To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HOLT introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Poll Tape Transparency Act of 2010”.
SEC. 2. REQUIRING STATES TO MEET STANDARDS FOR
PUBLICATION OF POLL TAPES.

(a) IN GENERAL.—Section 301(a) of the Help Amer-
ica Vote Act of 2002 (42 U.S.C. 15481(a)) is amended
by adding at the end the following new paragraph:

“(7) REQUIREMENTS FOR PUBLICATION OF
POLL TAPES.—

“(A) REQUIREMENTS.—Each State shall
meet the following requirements:

“(i) Upon the closing of the polls at
each polling place, the appropriate election
official, under the observation of the cer-
tified tabulation observers admitted to the
polling place under subparagraph (E) (if
any), shall announce the vote orally, post a
copy of the poll tape reflecting the totals
from each voting machine upon which
votes were cast in the election at the poll-
ing place, and prepare and post a state-
ment of the total number of individuals
who appeared at the polling place to cast
ballots, determined by reference to the
number of signatures in a sign-in book or
other similar independent count. Such offi-
cials shall ensure that each of the certified
tabulation observers admitted to the poll-
ing place has full access to observe the process by which the poll tapes and statement are produced and a reasonable period of time to review the poll tapes and statement before the polling place is closed, and (if feasible) shall provide such observers with identical duplicate copies of the poll tapes and statement.

“(ii) As soon as practicable, but in no event later than noon of the day following the date of the election, the appropriate election official shall display (at a prominent location accessible to the public during regular business hours and in or within reasonable proximity to the polling place) a copy of each poll tape and statement prepared under clause (i), and the information shall be displayed on the official public websites of the applicable local election official and chief State election official, together with the name of the designated voting official who entered the information and the date and time the information was entered.
“(iii) Each website on which information is posted under clause (ii) shall include information on the procedures by which discrepancies shall be reported to election officials. If any discrepancy exists between the posted information and the relevant poll tape or statement, the appropriate election official shall display information on the discrepancy on the website on which the information is posted under clause (ii) not later than 24 hours after the official is made aware of the discrepancy, and shall maintain the information on the discrepancy and its resolution (if applicable) on such website during the entire period for which results of the election are typically maintained on such website.

“(iv) The appropriate election official shall preserve archived copies of the poll tapes and statements prepared under clause (i) and reports of discrepancies filed by certified tabulation observers for the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil
Rights Act of 1960 (42 U.S.C. 1974 et seq.) or for the same duration for which archived copies of other records of the election are required to be preserved under applicable State law, whichever is longer.

“(B) Treatment of ballots cast at early voting sites.—

“(i) Application.—The requirements of this subparagraph shall apply with respect to poll tapes and statements of the number of voters who voted in person at designated sites prior to the date of the election.

“(ii) Daily count of voters.—At the close of business on each day on which ballots described in clause (i) may be cast prior to the date of the election, the appropriate election official at each such site shall—

“(I) under the observation of certified tabulation observers admitted to the site under subparagraph (E) (if any), prepare and post a statement of the total number of individuals who appeared at the site to cast ballots,
determined by reference to the number of signatures in a sign-in book or other similar independent count, and the total number of ballots cast (excluding information on the votes received by individual candidates), and shall ensure that each of the certified tabulation observers admitted to the site has full access to observe the process by which the statement is produced and a reasonable period of time to review the statement before the site is closed; and

“(II) display at the site during regular business hours for the duration of the early voting period a paper copy of the statement prepared under subclause (I).

“(iii) Application of General Requirements for Poll Tapes and Statements.—Upon the closing of the polls on the date of the election, the appropriate election official at each designated site described in this subparagraph shall meet the requirements of subparagraph
(A) (including requirements relating to the role of certified tabulation observers) in the same manner as an election official at a polling place.

“(C) TREATMENT OF ABSENTEE BALLOTS.—

“(i) DAILY COUNT OF BALLOTS MAILED AND RECEIVED.— At the close of each business day on which a State mails or accepts absentee ballots cast in an election for Federal office prior to the date of the election, the appropriate election official shall—

“(I) under the observation of certified tabulation observers admitted under subparagraph (E) to the site at which the ballots are mailed and received (if any), prepare and post a statement of the total number of absentee ballots mailed and received by the official during that day and a separate count of the number of absentee ballots received but rejected (separated into categories of the reasons for rejection), and ensure that each of
the certified tabulation observers admitted to the site has full access to observe the process by which the statement is produced and a reasonable period of time to review the statement before the site is closed; and

“(II) display at the site during regular business hours for the duration of the period during which absentee ballots are processed a paper copy of the statement prepared under subclause (I).

“(ii) Application of General Requirements for Poll Tapes and Statements.—At the close of business on the last day on which absentee ballots are counted prior to the certification of the election, the appropriate election official at the site at which absentee ballots are received and counted shall meet the requirements of subparagraph (A) (including requirements relating to the role of certified tabulation observers) in the same manner as an election official at a polling place.
“(D) Daily count of provisional ballots.—At the close of business on the day on which the appropriate election official determines whether or not provisional ballots cast in an election for Federal office will be counted as votes in the election (as described in section 302(a)(4)), the official shall—

“(i) under the observation of certified tabulation observers admitted under sub-paragraph (E) to the site at which the determination is made (if any), prepare and post a statement of the number of such ballots for which a determination was made, the number of ballots counted, and the number of ballots rejected (separated into categories of the reason for the rejection), and ensure that each of the certified tabulation observers admitted to the site has full access to observe the process by which the statement is produced and a reasonable period of time to review the statement before the site is closed; and

“(ii) display at the site during regular business hours for the duration of the period during which provisional ballots are
processed a paper copy of the statement prepared under clause (i).

“(E) Admission of certified tabulation observers.—

“(i) Certified tabulation observer defined.—In this paragraph, a ‘certified tabulation observer’ is an individual who is certified by an appropriate election official as authorized to carry out the responsibilities of a certified tabulation observer under this paragraph.

“(ii) Selection.—In determining which individuals to certify as tabulation observers and admit to a polling place or other location to serve as certified tabulation observers with respect to an election for Federal office, the election official shall give preference to individuals who are affiliated with a candidate in the election, except that—

“(I) the number of individuals admitted who are affiliated with the same candidate for Federal office may not exceed one; and
“(II) the maximum number of individuals who may be admitted shall equal the number of candidates in the election plus 3, or such greater number as may be authorized under State law.

“(iii) NO EFFECT ON ADMISSION OF OTHER OBSERVERS.—Nothing in this sub-paragraph may be construed to limit or otherwise affect the authority of other individuals to enter and observe polling place operations under any other law, including international observers authorized under any treaty or observers of the Federal Government authorized under the Voting Rights Act of 1965.

“(F) NO EFFECT ON OTHER TABULATION REQUIREMENTS.—Nothing in this Act may be construed to supersede any requirement that an election official at a polling place report vote totals to a central tabulation facility and address discrepancies the official finds in the aggregation of those totals with other vote totals.”.

(b) EFFECTIVE DATE.—Section 301(d) of such Act (42 U.S.C. 15481(d)) is amended by striking “January
1 January 1, 2006” and inserting “January 1, 2006 (or, in the case of the requirements of subsection (a)(7), shall meet such requirements with respect to the first election for Federal office held after the date of the enactment of the Poll Tape Transparency Act of 2010 and each subsequent election for Federal office)”.