

108TH CONGRESS
1ST SESSION

S. 1980

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

DECEMBER 9, 2003

Mr. GRAHAM of Florida 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.

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

3 This Act may be cited as the “Voter Confidence and
4 Increased Accessibility Act of 2003”.

5 **SEC. 2. EXTENSION OF TIME PROVIDED FOR STATES TO RE-**
6 **QUEST PAYMENTS UNDER TITLE I.**

7 (a) PAYMENTS FOR ACTIVITIES TO IMPROVE ADMIN-
8 ISTRATION OF ELECTIONS.—Section 101(a) of the Help
9 America Vote Act of 2002 (42 U.S.C. 15301(a)) is

1 amended by striking “not later than 6 months after the
 2 date of the enactment of this Act” and inserting “not later
 3 than the Tuesday next after the first Monday in November
 4 2003”.

5 (b) PAYMENTS FOR REPLACEMENT OF PUNCH CARD
 6 OR LEVER VOTING MACHINES.—Section 102(b)(1) of
 7 such Act (42 U.S.C. 15301(b)(1)) is amended by striking
 8 “not later than the date that is 6 months after the date
 9 of the enactment of this Act” and inserting “not later than
 10 the Tuesday next after the first Monday in November
 11 2003”.

12 (c) EXTENSION OF PERIOD OF AUTHORIZATION OF
 13 APPROPRIATIONS.—

14 (1) IN GENERAL.—Section 104(a) of such Act
 15 (42 U.S.C. 15304(a)) is amended by striking
 16 “\$650,000,000” and inserting “an aggregate
 17 amount of \$650,000,000 for fiscal years 2003 and
 18 2004”.

19 (2) DATE FOR TRANSFER TO ELECTION ASSIST-
 20 ANCE COMMISSION OF UNOBLIGATED FUNDS.—Sec-
 21 tion 104(c)(2)(B) of such Act (42 U.S.C.
 22 15304(c)(2)(B)) is amended by striking “September
 23 1, 2003” and inserting “January 1, 2004”.

24 (d) REQUIREMENT TO DEPLOY INTERIM MEASURE
 25 IF WAIVER REQUESTED.—Section 102(a)(3)(B) of such

1 Act (42 U.S.C. 15301(a)(3)(B)) is amended by striking
 2 the period at the end and inserting the following: “, except
 3 that any State requesting any such waiver shall accept and
 4 implement a paper system for use on an interim basis as
 5 provided in section 5(b) of the Voter Confidence and In-
 6 creased Accessibility Act of 2003 in time for use in the
 7 November 2004 general election.”.

8 **SEC. 3. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**
 9 **COMMISSION FROM CERTAIN GOVERNMENT**
 10 **CONTRACTING REQUIREMENTS.**

11 (a) IN GENERAL.—Section 205 of the Help America
 12 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-
 13 ing subsection (e).

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

18 **SEC. 4. PROMOTING ACCURACY, INTEGRITY, AND SECU-**
 19 **RITY THROUGH VOTER-VERIFIED PERMA-**
 20 **NENT RECORD OR HARD COPY.**

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

24 “(2) VOTER-VERIFICATION AND AUDIT CAPAC-
 25 ITY.—

1 “(A) VOTER-VERIFICATION IN GENERAL.—

2 The voting system shall produce a voter-verified
3 paper record suitable for a manual audit equiv-
4 alent or superior to that of a paper ballot box
5 system, as further specified in subparagraph
6 (B).

7 “(B) MANUAL AUDIT CAPACITY.—

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

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

22 “(iii) The voter verified paper record
23 produced under subparagraph (A) and this
24 subparagraph shall be available as an offi-
25 cial record and shall be the official record

used for any recount conducted with respect to any election in which the system is used.

“(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 INDIVIDUALS 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”;

1 (2) in subparagraph (B), by striking “; and”
2 and inserting the following: “, and such voting sys-
3 tem shall provide a mechanism for voter-verification
4 of results which separates the function of vote gen-
5 eration from the function of vote casting in a man-
6 ner analogous to that described in section 4 with re-
7 spect to the separation of paper ballot generation
8 and paper ballot verification and preservation, but
9 does not require the use of paper.”;

10 (3) by amending subparagraph (C) to read as
11 follows:

12 “(C) The equipment deployed in accord-
13 ance with subparagraph (B) shall meet the vot-
14 ing system standards for disability access and
15 voter-verification of results as outlined in this
16 paragraph in accordance with the deadline set
17 forth in section 5(a), provided that if it does
18 not and an interim paper system is deployed in
19 accordance with section 5(b), disabled voters
20 shall have the option of using the interim paper
21 system with the assistance of an aide of the vot-
22 er’s personal selection or using the voting sys-
23 tem otherwise put in place for use by disabled
24 voters at the time in question in accordance
25 with the Help America Vote Act of 2002, as in

1 effect prior to the enactment of this Act, except
 2 that the deadline set forth in section
 3 301(a)(3)(C) of such Act (42 U.S.C.
 4 15481(a)(3)(C)) is moved forward from Janu-
 5 ary 1, 2007, to January 1, 2006.”; and

6 (4) by adding at the end the following new sub-
 7 paragraph:

8 “(D) Election officials shall be instructed
 9 in the rights of the disabled to vote with the as-
 10 sistance of an aide of their selection under the
 11 Voting Rights Act of 1965.”.

12 (c) SPECIFIC, DELINEATED REQUIREMENT OF
 13 STUDY, TESTING, AND DEVELOPMENT OF BEST PRAC-
 14 TICES.—In addition to any other requirements under the
 15 Help America Vote Act of 2002, the Election Assistance
 16 Commission shall study, test, and develop best practices
 17 to enhance accessibility and voter-verification mechanisms
 18 for disabled voters.

19 **SEC. 5. CHANGE IN DEADLINE FOR COMPLIANCE WITH**
 20 **STANDARDS.**

21 (a) IN GENERAL.—Section 301(d) of the Help Amer-
 22 ica Vote Act of 2002 (42 U.S.C. 15481(d)) is amended
 23 by striking “on and after January 1, 2006” and inserting
 24 “in time for elections for Federal office beginning with the

1 regularly scheduled general election to be held in Novem-
 2 ber 2004”.

3 (b) INTERIM PAPER SYSTEM.—Each State and juris-
 4 diction that certifies in the manner described in section
 5 102(a)(3)(B) that it shall be unable to comply with the
 6 requirements of section 301 in time for the regularly
 7 scheduled general election for Federal office to be held in
 8 November 2004 shall receive a paper voting system, based
 9 on paper systems in use in the jurisdiction, if any, at the
 10 expense of the Commission that shall be deemed compliant
 11 with section 301 by the Commission for use in the Novem-
 12 ber 2004 general elections.

13 **SEC. 6. REQUIREMENT FOR FEDERAL CERTIFICATION OF**
 14 **TECHNOLOGICAL SECURITY OF VOTER REG-**
 15 **ISTRATION LISTS.**

16 Section 303(a)(3) of the Help America Vote Act of
 17 2002 (42 U.S.C. 15483(a)(3)) is amended by striking the
 18 period at the end and inserting the following: “, as cer-
 19 tified by the Commission.”.

20 **SEC. 7. REQUIREMENT FOR MANDATORY RECOUNTS.**

21 The Election Assistance Commission shall conduct
 22 manual mandatory surprise recounts of the voter-verified
 23 records of each election for Federal office (and, at the op-
 24 tion of the State or jurisdiction involved, of elections for
 25 State and local office) in .5 percent of the jurisdictions

1 in each State and .5 percent of the overseas jurisdictions
2 in which voter-verified records are preserved in accordance
3 with this section immediately following each general elec-
4 tion for Federal office, and shall promptly publish the re-
5 sults of those recounts. The treatment of the results of
6 the recount shall be governed by applicable Federal, State,
7 or local law, except that any individual who is a citizen
8 of the jurisdiction involved may file an appeal with the
9 Commission if the individual believes that such law does
10 not provide a fair remedy.

11 **SEC. 8. EFFECTIVE DATE.**

12 Except as provided in section 3(b), the amendments
13 made by this Act shall take effect as if included in the
14 enactment of the Help America Vote Act of 2002.

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