

Page	Line	Language	Amend/Replace/Remove
1	14-16	<p>“The voting system shall require the use of or produce an individual voter-verified paper ballot...”</p> <p>Standards for independent voter-verifiable records are already being developed under HAVA through the existing voting system guidelines process. They are not ready yet and statutorily mandating them for all systems prior to the development of standards will not enable anyone to bring certifiable systems to market.</p>	<p>No standards exist for assuring or even measuring the accuracy of manual tabulation of paper records. Testing protocols are in place that provide equally reliable assurance of the accuracy of electronic voting and tabulation systems.</p> <p>Statement should be voter verifiable (not verified). [How would we know they actually verified it?]</p>
2-3	<p>20</p> <hr/> <p>24-4</p>	<p>“any error made by the system...”</p> <hr/> <p>This provision deals with identification of ballots and would prohibit any states’ continuation of “retrievable” absentee ballots, a long-standing anti-fraud measure in some states.</p>	<p>Needs to say any voter error – system errors are very rare, but voter errors are extensive</p> <hr/> <p>Add language allowing states to continue requiring identifiable, retrievable absentee ballots and to enable proper processing of provisional ballots.</p>

		<p>It also conflicts with the procedural requirements necessary for executing “provisional” or “same day registration” voting since a such ballots must be identifiable with its voter until approved for counting or in the event of disapproval prior to canvass.</p>	
<p>3</p>	<p>5-13</p>	<p>Appears to approve thermal reel-to-reel [technically language change is needed, this should be thermal and/or reel-to-reel] until 2012 with the implication that both thermal and reel-to-reel would be prohibited subsequently. HAVA already provides for voting system technology to be addressed by way of the Voluntary Voting System Guidelines with the assistance of NIST.</p>	<p>The 2007 VVSGs propose that all voting systems possess “independent voter-verifiable records” and establishes standards for such IVVR systems. Rather than specifying technology in statute, appropriate technology should be determined through the VVSG and certification processes. Until such standards are adopted and systems developed and certified, no technology to replace current systems will be available.</p> <p><i>Suggested wording:</i></p> <p><i>“(IV) The requirement of subclause 5</i></p> <p><i>(I) that the voting system produce an indi- 6</i></p> <p><i>vidual voter-verified paper ballot may not 7</i></p> <p><i>be construed to prohibit a jurisdiction from 8</i></p> <p><i>meeting the requirement through the use 9</i></p> <p><i>of a thermal or reel-to-reel voter verified 10</i></p>

			<p><i>paper ballot printer attached to a direct re- 11</i></p> <p><i>coding electronic voting machine. 13.</i></p> <p>This would leave determination of what technologies meet the requirements of durability and ballot secrecy to the EAC and NIST through the process already in place under HAVA for that purpose, ie., the VVSG.</p>
3	16-20	<p>Declares the paper ballot shall be the official ballot for purposes of recounts or audits.</p> <p>While manual counting of paper for audit purposes is feasible, unless the audit reveals potential problems with the electronic count, there is no reason to not rely on the electronic count for a recount. In addition, in cases of paper jams in a single machine in a close race, the paper ballot tabulation will eliminate some votes. Also, if the printer jams as someone casts a vote, they would be unable to vote a second time or rescind their previously cast machine vote.</p>	<p>Remove. In cases of paper jams in a single machine in a close race, the paper ballot tabulation will eliminate some votes. Also, if the printer jams as someone casts a vote, they would be unable to vote a second time or rescind their previously cast machine vote.</p> <p>Or, amend to say the paper record will be the basis for audits only. Such a provision allows for the concerns about verifiability without hampering the ability to count or recount.</p>
4	6-13	Changes the process for elections in much of	If a paper record must be produced, apply mandatory manual count of paper records for audits, but not for recounts.

		<p>America because it forces recounts by hand in the case of a recounted federal election.</p> <p>The normal process in much of America is that recounts are handled in stages:</p> <ul style="list-style-type: none">o Machine recount first and count by hand that which the voting equipment cannot read.o Recount of random precincts at a percentage of all precincts (such as 1% or 2%)o Hand recount of a larger percentage of the vote (than in line above)o Hand recount of all ballots if a material difference is revealed through the sample recount or audit processo If candidate is still not convinced, then a contested election process is available.o The staged process allows the losing candidate to call off the recount at anytime he or she is satisfied with the outcome	<p>Issue: RECOUNTS –Recounts in all Federal offices shall be conducted in accordance with applicable state law. If the results of the audit required by this Act indicates that there is a material unexplained discrepancy between the audit results and the automated results tabulation, such discrepancy should be promptly reported to the Chief Elections Official of the state for investigation. The results of any affected contests then wait until the source of such discrepancy is determined and corrected or deemed to be insufficient to have a material effect on the outcome of the contest. The language of the bill is far too prescriptive and states can best design the process to satisfy public needs.</p>
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		<p>but doesn't force HAND recounting of all ballots from the very beginning.</p> <ul style="list-style-type: none"> ○ Recounting by hand is less accurate than machine recounts – and that is why voting equipment was invented and is used in today's elections. 	
4	20-22	<p>States that the paper ballots shall always be the “true and correct record” of votes cast.</p> <p>The bill already recognizes that this cannot apply when paper records are lost, destroyed or otherwise missing.</p>	<p>Remove- The next section of the bill acknowledges that if paper records are missing, they cannot constitute the “true and correct” record of votes. Also, experience shows that, in many cases, manual tabulation can err more readily than automated tabulation. Audit or canvass authorities will generally be the best judge as to whether or not minor discrepancies between a manual and an electronic count should be considered the most accurate reflection of the “true and correct” tabulation.</p>
5-6	22-2	<p>If paper ballots have been compromised, the electronic tally shall not be used as the exclusive basis for determining the official certified vote tally.</p>	<p>Remove-- Unless the audit indicated that there is something wrong with the electronic vote tally, the electronic tally is the count that should be used. And discrepancies arising in the audit due to clearly inaccurate manual counts of paper records should be resolved by the local canvass board.</p>
8	11-18	<p>Eliminates the ability of the states to use a system like “Automark” to handle voters with special needs. It forces the elimination of these systems for states that</p>	<p>Remove.</p>

		have chosen Automark rather than DRE's.	
9	8	States that a study will be done exclusively by NIST. This must be NIST working through the EAC. The primary role of EAC is to keep the study process properly coordinated so that conflicting advice is not developed by the Federal government.	Amend this to require NIST to work through EAC to complete this study.
12-13	24-10	Requires notice that paper ballots are the ballot of record.	Remove. This imposes procedural measures that would both burden and slow down the voting process as well as create confusion among voters without serving any substantive purpose. As amended, the bill makes the paper ballot the basis for a limited audit of the accuracy of the voting systems, not the official ballot. Further, this statement would not be true in cases of printer paper jams. If the printer jams yet the voter casts a ballot, there is no ability to rescind the previous ballot, leaving a potentially angry voter and a volatile situation that an election worker cannot fix. If paper jams and the voter cannot verify the ballot, yet presses "cast ballot," it is impossible to make the paper record the voter's official record, so this legislation effectively tells the voter that their vote wouldn't count in "official" situations and the election worker and the election office is left to have to explain to the angry voter why.
13	21-25	.(A) IN GENERAL.—A	Remove. At the very least, do not allow waivers to specific states, as

		<p>voting system used in an election for Federal office in a State may not at any time during the election contain or use any election-dedicated voting system technology which has not been certified by the State for use in the election and which has not been deposited with an accredited laboratory described in section 231 to be held in escrow and disclosed in accordance with this section.</p>	<p>contemplated with New York. It is patently unfair to have federal legislation that does not apply to a particular state without the existence of a unique basis under equity or practicality. The root cause of the attempt to exempt New York is that voting machines in New York cannot be modified by 2008. Equally, voting machines in Johnson County (Kan.), Georgia, Maryland, and New Jersey (among others) are either incapable of being retrofitted or cannot reasonably be retrofitted between the time this bill is signed into law and the time to be ready for federal elections in 2008.</p> <p>Perhaps even more significant, this provision likely would have the practical effect of converting the VVSGs into mandatory Federal Voting System Standards.</p>
15	11-22	<p>Defines qualified persons to review equipment technology to include persons involved in litigation over elections.</p>	<p>Remove. This will increase the number of contested elections, increasing costs for all communities and degrading service. It should reasonably be expected that litigation will be engaged solely for the end purpose of reviewing technology.</p>
15-16	23-3	<p>Defines qualified persons to review equipment technology to include persons who are merely scientists or academics.</p>	<p>Remove. This enables any election activist who is an academic or maintains a blog or chooses to write a book on voting to review all technology. Such review could be erroneous or misleadingly reported, increasing costs and processes, while decreasing voter confidence, in the election process.</p> <p>Such review also can potentially can create an environment of unsubstantiated claims by persons deemed “qualified” who make these claims to disrupt the elections process and, potentially, affect an outcome by disenfranchising persons who become convinced they shouldn’t vote at all. This is a noble concept that could have a myriad of unintended consequences, many of which haven’t even been conceived.</p>

16	10	Further discussion on release of software.	Remove. This subsection needs to be removed until further legal analysis is completed on the legality of forcing trade secret and intellectual property disclosure.
17	1	Further discussion on release of software.	Remove. This subsection needs to be removed until further legal analysis is completed on the legality of forcing trade secret and intellectual property disclosure.
17	7-10	language regarding damages of nondisclosure agreements	Remove. This subsection needs to be removed until further legal analysis is completed on the legality of forcing trade secret and intellectual property disclosure.
17	14	This provides extremely broad latitude for analyses, disclosure and public descriptions of security issues regarding the technology. This does nothing to enhance the integrity of the system.	Amend. This should be substantially narrowed to require that such reports be made to the EAC and perhaps the test labs. Congress has to establish the concept of “trusted governmental entities”. We cannot run elections and have appropriate safeguards if government is not a trusted entity. Having outside academicians, technologists and conspiracy theorists involved at every step is antithetical to the process of governing. We welcome all of those and other elements of the general public in observation of the process but the concept of trusted entity must prevail.
19		Chain of Custody	Requires a chain of custody from manufacturer forward. As written, it outlaws all voting equipment, except new acquisitions with the full pedigree. Existing equipment does not have pure chain of custody records for all parts. Getting every tiny election jurisdiction to do this will be impossible.
22-23	14-7	Requires that paper ballots proactively be offered to all voters.	Remove. This will slow down the voting process considerably, often leading to a conversation between the prospective voter and the election worker about the pros and cons of both methods. This will occur at the check-in table, creating a bottleneck as others await to vote. Communities cannot staff the voting sites more without increased costs and, in many cases, can’t find enough qualified workers to staff the polls today without adding approximately 25 percent more to handle this issue. Also, printing of ballots in all languages in all styles is a duplicative cost of elections that is not reimbursable under this bill.

			More significantly, this provision could effectively force all touchscreen jurisdictions to switch to optical scan ballots-The requirement that all voters be “offered” a “paper ballot” would appear to require each precinct to have a qualifying method of counting such ballots and HAVA requirements, combined with precinct tabulation requirements, appear to necessitate that each precinct be equipped with optical scan tabulation devices even if the primary method of voting is touchscreen.
23-25	20-7	Requires that a notice be posted regarding the proactive offer of paper ballots to all voters. Establishes effective dates and conditions for required paper ballots.	Remove. This imposes procedural requirements that would burden and slow the voting process as well as create substantial voter confusion. The state or local jurisdiction should retain the right and responsibility for determining the type of voting system they feel is best for their jurisdictions.
28	17	Provides for a random selection of test labs “to carry out the specific testing requested.” Also, in general, there is nothing addressing the cost of testing.	Amend. Ensure that testing labs and the EAC continue to maintain escrowed software. Consider federal subsidy of testing fees in some situations to ensure that innovation from existing vendors and new vendors—including those advancing revealed software—is not stifled through these fees. Consider limiting the amount states can charge for certification of software.
34	1-11	Establishes NSF grants for election dedicated software	Software and hardware are largely inseparable in election dedicated systems. Recommend that grants be aimed at “election dedicated systems,” not specifying “software” or “hardware” but directed at the VVSGs “innovation class” technologies and improvement of IVVR systems.
34	20	Authorizes \$1.5 million for election systems research	This level of authorization for research and development does not reflect a serious commitment to producing improved voting systems. Propose that

			\$10 million per year through 2010 or 2012 would constitute a minimum investment.
35	9-15	Funds are authorized but not appropriated and appear to go through a formula based on several factors rather than pure payment, in advance, of actual costs incurred.	<p>Modify. Do not attempt to repurpose appropriated and non-appropriated dollars from HAVA towards this bill.</p> <ul style="list-style-type: none"> • Ensure that money is appropriated to fund machine retrofits in advance (not in a reimbursement mode because the jurisdictions will be at risk of never being reimbursed). • Deadlines must universally be delayed until funding is appropriated for specific items, in advance. Set a timeframe in the bill that no provisions will go into effect at all if funding is not appropriated by a specific date. • Communities will bear financial risk and significant financial investment to retrofit voting machines, in some cases twice if thermal paper is not allowed long term. Some of these communities have not used paper ballots for decades so simply moving to paper ballots requires millions of dollars of investments in scanning equipment and voter education. • The bill currently does not realistically present a funding mechanism, only a recognition of the large dollars involved. • HAVA has yet to be fully funded and therefore represents a realistic, real-life example of what could happen with this bill—there is no guarantee that dollars will be appropriated. • Most states are implementing HAVA programs in a measured and responsible fashion in preparation for 2008 and should not be penalized for not using the HAVA dollars that are already committed but as yet unspent. Committed HAVA dollars are unevenly represented by each state, which means using HAVA dollars will impact some states more than others and not leave all states on equal footing. • Beyond the fact that HAVA actually isn't yet fully funded, it is unfair to attempt to poach from HAVA, which is existing legislation, and no more logical to try to poach from HAVA than it would be to poach from any other previously passed legislation

		right of private action against any election official including precinct officials.	<p>will no longer have poll workers anywhere.</p> <ul style="list-style-type: none"> • Involving the US DoJ and the Attorney General is effectively a take over of elections from state and local governments. This provision cannot be amended and needs to be deleted. • The concept of Private Right of Action appeals to activists but becomes a governmental nightmare in being able to (a) interpret and act on state and federal laws and (b) to avoid financial blackmail with meritless lawsuits and (c) to allow elections to be the responsibility of state and local governments.
50-53	7-17	Audit provisions are too onerous.	<p>Replace. Look at existing statutes, for example, North Carolina, as guidelines for better language.</p> <ul style="list-style-type: none"> • The audit does not replace or even parallel the need for a recount where a contest qualifies, under state law, for a recount. • The audit should not interfere with any required recount, but should merely provide assurance that the voting system's recording and tabulating systems are working properly. Consequently, audit procedures can, and need to be, the minimum required for statistical assurance of electronic system accuracy.
53-54	18-3	<p>Locks states into the use of independent audit and recount mechanisms currently available.</p> <p>This provision, as written, would impose a static technology on the elections process locking out any prospective innovations that would make elections more</p>	<p>To allow states to adopt alternative voter-verifiable audit and recount mechanisms determined to be of equal effectiveness as the proposed method, with NIST working through the EAC.</p>

		secure and more efficient than is currently achievable.	
54-55	4-16	Process for administering audits Most states do not announce unofficial results for each precinct in the state. They announce unofficial county and state totals for each office, but not for each precinct.	Remove. This is covered under Subsection 321. No further specified detail appears needed.
56	4	The manual audits must be conducted in the presence of the election officials who are responsible for custody of the ballots. They must be paid if they are required to be present.	Remove. By eliminating the ban on election officials conducting the audits, the Federal government will not have to pay election officials to be just be present and watching the audits.
56	21	If numbers do not correspond the Election auditor is directed to conduct additional hand counts of precincts. This will delay even further the final certification of the election and in many states the commencement of recounts.	Remove. Audit procedures can, and need to be, the minimum required for statistical assurance of electronic system accuracy. This can be established scientifically by audit and statistical experts. States have proven this approach works.
57-58	17-5	Specifies selection of precincts for the audit. Statistical significance and	Remove. Audit procedures can, and need to be, the minimum required for statistical assurance of electronic system accuracy. This can be

		<p>efficiency of audit may well be maximized by auditing less than whole precincts. Individual DRE machines may be audited across several precincts and provide broader coverage for the sample.</p>	<p>established scientifically by audit and statistical experts.</p>
<p>58</p>	<p>6-16</p>	<p>The mandatory of manual audit of all absent voter counting boards will cause excessive numbers of ballots to be audited and cause unnecessary delays. An absent voter counting board is a precinct that only counts absentee ballots with a single ballot form. In some states there will be more than 500 of these precincts in 2008. In others, all “early votes” are “absentee” and could constitute more than half the votes cast in the election.</p>	<p>Revise or Remove:</p> <p>It would be wholly impractical to manually audit the paper records from in-person “no-excuse absentee” (early) voting on DRE machines on a precinct by precinct basis. One precinct’s paper records may be scattered across hundreds of machines and dozens of voting sites.</p>
<p>58</p>	<p>17-20</p>	<p>Deadline for adoption of procedures is set at March 31, 2008</p>	<p>Change deadline to “March 31, 2010,” or later date consistent with amended effective date of audit provisions.</p>

59	1	<p>The final report of the Election Auditor is extensive. What exactly is to be said about undervotes, overvotes, blank ballots, and spoiled, voided or canceled ballots?</p> <p>In addition how many counts are there? This would lead one to believe at least 3: “initial, subsequent, and final hand counts.”</p>	<p>Eliminate this portion of the report and do not let this hold up final certification of returns.</p> <p>There should be only one audit count. The statistically required audit should be performed and a determination made as to whether or not there is evidence that the electronic count is accurate. If so, any further action, eg., recounts, should proceed using the voting system’s tabulation process.</p>
59	18	<p>Delays the final certification of returns until audits are completed.</p> <p>This can only be accomplished if the the bill allows an audit or other verification process that can be effectively and efficiently executed by the states and local jurisdictions. The audit requirements of the bill as written would substantially delay certification of elections, lead to extended litigation and heighten the chances of</p>	<p>Remove and leave to the states their respective determination as to the timing and role of audits.</p>

		elections being judicially decided rather than determined by the votes cast by the voters.	
60	9	The requirement that audits be completed in time to permit all controversies involving presidential electors to be resolved by December 9, 2008, is not feasible. The audits would have to be completed within a week after the election which is impossible.	Remove and leave to the states their respective determination as to the timing and role of audits.

63	1	This section purports to establish a mechanism under which a state could conduct a recount prior to the conclusion of the audit. Again, the language confuses the concepts of “audit” and “recount” and mandates procedures that conflict with long established state recount procedures.	Remove--Recounts and audits are separate processes with distinct objectives. In close contests, recounts are more important than audits and thus should take a priority. This bill has it backwards with priority on the process that will not ‘determine who the real winners are.’ Only a recount will accomplish that and thus should have the priority and not be artificially restricted from proceeding A properly designed audit that verifies the accuracy of the automated tabulation system should allow recounts to proceed using the automated tabulation systems.
62	22-25	Authorizes \$100 million annually, starting in 2008, for costs of manual audit. There is no basis, at this point, for estimating such costs. Also,	Authorization should be for such sums as are necessary to cover the costs to the States and local jurisdictions of carrying out these provisions. First year of authorization should be delayed to first year of effective date, ie., 2010 or later.

		effective dates needs to be delayed to 2010 or later.	
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63-64	1-7	Not sure what this section means.	Clarify or remove.
64	8-15	Provides blanket requirement that the voter-verifiable paper record be used in all audits and recounts.	Remove--Recounts and audits are separate processes with distinct objectives. A properly designed audit that verifies the accuracy of the automated tabulation system and therefore should allow recounts to proceed using the automated tabulation systems.
64	16-19	Effective date of November 8, 2008.	Needs to be delayed to 2010 or later.
66-67	12-4	Direction to NIST and authorization of appropriation to establish “guidance for States that wish to establish alternative audit mechanisms under section 322(b)	Strike provision.--Authorization of \$100,000 is insufficient and May 1, 2008, deadline is premature. Should allow VVSG process to resolve this through NIST and the EAC.