

The Emergency Assistance for Secure Elections Act of 2008, HR 5036

This bill was introduced into Congress on January 17, 2008, by Representative Rush Holt of New Jersey

HR 5036 provides reimbursements which can help states, counties and other jurisdictions to improve some of the problems that have emerged from the Help America Vote Act of 2002 (HAVA). The bill emphasizes paper ballots and audits. All the improvements are to be in place for the November 2008 election.

The bill does not have mandates. Its four areas of reimbursement are optional. No state or other jurisdiction is required to participate.

Its first two offers of reimbursement are in Section 2 of the bill. Both offers are available only to "certain jurisdictions": namely, states or other jurisdictions which in 2006 had voting machines which did not use paper ballots, or did not even produce a paper record that could be verified by the voter.

OPTION NUMBER ONE: If one of these "certain jurisdictions" obtains precinct-based equipment that tabulates paper ballots or scans paper ballots, the costs will be reimbursed.

(The bill frequently uses the word "ballot" in two ways-- to refer to a real, voter-marked, paper ballot, and also to the paper trail inside an electronic voting machine, which voters may view (through a plastic cover) to verify that the machine has understood their intentions.

However the bill is clear in stating that replacement equipment which it will pay for must be "a voting system that uses a paper ballot marked by the voter by hand or a paper ballot marked by the voter with the assistance of a non-tabulating ballot marking device.....accessible for individuals with disabilities...")

OPTION NUMBER TWO, also in Section 2 of the bill, is intended for jurisdictions which continue to use Direct Recording Electronic voting machines (DRE's) that lack any paper trail. The bill offers reimbursement of costs "to obtain, deploy, and tabulate emergency paper ballots....that may be used in the event of the failure of a direct recording electronic voting system in the regularly scheduled general elections for federal office to be held in November 2008." These emergency paper ballots must be counted as regular ballots. (The bill does NOT require that paper ballots be available to all voters on request, and it does not describe what constitutes a "failure" of the DRE.)

Five hundred million dollars (\$500,000,000) is authorized for payments under Section 2. Wisconsin jurisdictions will not qualify to apply for any of the Section 2 money, because we already have some form of paper involved in our elections.

The third and fourth options for reimbursement in HR 5036 appear to be available to any state, county, or equivalent location which would choose to apply, including Wisconsin.

Reimbursement OPTION NUMBER THREE is in Section 3 of HR 5036. This offers reimbursement for the costs of manual audits of any of the regularly scheduled general elections for Federal office in November 2008. Reimbursement may also include costs for audits of other elections, referenda, or initiatives that are held at the same time.

The bill spells out one format for conducting an audit, and also offers the choice of using an alternative sampling mechanism which would be at least as statistically effective. Plans for an alternative mechanism must be submitted to and approved by the Director of the National Institute of Standards and Technology (NIST) prior to the election.

One hundred million dollars (\$100,000,000) is authorized for reimbursement of audits under Section 3.

OPTION NUMBER FOUR, in Section 4 of HR 5036, offers to reimburse states, counties, or equivalent locations for the costs of conducting hand counts of votes cast on paper ballots for Federal office in November 2008. In this part of the bill, "paper" includes both real paper ballots marked by voters and also paper printouts produced by Voter Verified Paper Audit Trail (VVPAT) equipment attached to DRE's.

Procedures for the hand count, including public observation, are spelled out in the bill.

It is not clear whether rural portions of a county which already do hand counting, or choose to do so in November 2008, can apply for the reimbursement, or whether the entire county must use that method.

Thirty million dollars (\$30,000,000) is authorized for payments of hand counting costs under Section 4.

Section 5 of the bill authorizes study, testing, and development of products to ensure accessibility of paper ballot verification for individuals with disabilities, voters whose primary language is not English, and voters with difficulties in literacy. The Director of the National Institute of Standards and Technology (NIST) is to report to Congress by June 30, 2009, on the results of the study.

Three million dollars (\$3,000,000) is authorized for this study.

Throughout the bill, the Administrator of General Services is given authority. In a couple of places, determination of whether costs are reasonable "shall be made by the Administrator in consultation with the Election Assistance Commission."

Summary produced by Mary Lou Diehl, February 9, 2008 for Fair Elections Wisconsin

Complete information: <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:h.r.05036>:

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