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

IN THE SENATE OF THE UNITED STATES
FEBRUARY 2, 2004
Mrs. BOXER 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 record or hardcopy under title III of such Act, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Secure and Verifiable Electronic Voting Act of 2004” or the “SAVE Voting Act of 2004”.
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Promoting accuracy, integrity, and security through voter-verified permanent record or hard copy.

Sec. 3. Extension of time provided for States to request payments under title I.

Sec. 4. Change in deadline for compliance with standards.

Sec. 5. Requirement for Federal certification of technological security of voter registration lists.

Sec. 6. Requirement for mandatory recounts.

Sec. 7. Security standards for manufacturers of federally certified voting systems.

Sec. 8. Repeal of exemption of Election Assistance Commission from certain Government contracting requirements.

Sec. 9. Effective date.

SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH VOTER-VERIFIED PERMANENT RECORD OR HARD COPY.

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

“(2) VOTER-VERIFICATION AND MANUAL AUDIT CAPACITY.—

“(A) VOTER-VERIFICATION.—The voting system shall produce a voter-verified paper record suitable for a manual audit equivalent or superior to that of a paper ballot voting system and that meets the requirements of subparagraph (B).

“(B) MANUAL AUDIT CAPACITY.—

“(i) The voting system shall produce a permanent paper record, each individual paper record of which shall be made available for inspection and verification by the
voter at the time the vote is cast, and pre-
served within the polling place in the man-
ner in which all other paper ballots are
preserved within the polling place on Elec-
tion Day for later use in any manual audit.

“(ii) The voting system shall provide
the voter with an opportunity to correct
any error made by the system before the
permanent record is preserved for use in
any manual audit.

“(iii) The voter-verified paper record
produced under subparagraph (A) and this
subparagraph shall be available as an offi-
cial record and shall be the official record
used for any recount conducted with re-
spect to any election in which the system
is used.

“(iv) The voter-verified paper record
produced under subparagraph (A) and this
subparagraph may not be produced on
thermal paper.

“(C) SOFTWARE AND MODEMS.—

“(i) No voting system shall at any
time contain or use undisclosed software.
Any voting system containing or using
software shall disclose the source code of
that software to the Commission, and the
Commission shall make that source code
available for inspection upon request to
any citizen.

“(ii) No voting system shall contain
any wireless communication device at all.

“(iii) All software and hardware used
in any electronic voting system shall be
certified by laboratories accredited by the
Commission as meeting the requirements
of clauses (i) and (ii).”.

(b) VOTER VERIFICATION OF RESULTS FOR INDIVID-
UALS WITH DISABILITIES.—Section 301(a)(3) of such
Act (42 U.S.C. 15481(a)(3)) is amended—

(1) in the heading, by inserting “AND VOTER-
VERIFICATION OF RESULTS” after “ACCESSIBILITY”;

(2) in subparagraph (B), by inserting before “;
and” the following: “, and such voting system shall
provide a mechanism for voter-verification of results
and manual audit capacity in a manner analogous to
the manner required under subparagraphs (A) and
(B) of paragraph (2), but that does not require the
use of paper”; and
(3) by amending subparagraph (C) to read as follows:

“(C) meet the voting system standards for disability access and voter-verification of results as outlined in this paragraph in accordance with the deadline described in subsection (d), except that, if it does not and a paper ballot voting system is used on an interim basis in accordance with section 102(a)(3)(B), any individual who requires assistance to vote by reason of blindness, disability, or inability to read or write shall have the option of using such voting system with the assistance of a person chosen by that individual in accordance with section 208 of the Voting Rights Act of 1965 or using the voting system otherwise put in place for use by voters at the time in question in accordance with this Act, as in effect prior to the enactment of the Secure and Verifiable Electronic Voting Act of 2004, except that ‘2006’ shall be substituted for ‘2007’ in section 301(a)(3)(C).”.

(c) Notification of Right to Assistance of an Aide.—Section 302(b)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15482(b)(2)) is amended—
(1) in subparagraph (E), by striking “and” after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new sub-
paragraph:

“(G) information on the right of any indi-
vidual who requires assistance to vote by reason
of blindness, disability, or inability to read or
write to be given assistance by a person chosen
by that individual under section 208 of the Vot-
ing Rights Act of 1965.”.

(d) Voter-Verification and Audit Capacity
Funding.—Title II of the Help America Vote Act of 2002
is amended by adding at the end the following new part:

“PART 7—VOTER-VERIFICATION AND AUDIT
CAPACITY FUNDING

SEC. 271. VOTER-VERIFICATION AND AUDIT CAPACITY
FUNDING.

“(a) Payments to States.—Subject to subsection
(b), not later than the date that is 30 days after the date
of the enactment of the Secure and Verifiable Electronic
Voting Act of 2004, the Election Assistance Commission
shall pay to each State an amount to assist the State in
paying for the implementation of the voter-verification and
audit capacity requirements of paragraphs (2) and (3) of
section 301(a), as amended by subsections (a) and (b) of
section 2 of the Secure and Verifiable Electronic Voting

“(b) LIMITATION.—The amount paid to a State
under subsection (a) for each voting system purchased by
a State may not exceed the average cost of adding a print-
er to each type of voting system that the State could have
purchased to meet the requirements described in such sub-
section.

“SEC. 272. APPROPRIATION.

“Such sums are appropriated to the Election Assist-
ance Commission, without fiscal year limitation, as may
be necessary to make payments to States in accordance
with section 271(a).”.

(e) SPECIFIC, DELINEATED REQUIREMENT OF
STUDY, TESTING, AND DEVELOPMENT OF BEST PRACTICES.—In addition to any other requirements under the
Help America Vote Act of 2002, the Election Assistance
Commission shall study, test, and develop best practices
to enhance accessibility and voter-verification mechanisms
for disabled voters.
SEC. 3. EXTENSION OF TIME PROVIDED FOR STATES TO REQUEST PAYMENTS UNDER TITLE I.

(a) Payments for Activities to Improve Administration of Elections.—Section 101(a) of the Help America Vote Act of 2002 (42 U.S.C. 15301(a)) is amended by striking “not later than 6 months after the date of the enactment of this Act” and inserting “not later than the Tuesday next after the first Monday in November 2004”.

(b) Payments for Replacement of Punch Card or Lever Voting Machines.—Section 102(b)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15301(b)(1)) is amended by striking “not later than the date that is 6 months after the date of the enactment of this Act” and inserting “not later than the Tuesday next after the first Monday in November 2004”.

(c) Extension of Period of Authorization of Appropriations.—

(1) In General.—Section 104(a) of the Help America Vote Act of 2002 (42 U.S.C. 15304(a)) is amended by striking “$650,000,000” and inserting “an aggregate amount of $650,000,000 for fiscal years 2003 through 2005”.

(2) Date for Transfer to Election Assistance Commission of Unobligated Funds.—Section 104(c)(2)(B) of the Help America Vote Act of
2002 (42 U.S.C. 15304(e)(2)(B)) is amended by
striking “September 1, 2003” and inserting “January 1, 2005”.

(d) Requirement To Deploy Interim Measure If Waiver Requested.—Section 102(a)(3)(B) of the Help America Vote Act of 2002 (42 U.S.C. 15301(a)(3)(B)) is amended by striking the period at the end and inserting the following: “, except that any State requesting any such waiver shall accept and implement a paper ballot voting system for use on an interim basis as provided in section 4(b) of the Secure and Verifiable Electronic Voting Act of 2004 in time for use in the regularly scheduled general election for Federal office held in November 2004.”.

SEC. 4. CHANGE IN DEADLINE FOR COMPLIANCE WITH STANDARDS.

(a) In General.—Section 301(d) of the Help America Vote Act of 2002 (42 U.S.C. 15481(d)) is amended by striking “on and after January 1, 2006” and inserting “in time for elections for Federal office beginning with the regularly scheduled general election to be held in November 2004”.

(b) Interim Paper Ballot Voting System.—Section 301 of the Help America Vote Act of 2002 (42 U.S.C.
15481(d)) is amended by adding at the end the following new subsection:

“(e) INTERIM PAPER BALLOT VOTING SYSTEM.—
Each State and jurisdiction that certifies by July 1, 2004, in a manner similar to the manner described in section 102(a)(3)(B) that it is unable to comply with the requirements of section 301, as amended by the Secure and Verifiable Electronic Voting Act of 2004, in time for the regularly scheduled general election for Federal office to be held in November 2004 shall use a paper ballot voting system, based on paper ballot voting systems in use in the jurisdiction, if any, that shall be deemed compliant with section 301 by the Commission for use in the November 2004 general elections. The Commission shall reimburse the State or jurisdiction for any costs incurred in using such a system.”.

SEC. 5. REQUIREMENT FOR FEDERAL CERTIFICATION OF TECHNOLOGICAL SECURITY OF VOTER REGISTRATION LISTS.

Section 303(a)(3) of the Help America Vote Act of 2002 (42 U.S.C. 15483(a)(3)) is amended by striking “measures to prevent the” and inserting “measures, as certified by the Election Assistance Commission, to prevent”.

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SEC. 6. REQUIREMENT FOR MANDATORY RECOUNTS.

The Election Assistance Commission shall conduct unannounced manual recounts of the voter-verified records of each election for Federal office (and, at the option of the State or jurisdiction involved, elections for State and local office) in 0.5 percent of the jurisdictions in each State (as defined in section 901 of the Help America Vote Act of 2002) and, including overseas voters (as defined in section 107(5) of the Uniformed and Overseas Citizens Absentee Voting Act), immediately following each general election for Federal office and shall promptly publish the results of those recounts. The treatment of the results of the recount shall be governed by applicable Federal, State, or local law.

SEC. 7. SECURITY STANDARDS FOR MANUFACTURERS OF
FEDERALLY CERTIFIED VOTING SYSTEMS.

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

“(7) SECURITY STANDARDS FOR MANUFACTURERS OF VOTING SYSTEMS USED IN FEDERAL ELECTIONS.—

“(A) IN GENERAL.—No voting system may be used in an election for Federal office unless the manufacturer of such system meets the requirements described in subparagraph (B).
“(B) Requirements described.—The requirements described in this subparagraph are as follows:

“(i) The manufacturer shall conduct background checks on individuals who are programmers and developers before such individuals work on any software used in connection with the voting system.

“(ii) The manufacturer shall document the chain of custody for the handling of software used in connection with voting systems.

“(iii) The manufacturer shall ensure that any software used in connection with the voting system is not transferred over the Internet.

“(iv) The manufacturer shall provide the codes used in any software used in connection with the voting system to the Commission and may not alter such codes once certification has occurred unless such system is recertified.

“(v) The manufacturer shall implement procedures to ensure internal security, as required by the Director of the Na-
tional Institute of Standards and Technology.

“(vi) The manufacturer shall meet such other requirements as may be established by the Director of the National Institute of Standards and Technology.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to voting systems used on and after the date of the regularly scheduled general election for Federal office held in November 2004.

SEC. 8. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS.

(a) IN GENERAL.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325) is amended by striking subsection (e).

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

SEC. 9. EFFECTIVE DATE.

Except as provided in sections 7(b) and 8(b), the amendments made by this Act shall take effect as if in-
Included in the enactment of the Help America Vote Act of 2002.