

110TH CONGRESS
1ST SESSION

S. 559

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2007

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vote Integrity and
5 Verification Act of 2007”.

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

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

1 (1) IN GENERAL.—Section 301(a)(2) of the
2 Help America Vote Act of 2002 (42 U.S.C.
3 15481(a)(2)) is amended to read as follows:

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

6 “(A) IN GENERAL.—

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

1 paper form in accordance with this sub-
2 paragraph.

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

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

15 “(B) MANUAL AUDIT CAPACITY.—

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

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

1 “(II) in the case of votes cast at
2 the polling place prior to the date of
3 the election or cast by mail, in a man-
4 ner which is consistent with the man-
5 ner employed by the jurisdiction for
6 preserving such ballots in general; or

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

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

16 “(iii) In the event of any inconsis-
17 tencies or irregularities between any elec-
18 tronic vote tallies and the vote tallies de-
19 termined by counting by hand the indi-
20 vidual permanent paper ballots produced
21 pursuant to subparagraph (A), and subject
22 to subparagraph (D), the individual perma-
23 nent paper ballots shall be the true and
24 correct record of the votes cast and shall
25 be used as the official ballots for purposes

1 of any recount or audit conducted with re-
2 spect to any election for Federal office in
3 which the voting system is used.

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

22 “(D) SPECIAL RULE FOR TREATMENT OF
23 DISPUTES WHEN PAPER BALLOTS HAVE BEEN
24 SHOWN TO BE COMPROMISED.—In the event of
25 any inconsistency between any electronic vote

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

21 (2) CONFORMING AMENDMENT CLARIFYING AP-
22 PPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSI-
23 BILITY.—Section 301(a)(4) of such Act (42 U.S.C.
24 15481(a)(4)) is amended by inserting “(including
25 the paper ballots required to be produced under

1 paragraph (2) and the notice required under para-
2 graph (8))” after “voting system”.

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

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

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

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

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

19 (b) ACCESSIBILITY AND BALLOT VERIFICATION IN-
20 DIVIDUALS WITH DISABILITIES.—

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

24 “(B)(i) satisfy the requirement of subpara-
25 graph (A) through the use of at least one voting

1 system equipped for individuals with disabilities
2 at each polling place; and

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

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

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

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

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

20 (i) by redesignating section 247 as
21 section 248; and

22 (ii) by inserting after section 246 the
23 following new section:

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

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

17 “(b) **DEADLINE.**—The Director shall complete the re-
18 quirements of subsection (a) not later than January 1,
19 2010.

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

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

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

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

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

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

16 (c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—

17 (1) REQUIREMENTS DESCRIBED.—Section
 18 301(a) of such Act (42 U.S.C. 15481(a)) is amend-
 19 ed by adding at the end the following new para-
 20 graphs:

21 “(7) INSTRUCTION OF ELECTION OFFICIALS.—
 22 Each State shall ensure that all election officials are
 23 instructed on the right of any individual who re-
 24 quires assistance to vote by reason of blindness,
 25 other disability, or inability to read or write to be

1 given assistance by a person chosen by that indi-
2 vidual under section 208 of the Voting Rights Act
3 of 1965.

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

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

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

1 “(9) PROHIBITION OF USE OF UNDISCLOSED
2 SOFTWARE IN VOTING SYSTEMS.—No voting system
3 used in an election for Federal office shall at any
4 time contain or use any software not certified by the
5 State for use in the election or any software undis-
6 closed to the State in the certification process. The
7 appropriate election official shall disclose, in elec-
8 tronic form, the source code, object code, and exe-
9 cutable representation of the voting system software
10 and firmware to the Commission, including ballot
11 programming files, and the Commission shall make
12 that source code, object code, executable representa-
13 tion, and ballot programming files available for in-
14 spection promptly upon request to any person.

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

20 “(11) PROHIBITING CONNECTION OF SYSTEM
21 OR TRANSMISSION OF SYSTEM INFORMATION OVER
22 THE INTERNET.—No component of any voting de-
23 vice upon which votes are cast shall be connected to
24 the Internet at any time.

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

3 “(A) IN GENERAL.—No voting system may
4 be used in an election for Federal office unless
5 the manufacturer of such system and the elec-
6 tion officials using such system meet the appli-
7 cable requirements described in subparagraph
8 (B).

9 “(B) REQUIREMENTS DESCRIBED.—The
10 requirements described in this subparagraph
11 are as follows:

12 “(i) The manufacturer and the elec-
13 tion officials shall document the secure
14 chain of custody for the handling of all
15 software, hardware, vote storage media,
16 and ballots used in connection with voting
17 systems, and shall make the information
18 available upon request to the Commission.

19 “(ii) The manufacturer of the soft-
20 ware used in the operation of the system
21 shall provide the appropriate election offi-
22 cial with updated information regarding
23 the identification of each individual who
24 participated in the writing of the software,
25 including specific information regarding

1 whether the individual has ever been con-
2 victed of a crime involving election, ac-
3 counting, or computer security fraud.

4 “(iii) The manufacturer shall provide
5 the appropriate election official with the
6 information necessary for the official to
7 provide information to the Commission
8 under paragraph (9).

9 “(iv) After the appropriate election of-
10 ficial has certified the source code, object
11 code, and executable representation of the
12 voting system software for use in an elec-
13 tion, the manufacturer may not—

14 “(I) alter such codes and rep-
15 resentation; or

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

19 “(v) The appropriate election official
20 shall ensure that all voting machines and
21 related supplies to be used in the election
22 shall remain secured within storage facili-
23 ties arranged for by the election official,
24 and shall not be removed from such facili-
25 ties until such time as they are to be deliv-

1 ered to the relevant polling place and se-
2 cured at the polling place until used in the
3 election.

4 “(vi) The manufacturer shall meet
5 standards established by the Commission
6 to prevent the existence or appearance of
7 any conflict of interest with respect to can-
8 didates for public office and political par-
9 ties, including standards to ensure that the
10 manufacturer’s officers and directors do
11 not hold positions of authority in any polit-
12 ical party or in any partisan political cam-
13 paign, and shall certify to the Commission
14 not later than January 31 of each even-
15 numbered year that it meets the standards
16 established under this clause.

17 “(vii) At the request of the Commis-
18 sion, the appropriate election official shall
19 submit information to the Commission re-
20 garding the State’s compliance with this
21 subparagraph.

22 “(13) DURABILITY AND READABILITY REQUIRE-
23 MENTS FOR BALLOTS.—

24 “(A) DURABILITY REQUIREMENTS FOR
25 PAPER BALLOTS.—All voter-verified paper bal-

1 lots required to be used under this Act (includ-
2 ing the emergency paper ballots used under
3 paragraph (14)) shall be marked, printed, or re-
4 corded on durable paper of archival quality ca-
5 pable of withstanding multiple counts and re-
6 counts without compromising the fundamental
7 integrity of the ballots, and capable of retaining
8 the information marked, printed, or recorded on
9 them for the full duration of the retention and
10 preservation period called for by title III of the
11 Civil Rights Act of 1960 (42 U.S.C. 1974 et
12 seq.) or under applicable State law, whichever is
13 longer.

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

21 “(14) PROHIBITING TURNING INDIVIDUALS
22 AWAY FROM POLLING PLACES BECAUSE OF PROB-
23 LEMS WITH OR SHORTAGES OF EQUIPMENT, BAL-
24 LOTS, OR SUPPLIES.—

1 “(A) ENSURING ADEQUATE EQUIPMENT
2 AND SUPPLIES.—Each State shall ensure that
3 the voting systems it uses to conduct elections
4 for Federal office are designed in a manner
5 that ensures that no voter will be unable to cast
6 a ballot at a polling place due to a shortage or
7 failure of voting equipment, ballots, or nec-
8 essary supplies.

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

1 casting the ballot would have otherwise been re-
 2 quired to cast a provisional ballot if the voting
 3 equipment at the polling place had not failed.”.

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

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

11 “(3) PROHIBITING CONFLICTS OF INTEREST;
 12 ENSURING AVAILABILITY OF RESULTS.—

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

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

24 “(ii) the laboratory meets the stand-
 25 ards applicable to the manufacturers of

1 voting systems under section
2 301(a)(12)(B)(vi), together with such
3 standards as the Commission shall estab-
4 lish (after notice and opportunity for pub-
5 lic comment) to prevent the existence or
6 appearance of any conflict of interest in
7 the testing carried out by the laboratory
8 under this section, including standards to
9 ensure that the laboratory does not have a
10 financial interest in the manufacture, sale,
11 and distribution of voting system hardware
12 and software, and is sufficiently inde-
13 pendent from other persons with such an
14 interest;

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

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

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

6 “(4) PROCEDURES FOR CONDUCTING TESTING;
7 PAYMENT OF USER FEES FOR COMPENSATION OF
8 ACCREDITED LABORATORIES.—

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

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

1 tories in carrying out the testing for various
2 types of hardware and software.

3 “(C) REQUESTS AND PAYMENTS BY MANU-
4 FACTURERS.—A manufacturer of voting system
5 hardware and software may not have the hard-
6 ware or software tested by an accredited labora-
7 tory under this section unless—

8 “(i) the manufacturer submits a de-
9 tailed request for the testing to the Com-
10 mission; and

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

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

1 “(E) PAYMENTS TO LABORATORIES.—

2 Upon receiving a certification from a laboratory
3 selected to carry out testing pursuant to sub-
4 paragraph (D) that the testing is completed,
5 along with a copy of the results of the test as
6 required under paragraph (3)(A)(iii), the Com-
7 mission shall make a payment to the laboratory
8 from the Testing Escrow Account established
9 under subparagraph (A) in an amount equal to
10 the applicable fee paid by the manufacturer
11 under subparagraph (C)(ii).

12 “(5) DISSEMINATION OF ADDITIONAL INFORMA-
13 TION ON ACCREDITED LABORATORIES.—

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

20 “(B) LABORATORIES WITH ACCREDITA-
21 TION REVOKED OR SUSPENDED.—If the Com-
22 mission revokes, terminates, or suspends the ac-
23 creditation of a laboratory under this section,
24 the Commission shall promptly notify Congress,

1 the chief State election official of each State,
2 and the public.”.

3 (B) CONFORMING AMENDMENTS.—Section
4 231 of such Act (42 U.S.C. 15371) is further
5 amended—

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

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

22 (iii) in subsection (b)(1), by striking
23 “testing, certification, decertification, and
24 recertification” and inserting “testing”;
25 and

1 (iv) in subsection (d), by striking
2 “testing, certification, decertification, and
3 recertification” each place it appears and
4 inserting “testing”.

5 (C) DEADLINE FOR ESTABLISHMENT OF
6 STANDARDS AND ESCROW ACCOUNT.—The
7 Election Assistance Commission shall establish
8 the standards described in section 231(b)(3) of
9 the Help America Vote Act of 2002 and the
10 Testing Escrow Account described in section
11 231(b)(4) of such Act (as added by subpara-
12 graph (A)) not later than January 1, 2008.

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

1 cordance with the deadline established under this
2 Act, and shall include in the certification the meth-
3 ods by which the State will meet the requirements.

4 (d) AVAILABILITY OF ADDITIONAL FUNDING TO EN-
5 ABLE STATES TO MEET COSTS OF REVISED REQUIRE-
6 MENTS.—

7 (1) EXTENSION OF REQUIREMENTS PAYMENTS
8 FOR MEETING REVISED REQUIREMENTS.—Section
9 257(a) of the Help America Vote Act of 2002 (42
10 U.S.C. 15407(a) is amended by adding at the end
11 the following new paragraph:

12 “(4) For fiscal year 2007, \$300,000,000, except
13 that any funds provided under the authorization
14 made by this paragraph shall be used by a State
15 only to meet the requirements of title III which are
16 first imposed on the State pursuant to the amend-
17 ments made by section 2 of the Vote Integrity and
18 Verification Act of 2007, or to otherwise modify or
19 replace its voting systems in response to such
20 amendments.”.

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

24 “(b) STATE ALLOCATION PERCENTAGE DEFINED.—

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

5 “(A) the voting age population of the State
6 (as reported in the most recent decennial cen-
7 sus); and

8 “(B) the total voting age population of all
9 States (as reported in the most recent decennial
10 census).

11 “(2) SPECIAL RULE FOR PAYMENTS FOR FIS-
12 CAL YEAR 2007.—

13 “(A) IN GENERAL.—In the case of the re-
14 quirements payment made to a State for fiscal
15 year 2007, the ‘State allocation percentage’ for
16 a State is the amount (expressed as a percent-
17 age) equal to the quotient of—

18 “(i) the number of remedial precincts
19 in the State; and

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

22 “(B) REMEDIAL PRECINCT DEFINED.—In
23 this paragraph, a ‘remedial precinct’ means any
24 precinct (or equivalent location) within the
25 State for which the voting system used to ad-

1 minister the regularly scheduled general election
2 for Federal office held in November 2006—

3 “(i) did not use paper as the medium
4 for vote casting, or if the system used
5 paper, did not use durable paper of archi-
6 val quality; or

7 “(ii) did not provide that the entire
8 process of ballot verification was equipped
9 for individuals with disabilities.”.

10 (3) INCREASE IN STATE MINIMUM SHARE OF
11 PAYMENT.—Section 252(e) of such Act (42 U.S.C.
12 15402(e)) is amended—

13 (A) in paragraph (1), by inserting after
14 “one-half of 1 percent” the following: “(or, in
15 the case of the payment made for fiscal year
16 2007, 1 percent)”; and

17 (B) in paragraph (2), by inserting after
18 “one-tenth of 1 percent” the following: “(or, in
19 the case of the payment made for fiscal year
20 2007, one-half of 1 percent)”.

21 (4) REVISED CONDITIONS FOR RECEIPT OF
22 FUNDS.—Section 253 of such Act (42 U.S.C.
23 15403) is amended—

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

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

6 “(f) SPECIAL RULE FOR FISCAL YEAR 2007.—Not-
7 withstanding any other provision of this part, a State is
8 eligible to receive a requirements payment for fiscal year
9 2007 if—

10 “(1) not later than 30 days after the date of
11 the enactment of the Vote Integrity and Verification
12 Act of 2007, the State certifies to the Commission
13 the number of remedial precincts in the State (as
14 defined in section 252(b)(2)(B)); and

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

24 (5) PERMITTING USE OF FUNDS FOR REIM-
25 BURSEMENT FOR COSTS PREVIOUSLY INCURRED.—

1 Section 251(c)(1) of such Act (42 U.S.C.
2 15401(c)(1)) is amended by striking the period at
3 the end and inserting the following: “, or as a reim-
4 bursement for any costs incurred in meeting the re-
5 quirements of title III which are imposed pursuant
6 to the amendments made by section 2 of the Vote
7 Integrity and Verification Act of 2007 or in other-
8 wise modifying or replacing voting systems in re-
9 sponse to such amendments.”.

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

22 (7) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply with respect to fiscal
24 years beginning with fiscal year 2007.

1 **SEC. 3. ENHANCEMENT OF ENFORCEMENT OF HELP AMER-**
2 **ICA VOTE ACT OF 2002.**

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

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

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

10 “(b) FILING OF COMPLAINTS BY AGGRIEVED PER-
11 SONS.—

12 “(1) IN GENERAL.—A person who is aggrieved
13 by a violation of section 301, 302, or 303 which has
14 occurred, is occurring, or is about to occur may file
15 a written, signed, notarized complaint with the At-
16 torney General describing the violation and request-
17 ing the Attorney General to take appropriate action
18 under this section.

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

1 “(c) CLARIFICATION OF AVAILABILITY OF PRIVATE
 2 RIGHT OF ACTION.—Nothing in this section may be con-
 3 strued to prohibit any person from bringing an action
 4 under section 1979 of the Revised Statutes of the United
 5 States (42 U.S.C. 1983) (including any individual who
 6 seeks to enforce the individual’s right to a voter-verified
 7 paper ballot, the right to have the voter-verified paper bal-
 8 lot counted in an election, or any other right under subtitle
 9 A of title III) to enforce the uniform and nondiscrim-
 10 inatory election technology and administration require-
 11 ments under sections 301, 302, and 303.

12 “(d) NO EFFECT ON STATE PROCEDURES.—Nothing
 13 in this section may be construed to affect the availability
 14 of the State-based administrative complaint procedures re-
 15 quired under section 402 to any person filing a complaint
 16 under this subsection.”.

17 **SEC. 4. EXTENSION OF AUTHORIZATION OF ELECTION AS-**
 18 **SISTANCE COMMISSION.**

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

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

1 **SEC. 5. REQUIREMENT FOR MANDATORY MANUAL AUDITS**
 2 **BY HAND COUNT.**

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

7 **“Subtitle C—Mandatory Manual**
 8 **Audits by Election Audit Boards**

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

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

20 “(b) COMPOSITION.—

21 “(1) IN GENERAL.—Each political party in the
 22 State with a candidate in any of the regularly sched-
 23 uled elections for Federal office held in the State
 24 whose candidates in the most recent regularly sched-
 25 uled general elections in the State received at least
 26 5 percent of the aggregate number of all votes cast

1 in such elections, together with any independent can-
2 didate who received at least 5 percent of the aggre-
3 gate number of all votes cast in the most recent reg-
4 ularly scheduled general elections in the State, shall
5 select a qualified individual for appointment to the
6 Election Audit Board of the State.

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

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

1 “(4) DIVERSITY IN APPOINTMENTS.—In mak-
2 ing appointments to the Board, the chief auditor of
3 the State shall (to the greatest extent practicable)
4 ensure that the members of the Board reflect the de-
5 mographic composition of the voting age population
6 of the State.

7 “(c) SPECIAL RULE FOR RUNOFF AND SPECIAL
8 ELECTIONS.—

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

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

23 “(d) CHIEF AUDITOR DEFINED.—In this subsection,
24 the ‘chief auditor’ of a State is an official of the State
25 government, who, as designated by the Attorney General

1 of the State and certified by the Attorney General of the
2 State to the Commission, is responsible for conducting an-
3 nual audits of the operations of the government of the
4 State under the laws or constitution of the State, except
5 that in no case may an individual serve as the chief audi-
6 tor of a State under this subsection if the individual is
7 the chief State election official.

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

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

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

1 “(2) In the event that the unofficial count as
2 described in section 323(a)(1) reveals that the mar-
3 gin of victory between the two candidates receiving
4 the largest number of votes in the election is greater
5 than or equal to 1 percent but less than 2 percent
6 of the total votes cast in that election, the hand
7 counts of the voter-verified paper ballots shall occur
8 in 5 percent of all precincts (or equivalent locations)
9 in the Congressional district involved (in the case of
10 an election for the House of Representatives) or the
11 State (in the case of any other election for Federal
12 office).

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

24 “(b) USE OF ALTERNATIVE MECHANISM.—Notwith-
25 standing subsection (a), a State may adopt and apply an

1 alternative mechanism to determine the number of voter-
2 verified paper ballots which will be subject to the hand
3 counts required under this subtitle with respect to an elec-
4 tion, so long as the National Institute of Standards and
5 Technology determines that the alternative mechanism
6 will be at least as effective in ensuring the accuracy of
7 the election results and as transparent as the procedure
8 under subsection (a).

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

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

14 “(1) Within 24 hours after the State announces
15 the final unofficial vote count in each precinct in the
16 State, the Board shall determine and then announce
17 the precincts in the State in which it will administer
18 the audits.

19 “(2) With respect to votes cast at the precinct
20 or equivalent location on or before the date of the
21 election (other than provisional ballots described in
22 paragraph (3)), the Board shall administer the hand
23 count of the votes on the paper voter-verified ballots
24 required to be produced and preserved under section
25 301(a)(2)(A) and the comparison of the count of the

1 votes on those ballots with the final unofficial count
2 of such votes as announced by the State.

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

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

1 unofficial vote count for the votes cast at the precinct or
2 equivalent location on or before the date of the election,
3 and shall initiate the administration of the audit of the
4 absentee and provisional votes pursuant to subsection
5 (a)(3) not later than 24 hours after the State announces
6 the final unofficial count of such votes.

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

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

17 “(2) ESTABLISHMENT AND PUBLICATION OF
18 PROCEDURES GOVERNING ADDITIONAL AUDITS.—
19 Not later than January 1, 2008, each State shall es-
20 tablish and publish procedures for carrying out the
21 additional audits under this subsection, including the
22 means by which the State shall resolve any concerns
23 resulting from the audit with finality and ensure the
24 accuracy of the results.

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

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

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

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

16 “(2) the Commission shall publish the proce-
17 dures in the Federal Register prior to the selection
18 of the precincts.

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

22 “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-
23 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a
24 State establishes a separate precinct for purposes of
25 counting the absentee ballots cast in an election and treats

1 all absentee ballots as having been cast in that precinct,
2 and if the state does not make absentee ballots sortable
3 by precinct, the State shall include that precinct among
4 the precincts in the State in which the Election Audit
5 Board shall administer the hand counts under this sub-
6 title.

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

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

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

1 “(c) DELAY IN CERTIFICATION OF RESULTS BY
2 STATE.—

3 “(1) PROHIBITING CERTIFICATION UNTIL COM-
4 PLETION OF AUDITS.—No State may certify the re-
5 sults of any election which is subject to an audit
6 under this subtitle prior to the completion of the
7 audit and the announcement and submission of the
8 results of the audit to the Commission for publica-
9 tion of the information required under this section.

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

22 **“SEC. 326. PAYMENTS TO STATES.**

23 “(a) PAYMENTS FOR COSTS OF CONDUCTING AU-
24 DITS.—In accordance with the requirements and proce-
25 dures of this section, the Commission shall make a pay-

1 ment to a State to cover the costs incurred by the State
2 in carrying out this subtitle with respect to the elections
3 that are the subject of the audits conducted under this
4 subtitle.

5 “(b) CERTIFICATION OF COMPLIANCE AND ANTICI-
6 PATED COSTS.—

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

11 “(A) a certification that the State will con-
12 duct the audits required under this subtitle in
13 accordance with all of the requirements of this
14 subtitle;

15 “(B) a notice of the reasonable costs an-
16 ticipated to be incurred by the State in carrying
17 out this subtitle with respect to the elections in-
18 volved; and

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

21 “(2) AMOUNT OF PAYMENT.—The amount of a
22 payment made to a State under this section shall be
23 equal to the reasonable costs anticipated to be in-
24 curred by the State in carrying out this subtitle with
25 respect to the elections involved, as set forth in the

1 statement submitted under paragraph (1) a notice
2 submitted by the State to the Commission (in such
3 form and containing such information as the Com-
4 mission may require).

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

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

14 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Commission for
16 fiscal year 2008 and each succeeding fiscal year such sums
17 as may be necessary for payments under this section.

18 **“SEC. 327. EFFECTIVE DATE.**

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

22 (b) AVAILABILITY OF ENFORCEMENT UNDER HELP
23 AMERICA VOTE ACT OF 2002.—Section 401 of such Act
24 (42 U.S.C. 15511), as amended by section 3, is amend-
25 ed—

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

4 (2) in subsection (b)(1), by striking “section
 5 303” and inserting “section 303, or subtitle C of
 6 title III,”; and

7 (3) in subsection (c)—

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

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

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

“Subtitle C—Mandatory Manual Audits by Election Audit Boards

“Sec. 321. Establishment of Election Audit Boards.

“Sec. 322. Number of ballots counted under audit.

“Sec. 323. Process for administering audits.

“Sec. 324. Selection of precincts.

“Sec. 325. Publication of results.

“Sec. 326. Payments to States.

“Sec. 327. Effective date.”.

16 **SEC. 6. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**
 17 **COMMISSION FROM CERTAIN GOVERNMENT**
 18 **CONTRACTING REQUIREMENTS.**

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

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

5 **SEC. 7. PROHIBITION ON CAMPAIGN ACTIVITIES BY ELEC-**
 6 **TION ADMINISTRATION OFFICIALS.**

7 (a) IN GENERAL.—Title III of the Federal Election
 8 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
 9 by inserting after section 319 the following new section:

10 “CAMPAIGN ACTIVITIES BY ELECTION OFFICIALS

11 “SEC. 319A. (a) PROHIBITION.—It shall be unlawful
 12 for a chief State election administration official to take
 13 an active part in political management or in a political
 14 campaign with respect to any election for Federal office
 15 over which such official has supervisory authority.

16 “(b) CHIEF STATE ELECTION ADMINISTRATION OF-
 17 FICIAL.—The term ‘chief State election administration of-
 18 ficial’ means the highest State official with responsibility
 19 for the administration of Federal elections under State
 20 law.

21 “(c) ACTIVE PART IN POLITICAL MANAGEMENT OR
 22 IN A POLITICAL CAMPAIGN.—The term ‘active part in po-
 23 litical management or in a political campaign’ means—

24 “(1) serving as a member of an authorized com-
 25 mittee of a candidate for Federal office;

1 “(2) the use of official authority or influence
2 for the purpose of interfering with or affecting the
3 result of an election for Federal office;

4 “(3) the solicitation, acceptance, or receipt of a
5 political contribution from any person on behalf of
6 a candidate for Federal office;

7 “(4) the solicitation or discouragement of the
8 participation in any political activity of any person;

9 “(5) engaging in partisan political activity on
10 behalf of a candidate for Federal office; and

11 “(6) any other act prohibited under section
12 7323(b)(4) of title 5, United States Code (other
13 than any prohibition on running for public office).”.

14 (b) ENFORCEMENT.—Section 309 of such Act (42
15 U.S.C. 437g) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(e)(1) Notwithstanding paragraphs (1) through (5)
18 of subsection (a), any person who has knowledge that a
19 violation of section 319A has occurred may file a com-
20 plaint with the Commission. Such complaint shall be in
21 writing, signed and sworn to by the person filing such
22 complaint, shall be notarized, and shall be made under
23 penalty of perjury subject to the provisions of section 1001
24 of title 18, United States Code. The Commission shall
25 promptly notify any person alleged in the complaint, and

1 shall give such person an opportunity to respond. Not later
2 than 14 days after the date on which such a complaint
3 is filed, the Commission shall make a determination on
4 such complaint.

5 “(2) If the Commission determines by an affirmative
6 vote of a majority of the members voting that it has reason
7 to believe that a person has committed a violation of sec-
8 tion 319A, the Commission shall require the person to pay
9 a civil money penalty in an amount determined under a
10 schedule of penalties which is established and published
11 by the Commission.”.

12 **SEC. 8. EFFECTIVE DATE.**

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

○