

110TH CONGRESS
2D SESSION

S. 3100

To require early voting in Federal elections, to prohibit restrictions on absentee voting in Federal elections, to establish a grant program to promote voting by mail, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2008

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To require early voting in Federal elections, to prohibit restrictions on absentee voting in Federal elections, to establish a grant program to promote voting by mail, 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 “Voting Opportunities and Integrity in the Conduct of
6 Elections Act of 2008”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title, table of contents.

TITLE I—EARLY VOTING

Sec. 101. Early voting.

Sec. 102. Standards for early voting.

TITLE II—ABSENTEE BALLOTS ON DEMAND

Sec. 201. Absentee ballots on demand.

TITLE III—VOTE BY MAIL

Sec. 301. Definitions.

Sec. 302. Vote by mail grant program.

Sec. 303. Study on implementation of mail-in voting for elections.

TITLE IV—VOTE VERIFICATION

Sec. 401. Promoting accuracy, integrity, and security through voter-verified permanent paper ballot.

Sec. 402. Enhancement of enforcement of Help America Vote Act of 2002.

Sec. 403. Requirement for mandatory manual audits by hand count.

Sec. 404. Repeal of exemption of Election Assistance Commission from certain Government contracting requirements.

Sec. 405. Effective date.

TITLE V—VOTER REGISTRATION

Sec. 501. Grants for pre-registration of voters.

Sec. 502. Grants for automatic re-registration of voters changing residence.

Sec. 503. Interoperability of voter registration databases.

Sec. 504. Clarification of standards for determining matching of information provided with applications.

TITLE VI—VOTER CAGING

Sec. 601. Prohibition on voter caging.

1 **TITLE I—EARLY VOTING**

2 **SEC. 101. EARLY VOTING.**

3 (a) REQUIREMENTS.—

4 (1) IN GENERAL.—Title III of the Help Amer-
5 ica Vote Act of 2002 (42 U.S.C. 15481 et seq.) is
6 amended—

7 (A) by redesignating sections 304 and 305
8 as sections 305 and 306, respectively, and

1 (B) by inserting after section 303 the fol-
2 lowing new section:

3 **“SEC. 304. EARLY VOTING.**

4 “(a) IN GENERAL.—During the 15-day period (or, at
5 the option of the State, a longer period) which ends on
6 the date of an election for Federal office, each State shall
7 allow individuals to vote in the election in a similar man-
8 ner to the manner in which voting is allowed in person
9 at the polling place on the date of such election.

10 “(b) MINIMUM EARLY VOTING REQUIREMENTS.—
11 Each polling place which allows voting prior to the day
12 of a Federal election pursuant to subsection (a) shall—

13 “(1) allow such voting for no less than 4 hours
14 on each day (other than Sunday); and

15 “(2) have minimum uniform hours each day for
16 which such voting occurs.

17 “(c) EFFECTIVE DATE.—Each State and jurisdiction
18 shall be required to comply with the requirements of this
19 section on and after January 1, 2010.”.

20 (b) CONFORMING AMENDMENT.—Section 401 of
21 such Act (42 U.S.C. 15511) is amended by striking “and
22 303” and inserting “303, and 304”.

23 (c) CLERICAL AMENDMENT.—The table of contents
24 of such Act is amended—

1 (1) by redesignating the items relating to sec-
 2 tions 304 and 305 as relating to sections 305 and
 3 306, respectively, and

4 (2) by inserting after the item relating to sec-
 5 tion 303 the following new item:

“Sec. 304. Early voting.”.

6 **SEC. 102. STANDARDS FOR EARLY VOTING.**

7 (a) IN GENERAL.—Title II of such Act (42 U.S.C.
 8 15321 et seq.) is amended by adding at the end the fol-
 9 lowing new subtitle:

10 **“Subtitle E—Guidance and**
 11 **Standards**

12 **“SEC. 298. STANDARDS FOR EARLY VOTING.**

13 “(a) STANDARDS.—

14 “(1) IN GENERAL.—The Commission shall issue
 15 standards for the administration of voting prior to
 16 the day scheduled for a Federal election.

17 “(2) STANDARDS FOR POLLING PLACES.—Such
 18 standards shall include the nondiscriminatory geo-
 19 graphic placement of polling places at which such
 20 voting occurs and the public listing of the date, time,
 21 and location of polling places no earlier than 10 days
 22 before the date on which such voting begins.

23 “(3) CONSULTATION.—Such standards shall be
 24 developed in consultation with civil rights, voting
 25 rights, and voting protection organizations, State

1 and local election officials, and other interested
2 members of the community.

3 “(b) DEVIATION.—The standards described in sub-
4 section (a) shall permit States, upon giving reasonable
5 public notice, to deviate from any requirement in the case
6 of unforeseen circumstances such as a natural disaster or
7 a terrorist attack.”.

8 (b) CONFORMING AMENDMENT.—Section 202 of
9 such Act (42 U.S.C. 15322) is amended—

10 (1) by redesignating paragraphs (5) and (6) as
11 paragraphs (6) and (7); and

12 (2) by inserting after paragraph (4) the fol-
13 lowing new paragraph:

14 “(5) carrying out the duties described under
15 subtitle E;”.

16 (c) CLERICAL AMENDMENT.—The table of contents
17 of such Act is amended by inserting after the item relating
18 to section 296 the following:

“Subtitle E—Guidance and Standards

“Sec. 298. Standards for early voting.”.

19 **TITLE II—ABSENTEE BALLOTS**
20 **ON DEMAND**

21 **SEC. 201. ABSENTEE BALLOTS ON DEMAND.**

22 (a) IN GENERAL.—Title III of the Help America
23 Vote Act of 2002 (42 U.S.C. 15481 et seq.), as amended
24 by this Act, is amended—

1 (1) by redesignating sections 305 and 306 as
2 sections 306 and 307, respectively, and

3 (2) by inserting after section 304 the following
4 new section: by adding at the end the following new
5 section:

6 **“SEC. 305. ABSENTEE BALLOTS ON DEMAND.**

7 “(a) ABSENTEE VOTING.—Each State shall permit
8 any person who is otherwise qualified to vote in an election
9 for Federal office to vote in such election in a manner
10 other than in person, and shall not impose any additional
11 conditions or restrictions on absentee voting other than
12 a reasonable deadline for requesting and returning the bal-
13 lot.

14 “(b) SUBMISSION AND PROCESSING.—Any ballot cast
15 under subsection (a) shall be submitted and processed in
16 the manner provided for absentee ballots under State law.

17 “(c) EFFECTIVE DATE.—Each State and jurisdiction
18 shall be required to comply with the requirements of this
19 section on and after January 1, 2010.”.

20 (b) CONFORMING AMENDMENT.—Section 401 of
21 such Act (42 U.S.C. 15511), as amended by this Act, is
22 amended by striking “and 304” and inserting “304, and
23 305”.

24 (c) CLERICAL AMENDMENT.—The table of contents
25 of such Act, as amended by this Act, is amended—

1 (1) by redesignating the items relating to sec-
2 tions 305 and 306 as relating to sections 306 and
3 307, respectively, and

4 (2) by inserting after the item relating to sec-
5 tion 304 the following new item:

“Sec. 305. Absentee ballots on demand.”.

6 **TITLE III—VOTE BY MAIL**

7 **SEC. 301. DEFINITIONS.**

8 In this title:

9 (1) **ELECTION.**—The term “election” means
10 any general, special, primary, or runoff election.

11 (2) **PARTICIPATING STATE.**—The term “partici-
12 pating State” means a State receiving a grant under
13 the Vote by Mail grant program under section 402.

14 (3) **RESIDUAL VOTE RATE.**—The term “resid-
15 ual vote rate” means the sum of all votes that can-
16 not be counted in an election (overvotes, undervotes,
17 and otherwise spoiled ballots) divided by the total
18 number of votes cast.

19 (4) **STATE.**—The term “State” means a State
20 of the United States, the District of Columbia, the
21 Commonwealth of Puerto Rico, or a territory or pos-
22 session of the United States.

23 (5) **VOTING SYSTEM.**—The term “voting sys-
24 tem” has the meaning given such term under section

1 301(b) of the Help America Vote Act of 2002 (42
2 U.S.C. 15481(b)).

3 **SEC. 302. VOTE BY MAIL GRANT PROGRAM.**

4 (a) ESTABLISHMENT.—Not later than 270 days after
5 the date of enactment of this Act, the Election Assistance
6 Commission shall establish a Vote by Mail grant program
7 (in this section referred to as the “program”).

8 (b) PURPOSE.—The purpose of the program is to
9 make implementation grants to participating States solely
10 for the implementation of procedures for the conduct of
11 all elections by mail at the State or local government level.

12 (c) LIMITATION ON USE OF FUNDS.—In no case may
13 grants made under this section be used to reimburse a
14 State for costs incurred in implementing mail-in voting for
15 elections at the State or local government level if such
16 costs were incurred prior to the date of enactment of this
17 Act.

18 (d) APPLICATION.—A State seeking to participate in
19 the program under this section shall submit an application
20 to the Election Assistance Commission containing such in-
21 formation, and at such time, as the Election Assistance
22 Commission may specify.

23 (e) AMOUNT AND AWARDED OF IMPLEMENTATION
24 GRANTS; DURATION OF PROGRAM.—

25 (1) AMOUNT OF IMPLEMENTATION GRANTS.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the amount of an implementation
3 grant made to a participating State shall be, in
4 the case of a State that certifies that it will im-
5 plement all elections by mail in accordance with
6 the requirements of subsection (f), with respect
7 to—

8 (i) the entire State, \$2,000,000; or

9 (ii) any single unit or multiple units
10 of local government within the State,
11 \$1,000,000.

12 (B) EXCESS FUNDS.—

13 (i) IN GENERAL.—To the extent that
14 there are excess funds in either of the first
15 2 years of the program, such funds may be
16 used to award implementation grants to
17 participating States in subsequent years.

18 (ii) EXCESS FUNDS DEFINED.—For
19 purposes of clause (i), the term “excess
20 funds” means any amounts appropriated
21 pursuant to the authorization under sub-
22 section (h)(1) with respect to a fiscal year
23 that are not awarded to a participating
24 State under an implementation grant dur-
25 ing such fiscal year.

1 (C) CONTINUING AVAILABILITY OF FUNDS
2 AFTER APPROPRIATION.—An implementation
3 grant made to a participating State under this
4 section shall be available to the State without
5 fiscal year limitation.

6 (2) AWARDING OF IMPLEMENTATION
7 GRANTS.—

8 (A) IN GENERAL.—The Election Assist-
9 ance Commission shall award implementation
10 grants during each year in which the program
11 is conducted.

12 (B) ONE GRANT PER STATE.—The Elec-
13 tion Assistance Commission shall not award
14 more than 1 implementation grant to any par-
15 ticipating State under this section over the du-
16 ration of the program.

17 (3) DURATION.—The program shall be con-
18 ducted for a period of 3 years.

19 (f) REQUIREMENTS.—

20 (1) REQUIRED PROCEDURES.—A participating
21 State shall establish and implement procedures for
22 conducting all elections by mail in the area with re-
23 spect to which it receives an implementation grant
24 to conduct such elections, including the following:

1 (A) A process for recording electronically
2 each voter's registration information and signa-
3 ture.

4 (B) A process for mailing ballots to all eli-
5 gible voters.

6 (C) The designation of places for the de-
7 posit of ballots cast in an election.

8 (D) A process for ensuring the secrecy and
9 integrity of ballots cast in the election.

10 (E) Procedures and penalties for pre-
11 venting election fraud and ballot tampering, in-
12 cluding procedures for the verification of the
13 signature of the voter accompanying the ballot
14 through comparison of such signature with the
15 signature of the voter maintained by the State
16 in accordance with subparagraph (A).

17 (F) Procedures for verifying that a ballot
18 has been received by the appropriate authority.

19 (G) Procedures for obtaining a replace-
20 ment ballot in the case of a ballot which is de-
21 stroyed, spoiled, lost, or not received by the
22 voter.

23 (H) A plan for training election workers in
24 signature verification techniques.

1 (I) Plans and procedures to ensure that
2 voters who are blind, visually-impaired, or oth-
3 erwise disabled have the opportunity to partici-
4 pate in elections conducted by mail and to en-
5 sure compliance with the Help America Vote
6 Act of 2002. Such plans and procedures shall
7 be developed in consultation with disabled and
8 other civil rights organizations, voting rights
9 groups, State election officials, voter protection
10 groups, and other interested community organi-
11 zations.

12 (J) Plans and procedures to ensure the
13 translation of ballots and voting materials in
14 accordance with section 203 of the Voting
15 Rights Act of 1965 (42 U.S.C. 1973aa-1a)).

16 (K) Plans and procedures to allow for vot-
17 ing in person at designated polling places.

18 (g) BEST PRACTICES, TECHNICAL ASSISTANCE, AND
19 REPORTS.—

20 (1) IN GENERAL.—The Election Assistance
21 Commission shall—

22 (A) develop, periodically issue, and, as ap-
23 propriate, update best practices for conducting
24 elections by mail;

1 (B) provide technical assistance to partici-
2 pating States for the purpose of implementing
3 procedures for conducting elections by mail; and

4 (C) submit to the appropriate committees
5 of Congress—

6 (i) annual reports on the implementa-
7 tion of such procedures by participating
8 States during each year in which the pro-
9 gram is conducted; and

10 (ii) upon completion of the program
11 conducted under this section, a final report
12 on the program, together with rec-
13 ommendations for such legislation or ad-
14 ministrative action as the Election Assist-
15 ance Commission determines to be appro-
16 priate.

17 (2) CONSULTATION.—In developing, issuing,
18 and updating best practices, developing materials to
19 provide technical assistance to participating States,
20 and developing the annual and final reports under
21 paragraph (1), the Election Assistance Commission
22 shall consult with interested parties, including—

23 (A) State and local election officials;

24 (B) the United States Postal Service;

1 (C) the Postal Regulatory Commission es-
2 tablished under section 501 of title 39, United
3 States Code; and

4 (D) voting rights groups, voter protection
5 groups, groups representing the disabled, and
6 other civil rights or community organizations.

7 (h) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) GRANTS.—There are authorized to be ap-
9 propriated to award grants under this section, for
10 each of fiscal years 2009 through 2011, \$6,000,000,
11 to remain available without fiscal year limitation
12 until expended.

13 (2) ADMINISTRATION.—There are authorized to
14 be appropriated to administer the program under
15 this section, \$200,000 for the period of fiscal years
16 2009 through 2011, to remain available without fis-
17 cal year limitation until expended.

18 (i) RULE OF CONSTRUCTION.—Nothing in this title
19 may be construed to authorize or require conduct prohib-
20 ited under any of the following laws, or to supersede, re-
21 strict, or limit the application of such laws:

22 (1) The Help America Vote Act of 2002 (42
23 U.S.C. 15301 et seq.).

24 (2) The Voting Rights Act of 1965 (42 U.S.C.
25 1973 et seq.).

1 (3) The Voting Accessibility for the Elderly and
2 Handicapped Act (42 U.S.C. 1973ee et seq.).

3 (4) The Uniformed and Overseas Citizens Ab-
4 sentee Voting Act(42 U.S.C. 1973ff et seq.).

5 (5) The National Voter Registration Act of
6 1993 (42 U.S.C. 1973gg et seq.).

7 (6) The Americans with Disabilities Act of
8 1990 (42 U.S.C. 12101 et seq.).

9 (7) The Rehabilitation Act of 1973 (29 U.S.C.
10 701 et seq.).

11 **SEC. 303. STUDY ON IMPLEMENTATION OF MAIL-IN VOTING**

12 **FOR ELECTIONS.**

13 (a) STUDY.—

14 (1) IN GENERAL.—The Comptroller General of
15 the United States (in this section referred to as the
16 “Comptroller General”) shall conduct a study evalu-
17 ating the benefits of broader implementation of mail-
18 in voting in elections, taking into consideration the
19 annual reports submitted by the Election Assistance
20 Commission under section 402(g)(1)(C)(i) before
21 November 1, 2009.

22 (2) SPECIFIC ISSUES STUDIED.—The study
23 conducted under paragraph (1) shall include a com-
24 parison of traditional voting methods and mail-in
25 voting with respect to—

1 (A) the likelihood of voter fraud and mis-
2 conduct;

3 (B) the accuracy of voter rolls;

4 (C) the accuracy of election results;

5 (D) voter participation in urban and rural
6 communities and by minorities, language mi-
7 norities (as defined in section 203 of the Voting
8 Rights Act of 1965 (42 U.S.C. 1973aa-1a)),
9 and individuals with disabilities and by individ-
10 uals who are homeless or who frequently change
11 their official residences;

12 (E) public confidence in the election sys-
13 tem;

14 (F) the residual vote rate, including such
15 rate based on voter age, education, income,
16 race, or ethnicity or whether a voter lives in an
17 urban or rural community, is disabled, or is a
18 language minority (as so defined); and

19 (G) cost savings.

20 (3) CONSULTATION.—In conducting the study
21 under paragraph (1), the Comptroller General shall
22 consult with interested parties, including—

23 (A) State and local election officials;

24 (B) the United States Postal Service;

1 (C) the Postal Regulatory Commission es-
 2 tablished under section 501 of title 39, United
 3 States Code; and

4 (D) voting rights groups, voter protection
 5 groups, groups representing the disabled, and
 6 other civil rights or community organizations.

7 (b) REPORT.—Not later than November 1, 2009, the
 8 Comptroller General shall prepare and submit to the ap-
 9 propriate committees of Congress a report on the study
 10 conducted under subsection (a), together with such rec-
 11 ommendations for legislation or administrative action as
 12 the Comptroller General determines to be appropriate.

13 **TITLE IV—VOTE VERIFICATION**

14 **SEC. 401. PROMOTING ACCURACY, INTEGRITY, AND SECUR-** 15 **RITY THROUGH VOTER-VERIFIED PERMA-** 16 **NENT PAPER BALLOT.**

17 (a) BALLOT VERIFICATION AND AUDIT CAPACITY.—

18 (1) IN GENERAL.—Section 301(a)(2) of the
 19 Help America Vote Act of 2002 (42 U.S.C.
 20 15481(a)(2)) is amended to read as follows:

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

23 “(A) VOTER-VERIFIED PAPER BALLOTS.—

24 “(i) VERIFICATION.—(I) The voting
 25 system shall require the use of or produce

1 an individual, durable, voter-verified, paper
2 ballot of the voter’s vote that shall be cre-
3 ated by or made available for inspection
4 and verification by the voter before the vot-
5 er’s vote is cast and counted. For purposes
6 of this subclause, the term ‘individual, du-
7 rable, voter-verified, paper ballot’ includes
8 (but is not limited to) a paper ballot
9 marked by the voter for the purpose of
10 being counted by hand or read by an opti-
11 cal scanner or other similar device, a paper
12 ballot prepared by the voter to be mailed
13 to an election official (whether from a do-
14 mestic or overseas location), a paper ballot
15 created through the use of a nontabulating
16 ballot marking device or system, or, in the
17 case of an election held before 2012, a
18 paper ballot produced by a direct recording
19 electronic voting machine, so long as in
20 each case the voter is permitted to verify
21 the ballot in a paper form in accordance
22 with this subparagraph.

23 “(II) The voting system shall provide
24 the voter with an opportunity to correct
25 any error made by the system in the voter-

1 verified paper ballot before the permanent
2 voter-verified paper ballot is preserved in
3 accordance with clause (ii).

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

10 “(ii) PRESERVATION.—The individual,
11 durable, voter-verified, paper ballot pro-
12 duced in accordance with clause (i) shall be
13 used as the official ballot for purposes of
14 any recount or audit conducted with re-
15 spect to any election for Federal office in
16 which the voting system is used, and shall
17 be preserved—

18 “(I) in the case of votes cast at
19 the polling place on the date of the
20 election, within the polling place in a
21 secure manner; or

22 “(II) in any other case, in a se-
23 cure manner which is consistent with
24 the manner employed by the jurisdic-

1 tion for preserving paper ballots in
2 general.

3 “(iii) MANUAL AUDIT CAPACITY.—(I)
4 Each paper ballot produced pursuant to
5 clause (i) shall be suitable for a manual
6 audit equivalent to that of a paper ballot
7 voting system, and shall be counted by
8 hand in any recount or audit conducted
9 with respect to any election for Federal of-
10 fice.

11 “(II) In the event of any inconsist-
12 encies or irregularities between any elec-
13 tronic vote tallies and the vote tallies de-
14 termined by counting by hand the indi-
15 vidual, durable, voter-verified, paper ballots
16 produced pursuant to clause (i), and sub-
17 ject to subparagraph (B), the individual,
18 durable, voter-verified, paper ballots shall
19 be the true and correct record of the votes
20 cast.

21 “(B) SPECIAL RULE FOR TREATMENT OF
22 DISPUTES WHEN PAPER BALLOTS HAVE BEEN
23 SHOWN TO BE COMPROMISED.—

24 “(i) IN GENERAL.—In the event
25 that—

1 “(I) there is any inconsistency
2 between any electronic vote tallies and
3 the vote tallies determined by count-
4 ing by hand the individual, durable,
5 voter-verified, paper ballots produced
6 pursuant to subparagraph (A)(i) with
7 respect to any election for Federal of-
8 fice; and

9 “(II) it is demonstrated by clear
10 and convincing evidence (as deter-
11 mined in accordance with the applica-
12 ble standards in the jurisdiction in-
13 volved) in any recount, audit, or con-
14 test of the result of the election that
15 the paper ballots have been com-
16 promised (by damage or mischief or
17 otherwise) and that a sufficient num-
18 ber of the ballots have been so com-
19 promised that the result of the elec-
20 tion could be changed,

21 the determination of the appropriate rem-
22 edy with respect to the election shall be
23 made in accordance with applicable State
24 law, except that the electronic tally shall

1 not be used as the exclusive basis for de-
2 termining the official certified vote tally.

3 “(ii) RULE FOR CONSIDERATION OF
4 BALLOTS ASSOCIATED WITH EACH VOTING
5 MACHINE.—For purposes of clause (i),
6 only the paper ballots deemed com-
7 promised, if any, shall be considered in the
8 calculation of whether or not the result of
9 the election could be changed due to the
10 compromised paper ballots.”.

11 (2) CONFORMING AMENDMENT CLARIFYING AP-
12 PPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSI-
13 BILITY.—Section 301(a)(4) of such Act (42 U.S.C.
14 15481(a)(4)) is amended by inserting “(including
15 the paper ballots required to be produced under
16 paragraph (2) and the notices required under para-
17 graphs (7) and (13)(C)” after “voting system”.

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

21 (A) in subparagraph (A)(i), by striking
22 “counted” and inserting “counted, in accord-
23 ance with paragraphs (2) and (3)”;

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

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

8 (D) in subparagraph (B)(ii), by striking
9 “counted” and inserting “counted, in accord-
10 ance with paragraphs (2) and (3)”.

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

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

16 “(B)(i) satisfy the requirement of subpara-
17 graph (A) through the use of at least one voting
18 system equipped for individuals with disabili-
19 ties, including nonvisual and enhanced visual
20 accessibility for the blind and visually impaired,
21 at each polling place; and

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

1 “(I) allows the voter to privately and
2 independently verify the permanent paper
3 ballot through the presentation, in acces-
4 sible form, of the printed or marked vote
5 selections from the same printed or
6 marked information that would be used for
7 any vote counting or auditing;

8 “(II) ensures that the entire process
9 of ballot verification and vote casting is
10 equipped for individuals with disabilities,
11 including nonvisual and enhanced visual
12 accessibility for the blind and visually im-
13 paired; and

14 “(III) does not preclude the supple-
15 mentary use of Braille or tactile ballots;
16 and”.

17 (2) SPECIFIC REQUIREMENT OF STUDY, TEST-
18 ING, AND DEVELOPMENT OF ACCESSIBLE BALLOT
19 VERIFICATION MECHANISMS.—

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

23 (i) by redesignating section 247 as
24 section 248; and

1 (ii) by inserting after section 246 the
2 following new section:

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

5 “(a) STUDY AND REPORT.—The Director of the Na-
6 tional Institute of Standards and Technology shall study,
7 test, and develop best practices to enhance the accessibility
8 of ballot verification mechanisms for individuals with dis-
9 abilities, for voters whose primary language is not English,
10 and for voters with difficulties in literacy, including best
11 practices for the mechanisms themselves and the processes
12 through which the mechanisms are used. In carrying out
13 this section, the Director shall specifically investigate ex-
14 isting and potential methods or devices, including non-
15 electronic devices, that will assist such individuals and vot-
16 ers in creating voter-verified paper ballots and presenting
17 or transmitting the information printed or marked on such
18 ballots back to such individuals and voters.

19 “(b) COORDINATION WITH GRANTS FOR TECH-
20 NOLOGY IMPROVEMENTS.—The Director shall coordinate
21 the activities carried out under subsection (a) with the re-
22 search conducted under the grant program carried out by
23 the Commission under section 271, to the extent that the
24 Director and Commission determine necessary to provide
25 for the advancement of accessible voting technology.

1 “(c) DEADLINE.—The Director shall complete the re-
2 quirements of subsection (a) not later than December 31,
3 2010.

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

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

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

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

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

14 (3) CLARIFICATION OF ACCESSIBILITY STAND-
15 ARDS UNDER VOLUNTARY VOTING SYSTEM GUID-
16 ANCE.—In adopting any voluntary guidance under
17 subtitle B of title III of the Help America Vote Act
18 with respect to the accessibility of the paper ballot
19 verification requirements for individuals with disabili-
20 ties, the Election Assistance Commission shall in-
21 clude and apply the same accessibility standards ap-
22 plicable under the voluntary guidance adopted for
23 accessible voting systems under such subtitle.

24 (c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—

1 (1) REQUIREMENTS DESCRIBED.—Section
2 301(a) of such Act (42 U.S.C. 15481(a)) is amend-
3 ed by adding at the end the following new para-
4 graphs:

5 “(7) INSTRUCTION REMINDING VOTERS OF IM-
6 PORTANCE OF VERIFYING PAPER BALLOT.—

7 “(A) IN GENERAL.—The appropriate elec-
8 tion official at each polling place shall cause to
9 be placed in a prominent location in the polling
10 place which is clearly visible from the voting
11 booths a notice, in large font print accessible to
12 the visually impaired, advising voters that the
13 paper ballots representing their votes shall serve
14 as the vote of record in all audits and recounts
15 in elections for Federal office, and that they
16 should not leave the voting booth until con-
17 firming that such paper ballots accurately
18 record their vote.

19 “(B) SYSTEMS FOR INDIVIDUALS WITH
20 DISABILITIES.—All voting systems equipped for
21 individuals with disabilities shall present or
22 transmit in accessible form the statement re-
23 ferred to in subparagraph (A), as well as an ex-
24 planation of the verification process described
25 in paragraph (3)(B)(ii).

1 “(8) PROHIBITING USE OF UNCERTIFIED ELEC-
2 TION-DEDICATED VOTING SYSTEM TECHNOLOGIES;
3 DISCLOSURE REQUIREMENTS.—

4 “(A) IN GENERAL.—A voting system used
5 in an election for Federal office in a State may
6 not at any time during the election contain or
7 use any election-dedicated voting system tech-
8 nology—

9 “(i) which has not been certified by
10 the State for use in the election; and

11 “(ii) which has not been deposited
12 with an accredited laboratory described in
13 section 231 to be held in escrow and dis-
14 closed in accordance with this section.

15 “(B) REQUIREMENT FOR AND RESTRIC-
16 TIONS ON DISCLOSURE.—An accredited labora-
17 tory under section 231 with whom an election-
18 dedicated voting system technology has been de-
19 posited shall—

20 “(i) hold the technology in escrow;
21 and

22 “(ii) disclose technology and informa-
23 tion regarding the technology to another
24 person if—

1 “(I) the person is a qualified per-
2 son described in subparagraph (C)
3 who has entered into a nondisclosure
4 agreement with respect to the tech-
5 nology which meets the requirements
6 of subparagraph (D); or

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

12 “(C) QUALIFIED PERSONS DESCRIBED.—

13 With respect to the disclosure of election-dedi-
14 cated voting system technology by a laboratory
15 under subparagraph (B)(ii)(I), a ‘qualified per-
16 son’ is any of the following:

17 “(i) A governmental entity with re-
18 sponsibility for the administration of vot-
19 ing and election-related matters for pur-
20 poses of reviewing, analyzing, or reporting
21 on the technology.

22 “(ii) A party to pre- or post-election
23 litigation challenging the result of an elec-
24 tion or the administration or use of the
25 technology used in an election, including

1 but not limited to election contests or chal-
2 lenges to the certification of the tech-
3 nology, or an expert for a party to such
4 litigation, for purposes of reviewing or ana-
5 lyzing the technology to support or oppose
6 the litigation, and all parties to the litiga-
7 tion shall have access to the technology for
8 such purposes.

9 “(iii) A person not described in clause
10 (i) or (ii) who reviews, analyzes, or reports
11 on the technology solely for an academic,
12 scientific, technological, or other investiga-
13 tion or inquiry concerning the accuracy or
14 integrity of the technology.

15 “(D) REQUIREMENTS FOR NONDISCLO-
16 SURE AGREEMENTS.—A nondisclosure agree-
17 ment entered into with respect to an election-
18 dedicated voting system technology meets the
19 requirements of this subparagraph if the agree-
20 ment—

21 “(i) is limited in scope to coverage of
22 the technology disclosed under subpara-
23 graph (B) and any trade secrets and intel-
24 lectual property rights related thereto;

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

5 “(iii) exempts from coverage any in-
6 formation the signatory lawfully obtained
7 from another source or any information in
8 the public domain;

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

12 “(v) prohibits the use of injunctions
13 barring a signatory from carrying out any
14 activity authorized under subparagraph
15 (C), including injunctions limited to the
16 period prior to a trial involving the tech-
17 nology;

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

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

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

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

15 “(E) ELECTION-DEDICATED VOTING SYS-
16 TEM TECHNOLOGY DEFINED.—For purposes of
17 this paragraph:

18 “(i) IN GENERAL.—The term ‘elec-
19 tion-dedicated voting system technology’
20 means the following:

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

23 “(II) A complete disk image of
24 the pre-build, build environment, and

1 any file signatures to validate that it
2 is unmodified.

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

7 “(IV) All executable code pro-
8 duced by the trusted build and any
9 file signatures to validate that it is
10 unmodified.

11 “(V) Installation devices and
12 software file signatures.

13 “(ii) EXCLUSION.—Such term does
14 not include ‘commercial-off-the-shelf’ soft-
15 ware and hardware defined under under
16 the 2005 voluntary voting system guide-
17 lines adopted by the Commission under
18 section 222.

19 “(9) PROHIBITION OF USE OF WIRELESS COM-
20 MUNICATIONS DEVICES IN VOTING SYSTEMS.—No
21 voting device upon which ballots are programmed or
22 votes are cast or tabulated shall contain, use, or be
23 accessible by any wireless, power-line, or concealed
24 communication device, except that enclosed infrared
25 communications devices which are certified for use

1 in such device by the State and which cannot be
2 used for any remote or wide area communications or
3 used without the knowledge of poll workers shall be
4 permitted.

5 “(10) PROHIBITING CONNECTION OF SYSTEM
6 OR TRANSMISSION OF SYSTEM INFORMATION OVER
7 THE INTERNET.—

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

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

18 “(11) SECURITY STANDARDS FOR VOTING SYS-
19 TEMS USED IN FEDERAL ELECTIONS.—

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

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

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

12 “(ii) The manufacturer shall disclose
13 to an accredited laboratory under section
14 231 and to the appropriate election official
15 any information required to be disclosed
16 under paragraph (8).

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

21 “(I) alter such software; or

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

1 “(iv) At the request of the Commis-
2 sion—

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

8 “(II) the manufacturer shall sub-
9 mit information to the Commission re-
10 garding the manufacturer’s compli-
11 ance with this subparagraph.

12 “(C) DEVELOPMENT AND PUBLICATION OF
13 BEST PRACTICES ON DOCUMENTATION OF SE-
14 CURE CHAIN OF CUSTODY.—Not later than Au-
15 gust 1, 2010, the Commission shall develop and
16 make publicly available best practices regarding
17 the requirement of subparagraph (B)(i).

18 “(D) DISCLOSURE OF SECURE CHAIN OF
19 CUSTODY.—The Commission shall make infor-
20 mation provided to the Commission under sub-
21 paragraph (B)(i) available to any person upon
22 request.

23 “(12) DURABILITY AND READABILITY REQUIRE-
24 MENTS FOR BALLOTS.—

1 “(A) DURABILITY REQUIREMENTS FOR
2 PAPER BALLOTS.—

3 “(i) IN GENERAL.—All voter-verified
4 paper ballots required to be used under
5 this Act (including the paper ballots pro-
6 vided to voters under paragraph (13)) shall
7 be marked, printed, or recorded on durable
8 paper.

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

18 “(B) READABILITY REQUIREMENTS FOR
19 MACHINE-MARKED OR PRINTED PAPER BAL-
20 LOTS.—All voter-verified paper ballots com-
21 pleted by the voter through the use of a mark-
22 ing or printing device shall be clearly readable
23 by the voter without assistance (other than eye-
24 glasses or other personal vision enhancing de-

1 vices) and by a scanner or other device
2 equipped for individuals with disabilities.

3 “(13) MANDATORY AVAILABILITY OF PAPER
4 BALLOTS AT POLLING PLACES.—

5 “(A) REQUIRING BALLOTS TO BE OF-
6 FERED AND PROVIDED.—

7 “(i) IN GENERAL.—The appropriate
8 election official at each polling place in any
9 election for Federal office shall offer each
10 individual who is eligible to cast a vote in
11 the election at the polling place the oppor-
12 tunity to cast the vote using a pre-printed
13 paper ballot which the individual may
14 mark by hand and which is not produced
15 by the direct recording electronic voting
16 machine. The official shall provide the in-
17 dividual with the ballot and the supplies
18 necessary to mark the ballot.

19 “(ii) SPECIAL RULE FOR LOCATIONS
20 USING DRE VOTING SYSTEMS.—In the case
21 of a polling place that uses a direct record-
22 ing electronic voting device, if the indi-
23 vidual accepts the offer to cast the vote
24 using a paper ballot, the official shall en-
25 sure (to the greatest extent practicable)

1 that the waiting period for the individual
2 to cast a vote is not greater than the wait-
3 ing period for an individual who does not
4 agree to cast the vote using such a paper
5 ballot under this paragraph.

6 “(B) TREATMENT OF BALLOT.—Any paper
7 ballot which is cast by an individual under this
8 paragraph shall be counted and otherwise treat-
9 ed as a regular ballot for all purposes (includ-
10 ing by incorporating it into the final unofficial
11 vote count (as defined by the State) for the pre-
12 cinct) and not as a provisional ballot, unless the
13 individual casting the ballot would have other-
14 wise been required to cast a provisional ballot.

15 “(C) POSTING OF NOTICE.—The appro-
16 priate election official shall ensure there is
17 prominently displayed at each polling place a
18 notice that describes the obligation of the offi-
19 cial to offer individuals the opportunity to cast
20 votes using a pre-printed paper ballot.

21 “(D) TRAINING OF ELECTION OFFI-
22 CIALS.—The chief State election official shall
23 ensure that election officials at polling places in
24 the State are aware of the requirements of this
25 paragraph, including the requirement to display

1 a notice under subparagraph (C), and are
2 aware that it is a violation of the requirements
3 of this title for an election official to fail to
4 offer an individual the opportunity to cast a
5 vote using a pre-printed paper ballot.”.

6 (2) REQUIRING LABORATORIES TO MEET
7 STANDARDS PROHIBITING CONFLICTS OF INTEREST
8 AS CONDITION OF ACCREDITATION FOR TESTING OF
9 VOTING SYSTEM HARDWARE AND SOFTWARE.—

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

13 “(3) PROHIBITING CONFLICTS OF INTEREST;
14 ENSURING AVAILABILITY OF RESULTS.—

15 “(A) IN GENERAL.—A laboratory may not
16 be accredited by the Commission for purposes
17 of this section unless—

18 “(i) the laboratory certifies that the
19 only compensation it receives for the test-
20 ing carried out in connection with the cer-
21 tification, decertification, and recertifi-
22 cation of the manufacturer’s voting system
23 hardware and software is the payment
24 made from the Testing Escrow Account
25 under paragraph (4);

1 “(ii) the laboratory meets such stand-
2 ards as the Commission shall establish
3 (after notice and opportunity for public
4 comment) to prevent the existence or ap-
5 pearance of any conflict of interest in the
6 testing carried out by the laboratory under
7 this section, including standards to ensure
8 that the laboratory does not have a finan-
9 cial interest in the manufacture, sale, and
10 distribution of voting system hardware and
11 software, and is sufficiently independent
12 from other persons with such an interest;

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

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

23 “(B) AVAILABILITY OF RESULTS.—Upon
24 receipt of information under subparagraph (A),
25 the Commission shall make the information

1 available promptly to election officials and the
2 public.

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

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

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

24 “(C) REQUESTS AND PAYMENTS BY MANU-
25 FACTURERS.—A manufacturer of voting system

1 hardware and software may not have the hard-
2 ware or software tested by an accredited labora-
3 tory under this section unless—

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

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

13 “(D) SELECTION OF LABORATORY.—Upon
14 receiving a request for testing and the payment
15 from a manufacturer required under subpara-
16 graph (C), the Commission shall select at ran-
17 dom (to the greatest extent practicable), from
18 all laboratories which are accredited under this
19 section to carry out the specific testing re-
20 quested by the manufacturer, an accredited lab-
21 oratory to carry out the testing.

22 “(E) PAYMENTS TO LABORATORIES.—
23 Upon receiving a certification from a laboratory
24 selected to carry out testing pursuant to sub-
25 paragraph (D) that the testing is completed,

1 along with a copy of the results of the test as
2 required under paragraph (3)(A)(iv), the Com-
3 mission shall make a payment to the laboratory
4 from the Testing Escrow Account established
5 under subparagraph (A) in an amount equal to
6 the applicable fee paid by the manufacturer
7 under subparagraph (C)(ii).

8 “(5) DISSEMINATION OF ADDITIONAL INFORMA-
9 TION ON ACCREDITED LABORATORIES.—

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

16 “(B) INFORMATION ON STATUS OF LAB-
17 ORATORIES.—The Commission shall promptly
18 notify Congress, the chief State election official
19 of each State, and the public whenever—

20 “(i) the Commission revokes, termi-
21 nates, or suspends the accreditation of a
22 laboratory under this section;

23 “(ii) the Commission restores the ac-
24 creditation of a laboratory under this sec-

1 tion which has been revoked, terminated,
2 or suspended; or

3 “(iii) the Commission has credible evi-
4 dence of significant security failure at an
5 accredited laboratory.”.

6 (B) CONFORMING AMENDMENTS.—Section
7 231 of such Act (42 U.S.C. 15371) is further
8 amended—

9 (i) in subsection (a)(1), by striking
10 “testing, certification,” and all that follows
11 and inserting the following: “testing of vot-
12 ing system hardware and software by ac-
13 credited laboratories in connection with the
14 certification, decertification, and recertifi-
15 cation of the hardware and software for
16 purposes of this Act.”;

17 (ii) in subsection (a)(2), by striking
18 “testing, certification,” and all that follows
19 and inserting the following: “testing of its
20 voting system hardware and software by
21 the laboratories accredited by the Commis-
22 sion under this section in connection with
23 certifying, decertifying, and recertifying
24 the hardware and software.”;

1 (iii) in subsection (b)(1), by striking
2 “testing, certification, decertification, and
3 recertification” and inserting “testing”;
4 and

5 (iv) in subsection (d), by striking
6 “testing, certification, decertification, and
7 recertification” each place it appears and
8 inserting “testing”.

9 (C) DEADLINE FOR ESTABLISHMENT OF
10 STANDARDS, ESCROW ACCOUNT, AND SCHED-
11 ULE OF FEES.—The Election Assistance Com-
12 mission shall establish the standards described
13 in section 231(b)(3) of the Help America Vote
14 Act of 2002 and the Testing Escrow Account
15 and schedule of fees described in section
16 231(b)(4) of such Act (as added by subpara-
17 graph (A)) not later than January 1, 2010.

18 (D) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There are authorized to be appro-
20 priated to the Election Assistance Commission
21 such sums as may be necessary to carry out the
22 Commission’s duties under paragraphs (3) and
23 (4) of section 231 of the Help America Vote
24 Act of 2002 (as added by subparagraph (A)).

1 (3) SPECIAL CERTIFICATION OF BALLOT DURA-
2 BILITY AND READABILITY REQUIREMENTS FOR
3 STATES NOT CURRENTLY USING DURABLE PAPER
4 BALLOTS.—

5 (A) IN GENERAL.—If any of the voting
6 systems used in a State for the regularly sched-
7 uled 2008 general elections for Federal office
8 did not require the use of or produce durable
9 paper ballots, the State shall certify to the
10 Election Assistance Commission not later than
11 90 days after the date of the enactment of this
12 Act that the State will be in compliance with
13 the requirements of sections 301(a)(2) and
14 301(a)(12) of the Help America Vote of 2002,
15 as added or amended by this subsection, in ac-
16 cordance with the deadlines established under
17 this Act, and shall include in the certification
18 the methods by which the State will meet the
19 requirements.

20 (B) CERTIFICATIONS BY STATES THAT RE-
21 QUIRE CHANGES TO STATE LAW.—In the case
22 of a State that requires State legislation to
23 carry out an activity covered by any certifi-
24 cation submitted under this paragraph, the
25 State shall be permitted to make the certifi-

1 cation notwithstanding that the legislation has
 2 not been enacted at the time the certification is
 3 submitted and such State shall submit an addi-
 4 tional certification once such legislation is en-
 5 acted.

6 (4) GRANTS FOR RESEARCH ON DEVELOPMENT
 7 OF ELECTION-DEDICATED VOTING SYSTEM SOFT-
 8 WARE.—

9 (A) IN GENERAL.—Subtitle D of title II of
 10 the Help America Vote Act of 2002 (42 U.S.C.
 11 15401 et seq.) is amended by adding at the end
 12 the following new part:

13 **“PART 7—GRANTS FOR RESEARCH ON DEVELOP-**
 14 **MENT OF ELECTION-DEDICATED VOTING**
 15 **SYSTEM SOFTWARE**

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

19 “(a) IN GENERAL.—The Director of the National
 20 Science Foundation (hereafter in this part referred to as
 21 the ‘Director’) shall make grants to not fewer than 3 eligi-
 22 ble entities to conduct research on the development of elec-
 23 tion-dedicated voting system software.

24 “(b) ELIGIBILITY.—An entity is eligible to receive a
 25 grant under this part if it submits to the Director (at such

1 time and in such form as the Director may require) an
 2 application containing—

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

7 “(2) certifications that the entity will use the
 8 funds provided under the grant to carry out research
 9 on how to develop voting systems that run on elec-
 10 tion-dedicated software and that will meet the appli-
 11 cable requirements for voting systems under title III;
 12 and

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

15 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 16 are authorized to be appropriated for grants under this
 17 section \$1,500,000 for each of fiscal years 2010 and 2011,
 18 to remain available until expended.”.

19 (B) CLERICAL AMENDMENT.—The table of
 20 contents of such Act is amended by adding at
 21 the end of the items relating to subtitle D of
 22 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 sys-
 tem software.”.

1 (d) AVAILABILITY OF ADDITIONAL FUNDING TO EN-
2 ABLE STATES TO MEET COSTS OF REVISED REQUIRE-
3 MENTS.—

4 (1) EXTENSION OF REQUIREMENTS PAYMENTS
5 FOR MEETING REVISED REQUIREMENTS.—Section
6 257(a) of the Help America Vote Act of 2002 (42
7 U.S.C. 15407(a)) is amended by adding at the end
8 the following new paragraph:

9 “(4) For fiscal year 2010, \$1,000,000,000, ex-
10 cept that any funds provided under the authoriza-
11 tion made by this paragraph shall be used by a
12 State only to meet the requirements of title III
13 which are first imposed on the State pursuant to the
14 amendments made by section 401 of the Voting Op-
15 portunities and Integrity in the Conduct of Elections
16 Act of 2008, or to otherwise modify or replace its
17 voting systems in response to such amendments.”.

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

21 “(b) STATE ALLOCATION PERCENTAGE DEFINED.—

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

1 “(A) the voting age population of the State
2 (as reported in the most recent decennial cen-
3 sus); and

4 “(B) the total voting age population of all
5 States (as reported in the most recent decennial
6 census).

7 “(2) SPECIAL RULE FOR PAYMENTS FOR FIS-
8 CAL YEAR 2010.—

9 “(A) IN GENERAL.—In the case of the re-
10 quirements payment made to a State for fiscal
11 year 2010, the ‘State allocation percentage’ for
12 a State is the amount (expressed as a percent-
13 age) equal to the quotient of—

14 “(i) the sum of the number of non-
15 compliant precincts in the State and 50
16 percent of the number of partially non-
17 compliant precincts in the State; and

18 “(ii) the sum of the number of non-
19 compliant precincts in all States and 50
20 percent of the number of partially non-
21 compliant precincts in all States.

22 “(B) NONCOMPLIANT PRECINCT DE-
23 FINED.—In this paragraph, a ‘noncompliant
24 precinct’ means any precinct (or equivalent lo-
25 cation) within a State for which the voting sys-

1 tem used to administer the regularly scheduled
2 general election for Federal office held in No-
3 vember 2008 did not meet either of the require-
4 ments described in subparagraph (D).

5 “(C) PARTIALLY NONCOMPLIANT PRE-
6 CINCT DEFINED.—In this paragraph, a ‘par-
7 tially noncompliant precinct’ means any pre-
8 cinct (or equivalent location) within a State for
9 which the voting system used to administer the
10 regularly scheduled general election for Federal
11 office held in November 2008 met only one of
12 the requirements described in subparagraph
13 (D).

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

17 “(i) The primary voting system re-
18 quired the use of or produced durable
19 paper ballots (as described in section
20 301(a)(12)(A)) for every vote cast.

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

1 (3) REVISED CONDITIONS FOR RECEIPT OF
2 FUNDS.—Section 253 of such Act (42 U.S.C.
3 15403) is amended—

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

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

9 “(f) SPECIAL RULE FOR FISCAL YEAR 2010.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of this part, a State is eligible to receive
12 a requirements payment for fiscal year 2010 if, not
13 later than 90 days after the date of the enactment
14 of the Voting Opportunities and Integrity in the
15 Conduct of Elections Act of 2008, the chief execu-
16 tive officer of the State, or designee, in consultation
17 and coordination with the chief State election offi-
18 cial—

19 “(A) certifies to the Commission the num-
20 ber of noncompliant and partially noncompliant
21 precincts in the State (as defined in section
22 252(b)(2)); and

23 “(B) files a statement with the Commis-
24 sion describing the State’s need for the pay-
25 ment and how the State will use the payment

1 to meet the requirements of title III (in accord-
2 ance with the limitations applicable to the use
3 of the payment under section 257(a)(4)).

4 “(2) CERTIFICATIONS BY STATES THAT RE-
5 QUIRE CHANGES TO STATE LAW.—In the case of a
6 State that requires State legislation to carry out any
7 activity covered by any certification submitted under
8 this subsection, the State shall be permitted to make
9 the certification notwithstanding that the legislation
10 has not been enacted at the time the certification is
11 submitted and such State shall submit an additional
12 certification once such legislation is enacted.”.

13 (4) PERMITTING USE OF FUNDS FOR REIM-
14 BURSEMENT FOR COSTS PREVIOUSLY INCURRED.—
15 Section 251(c)(1) of such Act (42 U.S.C.
16 15401(c)(1)) is amended by striking the period at
17 the end and inserting the following: “, or as a reim-
18 bursement for any costs incurred after November
19 2006 in meeting the requirements of title III which
20 are imposed pursuant to the amendments made by
21 section 401 of the Voting Opportunities and Integ-
22 rity in the Conduct of Elections Act of 2008 or in
23 otherwise upgrading or replacing voting systems in
24 a manner consistent with such amendments (so long
25 as the voting systems meet any of the requirements

1 that apply with respect to elections for Federal office
2 held in 2012 and each succeeding year).”.

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

15 (6) RULE OF CONSTRUCTION REGARDING USE
16 OF FUNDS RECEIVED IN PRIOR YEARS.—

17 (A) IN GENERAL.—Nothing contained in
18 this Act or the Help America Vote Act of 2002
19 may be construed to prohibit a State from
20 using funds received under title I or II of the
21 Help America Vote Act of 2002—

22 (i) to purchase or acquire by other
23 means a voting system that meets the re-
24 quirements of paragraphs (2) and (3) of

1 section 301 of the Help America Vote Act
2 of 2002 (as amended by this Act); or

3 (ii) to retrofit a voting system so that
4 it will meet such requirements,

5 in order to replace or upgrade (as the case may
6 be) voting systems purchased with funds re-
7 ceived under the Help America Vote Act of
8 2002 that do not require the use of or produce
9 paper ballots.

10 (B) WAIVER OF NOTICE AND COMMENT
11 REQUIREMENTS.—The requirements of sub-
12 paragraphs (A), (B), and (C) of section
13 254(a)(11) of the Help America Vote Act of
14 2002 shall not apply to any State using funds
15 received under such Act for the purposes de-
16 scribed in clause (i) or (ii) of subparagraph (A).

17 (7) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply with respect to fiscal
19 years beginning with fiscal year 2010.

20 (e) EFFECTIVE DATE FOR NEW REQUIREMENTS.—
21 Section 301(d) of such Act (42 U.S.C. 15481(d)) is
22 amended to read as follows:

23 “(d) EFFECTIVE DATE.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), each State and jurisdiction shall be re-

1 quired to comply with the requirements of this sec-
2 tion on and after January 1, 2006.

3 “(2) SPECIAL RULE FOR CERTAIN REQUIRE-
4 MENTS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the requirements of this sec-
7 tion which are first imposed on a State and ju-
8 risdiction pursuant to the amendments made by
9 section 401 of the Voting Opportunities and In-
10 tegrity in the Conduct of Elections Act of 2008
11 shall apply with respect to the regularly sched-
12 uled general election for Federal office held in
13 November 2010 and each succeeding election
14 for Federal office.

15 “(B) DELAY FOR JURISDICTIONS USING
16 CERTAIN PAPER BALLOT PRINTERS OR CERTAIN
17 PAPER BALLOT-EQUIPPED ACCESSIBLE MA-
18 CHINES IN 2006.—

19 “(i) DELAY.—In the case of a juris-
20 diction described in clause (ii), subpara-
21 graph (A) shall apply to the jurisdiction as
22 if the reference in such subparagraph to
23 ‘the regularly scheduled general election
24 for Federal office held in November 2010
25 and each succeeding election for Federal

1 office' were a reference to 'elections for
2 Federal office occurring during 2012 and
3 each succeeding year', but only with re-
4 spect to the following requirements of this
5 section:

6 “(I) Paragraph (3)(B)(ii)(I) and
7 (II) of subsection (a) (relating to ac-
8 cess to verification from the durable
9 paper ballot).

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

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

15 “(I) a jurisdiction which used
16 thermal reel-to-reel voter verified
17 paper ballot printers attached to di-
18 rect recording electronic voting ma-
19 chines for the administration of the
20 regularly scheduled general election
21 for Federal office held in November
22 2008 and which will continue to use
23 such printers (or other printers which
24 meet the requirements of paragraph
25 (3)(B)(ii)(I) and (II) of subsection

1 (a)) attached to such voting machines
2 for the administration of elections for
3 Federal office held in years before
4 2012; or

5 “(II) a jurisdiction which used
6 voting machines which met the acces-
7 sibility requirements of paragraph (3)
8 of subsection (a) (as in effect with re-
9 spect to such election) for the admin-
10 istration of the regularly scheduled
11 general election for Federal office held
12 in November 2008 and which used or
13 produced a paper ballot, and which
14 will continue to use such voting ma-
15 chines (or other voting machines
16 which meet the requirements of this
17 section) for the administration of elec-
18 tions for Federal office held in years
19 before 2012.”.

20 **SEC. 402. ENHANCEMENT OF ENFORCEMENT OF HELP**
21 **AMERICA VOTE ACT OF 2002.**

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

23 ed—

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

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

6 “(b) FILING OF COMPLAINTS BY AGGRIEVED PER-
7 SONS.—

8 “(1) IN GENERAL.—A person who is aggrieved
9 by a violation of section 301, 302, 303, 304, or 305
10 which has occurred, is occurring, or is about to
11 occur may file a written, signed, notarized complaint
12 with the Attorney General describing the violation
13 and requesting the Attorney General to take appro-
14 priate action under this section. The Attorney Gen-
15 eral shall immediately provide a copy of a complaint
16 filed under the previous sentence to the entity re-
17 sponsible for administering the State-based adminis-
18 trative complaint procedures described in section
19 402(a) for the State involved.

20 “(2) RESPONSE BY ATTORNEY GENERAL.—The
21 Attorney General shall respond to each complaint
22 filed under paragraph (1), in accordance with proce-
23 dures established by the Attorney General that re-
24 quire responses and determinations to be made with-
25 in the same (or shorter) deadlines which apply to a

1 State under the State-based administrative com-
2 plaint procedures described in section 402(a)(2).
3 The Attorney General shall immediately provide a
4 copy of the response made under the previous sen-
5 tence to the entity responsible for administering the
6 State-based administrative complaint procedures de-
7 scribed in section 402(a) for the State involved.

8 “(c) CLARIFICATION OF AVAILABILITY OF PRIVATE
9 RIGHT OF ACTION.—Nothing in this section may be con-
10 strued to prohibit any person from bringing an action
11 under section 1979 of the Revised Statutes of the United
12 States (42 U.S.C. 1983) (including any individual who
13 seeks to enforce the individual’s right to a voter-verified
14 paper ballot, the right to have the voter-verified paper bal-
15 lot counted in accordance with this Act, or any other right
16 under subtitle A of title III) to enforce the uniform and
17 nondiscriminatory election technology and administration
18 requirements under sections 301, 302, 303, 304, and 305.

19 “(d) NO EFFECT ON STATE PROCEDURES.—Nothing
20 in this section may be construed to affect the availability
21 of the State-based administrative complaint procedures re-
22 quired under section 402 to any person filing a complaint
23 under this subsection.”.

1 **SEC. 403. REQUIREMENT FOR MANDATORY MANUAL AU-**
2 **DITS BY HAND COUNT.**

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

7 **“Subtitle C—Mandatory Manual**
8 **Audits**

9 **“SEC. 321. REQUIRING AUDITS OF RESULTS OF ELECTIONS.**

10 “(a) REQUIRING AUDITS.—

11 “(1) IN GENERAL.—In accordance with this
12 subtitle, each State shall administer, without ad-
13 vance notice to the precincts selected, audits of the
14 results of elections for Federal office held in the
15 State (and, at the option of the State or jurisdiction
16 involved, of elections for State and local office held
17 at the same time as such election) consisting of ran-
18 dom hand counts of the voter-verified paper ballots
19 required to be produced and preserved pursuant to
20 section 301(a)(2).

21 “(2) EXCEPTION FOR CERTAIN ELECTIONS.—A
22 State shall not be required to administer an audit of
23 the results of an election for Federal office under
24 this subtitle if the winning candidate in the elec-
25 tion—

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

1 “(B) received 80 percent or more of the
2 total number of votes cast in the election, as de-
3 termined on the basis of the final unofficial vote
4 count.

5 “(b) DETERMINATION OF ENTITY CONDUCTING AU-
6 DITS; APPLICATION OF GAO INDEPENDENCE STAND-
7 ARDS.—The State shall administer audits under this sub-
8 title through an entity selected for such purpose by the
9 State in accordance with such criteria as the State con-
10 siders appropriate consistent with the requirements of this
11 subtitle, except that the entity must meet the general
12 standards established by the Comptroller General and as
13 set forth in the Comptroller General’s Government Audit-
14 ing Standards to ensure the independence (including the
15 organizational independence) of entities performing finan-
16 cial audits, attestation engagements, and performance au-
17 dits.

18 “(c) REFERENCES TO ELECTION AUDITOR.—In this
19 subtitle, the term ‘Election Auditor’ means, with respect
20 to a State, the entity selected by the State under sub-
21 section (b).

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

23 “(a) IN GENERAL.—Except as provided in subsection
24 (b), the number of voter-verified paper ballots which will
25 be subject to a hand count administered by the Election

1 Auditor of a State under this subtitle with respect to an
2 election shall be determined as follows:

3 “(1) In the event that the unofficial count as
4 described in section 323(a)(1) reveals that the mar-
5 gin of victory between the two candidates receiving
6 the largest number of votes in the election is less
7 than 1 percent of the total votes cast in that elec-
8 tion, the hand counts of the voter-verified paper bal-
9 lots shall occur in at least 10 percent of all precincts
10 or equivalent locations (or alternative audit units
11 used in accordance with the method provided for
12 under subsection (b)) in the Congressional district
13 involved (in the case of an election for the House of
14 Representatives) or the State (in the case of any
15 other election for Federal office).

16 “(2) In the event that the unofficial count as
17 described in section 323(a)(1) reveals that the mar-
18 gin of victory between the two candidates receiving
19 the largest number of votes in the election is greater
20 than or equal to 1 percent but less than 2 percent
21 of the total votes cast in that election, the hand
22 counts of the voter-verified paper ballots shall occur
23 in at least 5 percent of all precincts or equivalent lo-
24 cations (or alternative audit units used in accord-
25 ance with the method provided for under subsection

1 (b)) in the Congressional district involved (in the
2 case of an election for the House of Representatives)
3 or the State (in the case of any other election for
4 Federal office).

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

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

1 that the alternative mechanism will be at least as statis-
2 tically effective in ensuring the accuracy of the election
3 results as the procedure under this subtitle.

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

5 “(a) IN GENERAL.—The Election Auditor of a State
6 shall administer an audit under this section of the results
7 of an election in accordance with the following procedures:

8 “(1) Within 24 hours after the State announces
9 the final unofficial vote count (as defined by the
10 State) in each precinct in the State, the Election
11 Auditor shall determine and then announce the pre-
12 cincts or equivalent locations (or alternative audit
13 units used in accordance with the method provided
14 under section 322(b)) in the State in which it will
15 administer the audits.

16 “(2) With respect to votes cast at the precinct
17 or equivalent location on or before the date of the
18 election (other than provisional ballots described in
19 paragraph (3)), the Election Auditor shall admin-
20 ister the hand count of the votes on the voter-
21 verified paper ballots required to be produced and
22 preserved under section 301(a)(2)(A) and the com-
23 parison of the count of the votes on those ballots
24 with the final unofficial count of such votes as an-
25 nounced by the State.

1 “(3) With respect to votes cast other than at
2 the precinct on the date of the election (other than
3 votes cast before the date of the election described
4 in paragraph (2)) or votes cast by provisional ballot
5 on the date of the election which are certified and
6 counted by the State on or after the date of the elec-
7 tion, including votes cast by absent uniformed serv-
8 ices voters and overseas voters under the Uniformed
9 and Overseas Citizens Absentee Voting Act, the
10 Election Auditor shall administer the hand count of
11 the votes on the applicable voter-verified paper bal-
12 lots required to be produced and preserved under
13 section 301(a)(2)(A) and the comparison of the
14 count of the votes on those ballots with the final un-
15 official count of such votes as announced by the
16 State.

17 “(b) USE OF PERSONNEL.—In administering the au-
18 dits, the Election Auditor may utilize the services of the
19 personnel of the State or jurisdiction, including election
20 administration personnel and poll workers, without regard
21 to whether or not the personnel have professional auditing
22 experience.

23 “(c) LOCATION.—The Election Auditor shall admin-
24 ister an audit of an election—

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

7 “(2) in the presence of the personnel who under
8 State law are responsible for the custody of the bal-
9 lots.

10 “(d) SPECIAL RULE IN CASE OF DELAY IN REPORT-
11 ING ABSENTEE VOTE COUNT.—In the case of a State in
12 which the final count of absentee and provisional votes is
13 not announced until after the expiration of the 7-day pe-
14 riod which begins on the date of the election, the Election
15 Auditor shall initiate the process described in subsection
16 (a) for administering the audit not later than 24 hours
17 after the State announces the final unofficial vote count
18 for the votes cast at the precinct or equivalent location
19 on or before the date of the election, and shall initiate
20 the administration of the audit of the absentee and provi-
21 sional votes pursuant to subsection (a)(3) not later than
22 24 hours after the State announces the final unofficial
23 count of such votes.

24 “(e) ADDITIONAL AUDITS IF CAUSE SHOWN.—

1 “(1) IN GENERAL.—If the Election Auditor
2 finds that any of the hand counts administered
3 under this section do not match the final unofficial
4 tally of the results of an election, the Election Audi-
5 tor shall administer hand counts under this section
6 of such additional precincts (or equivalent jurisdic-
7 tions) as the Election Auditor considers appropriate
8 to resolve any concerns resulting from the audit and
9 ensure the accuracy of the results.

10 “(2) ESTABLISHMENT AND PUBLICATION OF
11 PROCEDURES GOVERNING ADDITIONAL AUDITS.—
12 Not later than August 1, 2010, each State shall es-
13 tablish and publish procedures for carrying out the
14 additional audits under this subsection, including the
15 means by which the State shall resolve any concerns
16 resulting from the audit with finality and ensure the
17 accuracy of the results.

18 “(f) PUBLIC OBSERVATION OF AUDITS.—Each audit
19 conducted under this section shall be conducted in a man-
20 ner that allows public observation of the entire process.

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

22 “(a) IN GENERAL.—Except as provided in subsection
23 (c), the selection of the precincts in the State in which
24 the Election Auditor of the State shall administer the
25 hand counts under this subtitle shall be made by the Elec-

1 tion Auditor on an entirely random basis using a uniform
2 distribution in which all precincts in a Congressional dis-
3 trict have an equal chance of being selected, in accordance
4 with procedures adopted by the National Institute of
5 Standards and Technology, except that at least one pre-
6 cinct shall be selected at random in each county.

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

10 “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-
11 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a
12 State establishes a separate precinct for purposes of
13 counting the absentee ballots cast in an election and treats
14 all absentee ballots as having been cast in that precinct,
15 and if the State does not make absentee ballots sortable
16 by precinct and include those ballots in the hand count
17 administered with respect to that precinct, the State shall
18 include that precinct among the precincts in the State in
19 which the Election Auditor shall administer the hand
20 counts under this subtitle.

21 “(d) DEADLINE FOR ADOPTION OF PROCEDURES BY
22 COMMISSION.—The National Institute of Standards and
23 Technology shall adopt the procedures described in sub-
24 section (a) not later than March 31, 2010, and shall pub-
25 lish them in the Federal Register upon adoption.

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

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

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

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

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

1 sults of any election which is subject to an audit
2 under this subtitle prior to—

3 “(A) to the completion of the audit (and,
4 if required, any additional audit conducted
5 under section 323(e)(1)) and the announcement
6 and submission of the results of each such audit
7 to the Commission for publication of the infor-
8 mation required under this section; and

9 “(B) the completion of any procedure es-
10 tablished by the State pursuant to section
11 323(e)(2) to resolve discrepancies and ensure
12 the accuracy of results.

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

1 **“SEC. 326. PAYMENTS TO STATES.**

2 “(a) **PAYMENTS FOR COSTS OF CONDUCTING AU-**
3 **DITS.**—In accordance with the requirements and proce-
4 dures of this section, the Commission shall make a pay-
5 ment to a State to cover the costs incurred by the State
6 in carrying out this subtitle with respect to the elections
7 that are the subject of the audits conducted under this
8 subtitle.

9 “(b) **CERTIFICATION OF COMPLIANCE AND ANTICI-**
10 **PATED COSTS.**—

11 “(1) **CERTIFICATION REQUIRED.**—In order to
12 receive a payment under this section, a State shall
13 submit to the Commission, in such form as the Com-
14 mission may require, a statement containing—

15 “(A) a certification that the State will con-
16 duct the audits required under this subtitle in
17 accordance with all of the requirements of this
18 subtitle;

19 “(B) a notice of the reasonable costs in-
20 curred or the reasonable costs anticipated to be
21 incurred by the State in carrying out this sub-
22 title with respect to the elections involved; and

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

25 “(2) **AMOUNT OF PAYMENT.**—The amount of a
26 payment made to a State under this section shall be

1 equal to the reasonable costs incurred or the reason-
2 able costs anticipated to be incurred by the State in
3 carrying out this subtitle with respect to the elec-
4 tions involved, as set forth in the statement sub-
5 mitted under paragraph (1).

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

11 “(c) TIMING OF PAYMENTS.—The Commission shall
12 make the payment required under this section to a State
13 not later than 30 days after receiving the notice submitted
14 by the State under subsection (b).

15 “(d) RECOUPMENT OF OVERPAYMENTS.—No pay-
16 ment may be made to a State under this section unless
17 the State agrees to repay to the Commission the excess
18 (if any) of—

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

22 “(2) the actual costs incurred by the State in
23 carrying out this subtitle with respect to the elec-
24 tions involved.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Commission for
3 fiscal year 2010 and each succeeding fiscal year
4 \$100,000,000 for payments under this section.

5 **“SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO RE-**
6 **COUNT UNDER STATE LAW PRIOR TO CER-**
7 **TIFICATION.**

8 “(a) EXCEPTION.—This subtitle does not apply to
9 any election for which a recount under State law will com-
10 mence prior to the certification of the results of the elec-
11 tion, including but not limited to a recount required auto-
12 matically because of the margin of victory between the 2
13 candidates receiving the largest number of votes in the
14 election, but only if each of the following applies to the
15 recount:

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

21 “(2) If the recount would apply to fewer than
22 100 percent of the ballots cast in the election—

23 “(A) the number of ballots counted will be
24 at least as many as would be counted if an

1 audit were conducted with respect to the elec-
2 tion in accordance with this subtitle; and

3 “(B) the selection of the precincts in which
4 the recount will be conducted will be made in
5 accordance with the random selection proce-
6 dures applicable under section 324.

7 “(3) The recount for the election meets the re-
8 quirements of section 323(f) (relating to public ob-
9 servation).

10 “(4) The State meets the requirements of sec-
11 tion 325 (relating to the publication of results and
12 the delay in the certification of results) with respect
13 to the recount.

14 “(b) CLARIFICATION OF EFFECT ON OTHER RE-
15 QUIREMENTS.—Nothing in this section may be construed
16 to waive the application of any other provision of this Act
17 to any election (including the requirement set forth in sec-
18 tion 301(a)(2) that the voter verified paper ballots serve
19 as the vote of record and shall be counted by hand in all
20 audits and recounts, including audits and recounts de-
21 scribed in this subtitle).

22 **“SEC. 328. EFFECTIVE DATE.**

23 “‘This subtitle shall apply with respect to elections for
24 Federal office beginning with the regularly scheduled gen-
25 eral elections held in November 2010.’”.

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

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

7 (2) in subsection (b)(1), by striking “305” and
8 inserting “305, or subtitle C of title III,”; and

9 (3) in subsection (c)—

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

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

15 (c) GUIDANCE ON BEST PRACTICES FOR ALTER-
16 NATIVE AUDIT MECHANISMS.—

17 (1) IN GENERAL.—Not later than May 1, 2010,
18 the Director of the National Institute for Standards
19 and Technology shall establish guidance for States
20 that wish to establish alternative audit mechanisms
21 under section 322(b) of the Help America Vote Act
22 of 2002 (as added by subsection (a)). Such guidance
23 shall be based upon scientifically and statistically
24 reasonable assumptions for the purpose of creating
25 an alternative audit mechanism that will be at least

1 as effective in ensuring the accuracy of election re-
 2 sults and as transparent as the procedure under
 3 subtitle C of title III of such Act (as so added).

4 (2) AUTHORIZATION OF APPROPRIATIONS.—

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

8 (d) CLERICAL AMENDMENT.—The table of contents
 9 of such Act is amended by adding at the end of the items
 10 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.”.

11 **SEC. 404. REPEAL OF EXEMPTION OF ELECTION ASSIST-**
 12 **ANCE COMMISSION FROM CERTAIN GOVERN-**
 13 **MENT CONTRACTING REQUIREMENTS.**

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

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

1 **SEC. 405. EFFECTIVE DATE.**

2 Except as otherwise provided, this title and the
3 amendments made by this title shall apply with respect
4 to the regularly scheduled general election for Federal of-
5 fice in November 2010 and each succeeding election for
6 Federal office.

7 **TITLE V—VOTER REGISTRATION**

8 **SEC. 501. GRANTS FOR PRE-REGISTRATION OF VOTERS.**

9 (a) IN GENERAL.—Not later than 270 days after the
10 date of the enactment of this Act, the Election Assistance
11 Commission shall establish a pre-registration implementa-
12 tion grant program under which the Commission shall
13 make grants to eligible States.

14 (b) AMOUNT OF GRANT.—

15 (1) IN GENERAL.—The amount of a grant
16 under this section to any eligible State shall be
17 \$500,000.

18 (2) AWARDING OF IMPLEMENTATION
19 GRANTS.—

20 (A) IN GENERAL.—The Election Assist-
21 ance Commission shall award pre-registration
22 implementation grants during each year in
23 which the program is conducted.

24 (B) ONE GRANT PER STATE.—The Elec-
25 tion Assistance Commission shall not award
26 more than 1 implementation grant to any eligi-

1 ble State under this section over the duration of
2 the program.

3 (3) DURATION.—The program shall be con-
4 ducted for a period of 3 years.

5 (c) USE OF FUNDS.—

6 (1) IN GENERAL.—A State receiving a grant
7 under this section shall use the grant only for costs
8 associated with establishing a pre-registration pro-
9 gram.

10 (2) LIMITATION.—A grant under this section
11 may not be used for any costs incurred prior to the
12 date of the enactment of this Act.

13 (d) ELIGIBLE STATE.—For purposes of this section,
14 the term “eligible State” means any State that—

15 (1) submits an application to the Election As-
16 sistance Commission at such time and containing
17 such information as the Commission may specify,
18 and

19 (2) agrees to implement a pre-registration pro-
20 gram.

21 (e) PRE-REGISTRATION PROGRAM.—For purposes of
22 this section:

23 (1) IN GENERAL.—The term “pre-registration
24 program” means a program under which the State
25 pre-registers for voting purposes individuals who—

- 1 (A) have—
2 (i) not attained the age of 18, but
3 (ii) either—
4 (I) attained the age of 16, or
5 (II) received a valid driver's li-
6 cense under the laws of the State, and
7 (B) are otherwise eligible to vote in such
8 State.

9 (2) EFFECT OF PRE-REGISTRATION ON RIGHT
10 TO VOTE.—A voter pre-registration program shall
11 permit any individual who is pre-registered under
12 such program to vote in any election for which such
13 individual is otherwise eligible to vote which occurs
14 on or after such individual's 18th birthday.

15 (f) AUTHORIZATION OF APPROPRIATIONS.—

16 (1) IN GENERAL.—There are authorized to be
17 appropriated for grants under this section such sums
18 as may be necessary for fiscal years 2009 through
19 2011.

20 (2) AVAILABILITY.—Any amount appropriated
21 pursuant to the authority under subsection (a) shall
22 remain available without fiscal year limitation until
23 expended.

1 **SEC. 502. GRANTS FOR AUTOMATIC RE-REGISTRATION OF**
2 **VOTERS CHANGING RESIDENCE.**

3 (a) IN GENERAL.—Not later than 270 days after the
4 date of the enactment of this Act, the Election Assistance
5 Commission shall establish an automatic re-registration
6 grant program under which the Commission shall make
7 grants to eligible States.

8 (b) AMOUNT OF GRANT.—

9 (1) IN GENERAL.—The amount of a grant
10 under this section to any eligible State shall be
11 \$500,000.

12 (2) AWARDING OF IMPLEMENTATION
13 GRANTS.—

14 (A) IN GENERAL.—The Election Assist-
15 ance Commission shall award automatic re-reg-
16 istration implementation grants during each
17 year in which the program is conducted.

18 (B) ONE GRANT PER STATE.—The Elec-
19 tion Assistance Commission shall not award
20 more than 1 implementation grant to any eligi-
21 ble State under this section over the duration of
22 the program.

23 (3) DURATION.—The program shall be con-
24 ducted for a period of 3 years.

25 (c) USE OF FUNDS.—

1 (1) IN GENERAL.—A State receiving a grant
2 under this section shall use the grant only for costs
3 associated with establishing an automatic re-reg-
4 istration program.

5 (2) LIMITATION.—A grant under this section
6 may not be used for any costs incurred prior to the
7 date of the enactment of this Act.

8 (d) ELIGIBLE STATE.—For purposes of this section,
9 the term “eligible State” means any State that—

10 (1) submits an application to the Election As-
11 sistance Commission at such time and containing
12 such information as the Commission may specify,

13 (2) agrees to implement an automatic re-reg-
14 istration program, and

15 (3) certifies that any automatic re-registration
16 program has been tested and shown to accurately
17 update voters’ registration status.

18 (e) AUTOMATIC RE-REGISTRATION PROGRAM.—For
19 purposes of this section:

20 (1) IN GENERAL.—The term “automatic re-reg-
21 istration program” means a program under which,
22 on a monthly basis, the State—

23 (A) obtains permanent change of address
24 information from the Postal Service through its

1 licensees with respect to individuals moving to,
2 from, or within such State, and

3 (B) automatically registers for voting pur-
4 poses specified individuals residing in such
5 State at the specified individual's current per-
6 manent address.

7 (2) SPECIFIED INDIVIDUAL.—The term “speci-
8 fied individual” means, with respect to any State,
9 any individual—

10 (A) with respect to whom the State has ob-
11 tained permanent change of address informa-
12 tion from the Postal service through its licens-
13 ees, and

14 (B) who is registered to vote in such State
15 before the change of permanent address.

16 (3) EXCEPTION TO NATIONAL VOTER REG-
17 ISTRATION ACT OF 1993 TO ENABLE AUTOMATIC
18 REGISTRATION.—Paragraph (1) of section 8(d) of
19 the National Voter Registration Act of 1993 (42
20 U.S.C. 1973gg–6(d)) is amended by adding at the
21 end the following flush sentence:

22 “Subparagraph (B)(ii) shall not apply with respect
23 to any removal carried out under an automatic re-
24 registration program described in section 501(e) of

1 the Voting Opportunities and Integrity in the Con-
 2 duct of Elections Act of 2008.”.

3 (4) COMPLIANCE WITH VOTER REMOVAL
 4 STANDARDS.—Except as otherwise provided by law,
 5 any automatic re-registration program shall meet
 6 the requirements for removing registrants from the
 7 official list of eligible voters under section 8 of the
 8 National Voter Registration Act of 1993 (42 U.S.C.
 9 1973gg-6).

10 (f) AUTHORIZATION OF APPROPRIATIONS.—

11 (1) IN GENERAL.—There are authorized to be
 12 appropriated for grants under this section such sums
 13 as may be necessary for fiscal years 2009 through
 14 2011.

15 (2) AVAILABILITY.—Any amount appropriated
 16 pursuant to the authority under subsection (a) shall
 17 remain available without fiscal year limitation until
 18 expended.

19 **SEC. 503. INTEROPERABILITY OF VOTER REGISTRATION**
 20 **DATABASES.**

21 (a) INTEROPERABILITY.—

22 (1) UNIFORM TEMPLATE AND DATA TRANSFER
 23 TECHNOLOGY.—Subtitle C of title II of the Help
 24 America Vote Act of 2002 (42 U.S.C. 15381 et
 25 seq.), as amended by this Act, is amended by redес-

1 ignating section 248 as section 249 and by inserting
2 after section 248 the following new section:

3 **“SEC. 249. DEVELOPMENT OF UNIFORM TEMPLATE AND**
4 **PROVISION OF TECHNOLOGY TO ENSURE**
5 **INTEROPERABILITY OF VOTER REGISTRA-**
6 **TION DATABASES.**

7 “(a) UNIFORM TEMPLATE.—

8 “(1) IN GENERAL.—The Commission shall de-
9 velop a uniform template for the maintenance and
10 exchange of voter registration information contained
11 in the computerized statewide voter registration list
12 of participating States.

13 “(2) DATA FIELDS.—Such template shall in-
14 clude data fields for the following information:

15 “(A) Full legal name.

16 “(B) Date of birth.

17 “(C) Digital signature image.

18 “(D) Social Security number.

19 “(b) INTEROPERABLE VOTER REGISTRATION DATA-
20 BASES.—

21 “(1) IN GENERAL.—The Commission shall es-
22 tablish a computerized system that is capable of
23 communicating and exchanging data among partici-
24 pating States in an accurate, effective, and con-
25 sistent manner.

1 **“PART 7—INTEROPERABILITY REQUIREMENTS**

2 **PAYMENTS**

3 **“SEC. 298. INTEROPERABILITY REQUIREMENTS PAYMENTS.**

4 “(a) IN GENERAL.—

5 “(1) INTEROPERABILITY REQUIREMENTS PAY-
6 MENTS.—The Commission shall make an interoper-
7 ability requirements payment each year to partici-
8 pating States.

9 “(2) PARTICIPATING STATE DEFINED.—In this
10 part, the term ‘participating State’ means a State
11 that meets the interoperability requirements of sec-
12 tion 298A(b).

13 “(b) USE OF FUNDS.—A State receiving an inter-
14 operability requirements payment shall use the payment
15 only to meet the requirements of section 298A(b).

16 “(c) SCHEDULE OF PAYMENTS.—As soon as prac-
17 ticable after the date of enactment of this subtitle, and
18 not less frequently than once each calendar year there-
19 after, the Commission shall make interoperability require-
20 ments payments to States under this part.

21 **“SEC. 298A. CONDITION FOR RECEIPT OF FUNDS.**

22 “(a) IN GENERAL.—A State is eligible to receive an
23 interoperability requirements payment for a fiscal year if
24 the chief executive officer of the State, or designee, in con-
25 sultation and coordination with the chief State election of-
26 ficial, has filed with the Commission a statement certifying

1 that the State is in compliance with the requirements of
2 subsection (b).

3 “(b) INTEROPERABILITY REQUIREMENTS.—The
4 interoperability requirements of this subsection are as fol-
5 lows:

6 “(1) UNIQUE IDENTIFIER.—The State shall use
7 the Social Security number of each legally registered
8 voter in the State as the unique identifier required
9 under section 303(a)(1)(A).

10 “(2) UNIFORM TEMPLATE.—The State shall
11 use the uniform template developed under section
12 249(a) for voter information maintained in the com-
13 puterized statewide voter registration list of the
14 State under section 303(a).

15 “(3) INTEROPERABLE VOTER REGISTRATION
16 DATABASES.—The State shall—

17 “(A) maintain the computerized statewide
18 voter registration list under section 303(a) in a
19 format that is compatible with the computerized
20 system established by the Commission under
21 section 249(b); and

22 “(B) provide voter registration informa-
23 tion, upon request, to other participating States
24 through the computerized system established
25 under section 249(b).

1 “(4) ELECTRONIC POLL BOOKS.—The State
2 shall establish an electronic system through which
3 local election officials can identify the appropriate lo-
4 cation for registered voters to vote on the day of an
5 election.

6 **“SEC. 298B. AUTHORIZATION OF APPROPRIATIONS.**

7 “(a) IN GENERAL.—There are authorized to be ap-
8 propriated for interoperability requirements payments
9 under this part such sums as may be necessary.

10 “(b) AVAILABILITY.—Any amounts appropriated
11 pursuant to the authority of subsection (a) shall remain
12 available without fiscal year limitation until expended.”.

13 (2) CLERICAL AMENDMENT.—The table of con-
14 tents of such Act, as amended by this Act, is amend-
15 ed by inserting after the item relating to section 297
16 the following:

 “PART 7—INTEROPERABILITY REQUIREMENTS PAYMENTS

 “Sec. 298. Interoperability requirements payments.

 “Sec. 298A. Condition for receipt of funds.

 “Sec. 298B. Authorization of appropriations.”.

17 (c) AUTHORIZATION TO USE SOCIAL SECURITY
18 NUMBERS.—Section 205(c)(2) of the Social Security Act
19 (42 U.S.C. 405(c)(2)) is amended by adding at the end
20 the following new subparagraph:

21 “(I)(i) It is the policy of the United States that any
22 State (or any political subdivision of a State) may utilize
23 the Social Security account numbers issued by the Com-

1 commissioner of Social Security for the administration of any
2 voter registration law.

3 “(ii) An agency of a State (or political subdivision
4 thereof) charged with the administration of any voter reg-
5 istration law which did not use Social Security account
6 numbers for identification under a law or regulation
7 adopted before the date of the enactment of this subpara-
8 graph may require an individual to disclose his or her So-
9 cial Security number to such agency solely for the purpose
10 of administering such law.

11 “(iii) Any agency of a State (or any political subdivi-
12 sion thereof) which utilizes Social Security account num-
13 bers in the administration of voter registration laws in ac-
14 cordance with clause (i) shall provide such safeguards as
15 the Commissioner of Social Security determines to be nec-
16 essary or appropriate to protect the confidentiality of such
17 Social Security account numbers.

18 “(iv) To the extent that any provision of Federal law
19 enacted before the date of the enactment of this subpara-
20 graph is inconsistent with the policy set forth in clause
21 (i), such provision shall, on and after that date, be null,
22 void, and of no effect.”.

1 **SEC. 504. CLARIFICATION OF STANDARDS FOR DETER-**
2 **MINING MATCHING OF INFORMATION PRO-**
3 **VIDED WITH APPLICATIONS.**

4 (a) STATE REQUIREMENTS FOR DETERMINATION OF
5 VALIDITY OF NUMBERS PROVIDED.—Section
6 303(a)(5)(A)(iii) of the Help America Vote Act of 2002
7 (42 U.S.C. 15483(a)(5)(A)(iii)) is amended by striking
8 the period at the end and inserting the following: “, except
9 that the information provided by an individual shall be
10 sufficient to meet the requirements of this subparagraph
11 if, based on the information provided, the State is able
12 to determine the individual’s motor vehicle driver’s num-
13 ber or other personal identification document number or
14 the last four digits of the individual’s Social Security num-
15 ber, or is able to locate one of those numbers in another
16 State record.”.

17 (b) STANDARDS FOR DETERMINATION OF MATCH OF
18 SOCIAL SECURITY NUMBERS.—

19 (1) REQUIREMENTS FOR STATES.—Section
20 303(a)(5)(B) of such Act (42 U.S.C.
21 15483(a)(5)(B)) is amended by adding at the end
22 the following new clause:

23 “(iii) MATCHING STANDARDS.—Infor-
24 mation provided by an applicant for voter
25 registration shall be deemed to be validly
26 matched with information maintained by

1 the Commissioner of Social Security or
2 with information in the database of the
3 State motor vehicle authority for purposes
4 of this subparagraph if it may be reason-
5 ably concluded that the applicant is sub-
6 stantially likely to be the same individual
7 as an individual reflected in the database
8 of the Social Security Administration.”.

9 (2) PROCEDURES OF COMMISSIONER OF SOCIAL
10 SECURITY.—Section 205(r)(8) of the Social Security
11 Act (42 U.S.C. 405(r)(8)), as added by section
12 303(a)(5)(C) of the Help America Vote Act of 2002,
13 is amended by adding at the end the following new
14 subparagraph:

15 “(G) The Commissioner shall develop pro-
16 cedures consistent with the matching standard
17 established under section 303(a)(5)(B)(iii) of
18 the Help America Vote Act of 2002 to improve
19 the accuracy of the matching process under the
20 agreements under this paragraph, including
21 procedures to account for typographical errors
22 and common variations in recording data. Such
23 procedures shall be uniform, nondiscriminatory,
24 and open to public scrutiny.”.

1 (c) STATE.—For purposes of this section, the term
2 “State” includes the District of Columbia and any posses-
3 sion of the United States.

4 **TITLE VI—VOTER CAGING**

5 **SEC. 601. PROHIBITION ON VOTER CAGING.**

6 (a) DEFINITIONS.—In this section:

7 (1) VOTER CAGING DOCUMENT.—The term
8 “voter caging document” means—

9 (A) any nonforwardable document that is
10 sent to an individual at the address at which
11 such individual is registered or seeking to be-
12 come registered as a voter in a Federal election
13 and that is returned to the sender or to a third
14 party as undelivered or undeliverable; and

15 (B) any document (other than a notice de-
16 scribed in section 8(d) of the National Voter
17 Registration Act of 1993) that is sent to an in-
18 dividual at the address at which such individual
19 is registered as a voter in a Federal election
20 and that contains instructions to return the
21 document to the sender or a third party but is
22 not so returned.

23 (2) VOTER CAGING LIST.—The term “voter cag-
24 ing list” means any list of individuals compiled from
25 voter caging documents.

1 (3) UNVERIFIED LIST MATCH.—The term
2 “unverified list match” means a list produced by
3 matching—

4 (A) the identity of registered voters or ap-
5 plicants for voter registration, with

6 (B) the identity of individuals who are in-
7 eligible to vote in the registrar’s jurisdiction, by
8 virtue of death, conviction, change of address,
9 mental impairment, or otherwise;

10 unless the information establishing the identity of
11 the individual under both subparagraphs (A) and
12 (B) contains a signature, photograph, or unique
13 identifying number verifying the identity of the indi-
14 vidual.

15 (b) CONDUCT BY ELECTION OFFICIALS PROHIB-
16 ITED.—No State or local election official shall prevent an
17 individual from registering or voting in any election for
18 Federal office, or permit in connection with any election
19 for Federal office a formal challenge under State law to
20 an individual’s registration status or eligibility to vote, if
21 the sole basis for such decision or challenge is evidence
22 consisting of—

23 (1) a voter caging document or voter caging
24 list;

25 (2) an unverified match list; or

1 (3) notwithstanding section 209 of the Help
2 America Vote Act of 2002 (42 U.S.C. 15329), any
3 other evidence so designated for the purposes of this
4 section by the Election Assistance Commission.

5 (c) REQUIREMENTS FOR CHALLENGES BY PERSONS
6 OTHER THAN ELECTION OFFICIALS.—

7 (1) ATTESTATION OF FIRST-HAND KNOWLEDGE
8 OF INELIGIBILITY.—No person, other than a State
9 or local election official, shall submit a formal chal-
10 lenge to an individual’s eligibility to register to vote
11 in an election for Federal office or to vote in an elec-
12 tion for Federal office unless the challenge—

13 (A) sets forth in writing the specific
14 grounds for the ineligibility of the individual
15 who is the subject of the challenge; and

16 (B) is subject to an oath or attestation
17 under penalty of perjury that such individual is
18 ineligible to register to vote or to vote in that
19 election.

20 (2) PROHIBITING CHALLENGES BASED ON CER-
21 TAIN EVIDENCE.—No person shall submit a formal
22 challenge to an individual’s eligibility to register to
23 vote in an election for Federal office or to vote in
24 an election for Federal office if the sole basis for
25 such challenge is evidence consisting of—

1 (A) a voter caging document or voter cag-
2 ing list;

3 (B) an unverified match list; or

4 (C) notwithstanding section 209 of the
5 Help America Vote Act of 2002 (42 U.S.C.
6 15329), any other evidence so designated for
7 the purposes of this section by the Election As-
8 sistance Commission.

9 (3) PENALTIES FOR KNOWING MISCONDUCT.—

10 Whoever knowingly challenges the eligibility of any
11 individual to register or vote or knowingly causes the
12 eligibility of such individuals to be challenged in vio-
13 lation of paragraph (1) or (2) with the intent that
14 one or more such individuals be disqualified from
15 voting, shall be fined not more than \$50,000 for
16 each such violation.

17 (d) NO EFFECT ON NATIONAL VOTER REGISTRA-
18 TION ACT OF 1993.—Nothing in this section shall be con-
19 strued to override the protections of the National Voter
20 Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

○