

115TH CONGRESS
1ST SESSION

H. R. 1562

To amend the Help America Vote Act of 2002 to improve the security of the information technology used to administer voter registration procedures and elections for Federal office, to promote the accuracy and integrity of the results of such elections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2017

Mr. POCAN (for himself, Mr. ELLISON, and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Help America Vote Act of 2002 to improve the security of the information technology used to administer voter registration procedures and elections for Federal office, to promote the accuracy and integrity of the results of such elections, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Secure America’s Future Elections Act” or the “SAFE
 4 Act”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—DESIGNATION OF ELECTION ADMINISTRATION
 SYSTEMS AS CRITICAL INFRASTRUCTURE**

Sec. 101. Sense of Congress regarding election administration security as a
 matter of national security.

Sec. 102. Designation of election administration systems as critical infrastruc-
 ture for homeland security purposes.

**TITLE II—SECURITY OF VOTING SYSTEMS AND VOTER
 REGISTRATION PROCESSES**

Sec. 201. Assistance to States for information technology security upgrades to
 voter registration and election administration processes.

Sec. 202. Requiring voting systems to meet cybersecurity standards.

TITLE III—ACCURACY, SECURITY, AND INTEGRITY OF ELECTIONS

**Subtitle A—Promoting Accuracy, Integrity, and Security Through Voter-
 Verified Permanent Paper Ballot**

Sec. 301. Paper ballot and manual counting requirements.

Sec. 302. Accessibility and ballot verification for individuals with disabilities.

Sec. 303. Durability and readability requirements for ballots.

Sec. 304. Effective date for new requirements.

Subtitle B—Requirement for Mandatory Manual Audits by Hand Count

Sec. 311. Mandatory manual audits.

“Subtitle C—Mandatory Manual Audits

“Sec. 321. Requiring audits of results of elections.

“Sec. 322. Number of ballots counted under audit.

“Sec. 323. Process for administering audits.

“Sec. 324. Selection of precincts.

“Sec. 325. Publication of results.

“Sec. 326. Payments to States.

“Sec. 327. Exception for elections subject to recount under State law prior
 to certification.

“Sec. 328. Effective date.

Sec. 312. Availability of enforcement under Help America Vote Act of 2002.

Sec. 313. Guidance on best practices for alternative audit mechanisms.

Sec. 314. Clerical amendment.

TITLE IV—REAUTHORIZATION OF ELECTION ASSISTANCE
COMMISSION

Sec. 401. Reauthorization of Election Assistance Commission.

1 **TITLE I—DESIGNATION OF**
2 **ELECTION ADMINISTRATION**
3 **SYSTEMS AS CRITICAL INFRA-**
4 **STRUCTURE**

5 **SEC. 101. SENSE OF CONGRESS REGARDING ELECTION AD-**
6 **MINISTRATION SECURITY AS A MATTER OF**
7 **NATIONAL SECURITY.**

8 It is the sense of Congress that protecting the secu-
9 rity and integrity of the administration of elections for
10 public office, including the security of the information
11 technology processes used to carry out voter registration
12 and to operate voting systems, is a critical element of na-
13 tional security.

14 **SEC. 102. DESIGNATION OF ELECTION ADMINISTRATION**
15 **SYSTEMS AS CRITICAL INFRASTRUCTURE**
16 **FOR HOMELAND SECURITY PURPOSES.**

17 (a) DESIGNATION.—The Secretary of Homeland Se-
18 curity, acting through the Assistant Secretary of the Na-
19 tional Protection and Programs Directorate, shall des-
20 ignate the infrastructure used to administer elections for
21 public office, including storage facilities, polling places,
22 vote tabulation locations, voter databases (including online
23 voter registration databases), voting machines, and other

1 systems that manage the election process, as critical infra-
 2 structure.

3 (b) CRITICAL INFRASTRUCTURE DEFINED.—In this
 4 section, the term “critical infrastructure” has the meaning
 5 given such term in section 1016 of the Critical Infrastruc-
 6 ture Protection Act of 2001 (42 U.S.C. 5195c).

7 **TITLE II—SECURITY OF VOTING**
 8 **SYSTEMS AND VOTER REG-**
 9 **ISTRATION PROCESSES**

10 **SEC. 201. ASSISTANCE TO STATES FOR INFORMATION**
 11 **TECHNOLOGY SECURITY UPGRADES TO**
 12 **VOTER REGISTRATION AND ELECTION AD-**
 13 **MINISTRATION PROCESSES.**

14 (a) AUTHORIZATION OF FUNDING.—Section 257(a)
 15 of the Help America Vote Act of 2002 (52 U.S.C.
 16 21007(a)) is amended by adding at the end the following
 17 new paragraph:

18 “(5) For each of the fiscal years 2018 through
 19 2027, such sums as may be necessary for such pay-
 20 ments, except that a State may use a requirement
 21 payment made with funds authorized under this
 22 paragraph solely to carry out activities to upgrade
 23 the security of the information technology and cyber-
 24 security elements of the voting systems used in the
 25 State and the information technology and cybersecu-

1 rity elements of the State’s voter registration lists
 2 (including online voter registration databases) and
 3 voter registration processes, including activities nec-
 4 essary to meet the requirements of section 303(a)(3)
 5 (relating to the technological security of the State’s
 6 computerized voter registration list).”.

7 (b) WAIVER OF 5 PERCENT MATCH REQUIRE-
 8 MENT.—Section 253(b)(5) of such Act (52 U.S.C.
 9 21003(b)(5)) is amended—

10 (1) in subparagraph (A), by striking “subpara-
 11 graph (B)” and inserting “subparagraphs (B) and
 12 (C)”; and

13 (2) by adding at the end the following new sub-
 14 paragraph:

15 “(C) Subparagraph (A) shall not apply for pur-
 16 poses of determining the eligibility of a State to re-
 17 ceive a requirements payment appropriated pursuant
 18 to the authorization provided under section
 19 257(a)(5) of this title for fiscal year 2018.”.

20 **SEC. 202. REQUIRING VOTING SYSTEMS TO MEET CYBERSE-**
 21 **CURITY STANDARDS.**

22 (a) REQUIREMENT.—Section 301(a) of the Help
 23 America Vote Act of 2002 (52 U.S.C. 21081(a)) is amend-
 24 ed by adding at the end the following new paragraph:

25 “(7) CYBERSECURITY STANDARDS.—

1 “(A) ESTABLISHMENT OF STANDARDS BY
2 SECRETARY OF HOMELAND SECURITY AND
3 NIST.—Not later than 1 year after the date of
4 the enactment of this paragraph, the Secretary
5 of Homeland Security (hereafter referred to as
6 the ‘Secretary’) and the Director of the Na-
7 tional Institute of Standards and Technology
8 (hereafter referred to as the ‘Director’), work-
9 ing jointly, shall establish standards to ensure
10 the cybersecurity of the components of voting
11 systems, including the software used to operate
12 such systems, and to ensure the security of the
13 manufacturing processes for such components.

14 “(B) NOTIFICATION OF SECURITY
15 BREACHES.—The Secretary and the Director
16 shall include in such standards a requirement
17 that the manufacturer of a voting system or
18 any component of a voting system whose infor-
19 mation and information systems have been the
20 subject of an incident of unauthorized access,
21 use, disclosure, disruption, modification, or de-
22 struction submit a report to the Commission
23 immediately upon discovering the incident.

24 “(C) UPDATES.—The Secretary and the
25 Director shall, working jointly, regularly update

1 such standards to take into account develop-
2 ments in voting system technology and the
3 emergence of new threats to the security of
4 such systems.

5 “(D) COMPLIANCE REQUIRED.—A State or
6 jurisdiction may not use a voting system or any
7 component of a voting system in an election for
8 Federal office unless the manufacturer of the
9 system or component certifies to the State or
10 jurisdiction that the system meets the most re-
11 cent cybersecurity standards established by the
12 Secretary and the Director under this para-
13 graph.”.

14 (b) EFFECTIVE DATE.—Section 301(d) of such Act
15 (52 U.S.C. 21081(d)) is amended to read as follows:

16 “(d) EFFECTIVE DATE.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), each State and jurisdiction shall be re-
19 quired to comply with the requirements of this sec-
20 tion on and after January 1, 2006.

21 “(2) SPECIAL RULE FOR CYBERSECURITY
22 STANDARDS.—The requirements of paragraph (7) of
23 subsection (a) (relating to cybersecurity standards)
24 shall apply with respect to the regularly scheduled
25 general elections for Federal office held in November

1 2018 and each succeeding election for Federal of-
 2 fice.”.

3 **TITLE III—ACCURACY, SECU-**
 4 **RITY, AND INTEGRITY OF**
 5 **ELECTIONS**

6 **Subtitle A—Promoting Accuracy,**
 7 **Integrity, and Security Through**
 8 **Voter-Verified Permanent Paper**
 9 **Ballot**

10 **SEC. 301. PAPER BALLOT AND MANUAL COUNTING RE-**
 11 **QUIREMENTS.**

12 (a) IN GENERAL.—Section 301(a)(2) of the Help
 13 America Vote Act of 2002 (52 U.S.C. 21081(a)(2)) is
 14 amended to read as follows:

15 “(2) PAPER BALLOT REQUIREMENT.—

16 “(A) VOTER-VERIFIED PAPER BALLOTS.—

17 “(i) PAPER BALLOT REQUIREMENT.—

18 (I) The voting system shall require the use
 19 of an individual, durable, voter-verified,
 20 paper ballot of the voter’s vote that shall
 21 be marked and made available for inspec-
 22 tion and verification by the voter before
 23 the voter’s vote is cast and counted, and
 24 which shall be counted by hand or read by
 25 an optical character recognition device or

1 other counting device. For purposes of this
2 subclause, the term ‘individual, durable,
3 voter-verified, paper ballot’ means a paper
4 ballot marked by the voter by hand or a
5 paper ballot marked through the use of a
6 nontabulating ballot marking device or sys-
7 tem, so long as the voter shall have the op-
8 tion to mark his or her ballot by hand.

9 “(II) The voting system shall provide
10 the voter with an opportunity to correct
11 any error on the paper ballot before the
12 permanent voter-verified paper ballot is
13 preserved in accordance with clause (ii).

14 “(III) The voting system shall not
15 preserve the voter-verified paper ballots in
16 any manner that makes it possible, at any
17 time after the ballot has been cast, to asso-
18 ciate a voter with the record of the voter’s
19 vote without the voter’s consent.

20 “(ii) PRESERVATION AS OFFICIAL
21 RECORD.—The individual, durable, voter-
22 verified, paper ballot used in accordance
23 with clause (i) shall constitute the official
24 ballot and shall be preserved and used as
25 the official ballot for purposes of any re-

1 count or audit conducted with respect to
2 any election for Federal office in which the
3 voting system is used.

4 “(iii) MANUAL COUNTING REQUIRE-
5 MENTS FOR RECOUNTS AND AUDITS.—(I)
6 Each paper ballot used pursuant to clause
7 (i) shall be suitable for a manual audit,
8 and shall be counted by hand in any re-
9 count or audit conducted with respect to
10 any election for Federal office.

11 “(II) In the event of any inconsist-
12 encies or irregularities between any elec-
13 tronic vote tallies and the vote tallies de-
14 termined by counting by hand the indi-
15 vidual, durable, voter-verified, paper ballots
16 used pursuant to clause (i), and subject to
17 subparagraph (B), the individual, durable,
18 voter-verified, paper ballots shall be the
19 true and correct record of the votes cast.

20 “(iv) APPLICATION TO ALL BAL-
21 LOTS.—The requirements of this subpara-
22 graph shall apply to all ballots cast in elec-
23 tions for Federal office, including ballots
24 cast by absent uniformed services voters
25 and overseas voters under the Uniformed

1 and Overseas Citizens Absentee Voting Act
2 and other absentee voters.

3 “(B) SPECIAL RULE FOR TREATMENT OF
4 DISPUTES WHEN PAPER BALLOTS HAVE BEEN
5 SHOWN TO BE COMPROMISED.—

6 “(i) IN GENERAL.—In the event
7 that—

8 “(I) there is any inconsistency
9 between any electronic vote tallies and
10 the vote tallies determined by count-
11 ing by hand the individual, durable,
12 voter-verified, paper ballots used pur-
13 suant to subparagraph (A)(i) with re-
14 spect to any election for Federal of-
15 fice; and

16 “(II) it is demonstrated by clear
17 and convincing evidence (as deter-
18 mined in accordance with the applica-
19 ble standards in the jurisdiction in-
20 volved) in any recount, audit, or con-
21 test of the result of the election that
22 the paper ballots have been com-
23 promised (by damage or mischief or
24 otherwise) and that a sufficient num-
25 ber of the ballots have been so com-

1 promised that the result of the elec-
2 tion could be changed,
3 the determination of the appropriate rem-
4 edy with respect to the election shall be
5 made in accordance with applicable State
6 law, except that the electronic tally shall
7 not be used as the exclusive basis for de-
8 termining the official certified result.

9 “(ii) RULE FOR CONSIDERATION OF
10 BALLOTS ASSOCIATED WITH EACH VOTING
11 MACHINE.—For purposes of clause (i),
12 only the paper ballots deemed com-
13 promised, if any, shall be considered in the
14 calculation of whether or not the result of
15 the election could be changed due to the
16 compromised paper ballots.”.

17 (b) CONFORMING AMENDMENT CLARIFYING APPLI-
18 CABILITY OF ALTERNATIVE LANGUAGE ACCESSIBILITY.—
19 Section 301(a)(4) of such Act (52 U.S.C. 21081(a)(4))
20 is amended by inserting “(including the paper ballots re-
21 quired to be used under paragraph (2))” after “voting sys-
22 tem”.

23 (c) OTHER CONFORMING AMENDMENTS.—Section
24 301(a)(1) of such Act (52 U.S.C. 21081(a)(1)) is amend-
25 ed—

1 (1) in subparagraph (A)(i), by striking “count-
 2 ed” and inserting “counted, in accordance with
 3 paragraphs (2) and (3)”;

4 (2) in subparagraph (A)(ii), by striking “count-
 5 ed” and inserting “counted, in accordance with
 6 paragraphs (2) and (3)”;

7 (3) in subparagraph (A)(iii), by striking “count-
 8 ed” each place it appears and inserting “counted, in
 9 accordance with paragraphs (2) and (3)”;

10 (4) in subparagraph (B)(ii), by striking “count-
 11 ed” and inserting “counted, in accordance with
 12 paragraphs (2) and (3)”.

13 **SEC. 302. ACCESSIBILITY AND BALLOT VERIFICATION FOR**
 14 **INDIVIDUALS WITH DISABILITIES.**

15 (a) IN GENERAL.—Section 301(a)(3)(B) of the Help
 16 America Vote Act of 2002 (52 U.S.C. 21081(a)(3)(B)) is
 17 amended to read as follows:

18 “(B)(i) satisfy the requirement of subpara-
 19 graph (A) through the use of at least one voting
 20 system equipped for individuals with disabili-
 21 ties, including nonvisual and enhanced visual
 22 accessibility for the blind and visually impaired,
 23 and nonmanual and enhanced manual accessi-
 24 bility for the mobility and dexterity impaired, at
 25 each polling place; and

“(ii) meet the requirements of subparagraph (A) and paragraph (2)(A) by using a system that—

“(I) allows the voter to privately and independently verify the permanent paper ballot through the presentation, in accessible form, of the printed or marked vote selections from the same printed or marked information that would be used for any vote counting or auditing; and

“(II) allows the voter to privately and independently verify and cast the permanent paper ballot without requiring the voter to manually handle the paper ballot; and”.

(b) SPECIFIC REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF ACCESSIBLE PAPER BALLOT VERIFICATION MECHANISMS.—

(1) STUDY AND REPORTING.—Subtitle C of title II of such Act (52 U.S.C. 21081 et seq.) is amended—

(A) by redesignating section 247 as section 248; and

(B) by inserting after section 246 the following new section:

1 **“SEC. 247. STUDY AND REPORT ON ACCESSIBLE PAPER**
2 **BALLOT VERIFICATION MECHANISMS.**

3 “(a) STUDY AND REPORT.—The Director of the Na-
4 tional Science Foundation shall make grants to not fewer
5 than 3 eligible entities to study, test, and develop acces-
6 sible paper ballot voting, verification, and casting mecha-
7 nisms and devices and best practices to enhance the acces-
8 sibility of paper ballot voting and verification mechanisms
9 for individuals with disabilities, for voters whose primary
10 language is not English, and for voters with difficulties
11 in literacy, including best practices for the mechanisms
12 themselves and the processes through which the mecha-
13 nisms are used.

14 “(b) ELIGIBILITY.—An entity is eligible to receive a
15 grant under this part if it submits to the Director (at such
16 time and in such form as the Director may require) an
17 application containing—

18 “(1) certifications that the entity shall specifi-
19 cally investigate enhanced methods or devices, in-
20 cluding non-electronic devices, that will assist such
21 individuals and voters in marking voter-verified
22 paper ballots and presenting or transmitting the in-
23 formation printed or marked on such ballots back to
24 such individuals and voters, and casting such ballots;

1 “(2) a certification that the entity shall com-
2 plete the activities carried out with the grant not
3 later than July 1, 2018; and

4 “(3) such other information and certifications
5 as the Director may require.

6 “(c) AVAILABILITY OF TECHNOLOGY.—Any tech-
7 nology developed with the grants made under this section
8 shall be treated as non-proprietary and shall be made
9 available to the public, including to manufacturers of vot-
10 ing systems.

11 “(d) COORDINATION WITH GRANTS FOR TECH-
12 NOLOGY IMPROVEMENTS.—The Director shall carry out
13 this section so that the activities carried out with the
14 grants made under subsection (a) are coordinated with the
15 research conducted under the grant program carried out
16 by the Commission under section 271, to the extent that
17 the Director and Commission determine necessary to pro-
18 vide for the advancement of accessible voting technology.

19 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
20 is authorized to be appropriated to carry out subsection
21 (a) \$5,000,000, to remain available until expended.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents of such Act is amended—

24 (A) by redesignating the item relating to
25 section 247 as relating to section 248; and

1 (B) by inserting after the item relating to
 2 section 246 the following new item:

“Sec. 247. Study and report on accessible paper ballot verification mechanisms.”.

3 (c) CLARIFICATION OF ACCESSIBILITY STANDARDS
 4 UNDER VOLUNTARY VOTING SYSTEM GUIDANCE.—In
 5 adopting any voluntary guidance under subtitle B of title
 6 III of the Help America Vote Act with respect to the ac-
 7 cessibility of the paper ballot verification requirements for
 8 individuals with disabilities, the Election Assistance Com-
 9 mission shall include and apply the same accessibility
 10 standards applicable under the voluntary guidance adopt-
 11 ed for accessible voting systems under such subtitle.

12 (d) PERMITTING USE OF FUNDS FOR PROTECTION
 13 AND ADVOCACY SYSTEMS TO SUPPORT ACTIONS TO EN-
 14 FORCE ELECTION-RELATED DISABILITY ACCESS.—Sec-
 15 tion 292(a) of the Help America Vote Act of 2002 (52
 16 U.S.C. 21062(a)) is amended by striking “; except that”
 17 and all that follows and inserting a period.

18 **SEC. 303. DURABILITY AND READABILITY REQUIREMENTS**
 19 **FOR BALLOTS.**

20 Section 301(a) of the Help America Vote Act of 2002
 21 (52 U.S.C. 21081(a)), as amended by section 202(a), is
 22 further amended by adding at the end the following new
 23 paragraph:

1 “(8) DURABILITY AND READABILITY REQUIRE-
2 MENTS FOR BALLOTS.—

3 “(A) DURABILITY REQUIREMENTS FOR
4 PAPER BALLOTS.—

5 “(i) IN GENERAL.—All voter-verified
6 paper ballots required to be used under
7 this Act shall be marked or printed on du-
8 rable paper.

9 “(ii) DEFINITION.—For purposes of
10 this Act, paper is ‘durable’ if it is capable
11 of withstanding multiple counts and re-
12 counts by hand without compromising the
13 fundamental integrity of the ballots, and
14 capable of retaining the information
15 marked or printed on them for the full du-
16 ration of a retention and preservation pe-
17 riod of 22 months.

18 “(B) READABILITY REQUIREMENTS FOR
19 PAPER BALLOTS MARKED BY BALLOT MARKING
20 DEVICE.—All voter-verified paper ballots com-
21 pleted by the voter through the use of a ballot
22 marking device shall be clearly readable by the
23 voter without assistance (other than eyeglasses
24 or other personal vision enhancing devices) and
25 by an optical character recognition device or

1 other device equipped for individuals with dis-
2 abilities.”.

3 **SEC. 304. EFFECTIVE DATE FOR NEW REQUIREMENTS.**

4 Section 301(d) of the Help America Vote Act of 2002
5 (52 U.S.C. 21081(d)), as amended by section 202(b), is
6 further amended—

7 (1) in paragraph (1), by striking “Except as
8 provided in paragraph (2)” and inserting “Except as
9 provided in paragraphs (2) and (3)”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(3) SPECIAL RULE FOR CERTAIN REQUIRE-
13 MENTS.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraphs (B) and (C), the requirements of
16 this section which are first imposed on a State
17 and jurisdiction pursuant to the amendments
18 made by title III of the Secure America’s Fu-
19 ture Elections Act shall apply with respect to
20 voting systems used for the regularly scheduled
21 general elections for Federal office held in 2018
22 and any succeeding election for Federal office.

23 “(B) DELAY FOR JURISDICTIONS USING
24 CERTAIN PAPER RECORD PRINTERS OR CERTAIN

1 SYSTEMS USING OR PRODUCING VOTER-
2 VERIFIABLE PAPER RECORDS IN 2016.—

3 “(i) DELAY.—In the case of a juris-
4 diction described in clause (ii), subpara-
5 graph (A) shall apply to a voting system in
6 the jurisdiction as if the reference in such
7 subparagraph to ‘2018’ were a reference to
8 ‘2020’, but only with respect to the fol-
9 lowing requirements of this section:

10 “(I) Paragraph (2)(A)(i)(I) of
11 subsection (a) (relating to the use of
12 voter-marked paper ballots).

13 “(II) Paragraph (3)(B)(ii)(I) and
14 (II) of subsection (a) (relating to ac-
15 cess to verification from and casting
16 of the durable paper ballot).

17 “(III) Paragraph (8) of sub-
18 section (a) (relating to durability and
19 readability requirements for ballots).

20 “(ii) JURISDICTIONS DESCRIBED.—A
21 jurisdiction described in this clause is a ju-
22 risdiction—

23 “(I) which used voter verifiable
24 paper record printers attached to di-
25 rect recording electronic voting ma-

chines, or which used other voting systems that used or produced paper records of the vote verifiable by voters but that are not in compliance with paragraphs (2)(A)(i)(I), (3)(B)(ii)(I) and (II), and (8) of subsection (a) (as amended or added by the Secure America’s Future Elections Act), for the administration of the regularly scheduled general election for Federal office held in November 2016; and

“(II) which will continue to use such printers or systems for the administration of elections for Federal office held in years before 2020.

“(iii) MANDATORY AVAILABILITY OF PAPER BALLOTS AT POLLING PLACES USING GRANDFATHERED PRINTERS AND SYSTEMS.—

“(I) REQUIRING BALLOTS TO BE OFFERED AND PROVIDED.—The appropriate election official at each polling place that uses a printer or system described in clause (ii)(I) for the administration of elections for Federal

1 office shall offer each individual who
2 is eligible to cast a vote in the election
3 at the polling place the opportunity to
4 cast the vote using a blank pre-print-
5 ed paper ballot which the individual
6 may mark by hand and which is not
7 produced by the direct recording elec-
8 tronic voting machine or other such
9 system. The official shall provide the
10 individual with the ballot and the sup-
11 plies necessary to mark the ballot, and
12 shall ensure (to the greatest extent
13 practicable) that the waiting period
14 for the individual to cast a vote is the
15 lesser of 30 minutes or the average
16 waiting period for an individual who
17 does not agree to cast the vote using
18 such a paper ballot under this clause.

19 “(II) TREATMENT OF BALLOT.—

20 Any paper ballot which is cast by an
21 individual under this clause shall be
22 counted and otherwise treated as a
23 regular ballot for all purposes (includ-
24 ing by incorporating it into the final
25 unofficial vote count (as defined by

1 the State) for the precinct) and not as
2 a provisional ballot, unless the indi-
3 vidual casting the ballot would have
4 otherwise been required to cast a pro-
5 visional ballot.

6 “(III) POSTING OF NOTICE.—

7 The appropriate election official shall
8 ensure there is prominently displayed
9 at each polling place a notice that de-
10 scribes the obligation of the official to
11 offer individuals the opportunity to
12 cast votes using a pre-printed blank
13 paper ballot.

14 “(IV) TRAINING OF ELECTION

15 OFFICIALS.—The chief State election
16 official shall ensure that election offi-
17 cials at polling places in the State are
18 aware of the requirements of this
19 clause, including the requirement to
20 display a notice under subclause (III),
21 and are aware that it is a violation of
22 the requirements of this title for an
23 election official to fail to offer an indi-
24 vidual the opportunity to cast a vote
25 using a blank pre-printed paper ballot.

1 “(V) PERIOD OF APPLICA-
 2 BILITY.—The requirements of this
 3 clause apply only during the period in
 4 which the delay is in effect under
 5 clause (i).

6 “(C) SPECIAL RULE FOR JURISDICTIONS
 7 USING CERTAIN NONTABULATING BALLOT
 8 MARKING DEVICES.—In the case of a jurisdic-
 9 tion which uses a nontabulating ballot marking
 10 device which automatically deposits the ballot
 11 into a privacy sleeve, subparagraph (A) shall
 12 apply to a voting system in the jurisdiction as
 13 if the reference in such subparagraph to ‘2018’
 14 were a reference to ‘2020’, but only with re-
 15 spect to paragraph (3)(B)(ii)(II) of subsection
 16 (a) (relating to nonmanual casting of the dura-
 17 ble paper ballot).”.

18 **Subtitle B—Requirement for Man-**
 19 **datory Manual Audits by Hand**
 20 **Count**

21 **SEC. 311. MANDATORY MANUAL AUDITS.**

22 Title III of the Help America Vote Act of 2002 (52
 23 U.S.C. 21081 et seq.) is amended by adding at the end
 24 the following new subtitle:

1 **“Subtitle C—Mandatory Manual**
2 **Audits**

3 **“SEC. 321. REQUIRING AUDITS OF RESULTS OF ELECTIONS.**

4 “(a) REQUIRING AUDITS.—

5 “(1) IN GENERAL.—In accordance with this
6 subtitle, each State shall administer, without ad-
7 vance notice to the precincts or alternative audit
8 units selected, audits of the results of all elections
9 for Federal office held in the State (and, at the op-
10 tion of the State or jurisdiction involved, of elections
11 for State and local office held at the same time as
12 such election) consisting of random hand counts of
13 the voter-verified paper ballots required to be used
14 and preserved pursuant to section 301(a)(2).

15 “(2) EXCEPTION FOR CERTAIN ELECTIONS.—A
16 State shall not be required to administer an audit of
17 the results of an election for Federal office under
18 this subtitle if the winning candidate in the elec-
19 tion—

20 “(A) had no opposition on the ballot; or

21 “(B) received 80 percent or more of the
22 total number of votes cast in the election, as de-
23 termined on the basis of the final unofficial vote
24 count.

1 “(b) DETERMINATION OF ENTITY CONDUCTING AU-
 2 DITS; APPLICATION OF GAO INDEPENDENCE STAND-
 3 ARDS.—The State shall administer audits under this sub-
 4 title through an entity selected for such purpose by the
 5 State in accordance with such criteria as the State con-
 6 siderers appropriate consistent with the requirements of this
 7 subtitle, except that the entity must meet the general
 8 standards established by the Comptroller General and as
 9 set forth in the Comptroller General’s Government Audit-
 10 ing Standards to ensure the independence (including, ex-
 11 cept as provided under section 323(b), the organizational
 12 independence) of entities performing financial audits, at-
 13 testation engagements, and performance audits.

14 “(c) REFERENCES TO ELECTION AUDITOR.—In this
 15 subtitle, the term ‘Election Auditor’ means, with respect
 16 to a State, the entity selected by the State under sub-
 17 section (b).

18 **“SEC. 322. NUMBER OF BALLOTS COUNTED UNDER AUDIT.**

19 “(a) IN GENERAL.—Except as provided in subsection
 20 (b), the Election Auditor of a State shall, in accordance
 21 with this subtitle, administer a hand count of the voter-
 22 verified paper ballots cast with respect to an election in
 23 at least 5 percent of all precincts or equivalent locations
 24 (or alternative audit units used in accordance with the
 25 method provided for under subsection (b)) in the Congres-

1 sional district involved (in the case of an election for the
2 House of Representatives) or the State (in the case of any
3 other election for Federal office).

4 “(b) USE OF ALTERNATIVE MECHANISM.—

5 “(1) PERMITTING USE OF ALTERNATIVE MECH-
6 ANISM.—Notwithstanding subsection (a), a State
7 may adopt and apply an alternative mechanism to
8 determine the number of voter-verified paper ballots
9 which will be subject to the hand counts required
10 under this subtitle with respect to an election, so
11 long as the alternative mechanism uses the voter-
12 verified paper ballots to conduct the audit and the
13 National Institute of Standards and Technology de-
14 termines that the alternative mechanism is in ac-
15 cordance with the principles set forth in paragraph
16 (2).

17 “(2) PRINCIPLES FOR APPROVAL.—In approv-
18 ing an alternative mechanism under paragraph (1),
19 the National Institute of Standards and Technology
20 shall ensure that the audit procedure will have the
21 property that for each election—

22 “(A) the alternative mechanism will be at
23 least as statistically effective in ensuring the ac-
24 curacy of the election results as the procedures
25 under this subtitle; or

1 “(B) the alternative mechanism will
 2 achieve at least a 95 percent confidence interval
 3 (as determined in accordance with criteria set
 4 forth by the National Institute of Standards
 5 and Technology) with respect to the outcome of
 6 the election.

7 “(3) DEADLINE FOR RESPONSE.—The Director
 8 of the National Institute of Standards and Tech-
 9 nology shall make a determination regarding a
 10 State’s request to approve an alternative mechanism
 11 under paragraph (1) not later than 30 days after re-
 12 ceiving the State’s request.

13 **“SEC. 323. PROCESS FOR ADMINISTERING AUDITS.**

14 “(a) IN GENERAL.—The Election Auditor of a State
 15 shall administer an audit under this section of the results
 16 of an election in accordance with the following procedures:

17 “(1) Within 24 hours after the State announces
 18 the final unofficial vote count (as defined by the
 19 State) in each precinct in the State, the Election
 20 Auditor shall—

21 “(A) determine and then announce the
 22 precincts or equivalent locations (or alternative
 23 audit units used in accordance with the method
 24 provided under section 322(b)) in the State in
 25 which it will administer the audits; and

1 “(B) with respect to votes cast at the pre-
2 cinct or equivalent location on or before the
3 date of the election (other than provisional bal-
4 lots described in paragraph (2)), begin to ad-
5 minister the hand count of the votes on the
6 voter-verified paper ballots required to be used
7 and preserved under section 301(a)(2)(A) and
8 the comparison of the count of the votes on
9 those ballots with the final unofficial count of
10 such votes as announced by the State.

11 “(2) With respect to votes cast other than at
12 the precinct on the date of the election (other than
13 votes cast before the date of the election described
14 in paragraph (2)) or votes cast by provisional ballot
15 on the date of the election which are certified and
16 counted by the State on or after the date of the elec-
17 tion, including votes cast by absent uniformed serv-
18 ices voters and overseas voters under the Uniformed
19 and Overseas Citizens Absentee Voting Act, the
20 Election Auditor shall administer the hand count of
21 the votes on the applicable voter-verified paper bal-
22 lots required to be produced and preserved under
23 section 301(a)(2)(A) and the comparison of the
24 count of the votes on those ballots with the final un-

1 official count of such votes as announced by the
2 State.

3 “(b) USE OF PERSONNEL.—In administering the au-
4 dits, the Election Auditor may utilize the services of the
5 personnel of the State or jurisdiction, including election
6 administration personnel and poll workers, without regard
7 to whether or not the personnel have professional auditing
8 experience.

9 “(c) LOCATION.—The Election Auditor shall admin-
10 ister an audit of an election—

11 “(1) at the location where the ballots cast in
12 the election are stored and counted after the date of
13 the election or such other appropriate and secure lo-
14 cation agreed upon by the Election Auditor and the
15 individual that is responsible under State law for the
16 custody of the ballots; and

17 “(2) in the presence of the personnel who under
18 State law are responsible for the custody of the bal-
19 lots.

20 “(d) SPECIAL RULE IN CASE OF DELAY IN REPORT-
21 ING ABSENTEE VOTE COUNT.—In the case of a State in
22 which the final count of absentee and provisional votes is
23 not announced until after the date of the election, the
24 Election Auditor shall initiate the process described in
25 subsection (a) for administering the audit not later than

1 24 hours after the State announces the final unofficial
 2 vote count for the votes cast at the precinct or equivalent
 3 location on or before the date of the election, and shall
 4 initiate the administration of the audit of the absentee and
 5 provisional votes pursuant to subsection (a)(2) not later
 6 than 24 hours after the State announces the final unoffi-
 7 cial count of such votes.

8 “(e) ADDITIONAL AUDITS IF CAUSE SHOWN.—

9 “(1) IN GENERAL.—If the Election Auditor
 10 finds that any of the hand counts administered
 11 under this section do not match the final unofficial
 12 tally of the results of an election, the Election Audi-
 13 tor shall administer hand counts under this section
 14 of such additional precincts (or alternative audit
 15 units) as the Election Auditor considers appropriate
 16 to resolve any concerns resulting from the audit and
 17 ensure the accuracy of the election results.

18 “(2) ESTABLISHMENT AND PUBLICATION OF
 19 PROCEDURES GOVERNING ADDITIONAL AUDITS.—
 20 Not later than August 1, 2018, each State shall es-
 21 tablish and publish procedures for carrying out the
 22 additional audits under this subsection, including the
 23 means by which the State shall resolve any concerns
 24 resulting from the audit with finality and ensure the
 25 accuracy of the election results.

1 “(f) PUBLIC OBSERVATION OF AUDITS.—Each audit
2 conducted under this section shall be conducted in a man-
3 ner that allows public observation of the entire process.

4 **“SEC. 324. SELECTION OF PRECINCTS.**

5 “(a) IN GENERAL.—Except as provided in subsection
6 (c), the selection of the precincts or alternative audit units
7 in the State in which the Election Auditor of the State
8 shall administer the hand counts under this subtitle shall
9 be made by the Election Auditor on a random basis, in
10 accordance with procedures adopted by the National Insti-
11 tute of Standards and Technology, except that at least one
12 precinct shall be selected at random in each county, with
13 additional precincts selected by the Election Auditor at the
14 Auditor’s discretion.

15 “(b) PUBLIC SELECTION.—The random selection of
16 precincts under subsection (a) shall be conducted in pub-
17 lic, at a time and place announced in advance.

18 “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-
19 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a
20 State does not sort absentee ballots by precinct and in-
21 clude those ballots in the hand count with respect to that
22 precinct, the State shall create absentee ballot precincts
23 or audit units which are of similar size to the average pre-
24 cinct or audit unit in the jurisdiction being audited, and
25 shall include those absentee precincts or audit units

1 among the precincts in the State in which the Election
2 Auditor shall administer the hand counts under this sub-
3 title.

4 “(d) DEADLINE FOR ADOPTION OF PROCEDURES BY
5 COMMISSION.—The National Institute of Standards and
6 Technology shall adopt the procedures described in sub-
7 section (a) not later than March 31, 2018, and shall pub-
8 lish them in the Federal Register upon adoption.

9 **“SEC. 325. PUBLICATION OF RESULTS.**

10 “(a) SUBMISSION TO COMMISSION.—As soon as prac-
11 ticable after the completion of an audit under this subtitle,
12 the Election Auditor of a State shall submit to the Com-
13 mission the results of the audit, and shall include in the
14 submission a comparison of the results of the election in
15 the precinct as determined by the Election Auditor under
16 the audit and the final unofficial vote count in the precinct
17 as announced by the State and all undervotes, overvotes,
18 blank ballots, and spoiled, voided, or cancelled ballots, as
19 well as a list of any discrepancies discovered between the
20 initial, subsequent, and final hand counts administered by
21 the Election Auditor and such final unofficial vote count
22 and any explanation for such discrepancies, broken down
23 by the categories of votes described in paragraphs (1)(B)
24 and (2) of section 323(a).

1 “(b) PUBLICATION BY COMMISSION.—Immediately
2 after receiving the submission of the results of an audit
3 from the Election Auditor of a State under subsection (a),
4 the Commission shall publicly announce and publish the
5 information contained in the submission.

6 “(c) DELAY IN CERTIFICATION OF RESULTS BY
7 STATE.—

8 “(1) PROHIBITING CERTIFICATION UNTIL COM-
9 PLETION OF AUDITS.—No State may certify the re-
10 sults of any election which is subject to an audit
11 under this subtitle prior to—

12 “(A) to the completion of the audit (and,
13 if required, any additional audit conducted
14 under section 323(e)(1)) and the announcement
15 and submission of the results of each such audit
16 to the Commission for publication of the infor-
17 mation required under this section; and

18 “(B) the completion of any procedure es-
19 tablished by the State pursuant to section
20 323(e)(2) to resolve discrepancies and ensure
21 the accuracy of results.

22 “(2) DEADLINE FOR COMPLETION OF AUDITS
23 OF PRESIDENTIAL ELECTIONS.—In the case of an
24 election for electors for President and Vice President
25 which is subject to an audit under this subtitle, the

1 State shall complete the audits and announce and
2 submit the results to the Commission for publication
3 of the information required under this section in
4 time for the State to certify the results of the elec-
5 tion and provide for the final determination of any
6 controversy or contest concerning the appointment
7 of such electors prior to the deadline described in
8 section 6 of title 3, United States Code.

9 **“SEC. 326. PAYMENTS TO STATES.**

10 “(a) PAYMENTS FOR COSTS OF CONDUCTING AU-
11 DITS.—In accordance with the requirements and proce-
12 dures of this section, the Commission shall make a pay-
13 ment to a State to cover the costs incurred by the State
14 in carrying out this subtitle with respect to the elections
15 that are the subject of the audits conducted under this
16 subtitle.

17 “(b) CERTIFICATION OF COMPLIANCE AND ANTICI-
18 PATED COSTS.—

19 “(1) CERTIFICATION REQUIRED.—In order to
20 receive a payment under this section, a State shall
21 submit to the Commission, in such form as the Com-
22 mission may require, a statement containing—

23 “(A) a certification that the State will con-
24 duct the audits required under this subtitle in

1 accordance with all of the requirements of this
2 subtitle;

3 “(B) a notice of the reasonable costs in-
4 curred or the reasonable costs anticipated to be
5 incurred by the State in carrying out this sub-
6 title with respect to the elections involved; and

7 “(C) such other information and assur-
8 ances as the Commission may require.

9 “(2) AMOUNT OF PAYMENT.—The amount of a
10 payment made to a State under this section shall be
11 equal to the reasonable costs incurred or the reason-
12 able costs anticipated to be incurred by the State in
13 carrying out this subtitle with respect to the elec-
14 tions involved, as set forth in the statement sub-
15 mitted under paragraph (1).

16 “(3) TIMING OF NOTICE.—The State may not
17 submit a notice under paragraph (1) until can-
18 didates have been selected to appear on the ballot
19 for all of the elections for Federal office which will
20 be the subject of the audits involved.

21 “(c) TIMING OF PAYMENTS.—The Commission shall
22 make the payment required under this section to a State
23 not later than 30 days after receiving the notice submitted
24 by the State under subsection (b).

1 “(d) RECOUPMENT OF OVERPAYMENTS.—No pay-
2 ment may be made to a State under this section unless
3 the State agrees to repay to the Commission the excess
4 (if any) of—

5 “(1) the amount of the payment received by the
6 State under this section with respect to the elections
7 involved; over

8 “(2) the actual costs incurred by the State in
9 carrying out this subtitle with respect to the elec-
10 tions involved.

11 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to the Commission for
13 fiscal year 2018 and each succeeding fiscal year
14 \$100,000,000 for payments under this section.

15 **“SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO RE-**
16 **COUNT UNDER STATE LAW PRIOR TO CER-**
17 **TIFICATION.**

18 “(a) EXCEPTION.—This subtitle does not apply to
19 any election for which a recount under State law will com-
20 mence prior to the certification of the results of the elec-
21 tion, including but not limited to a recount required auto-
22 matically because of the margin of victory between the 2
23 candidates receiving the largest number of votes in the
24 election, but only if each of the following applies to the
25 recount:

1 “(1) The recount commences prior to the deter-
2 mination and announcement by the Election Auditor
3 under section 323(a)(1) of the precincts in the State
4 in which it will administer the audits under this sub-
5 title.

6 “(2) If the recount would apply to fewer than
7 100 percent of the ballots cast in the election—

8 “(A) the number of ballots counted will be
9 at least as many as would be counted if an
10 audit were conducted with respect to the elec-
11 tion in accordance with this subtitle; and

12 “(B) the selection of the precincts in which
13 the recount will be conducted will be made in
14 accordance with the random selection proce-
15 dures applicable under section 324.

16 “(3) The recount for the election meets the re-
17 quirements of section 323(f) (relating to public ob-
18 servations).

19 “(4) The State meets the requirements of sec-
20 tion 325 (relating to the publication of results and
21 the delay in the certification of results) with respect
22 to the recount.

23 “(b) CLARIFICATION OF EFFECT ON OTHER RE-
24 QUIREMENTS.—Nothing in this section may be construed
25 to waive the application of any other provision of this Act

1 to any election (including the requirement set forth in sec-
 2 tion 301(a)(2) that the voter verified paper ballots serve
 3 as the vote of record and shall be counted by hand in all
 4 audits and recounts, including audits and recounts de-
 5 scribed in this subtitle).

6 **“SEC. 328. EFFECTIVE DATE.**

7 “This subtitle shall apply with respect to the regu-
 8 larly scheduled general elections for Federal office held in
 9 2018 and any succeeding election for Federal office.”.

10 **SEC. 312. AVAILABILITY OF ENFORCEMENT UNDER HELP**
 11 **AMERICA VOTE ACT OF 2002.**

12 Section 401 of the Help America Vote Act of 2002
 13 (52 U.S.C. 21111) is amended by striking the period at
 14 the end and inserting the following: “, or the requirements
 15 of subtitle C of title III.”.

16 **SEC. 313. GUIDANCE ON BEST PRACTICES FOR ALTER-**
 17 **NATIVE AUDIT MECHANISMS.**

18 (a) IN GENERAL.—Not later than May 1, 2021, the
 19 Director of the National Institute for Standards and Tech-
 20 nology shall establish guidance for States that wish to es-
 21 tablish alternative audit mechanisms under section 322(b)
 22 of the Help America Vote Act of 2002 (as added by section
 23 311). Such guidance shall be based upon scientifically and
 24 statistically reasonable assumptions for the purpose of cre-
 25 ating an alternative audit mechanism that will be con-

1 sistent with the principles for approval described in section
 2 322(b)(2) of such Act (as so added).

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
 4 authorized to be appropriated to carry out subsection (a)
 5 \$100,000, to remain available until expended.

6 **SEC. 314. CLERICAL AMENDMENT.**

7 The table of contents of the Help America Vote Act
 8 of 2002 is amended by adding at the end of the items
 9 relating to title III the following:

“Subtitle C—Mandatory Manual Audits

“Sec. 321. Requiring audits of results of elections.

“Sec. 322. Number of ballots counted under audit.

“Sec. 323. Process for administering audits.

“Sec. 324. Selection of precincts.

“Sec. 325. Publication of results.

“Sec. 326. Payments to States.

“Sec. 327. Exception for elections subject to recount under State law prior to
 certification.

“Sec. 328. Effective date.”.

10 **TITLE IV—REAUTHORIZATION**
 11 **OF ELECTION ASSISTANCE**
 12 **COMMISSION**

13 **SEC. 401. REAUTHORIZATION OF ELECTION ASSISTANCE**
 14 **COMMISSION.**

15 Section 210 of the Help America Vote Act of 2002
 16 (52 U.S.C. 20930) is amended—

17 (1) by striking “for each of the fiscal years
 18 2003 through 2005” and inserting “for fiscal year
 19 2003 and each succeeding fiscal year”; and

- 1 (2) by striking “(but not to exceed \$10,000,000
- 2 for each such year)”.
○