETERMINATION OF ENTITY CONDUCTING
15 AUDITS; INDEPENDENCE STANDARDS.—An audit ad-
16 ministered by a State, county, or equivalent location
17 in accordance with this section shall be overseen by
18 an entity selected for such purpose by the State,
19 county, or equivalent location in accordance with
20 such criteria as the State, county, or equivalent loca-
21 tion considers appropriate consistent with the re-
22 quirements of this section, except that the entity
23 must meet a general standard of independence as
24 defined by the State, county, or equivalent location.

1 (4) REFERENCES TO ELECTION AUDITOR.—In
2 this section, the term “Election Auditor” means,
3 with respect to a State, county, or equivalent loca-
4 tion, the entity selected by the State, county, or
5 equivalent location under paragraph (3).

6 (c) NUMBER OF BALLOTS COUNTED UNDER
7 AUDIT.—

8 (1) IN GENERAL.—The hand counts of the
9 paper ballots administered by the Election Auditor
10 of a State, county, or equivalent location under this
11 section with respect to an election shall occur in at
12 least 3 percent of all precincts or equivalent loca-
13 tions (or alternative audit units used in accordance
14 with the method provided for under paragraph (2))
15 in which ballots were cast in the election.

16 (2) USE OF ALTERNATIVE SAMPLING MECHA-
17 NISM.—Notwithstanding paragraph (1) (and subject
18 to the completeness requirement set forth in sub-
19 section (b)(2)), a State, county, or equivalent loca-
20 tion may adopt and apply an alternative sampling
21 mechanism to determine the number of paper ballots
22 which will be subject to hand counts in accordance
23 with this section with respect to an election, so long
24 as the alternative sampling mechanism uses the
25 paper ballots verified by voters or paper ballot print-

1 outs verifiable by voters at the time the vote is cast
2 to conduct the audit and the Director of the Na-
3 tional Institute of Standards and Technology or a
4 panel of 3 independent statisticians appointed by the
5 Election Auditor of the State, county, or equivalent
6 jurisdiction determines that the alternative sampling
7 mechanism will be at least as statistically effective in
8 ensuring the accuracy of the election results as the
9 sample size specified under paragraph (1).

10 (d) PROCESS FOR ADMINISTERING AUDITS.—

11 (1) IN GENERAL.—The Election Auditor of a
12 State, county, or equivalent location shall oversee
13 the administration of an audit conducted under this
14 section in accordance with the following procedures:

15 (A) The Election Auditor shall commence
16 the audit within 48 hours after the State, coun-
17 ty, or equivalent location announces the final
18 unofficial vote count (as defined by the State,
19 county, or equivalent location) in each precinct
20 in which votes are cast in the election which is
21 the subject of the audit.

22 (B) The Election Auditor shall complete
23 the audit, resolve discrepancies discovered in
24 the audit, and submit the audit report required
25 under subsection (f)(1), prior to the certifi-

1 cation by the State, county, or equivalent loca-
2 tion of the results of the election.

3 (C) Within each precinct or alternative
4 audit unit, and subject to the completeness re-
5 quirement set forth in subsection (b)(2), the
6 audit shall include all ballots (including absen-
7 tee ballots in accordance with the procedure set
8 forth in subsection (e)(3) or otherwise, early
9 ballots, and provisional ballots) cast by all indi-
10 viduals who voted in or are under the jurisdic-
11 tion of the precinct or alternative audit unit
12 with respect to which the audit takes place,
13 without regard to the time, place, or manner in
14 which the votes were cast.

15 (2) USE OF ELECTION PERSONNEL.—In admin-
16 istering the audits, the Election Auditor may utilize
17 the services of jurisdiction personnel, including elec-
18 tion administration personnel and poll workers, with-
19 out regard to whether or not the personnel have pro-
20 fessional auditing experience.

21 (3) LOCATION.—The Election Auditor shall ad-
22 minister an audit conducted under this section at
23 the location where the ballots cast in the election are
24 stored and counted after the date of the election, or
25 such other appropriate and secure location agreed

1 upon by the Election Auditor and the individual who
2 is responsible under State law for the custody of the
3 ballots, and in the presence of the personnel who
4 under State law are responsible for the custody of
5 the ballots.

6 (4) ADDITIONAL AUDITS IF CAUSE SHOWN.—

7 (A) IN GENERAL.—If the Election Auditor
8 finds that any of the hand counts administered
9 under this section do not match the final unof-
10 ficial vote count of the results of an election,
11 the Election Auditor shall oversee the adminis-
12 tration of hand counts under this section of
13 such additional precincts (or equivalent jurisdic-
14 tions) as the Election Auditor considers appro-
15 priate (in accordance with the procedures de-
16 scribed in subparagraph (B)) to resolve any
17 concerns resulting from the audit and ensure
18 the accuracy of the results.

19 (B) ESTABLISHMENT AND PUBLICATION
20 OF PROCEDURES GOVERNING ADDITIONAL AU-
21 DITS.—Prior to the date of the regularly sched-
22 uled general election for Federal office held in
23 November 2008, a State, county, or equivalent
24 location shall establish and publish procedures
25 for carrying out the additional audits under this

1 subsection, including the means by which the
2 State, county, or equivalent location shall re-
3 solve any concerns resulting from the audit with
4 finality and ensure the accuracy of the results.

5 (5) PUBLIC OBSERVATION OF AUDITS.—Each
6 audit conducted under this section shall be con-
7 ducted in a manner that allows public observation of
8 the entire process, including reasonable advance no-
9 tice, sufficient to confirm but not interfere with the
10 proceedings.

11 (e) SELECTION OF PRECINCTS.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (3), the selection of the precincts in the State,
14 county, or equivalent location in which the Election
15 Auditor of the State, county, or equivalent location
16 shall oversee the administration of hand counts in
17 an audit conducted under this section shall be made
18 by the Election Auditor after the final unofficial vote
19 count (as defined by the State, county or equivalent
20 location) has been announced and on an entirely
21 random basis using a uniform distribution in which
22 all precincts in the State, county, or equivalent loca-
23 tion have an equal chance of being selected, in ac-
24 cordance with procedures adopted by the State,
25 county, or equivalent location, except that, consistent

1 with the other requirements of this paragraph, in
2 the case of an audit conducted by the State, at least
3 one precinct or alternative audit unit shall be se-
4 lected at random in each county or equivalent juris-
5 diction.

6 (2) PUBLIC SELECTION.—The random selection
7 of precincts under paragraph (1) shall be conducted
8 in public, at a time and place announced in advance.

9 (3) MANDATORY SELECTION OF PRECINCTS ES-
10 TABLISHED SPECIFICALLY FOR ABSENTEE BAL-
11 LOTS.—If a State, county, or equivalent location es-
12 tablishes a separate precinct for purposes of count-
13 ing the absentee ballots cast in an election and
14 treats all absentee ballots as having been cast in
15 that precinct, and if the State, county, or equivalent
16 location does not make absentee ballots sortable by
17 precinct and include those ballots in the hand count
18 administered with respect to that precinct, subject to
19 the completeness requirement set forth in subsection
20 (b)(2), the State, county, or equivalent location may
21 divide absentee ballots into audit units approxi-
22 mately equal in size to the average precinct in the
23 State, county, or equivalent location in terms of the
24 number of ballots cast, and shall randomly select
25 and include at least 3 percent of those audit units

1 in the audit carried out in accordance with this sec-
2 tion.

3 (4) DEADLINE FOR ADOPTION OF PROCE-
4 DURES.—Prior to the date of the regularly scheduled
5 general election for Federal office held in November
6 2008, a State, county, or equivalent location shall
7 adopt and publish the procedures described in para-
8 graph (1).

9 (f) PUBLICATION OF RESULTS.—As soon as prac-
10 ticable after the completion of an audit conducted under
11 this section, the Election Auditor of a State, county, or
12 equivalent location shall submit to the Administrator the
13 results of the audit, and shall include in the submission
14 a comparison of the results of the election attributable to
15 the precinct or alternative audit unit as determined by the
16 Election Auditor under the audit and the final unofficial
17 vote count attributable to the precinct or alternative audit
18 unit as announced by the State, county, or equivalent loca-
19 tion and all undervotes, overvotes, blank ballots, and
20 spoiled, voided or cancelled ballots, as well as a list of any
21 discrepancies discovered between the initial, subsequent,
22 and final hand counts overseen by the Election Auditor
23 and such final unofficial vote count and any explanation
24 for such discrepancies, broken down by the types of ballots
25 which were subject to the audit.

1 (g) REPORTS BY ADMINISTRATOR.—The Adminis-
2 trator shall publish promptly all reports on the results of
3 audits conducted under this section that are submitted
4 pursuant to this section.

5 (h) DEADLINE FOR APPROVAL OF ALTERNATIVE
6 BALLOT SAMPLING METHODS BY NATIONAL INSTITUTE
7 OF STANDARDS AND TECHNOLOGY.—The Director of the
8 National Institute of Standards and Technology shall, not
9 later than 30 days after receiving a request by a State,
10 county, or equivalent location for approval of an alter-
11 native ballot sampling method under subsection (e)(2), re-
12 spond to the State, county, or equivalent location with con-
13 firmation as to whether or not the method is at least as
14 statistically effective in ensuring the accuracy of the elec-
15 tion results as the procedure described in subsection
16 (c)(1).

17 **SEC. 4. PAYMENTS FOR CONDUCTING HAND COUNTS OF**
18 **RESULTS OF 2008 GENERAL ELECTIONS.**

19 (a) PAYMENTS.—

20 (1) ELIGIBILITY FOR PAYMENTS.—If a State,
21 county, or equivalent location tallies the results of
22 any regularly scheduled general election for Federal
23 office in November 2008 by conducting a hand count
24 of the votes cast on the paper ballots used in the
25 election (including paper ballot printouts verifiable

1 by the voter at the time the vote is cast) in accord-
2 ance with the requirements of this section, the Ad-
3 ministrator shall make a payment to the State,
4 county, or equivalent location in an amount equal to
5 the documented reasonable costs incurred by the
6 State, county, or equivalent location in conducting
7 the hand counts.

8 (2) CERTIFICATION OF COMPLIANCE AND
9 COSTS.—

10 (A) CERTIFICATION REQUIRED.—In order
11 to receive a payment under this section, a
12 State, county, or equivalent location shall sub-
13 mit to the Administrator (and, in the case of a
14 county or equivalent jurisdiction, shall provide a
15 copy to the State), in such form as the Admin-
16 istrator may require, a statement containing—

17 (i) a certification that the State, coun-
18 ty, or equivalent location conducted the
19 hand counts in accordance with all of the
20 requirements of this section;

21 (ii) a statement of the reasonable
22 costs incurred by the State, county, or
23 equivalent location in conducting the hand
24 counts; and

1 (iii) such other information and assur-
2 ances as the Administrator may require.

3 (B) AMOUNT OF PAYMENT.—The amount
4 of a payment made to a State, county, or equiv-
5 alent location under this section shall be equal
6 to the reasonable costs incurred by the State,
7 county, or equivalent location in conducting the
8 hand counts.

9 (C) DETERMINATION OF REASONABLENESS
10 OF COSTS.—The determinations under this
11 paragraph of whether costs incurred by a State,
12 county, or equivalent location are reasonable
13 shall be made by the Administrator in consulta-
14 tion with the Election Assistance Commission.

15 (3) TIMING OF PAYMENTS.—The Administrator
16 shall make the payment required under this section
17 to a State, county, or equivalent location not later
18 than 30 days after receiving the statement sub-
19 mitted by the State, county, or equivalent location
20 under paragraph (2).

21 (4) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to the Ad-
23 ministrator \$30,000,000 for payments under this
24 section. Any amounts appropriated pursuant to the

1 authorization under this subsection shall remain
2 available until expended.

3 (b) HAND COUNTS DESCRIBED.—

4 (1) IN GENERAL.—A hand count conducted in
5 accordance with this section is a count of all of the
6 paper ballots on which votes were cast in the election
7 (including paper ballot printouts verifiable by the
8 voter at the time the vote is cast), including votes
9 cast on an early, absentee, emergency, and provi-
10 sional basis, which is conducted by hand to deter-
11 mine the winner of the election and is conducted
12 without using electronic equipment or software.

13 (2) COMPLETENESS.—With respect to each ju-
14 risdiction in which a hand count is conducted, the
15 State, county, or equivalent location shall ensure
16 that a voter verified paper ballot or paper ballot
17 printout verifiable by the voter at the time the vote
18 is cast is available for every vote cast in the jurisdic-
19 tion.

20 (c) PROCESS FOR CONDUCTING HAND COUNTS.—

21 (1) IN GENERAL.—In order to meet the require-
22 ments of this section, a hand count of the ballots
23 cast in an election shall be conducted in accordance
24 with the following procedures:

1 (A) On the date of the election, the jurisdic-
2 tion shall conduct an initial hand count of
3 the ballots cast in the election, using the ballots
4 which are eligible to be counted in the election
5 as of the time the polls are closed.

6 (B) Any ballot which is eligible to be
7 counted in the election but which is not in-
8 cluded in the initial count conducted under sub-
9 paragraph (A), including a provisional ballot
10 cast by an individual who is determined to be
11 eligible to vote in the election or an absentee
12 ballot received after the date of the election but
13 prior to the applicable deadline under State law
14 for the receipt of absentee ballots, shall be sub-
15 ject to a hand count in accordance with this
16 section and added to the tally conducted under
17 subparagraph (A) not later than 48 hours after
18 the ballot is determined to be eligible to be
19 counted.

20 (C) The hand count shall be conducted by
21 a team of not fewer than 2 individuals who
22 shall be witnessed by at least one observer sit-
23 ting at the same table with such individuals.
24 Except as provided in paragraph (2), all such

1 individuals shall be election officials of the ju-
2 risdiction in which the hand count is conducted.

3 (2) USE OF OTHER PERSONNEL.—An individual
4 who is not an election official of the jurisdiction in
5 which a hand count is conducted under this section
6 may serve on a team conducting the hand count or
7 may serve as an observer of a team conducting the
8 hand count if the jurisdiction certifies that the indi-
9 vidual has completed such training as the jurisdic-
10 tion deems appropriate to conduct or observe the
11 hand count (as the case may be).

12 (3) LOCATION.—The hand counts conducted
13 under this section of the ballots cast in an election
14 shall be conducted—

15 (A) in the case of ballots cast at a polling
16 place on the date of the election, at the polling
17 place at which the ballots were cast; or

18 (B) in the case of any other ballots, at the
19 office of the chief election official of the jurisdic-
20 tion conducting the hand count.

21 (4) INFORMATION INCLUDED IN RESULTS.—
22 Each hand count conducted under this section shall
23 produce the following information with respect to the
24 election:

25 (A) The vote tally for each candidate.

1 (B) The number of overvotes, undervotes,
2 spoiled ballots, and blank ballots cast (or their
3 equivalents, as defined by the State, county or
4 equivalent location).

5 (C) The number of write-in ballots and the
6 names written in on such ballots pursuant to
7 State law.

8 (D) The total number of ballots cast.

9 (E) A record of judgement calls made re-
10 garding voter intent.

11 (5) PUBLIC OBSERVATION OF HAND COUNTS.—

12 Each hand count conducted under this section shall
13 be conducted in a manner that allows public obser-
14 vation of the entire process (including the opening of
15 the ballot boxes or removal of machine-printed bal-
16 lots from their containers, the sorting, counting, and
17 notation of results, and the announcement of final
18 determinations) sufficient to confirm but not inter-
19 fere with the proceedings.

20 (6) ESTABLISHMENT AND PUBLICATION OF
21 PROCEDURES.—Prior to the date of the regularly
22 scheduled general election for Federal office held in
23 November 2008, a State, county, or equivalent loca-
24 tion shall establish and publish procedures for car-
25 rying out hand counts under this subsection.

1 (d) ANNOUNCEMENT AND POSTING OF RESULTS.—
 2 Upon the completion of a hand count conducted under this
 3 section, the State, county, or equivalent location shall an-
 4 nounce the results to the public and post them on a public
 5 Internet site.

6 (e) USE OF HAND COUNT IN CERTIFICATION OF RE-
 7 SULTS.—The State shall use the results of the hand count
 8 conducted under this section for purposes of certifying the
 9 results of the election involved. Nothing in this section
 10 may be construed to affect the application or operation
 11 of any State law governing the recount of the results of
 12 an election.

13 **SEC. 5. STUDY, TESTING, AND DEVELOPMENT OF PROD-**
 14 **UCTS AND PRACTICES TO ENSURE ACCESSI-**
 15 **BILITY OF PAPER BALLOT VERIFICATION**
 16 **AND CASTING FOR CERTAIN INDIVIDUALS.**

17 (a) STUDY, TESTING, AND DEVELOPMENT.—The Di-
 18 rector of the National Institute of Standards and Tech-
 19 nology (hereafter in this section referred to as the “Direc-
 20 tor”) shall study, test, and develop products and practices
 21 that ensure the accessibility of paper ballot verification
 22 and casting for individuals with disabilities, for voters
 23 whose primary language is not English, and for voters
 24 with difficulties in literacy, including the mechanisms
 25 themselves and the processes through which the mecha-

1 nisms are used. In carrying out this subsection, the Di-
2 rector shall specifically investigate existing and potential
3 methods or devices, including non-electronic devices, that
4 will assist such individuals and voters in creating voter-
5 verified paper ballots, presenting or transmitting the infor-
6 mation printed or marked on such ballots back to such
7 individuals and voters in an accessible form, and enabling
8 the voters to cast the ballots.

9 (b) REPORT.—Not later than June 30, 2009, the Di-
10 rector shall submit a report to Congress on the results
11 of the studying, testing, and development of products and
12 practices under subsection (a).

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Director to carry
15 out this section \$3,000,000, to remain available until ex-
16 pended.

17 **SEC. 6. DEFINITIONS.**

18 In this Act—

19 (1) the term “Administrator” means the Ad-
20 ministrator of General Services; and

21 (2) the term “State” includes the District of
22 Columbia, the Commonwealth of Puerto Rico,
23 Guam, American Samoa, and the United States Vir-
24 gin Islands.

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