

Principal Changes Made to HR 811 by the Committee Substitute

Effective Date for New Requirements – January 2008 deadline has been replaced with bifurcated deadline:

- All jurisdictions that used any paper-ballot-based voting system at all in 2006 (including thermal reel-to-reel systems and accessible systems that used a paper ballot in any manner) have until the first election in 2010 to meet new requirements;
- All jurisdictions that had *no* voter verified paper ballots at all in 2006 have until November 2008 to meet all of the requirements (and they are *not* entitled to a waiver)

Funding for Voting System Requirements – has been increased from \$300 million to \$1 billion.

Ban on Internet connections – has been expanded to include, in addition to devices upon which votes are cast, devices upon which votes are tabulated and ballots are programmed.

Software disclosure – the requirement that software be disclosed to any person has been replaced by a requirement that election-dedicated software be released to qualified persons who sign non-disclosure agreements protecting intellectual property rights and trade secrets.

Extension of Authorization of EAC – has been removed

Military and overseas voting – overseas ballots are included in audits, but the requirement that the DOD and EAC develop protocols for treatment of paper ballots has been removed.

Vote of Record language – now provides that even if paper ballots have been demonstrated to have been compromised in numbers exceeding the margin of victory, “the electronic tally shall not be used as the exclusive basis for determining the official certified vote tally.”

Paper ballots upon request – by amendment, the Committee added a requirement that voters in DRE jurisdictions be given paper ballot upon request (except at early voting locations); this requirement takes effect in 2010.

Audit Board -- The Audit Board has been removed, but it has been replaced with a requirement that the entity chosen by the State to conduct the audits satisfy the requirements of “independence” set forth in the GAO’s “Government Accounting Standards.”

How many Federal Elections will be audited – Unopposed elections and elections determined by more than an 80% margin of victory are not required to be audited.

Audit procedures and ballot custody – Audits must be conducted in the place where the ballots are stored and counted after the election, and in the presence of the ballot custodians.

Funding for audits – an explicit authorization of \$100 million annually has been added.

Recounts that occur prior to certification (and might overlap with an audit) – Section 327
requires that any pre-certification recount done instead of an audit be done by hand count of the paper ballots, and it has been expanded to provide that if the recount is not a 100% count, that at least as many ballots be counted, the selection of those ballots be just as random, the recount be just as publicly observable, and the results be published, all as is required of audits.