

116TH CONGRESS
1ST SESSION

H. R. 378

To amend the Help America Vote Act of 2002 to require voting systems used in elections for Federal office to produce a voter-verified, auditable paper record of the votes cast in such elections, to require State election officials to audit the results of such elections prior to certifying the results, to provide grants to States to improve voting system security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2019

Mrs. DINGELL 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 require voting systems used in elections for Federal office to produce a voter-verified, auditable paper record of the votes cast in such elections, to require State election officials to audit the results of such elections prior to certifying the results, to provide grants to States to improve voting system security, 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.**

2 This Act may be cited as the “Safeguarding Election
3 Infrastructure Act of 2019”.

4 **SEC. 2. REQUIRING USE OF VOTING SYSTEMS CAPABLE OF**
5 **PRODUCING VOTER-VERIFIED, AUDITABLE**
6 **PAPER RECORD IN ELECTIONS FOR FEDERAL**
7 **OFFICE.**

8 (a) MORATORIUM ON ACQUISITION OF CERTAIN DI-
9 RECT RECORDING ELECTRONIC VOTING SYSTEMS AND
10 CERTAIN OTHER VOTING SYSTEMS.—Section 301 of the
11 Help America Vote Act of 2002 (52 U.S.C. 21081) is
12 amended—

13 (1) by redesignating subsections (c) and (d) as
14 subsections (d) and (e); and

15 (2) by inserting after subsection (b) the fol-
16 lowing new subsection:

17 “(c) MORATORIUM ON ACQUISITION OF CERTAIN DI-
18 RECT RECORDING ELECTRONIC VOTING SYSTEMS AND
19 CERTAIN OTHER VOTING SYSTEMS.—Beginning on the
20 date of the enactment of the Safeguarding Election Infra-
21 structure Act of 2019, no State or jurisdiction may pur-
22 chase or otherwise acquire for use in an election for Fed-
23 eral office a direct recording electronic voting system or
24 other electronic voting system that does not produce a
25 voter-verified paper record as required by section
26 301(a)(2) (as amended by such Act).”.

1 (b) PAPER BALLOT AND MANUAL COUNTING RE-
2 QUIREMENTS.—

3 (1) IN GENERAL.—Section 301(a)(2) of such
4 Act (52 U.S.C. 21081(a)(2)) is amended to read as
5 follows:

6 “(2) PAPER BALLOT REQUIREMENT.—

7 “(A) VOTER-VERIFIED PAPER BALLOTS.—

8 “(i) PAPER BALLOT REQUIREMENT.—

9 (I) The voting system shall require the use
10 of an individual, durable, voter-verified,
11 paper ballot of the voter’s vote that shall
12 be marked and made available for inspec-
13 tion and verification by the voter before
14 the voter’s vote is cast and counted, and
15 which shall be counted by hand or read by
16 an optical character recognition device or
17 other counting device. For purposes of this
18 subclause, the term ‘individual, durable,
19 voter-verified, paper ballot’ means a paper
20 ballot marked by the voter by hand or a
21 paper ballot marked through the use of a
22 nontabulating ballot marking device or sys-
23 tem, so long as the voter shall have the op-
24 tion to mark his or her ballot by hand (or,
25 in the case of an individual with a dis-

1 ability, by such alternative method as the
2 election official shall establish that pro-
3 vides an equivalent opportunity, including
4 with privacy and independence, as for
5 other voters).

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

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

17 “(ii) PRESERVATION AS OFFICIAL
18 RECORD.—The individual, durable, voter-
19 verified, paper ballot used in accordance
20 with clause (i) shall constitute the official
21 ballot and shall be preserved and used as
22 the official ballot for purposes of any re-
23 count or audit conducted with respect to
24 any election for Federal office in which the
25 voting system is used.

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

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

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

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

4 “(i) IN GENERAL.—In the event
5 that—

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

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

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

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

15 (2) CONFORMING AMENDMENT CLARIFYING AP-
16 PPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSI-
17 BILITY.—Section 301(a)(4) of such Act (52 U.S.C.
18 21081(a)(4)) is amended by inserting “(including
19 the paper ballots required to be used under para-
20 graph (2))” after “voting system”.

21 (3) OTHER CONFORMING AMENDMENTS.—Sec-
22 tion 301(a)(1) of such Act (52 U.S.C. 21081(a)(1))
23 is amended—

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

4 (B) in subparagraph (A)(ii), by striking
5 “counted” and inserting “counted, in accord-
6 ance with paragraphs (2) and (3)”;

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

11 (D) in subparagraph (B)(ii), by striking
12 “counted” and inserting “counted, in accord-
13 ance with paragraphs (2) and (3)”.

14 (c) EFFECTIVE DATE.—Section 301(d) of such Act
15 (52 U.S.C. 21081(d)) is amended by striking the period
16 at the end and inserting the following: “, or, in the case
17 of the requirements of this section which are first imposed
18 on a State or jurisdiction pursuant to the amendments
19 made by section 2 of the Safeguarding Election Infra-
20 structure Act of 2019, with respect to voting systems used
21 for elections held on or after the expiration of the 1-year
22 period which begins on the date of the enactment of such
23 Act”.

1 **SEC. 3. MANDATORY MANUAL AUDITS OF RESULTS OF FED-**
 2 **ERAL ELECTIONS.**

3 (a) REQUIRING AUDITS OF RESULTS.—Title III of
 4 the Help America Vote Act of 2002 (52 U.S.C. 21081 et
 5 seq.) is amended by adding at the end the following new
 6 subtitle:

7 **“Subtitle C—Mandatory Manual**
 8 **Audits**

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

10 “(a) REQUIRING AUDITS.—

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

21 “(2) EXCEPTION FOR CERTAIN ELECTIONS.—A
 22 State shall not be required to administer an audit of
 23 the results of an election for Federal office under
 24 this subtitle if the winning candidate in the elec-
 25 tion—

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

1 “(B) received 59 percent or more of the
2 total number of votes cast in the election, as de-
3 termined on the basis of the final unofficial vote
4 count.

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

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

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

23 “(a) IN GENERAL.—Except as provided in subsection
24 (b), the number of voter-verified paper ballots which will
25 be subject to a hand count administered by the Election

1 Auditor of a State under this subtitle with respect to an
2 election shall be determined as follows:

3 “(1) In the event that the unofficial count as
4 described in section 323(a)(1) reveals that the mar-
5 gin of victory between the two candidates receiving
6 the largest number of votes in the election is less
7 than 1 percent of the total votes cast in that elec-
8 tion, the hand counts of the voter-verified paper bal-
9 lots shall occur in at least 10 percent of all precincts
10 or equivalent locations (or alternative audit units
11 used in accordance with the method provided for
12 under subsection (b)) in the congressional district
13 involved (in the case of an election for the House of
14 Representatives) or the State (in the case of any
15 other election for Federal office).

16 “(2) In the event that the unofficial count as
17 described in section 323(a)(1) reveals that the mar-
18 gin of victory between the two candidates receiving
19 the largest number of votes in the election is greater
20 than or equal to 1 percent but less than 2 percent
21 of the total votes cast in that election, the hand
22 counts of the voter-verified paper ballots shall occur
23 in at least 5 percent of all precincts or equivalent lo-
24 cations (or alternative audit units used in accord-
25 ance with the method provided for under subsection

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

5 “(3) In the event that the unofficial count as
6 described in section 323(a)(1) reveals that the mar-
7 gin of victory between the two candidates receiving
8 the largest number of votes in the election is equal
9 to or greater than 2 percent of the total votes cast
10 in that election, the hand counts of the voter-verified
11 paper ballots shall occur in at least 3 percent of all
12 precincts or equivalent locations (or alternative audit
13 units used in accordance with the method provided
14 for under subsection (b)) in the congressional dis-
15 trict involved (in the case of an election for the
16 House of Representatives) or the State (in the case
17 of any other election for Federal office).

18 “(b) USE OF ALTERNATIVE MECHANISM.—

19 “(1) PERMITTING USE OF ALTERNATIVE MECH-
20 ANISM.—Notwithstanding subsection (a), a State
21 may adopt and apply an alternative mechanism to
22 determine the number of voter-verified paper ballots
23 which will be subject to the hand counts required
24 under this subtitle with respect to an election, so
25 long as the alternative mechanism uses the voter-

1 verified paper ballots to conduct the audit and the
2 National Institute of Standards and Technology de-
3 termines that the alternative mechanism is in ac-
4 cordance with the principles set forth in paragraph
5 (2).

6 “(2) PRINCIPLES FOR APPROVAL.—In approv-
7 ing an alternative mechanism under paragraph (1),
8 the National Institute of Standards and Technology
9 shall ensure that the audit procedure will have the
10 property that for each election—

11 “(A) the alternative mechanism will be at
12 least as statistically effective in ensuring the ac-
13 curacy of the election results as the procedures
14 under this subtitle; or

15 “(B) the alternative mechanism will
16 achieve at least a 95 percent confidence interval
17 (as determined in accordance with criteria set
18 forth by the National Institute of Standards
19 and Technology) with respect to the outcome of
20 the election.

21 “(3) DEADLINE FOR RESPONSE; REASONS FOR
22 DENIAL.—The Director of the National Institute of
23 Standards and Technology shall make a determina-
24 tion regarding a State’s request to approve an alter-
25 native mechanism under paragraph (1) not later

1 than 30 days after receiving the State’s request. If
2 the Director rejects such a request, the Director
3 shall provide the State with the reasons for the re-
4 jection in writing.

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

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

9 “(1) Within 24 hours after the State announces
10 the final unofficial vote count (as defined by the
11 State) in each precinct in the State, the Election
12 Auditor shall—

13 “(A) determine and then announce publicly
14 the precincts or equivalent locations (or alter-
15 native audit units used in accordance with the
16 method provided under section 322(b)) in the
17 State in which it will administer the audits; and

18 “(B) with respect to votes cast at the pre-
19 cinct or equivalent location on or before the
20 date of the election (other than provisional bal-
21 lots described in paragraph (2)), begin to ad-
22 minister the hand count of the votes on the
23 voter-verified paper ballots required to be used
24 and preserved under section 301(a)(2)(A) and
25 the comparison of the count of the votes on

1 those ballots with the final unofficial count of
2 such votes as announced by the State.

3 “(2) With respect to votes cast other than at
4 the precinct on the date of the election (other than
5 votes cast by provisional ballot on the date of the
6 election which are certified and counted by the State
7 on or after the date of the election), including votes
8 cast by absent uniformed services voters and over-
9 seas voters under the Uniformed and Overseas Citi-
10 zens Absentee Voting Act, the Election Auditor shall
11 administer the hand count of the votes on the appli-
12 cable voter-verified paper ballots required to be pro-
13 duced and preserved under section 301(a)(2)(A) and
14 the comparison of the count of the votes on those
15 ballots with the final unofficial count of such votes
16 as announced by the State.

17 “(b) USE OF PERSONNEL.—In administering the au-
18 dits, the Election Auditor may utilize the services of the
19 personnel of the State or jurisdiction, including election
20 administration personnel and poll workers, without regard
21 to whether or not the personnel have professional auditing
22 experience.

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

1 “(1) at the location where the ballots cast in
2 the election are stored and counted after the date of
3 the election or such other appropriate and secure lo-
4 cation agreed upon by the Election Auditor and the
5 individual that is responsible under State law for the
6 custody of the ballots; and

7 “(2) in the presence of the personnel who under
8 State law are responsible for the custody of the bal-
9 lots.

10 “(d) SPECIAL RULE IN CASE OF DELAY IN REPORT-
11 ING ABSENTEE VOTE COUNT.—In the case of a State in
12 which the final count of absentee and provisional votes is
13 not announced until after the date of the election, the
14 Election Auditor shall initiate the process described in
15 subsection (a) for administering the audit not later than
16 24 hours after the State announces the final unofficial
17 vote count for the votes cast at the precinct or equivalent
18 location on or before the date of the election, and shall
19 initiate the administration of the audit of the absentee and
20 provisional votes pursuant to subsection (a)(2) not later
21 than 24 hours after the State announces the final unoffi-
22 cial count of such votes.

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

24 “(1) IN GENERAL.—If the Election Auditor
25 finds that any of the hand counts administered

1 under this section do not match the final unofficial
2 tally of the results of an election, the Election Audi-
3 tor shall administer hand counts under this section
4 of such additional precincts (or alternative audit
5 units) as the Election Auditor considers appropriate
6 to resolve any concerns resulting from the audit and
7 ensure the accuracy of the election results.

8 “(2) ESTABLISHMENT AND PUBLICATION OF
9 PROCEDURES GOVERNING ADDITIONAL AUDITS.—
10 Not later than June 1, 2022, each State shall estab-
11 lish and publish procedures for carrying out the ad-
12 ditional audits under this subsection, including the
13 means by which the State shall resolve any concerns
14 resulting from the audit with finality and ensure the
15 accuracy of the election results.

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

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

20 “(a) IN GENERAL.—Except as provided in subsection
21 (c), the selection of the precincts or alternative audit units
22 in the State in which the Election Auditor of the State
23 shall administer the hand counts under this subtitle shall
24 be made by the Election Auditor on a random basis, in
25 accordance with procedures adopted by the National Insti-

1 tute of Standards and Technology, except that at least one
2 precinct shall be selected at random in each county, with
3 additional precincts selected by the Election Auditor at the
4 Auditor’s discretion.

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

8 “(c) MANDATORY SELECTION OF PRECINCTS ESTAB-
9 LISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a
10 State does not sort absentee ballots by precinct and in-
11 clude those ballots in the hand count with respect to that
12 precinct, the State shall create absentee ballot precincts
13 or audit units which are of similar size to the average pre-
14 cinct or audit unit in the jurisdiction being audited, and
15 shall include those absentee precincts or audit units
16 among the precincts in the State in which the Election
17 Auditor shall administer the hand counts under this sub-
18 title.

19 “(d) DEADLINE FOR ADOPTION OF PROCEDURES BY
20 COMMISSION.—The National Institute of Standards and
21 Technology shall adopt the procedures described in sub-
22 section (a) not later than October 1, 2021, and shall pub-
23 lish them in the Federal Register upon adoption.

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

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

17 “(b) PUBLICATION BY COMMISSION.—Immediately
18 after receiving the submission of the results of an audit
19 from the Election Auditor of a State under subsection (a),
20 the Commission shall publicly announce and publish the
21 information contained in the submission.

22 “(c) DELAY IN CERTIFICATION OF RESULTS BY
23 STATE.—

24 “(1) PROHIBITING CERTIFICATION UNTIL COM-
25 PLETION OF AUDITS.—No State may certify the re-

1 sults of any election which is subject to an audit
2 under this subtitle prior to—

3 “(A) the completion of the audit (and, if
4 required, any additional audit conducted under
5 section 323(e)(1)) and the announcement and
6 submission of the results of each such audit to
7 the Commission for publication of the informa-
8 tion required under this section; and

9 “(B) the completion of any procedure es-
10 tablished by the State pursuant to section
11 323(e)(2) to resolve discrepancies and ensure
12 the accuracy of results.

13 “(2) DEADLINE FOR COMPLETION OF AUDITS
14 OF PRESIDENTIAL ELECTIONS.—In the case of an
15 election for electors for President and Vice President
16 which is subject to an audit under this subtitle, the
17 State shall complete the audits and announce and
18 submit the results to the Commission for publication
19 of the information required under this section in
20 time for the State to certify the results of the elec-
21 tion and provide for the final determination of any
22 controversy or contest concerning the appointment
23 of such electors prior to the deadline described in
24 section 6 of title 3, United States Code.

1 **“SEC. 326. PAYMENTS TO STATES.**

2 “(a) PAYMENTS FOR COSTS OF CONDUCTING AU-
3 DITS.—In accordance with the requirements and proce-
4 dures of this section, the Commission shall make a pay-
5 ment to a State to cover the costs incurred by the State
6 in carrying out this subtitle with respect to the elections
7 that are the subject of the audits conducted under this
8 subtitle.

9 “(b) CERTIFICATION OF COMPLIANCE AND ANTICI-
10 PATED COSTS.—

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

15 “(A) a certification that the State will con-
16 duct the audits required under this subtitle in
17 accordance with all of the requirements of this
18 subtitle;

19 “(B) a notice of the reasonable costs in-
20 curred or the reasonable costs anticipated to be
21 incurred by the State in carrying out this sub-
22 title with respect to the elections involved; and

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

25 “(2) AMOUNT OF PAYMENT.—The amount of a
26 payment made to a State under this section shall be

1 equal to the reasonable costs incurred or the reason-
2 able costs anticipated to be incurred by the State in
3 carrying out this subtitle with respect to the elec-
4 tions involved, as set forth in the statement sub-
5 mitted under paragraph (1).

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

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

15 “(d) RECOUPMENT OF OVERPAYMENTS.—No pay-
16 ment may be made to a State under this section unless
17 the State agrees to repay to the Commission (for deposit
18 in the general fund of the Treasury) the excess (if any)
19 of—

20 “(1) the amount of the payment received by the
21 State under this section with respect to the elections
22 involved; over

23 “(2) the actual costs incurred by the State in
24 carrying out this subtitle with respect to the elec-
25 tions involved.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—

2 “(1) IN GENERAL.—There is authorized to be
3 appropriated to the Commission for fiscal year 2022
4 and each succeeding fiscal year \$45,000,000 for pay-
5 ments under this section.

6 “(2) CONTINUING AVAILABILITY OF AMOUNTS
7 APPROPRIATED.—Any amount appropriated for a
8 fiscal year pursuant to the authorization under para-
9 graph (1) shall remain available until expended.

10 **“SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO RE-**
11 **COUNT UNDER STATE LAW PRIOR TO CER-**
12 **TIFICATION.**

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

21 “(1) The recount commences prior to the deter-
22 mination and announcement by the Election Auditor
23 under section 323(a)(1) of the precincts in the State
24 in which it will administer the audits under this sub-
25 title.

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

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

7 “(B) the selection of the precincts in which
8 the recount will be conducted will be made in
9 accordance with the random selection proce-
10 dures applicable under section 324.

11 “(3) The recount for the election meets the re-
12 quirements of section 323(f) (relating to public ob-
13 servation).

14 “(4) The State meets the requirements of sec-
15 tion 325 (relating to the publication of results and
16 the delay in the certification of results) with respect
17 to the recount.

18 “(b) CLARIFICATION OF EFFECT ON OTHER RE-
19 QUIREMENTS.—Nothing in this section may be construed
20 to waive the application of any other provision of this Act
21 to any election (including the requirement set forth in sec-
22 tion 301(a)(2) that the voter-verified paper ballots serve
23 as the vote of record and shall be counted by hand in all
24 audits and recounts, including audits and recounts de-
25 scribed in this subtitle).

1 **“SEC. 328. EFFECTIVE DATE.**

2 “This subtitle shall apply with respect to the regu-
3 larly scheduled general elections for Federal office held in
4 November 2022 and each succeeding election for Federal
5 office.”.

6 (b) AVAILABILITY OF ENFORCEMENT UNDER HELP
7 AMERICA VOTE ACT OF 2002.—Section 401 of such Act
8 (52 U.S.C. 21111) is amended by striking “sections 301,
9 302, and 303” and inserting “title III”.

10 (c) CLERICAL AMENDMENT.—The table of contents
11 of such Act is amended by adding at the end of the items
12 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.”.

13 **SEC. 4. INCENTIVES TO STATES TO IMPROVE VOTING SYS-**
14 **TEM SECURITY.**

15 (a) GRANTS FROM ELECTION ASSISTANCE COMMIS-
16 SION.—Subtitle D of title II of the Help America Vote
17 Act of 2002 (52 U.S.C. 21001 et seq.) is amended by add-
18 ing at the end the following new part:

1 **“PART 7—PAYMENTS FOR IMPROVING VOTING**

2 **SYSTEM SECURITY**

3 **“SEC. 297. INCENTIVES FOR STATES TO IMPROVE VOTING**

4 **SYSTEM SECURITY.**

5 “(a) GRANTS AUTHORIZED.—

6 “(1) IN GENERAL.—From the amounts made
7 available under section 297E for a fiscal year and
8 not reserved under section (b) of such section, the
9 Commission shall award grants on a competitive
10 basis to States in accordance with section 297B.

11 “(2) NUMBER OF GRANTS.—A State may not
12 receive more than 1 grant under this part for a fis-
13 cal year.

14 “(b) USE OF FUNDS.—Each State that receives a
15 grant under this part shall use the funds provided by the
16 grant to carry out the State’s grant implementation plan
17 described in section 297A(b).

18 **“SEC. 297A. CRITERIA FOR AWARDING GRANTS.**

19 “(a) APPLICATIONS.—Each State that desires to re-
20 ceive a grant under this part shall submit an application
21 to the Commission at such time, in such manner, and con-
22 taining such information as the Commission may reason-
23 ably require. At a minimum, each such application shall
24 include each of the following:

25 “(1) The grant implementation plan described
26 in subsection (b).

1 “(2) Evidence of established conditions of inno-
2 vation and reform in providing voting system secu-
3 rity and the State’s proposed plan for implementing
4 additional conditions.

5 “(3) Evidence of collaboration between relevant
6 stakeholders in developing the grant implementation
7 plan described in subsection (b).

8 “(4) Annual performance measures and targets
9 for the activities carried out with the grant.

10 “(5) A description of the State’s plan to con-
11 duct a rigorous evaluation of the effectiveness of the
12 activities carried out with the grant.

13 “(b) GRANT IMPLEMENTATION PLAN.—The grant
14 implementation plan described in this subsection is a plan
15 developed by the State for using funds provided by the
16 grant to carry out some or all of the following, and to
17 otherwise meet the requirements of section 301 which are
18 first imposed on a State or jurisdiction pursuant to the
19 amendments made by section 2 of the Safeguarding Elec-
20 tion Infrastructure Act of 2019, during the grant imple-
21 mentation period:

22 “(1) Providing voting machines that are less
23 than 10 years old as of the date on which the State
24 submits its application for the grant under sub-
25 section (a).

1 “(2) Updating voting equipment to provide a
2 verifiable paper trail at polling stations.

3 “(3) Implementing strong chain of custody pro-
4 cedures for the physical security of voting equipment
5 and paper records at all stages of the process.

6 “(4) Conducting pre-election testing on every
7 voting machine and ensuring paper ballots are avail-
8 able wherever electronic machines are used.

9 “(5) Keeping offline backups of voter registra-
10 tion lists.

11 “(6) Providing a secure voter registration data-
12 base that logs requests submitted to the database.

13 “(7) Publishing and enforcing a policy detailing
14 use limitations and security safeguards to protect
15 voters’ personal information in the voter registration
16 process.

17 “(8) Providing secure processes and procedures
18 for reporting vote tallies.

19 “(9) Providing a secure platform for dissemi-
20 nating vote totals.

21 “(c) GRANT IMPLEMENTATION PERIOD DEFINED.—

22 In this part, the ‘grant implementation period’ with re-
23 spect to a grant is the 4-year period which begins on the
24 first day of the fiscal year for which the grant is awarded.

1 **“SEC. 297B. CRITERIA FOR EVALUATING APPLICATIONS.**

2 “(a) AWARD BASIS.—The Commission shall award
3 grants to States under this part on a competitive basis,
4 based on the quality of the State’s application submitted
5 under section 297A, including—

6 “(1) the quality and likelihood of success of the
7 State’s grant implementation plan described in sec-
8 tion 297A(b), including the State’s capacity to im-
9 plement the plan and evidence of collaboration as de-
10 scribed in paragraph (3) of section 297A(a);

11 “(2) the State’s record of, and commitment to,
12 establishing conditions for innovation and reform, as
13 described in paragraph (2) of section 297A(a); and

14 “(3) the State’s evaluation plan as described in
15 paragraph (5) of section 297A(a).

16 “(b) SPECIAL RULE FOR STATES RECEIVING
17 GRANTS IN PREVIOUS FISCAL YEARS.—In the case of a
18 State that received a grant under this part in a previous
19 fiscal year, the Commission may not award a grant under
20 this part to the State for any subsequent fiscal year unless
21 the State demonstrates to the satisfaction of the Commis-
22 sion that—

23 “(1) the State made sufficient progress in car-
24 rying out the grant implementation plan for that
25 previous fiscal year at a rate that will enable the

1 State to fully implement the plan prior to the end
2 of the grant implementation period for that plan; or

3 “(2) the State made sufficient progress in meet-
4 ing the performance measures and targets for the
5 programs and activities funded by the grant (as es-
6 tablished by the State under section 297C) to enable
7 the State to fully meet such measures and targets
8 prior to the end of the grant implementation period
9 for that plan.

10 “(c) EXPLANATION.—The Commission shall publish
11 an explanation of how the application review process under
12 this subsection will ensure an equitable and objective eval-
13 uation based on the criteria described in subsection (a)
14 and the special rule described in subsection (b).

15 **“SEC. 297C. ESTABLISHMENT OF PERFORMANCE MEAS-**
16 **URES AND TARGETS.**

17 “Each State receiving a grant under this part shall
18 establish performance measures and targets approved by
19 the Commission for the programs and activities carried
20 out with the funds provided by the grant.

21 **“SEC. 297D. REPORTING REQUIREMENTS.**

22 “Each State receiving a grant under this part shall
23 submit to the Commission, at such time and in such man-
24 ner as the Commission may require, an annual report in-
25 cluding—

1 “(1) data on the State’s progress in achieving
2 the targets for the performance measures established
3 under section 297C;

4 “(2) a description of the challenges the State
5 has faced in implementing the programs and activi-
6 ties funded by the grant and how it has addressed
7 or plans to address those challenges; and

8 “(3) findings from the evaluation plan for the
9 grant.

10 **“SEC. 297E. AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) AUTHORIZATION.—

12 “(1) IN GENERAL.—There are authorized to be
13 appropriated such sums as may be necessary for fis-
14 cal year 2020 and each succeeding fiscal year to
15 carry out this part.

16 “(2) NO CONTINUING AVAILABILITY OF
17 FUNDS.—Any amount appropriated for a fiscal year
18 pursuant to the authorization under paragraph (1)
19 shall not remain available for any subsequent fiscal
20 year.

21 “(b) RESERVATION OF FUNDS.—From the amount
22 made available to carry out this part for a fiscal year, the
23 Commission may reserve not more than 10 percent of such
24 amount to carry out activities related to—

25 “(1) technical assistance; and

1 “(2) outreach and dissemination.”.

2 (b) CLERICAL AMENDMENT.—The table of contents
3 of such Act is amended by adding at the end of the items
4 relating to subtitle D of title II the following:

“PART 7—PAYMENTS FOR IMPROVING VOTING SYSTEM SECURITY

“Sec. 297. Incentives for States to improve voting system security.

“Sec. 297A. Criteria for awarding grants.

“Sec. 297B. Criteria for evaluating applications.

“Sec. 297C. Establishment of performance measures and targets.

“Sec. 297D. Reporting requirements.

“Sec. 297E. Authorization of appropriations.”.

5 **SEC. 5. DUTIES OF SECRETARY OF HOMELAND SECURITY.**

6 (a) NOTIFICATION OF BREACHES OF VOTING SYS-
7 TEM SECURITY OR RELATED INVESTIGATIONS.—

8 (1) REQUIRING NOTIFICATION TO CONGRESS
9 AND STATE ELECTION OFFICIALS.—If the Secretary
10 of Homeland Security makes a determination that
11 the security of any voting system or any voter reg-
12 istration database that has been used or will be used
13 in an election for Federal office has been breached,
14 or if the Secretary is conducting an investigation re-
15 garding whether or not the security of such a system
16 or database has been breached, the Secretary shall
17 submit a report on the determination or investiga-
18 tion to the Committee on Homeland Security of the
19 House of Representatives, the Committee on Home-
20 land Security and Governmental Affairs of the Sen-
21 ate, and the chief State election official of the State
22 in which the system is used or will be used.

1 (2) DEADLINE.—The Secretary shall submit
2 the report required under paragraph (1) not later
3 than 30 days after making the determination in-
4 volved or initiating the investigation involved (as the
5 case may be).

6 (b) SHARING INFORMATION WITH STATE ELECTION
7 OFFICIALS.—At the request of a State, the Secretary of
8 Homeland Security shall collaborate with the chief State
9 election official of the State to help prevent and respond
10 to threats to the security of the voting systems and data-
11 bases described in subsection (a), including assisting such
12 official with obtaining the appropriate level of security
13 clearance necessary to receive information regarding such
14 threats.

15 (c) DEFINITIONS.—In this subsection—

16 (1) the “chief State election official” of a State
17 is the individual designated by the State under sec-
18 tion 10 of the National Voter Registration Act of
19 1993 (52 U.S.C. 20509) to be responsible for coordi-
20 nation of the State’s responsibilities under such Act;
21 and

22 (2) the term “voting system” has the meaning
23 given such term under section 301(b) of the Help
24 America Vote Act of 2002 (52 U.S.C. 21081(b)).

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