

115TH CONGRESS
1ST SESSION

H. R. 3751

To amend the Help America Vote Act of 2002 to direct the Election Assistance Commission to develop best practices for States to use to protect the integrity of elections for Federal office, to make election technology improvement grants to States for adopting and applying such best practices in the administration of elections for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2017

Mr. MEADOWS (for himself and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Permanent Select Committee on Intelligence, 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 direct the Election Assistance Commission to develop best practices for States to use to protect the integrity of elections for Federal office, to make election technology improvement grants to States for adopting and applying such best practices in the administration of elections for Federal office, 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 “Protecting the Amer-
3 ican Process for Election Results Act” or the “PAPER
4 Act”.

5 **SEC. 2. DEVELOPMENT OF BEST PRACTICES FOR PRO-**
6 **TECTING INTEGRITY OF FEDERAL ELEC-**
7 **TIONS.**

8 (a) IN GENERAL.—The Help America Vote Act of
9 2002 (52 U.S.C. 20901 et seq.) is amended by inserting
10 after section 247 the following new section:

11 **“SEC. 248. STUDY AND REPORT ON BEST PRACTICES FOR**
12 **PROTECTING THE INTEGRITY OF FEDERAL**
13 **ELECTIONS AND FOR STORING AND SECUR-**
14 **ING VOTER REGISTRATION DATA.**

15 “(a) IN GENERAL.—The Commission, in consultation
16 with the National Institute of Standards and Technology,
17 the Secretary of the Department of Homeland Security,
18 the Election Assistance Commission Standards Board, the
19 Election Assistance Commission Board of Advisors, the
20 Election Assistance Commission Technical Guidelines De-
21 velopment Committee, the National Association of Secre-
22 taries of State, the National Association of State Election
23 Directors, the National Association of Election Officials,
24 the International Association of Government Officials, the
25 National Association of State Chief Information Officers,
26 the Multi-State Information Sharing and Analysis Center,

1 and other stakeholders the Commission determines nec-
2 essary, shall conduct a study on each of the following:

3 “(1) Best practices for cybersecurity of Federal
4 elections, including best practices for storing and se-
5 curing voter registration data.

6 “(2) Best practices for election audits, with the
7 goal of ensuring that—

8 “(A) each vote cast in an election for Fed-
9 eral office is accompanied by a paper record of
10 the vote that is visible to the voter and is re-
11 tained by the appropriate election official for a
12 period sufficient to conduct the audit described
13 in subparagraph (B); and

14 “(B) prior to the certification of the re-
15 sults of any election for Federal office, appro-
16 priate election officials conduct a manual audit
17 of a random sample of the paper records of the
18 votes cast in the election, as described in sub-
19 paragraph (A), that provides high statistical
20 confidence in the results of the election.

21 “(b) PUBLIC HEARINGS.—In conducting each of the
22 studies under this section, the Commission shall hold pub-
23 lic hearings.

24 “(c) ISSUES CONSIDERED.—

1 “(1) CYBERSECURITY OF FEDERAL ELECTIONS,
2 INCLUDING BEST PRACTICES FOR STORING AND SE-
3 CURING VOTER REGISTRATION DATA.—In conducting
4 the study under subsection (a)(1), the Commission
5 shall consider the following:

6 “(A) The interference by foreign actors in
7 the 2016 Federal election.

8 “(B) The opinion of intelligence officials
9 that foreign states are likely to attempt to
10 interfere in future Federal elections.

11 “(C) Election administration profiles based
12 on the cybersecurity framework of the National
13 Institute of Standards and Technology.

14 “(D) Best practices for storing and secur-
15 ing voter registration data.

16 “(E) All components of election infrastruc-
17 ture, as designated by the Secretary of Home-
18 land Security, on January 6, 2017, as a sub-
19 sector of a critical infrastructure sector (as de-
20 fined in section 2001 of the Homeland Security
21 Act of 2002 (6 U.S.C. 601)).

22 “(F) The implications of the aging of vot-
23 ing equipment on cybersecurity.

1 “(G) Any existing Federal funding sources
2 that may be used to assist State and local gov-
3 ernments to improve election cybersecurity.

4 “(H) Any related issues the Commission
5 identifies as necessary to complete a com-
6 prehensive study of best practices for
7 cybersecurity of Federal elections.

8 “(2) ELECTION AUDITS.—In conducting the
9 study under subsection (a)(2), the Commission shall
10 consider the following:

11 “(A) Public confidence in the administra-
12 tion of Federal elections.

13 “(B) Verifying the integrity of the election
14 process.

15 “(C) Confirming the accuracy of results re-
16 ported by the voting system.

17 “(D) Ensuring that the voting system is
18 accurately tabulating ballots.

19 “(E) Ensuring that the winners of each
20 election for Federal office are called correctly.

21 “(F) Current State requirements related to
22 election audits.

23 “(G) Durational requirements needed to
24 facilitate an election audit prior to election cer-
25 tification, including variations in the acceptance

1 of postal ballots and election certification dead-
2 lines.

3 “(H) Administrative requirements and
4 challenges for various types of election audits.

5 “(I) The potential to identify areas of im-
6 provement in election administration using
7 varying types of election audits.

8 “(J) The use of voting systems producing
9 voter-verified paper ballots.

10 “(K) Any related issues the Commission
11 identifies as necessary to complete a com-
12 prehensive study of best practices for election
13 audits.

14 “(d) REPORT AND RECOMMENDATIONS.—Not later
15 than the date that is 6 months after the date of the enact-
16 ment of this section, the Commission shall submit a report
17 to the Committee on Rules and Administration of the Sen-
18 ate and the Committee on House Administration of the
19 House of Representatives on each of the studies conducted
20 under this section, together with recommendations with
21 the matters described in paragraphs (1) and (2) of sub-
22 section (a).”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 for such Act is amended by inserting after the item relat-
25 ing to section 247 the following new item:

“Sec. 248. Study and report on best practices for protecting the integrity of Federal elections and for storing and securing voter registration data.”.

1 **SEC. 3. ELECTION TECHNOLOGY IMPROVEMENT GRANTS.**

2 (a) IN GENERAL.—The Help America Vote Act of
3 2002 (52 U.S.C. 20901 et seq.) is amended by adding at
4 the end the following new title:

5 **“TITLE X—ELECTION TECH-**
6 **NOLOGY IMPROVEMENT**
7 **GRANTS**

8 **“SEC. 1001. ELECTION TECHNOLOGY IMPROVEMENT**
9 **GRANTS.**

10 “(a) IN GENERAL.—The Commission shall make a
11 payment in an amount determined under section 1002 to
12 each State which meets the conditions described in section
13 1003.

14 “(b) USE OF FUNDS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), a State receiving payment under this title
17 shall use the payment—

18 “(A) in the case of a State that has under-
19 gone a Security Risk an Vulnerability Assess-
20 ment from the Department of Homeland Secu-
21 rity with respect to the State’s election system,
22 to address any recommendations or
23 vulnerabilities resulting from such assessment,
24 and

1 “(B) to implement the recommendations of
2 the Commission under section 248(d) in accord-
3 ance with the plan developed under section
4 1003.

5 In the case of a State described in subparagraph
6 (A), no amount of the payment received under this
7 title may be used for any purpose described in sub-
8 paragraph (B) before the date the State submits a
9 State plan that meets the requirements of section
10 1003(b)(1)(A).

11 “(2) OTHER ACTIVITIES.—A State may use a
12 payment under this title to carry out other activities
13 to improve the administration of elections for Fed-
14 eral office if the State certifies to the Commission
15 that—

16 “(A) the State has implemented the rec-
17 ommendations of the Commission under section
18 248(d);

19 “(B) the State will use any remaining
20 funds to improve, upgrade, or acquire new tech-
21 nological equipment related to election adminis-
22 tration, which may include—

23 “(i) voting machines;

24 “(ii) election management systems;

25 “(iii) electronic poll books;

1 “(iv) online voter registration systems;

2 “(v) participation in the Electronic
3 Registration Information Center;

4 “(vi) accessible voting equipment; and

5 “(vii) other technological upgrades
6 identified by the Commission in the studies
7 conducted under section 248(a); and

8 “(C) the State has appropriated funds for
9 carrying out such activities in an amount equal
10 to 10 percent of the total amount to be spent
11 for such activities (taking into account the pay-
12 ment under this section and the amount spent
13 by the State).

14 No amount of the payment received under this title
15 may be used for any purpose described in this para-
16 graph before the date the State submits the certifi-
17 cation described in section 1003(b)(1)(C).

18 “(3) PROHIBITION ON USE FOR VOTING MA-
19 CHINES NOT PRODUCING VOTER-VERIFIED PAPER
20 BALLOTS.—

21 “(A) IN GENERAL.—None of the payments
22 provided under this title may be used for any
23 voting system that does not produce a voter-
24 verified paper ballot.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply to any payment used for the
3 purposes described in paragraph (1)(A).

4 **“SEC. 1002. ALLOCATION OF FUNDS.**

5 “(a) IN GENERAL.—Subject to subsection (c), the
6 amount of a payment made to a State under this title shall
7 be equal to the product of—

8 “(1) the total amount appropriated for pay-
9 ments pursuant to the authorization under section
10 1007; and

11 “(2) the State allocation percentage for the
12 State (as determined under subsection (b)).

13 “(b) STATE ALLOCATION PERCENTAGE DEFINED.—
14 The ‘State allocation percentage’ for a State is the amount
15 (expressed as a percentage) equal to the quotient of—

16 “(1) the voting age population of the State (as
17 reported in the most recent decennial census); and

18 “(2) the total voting age population of all
19 States (as reported in the most recent decennial cen-
20 sus).

21 “(c) MINIMUM AMOUNT OF PAYMENT.—The amount
22 of a payment made to a State under this section may not
23 be less than—

24 “(1) in the case of any of the several States or
25 the District of Columbia, one-half of 1 percent of the

1 total amount appropriated for payments under this
2 title under section 1007; or

3 “(2) in the case of the Commonwealth of Puer-
4 to Rico, Guam, American Samoa, the Common-
5 wealth of Northern Mariana Islands, or the United
6 States Virgin Islands, one-tenth of 1 percent of such
7 total amount.

8 “(d) PRO RATA REDUCTIONS.—The Commission
9 shall make such pro rata reductions to the allocations de-
10 termined under subsection (a) as are necessary to comply
11 with the requirements of subsection (c).

12 “(e) CONTINUING AVAILABILITY OF FUNDS AFTER
13 APPROPRIATION.—A payment to a State under this title
14 shall be available to the State without fiscal year limita-
15 tion.

16 **“SEC. 1003. CONDITION FOR RECEIPT OF FUNDS.**

17 “(a) IN GENERAL.—A State is eligible to receive a
18 payment under this title if the chief executive officer of
19 the State, or designee, in consultation and coordination
20 with the chief State election official, has filed with the
21 Commission a statement certifying that the State is in
22 compliance with the requirements referred to in subsection
23 (b). A State may meet the requirement of the previous
24 sentence by filing with the Commission a statement which
25 reads as follows: ‘ _____ hereby certifies that it

1 is in compliance with the requirements referred to in sec-
2 tion 1003(b) of the Help America Vote Act of 2002.’ (with
3 the blank to be filled in with the name of the State in-
4 volved).

5 “(b) STATE PLAN REQUIREMENT; CERTIFICATION
6 OF COMPLIANCE WITH APPLICABLE LAWS AND REQUIRE-
7 MENTS.—

8 “(1) IN GENERAL.—The requirements referred
9 to in this subsection are as follows:

10 “(A) The State has filed with the Commis-
11 sion a State plan which the State certifies—

12 “(i) contains each of the elements de-
13 scribed in section 1004;

14 “(ii) is developed in accordance with
15 section 1005; and

16 “(iii) meets the public notice and com-
17 ment requirements of section 1006.

18 “(B) The State is in compliance with each
19 of the laws described in section 906, as such
20 laws apply with respect to this Act.

21 “(C) To the extent that any portion of the
22 payment is used for activities other than imple-
23 menting the recommendations of the Depart-
24 ment of Homeland Security in connection with
25 a Risk and Vulnerability Assessment described

1 in section 1001(b)(1)(A) or the recommenda-
2 tions of the Commission under section 248(d)—

3 “(i) the State’s proposed uses of the
4 payment are not inconsistent with such
5 recommendations; and

6 “(ii) the use of the funds under this
7 subparagraph is consistent with the re-
8 quirements of section 1001(b)(2)(B).

9 “(2) SPECIAL RULE FOR REQUIREMENTS WITH
10 RESPECT TO RISK AND VULNERABILITY ASSESS-
11 MENTS.—In the case of a State that has undergone
12 a Security Risk an Vulnerability Assessment from
13 the Department of Homeland Security with respect
14 to the State’s election system, paragraph (1) shall
15 not apply and the State shall be treated as having
16 met the requirements of this subsection if the State
17 has met the requirement of paragraph (1)(B) and
18 has filed with the Commission a State plan which
19 contains the elements described in section 1004 with
20 respect to the recommendations of the Department
21 of Homeland Security with respect to such assess-
22 ment.

23 “(c) METHODS OF COMPLIANCE LEFT TO DISCRE-
24 TION OF STATE.—The specific choices on the methods of

1 complying with the elements of a State plan shall be left
2 to the discretion of the State.

3 “(d) TIMING FOR FILING OF CERTIFICATION.—

4 “(1) IN GENERAL.—A State may not file a
5 statement of certification under subsection (a) until
6 the expiration of the 45-day period which begins on
7 the date the State plan under this section has been
8 published on both the website of the chief State elec-
9 tion official and the website of the Election Assist-
10 ance Commission pursuant to section 1005(b).

11 “(2) EXCEPTION FOR RISK AND VULNER-
12 ABILITY ASSESSMENT MATTERS.—Paragraph (1)
13 shall not apply to any part of plan which is devel-
14 oped in connection with addressing recommendations
15 of the Department of Homeland Security in connec-
16 tion with a Risk and Vulnerability Assessment de-
17 scribed in section 1001(b)(1)(A).

18 “(e) CHIEF STATE ELECTION OFFICIAL DEFINED.—
19 In this title, the ‘chief State election official’ of a State
20 is the individual designated by the State under section 10
21 of the National Voter Registration Act of 1993 (42 U.S.C.
22 1973gg–8) to be responsible for coordination of the State’s
23 responsibilities under such Act.

1 **“SEC. 1004. STATE PLAN.**

2 “(a) IN GENERAL.—The State plan shall contain a
3 description of each of the following:

4 “(1) How the State will use the payment under
5 this title—

6 “(A) to implement—

7 “(i) any recommendations of the De-
8 partment of Homeland Security in connec-
9 tion with a Risk and Vulnerability Assess-
10 ment described in section 1001(b)(1)(A), if
11 applicable; and

12 “(ii) the recommendations of the
13 Commission under section 248(d); and

14 “(B) if applicable under section
15 1001(b)(2), to carry out other activities to im-
16 prove the administration of elections.

17 “(2) How the State will distribute and monitor
18 the distribution of the payment to units of local gov-
19 ernment or other entities in the State for carrying
20 out the activities described in paragraph (1), includ-
21 ing a description of—

22 “(A) the criteria to be used to determine
23 the eligibility of such units or entities for re-
24 ceiving the payment; and

25 “(B) the methods to be used by the State
26 to monitor the performance of the units or enti-

1 ties to whom the payment is distributed, con-
2 sistent with the performance goals and meas-
3 ures adopted under paragraph (3).

4 “(3) How the State will adopt performance
5 goals and measures that will be used by the State
6 to determine its success and the success of units of
7 local government in the State in carrying out the
8 plan, including timetables for meeting each of the
9 elements of the plan, descriptions of the criteria the
10 State will use to measure performance and the proc-
11 ess used to develop such criteria, and a description
12 of which official is to be held responsible for ensur-
13 ing that each performance goal is met.

14 “(4) How the State will conduct ongoing man-
15 agement of the plan, except that the State may not
16 make any material change in the administration of
17 the plan unless the change—

18 “(A) is developed and published on the
19 website of the chief State election official and
20 the website of the Election Assistance Commis-
21 sion in accordance with section 1005 in the
22 same manner as the State plan;

23 “(B) is subject to public notice and com-
24 ment in accordance with section 1006 in the
25 same manner as the State plan; and

1 “(C) takes effect only after the expiration
2 of the 30-day period which begins on the date
3 the change has been published on both the
4 website of the chief State election official and
5 the website of the Election Assistance Commis-
6 sion.

7 “(5) A description of the committee which par-
8 ticipated in the development of the State plan in ac-
9 cordance with section 1005 and the procedures fol-
10 lowed by the committee under such section and sec-
11 tion 1006.

12 Paragraphs (5) and (6) shall not apply to any part of a
13 plan which pertains to addressing recommendations of the
14 Department of Homeland Security in connection with a
15 Risk and Vulnerability Assessment described in section
16 1001(b)(1)(A).

17 “(b) PROTECTION AGAINST ACTIONS BASED ON IN-
18 FORMATION IN PLAN.—

19 “(1) IN GENERAL.—No action may be brought
20 under this Act against a State or other jurisdiction
21 on the basis of any information contained in the
22 State plan filed under this title.

23 “(2) EXCEPTION FOR CRIMINAL ACTS.—Para-
24 graph (1) may not be construed to limit the liability

1 of a State or other jurisdiction for criminal acts or
2 omissions.

3 **“SEC. 1005. PROCESS FOR DEVELOPMENT AND FILING OF**
4 **PLAN; PUBLICATION BY COMMISSION.**

5 “(a) DEVELOPMENT OF PLAN.—The chief State elec-
6 tion official shall develop the State plan under this title
7 through a committee of appropriate individuals, including
8 the chief election officials of the two most populous juris-
9 dictions within the State, other local election officials,
10 stake holders, and other citizens, appointed for such pur-
11 pose by the chief State election official.

12 “(b) PUBLICATION OF PLAN BY COMMISSION.—After
13 receiving the State plan of a State under this title, the
14 Commission shall cause to have the plan published on both
15 the website of the chief State election official and the
16 website of the Election Assistance Commission.

17 **“SEC. 1006. REQUIREMENT FOR PUBLIC NOTICE AND COM-**
18 **MENT.**

19 “For purposes of section 1003(b)(1)(C), a State plan
20 meets the public notice and comment requirements of this
21 section if—

22 “(1) not later than 30 days prior to the submis-
23 sion of the plan, the State made a preliminary
24 version of the plan available for public inspection
25 and comment;

1 “(2) the State publishes notice that the prelimi-
2 nary version of the plan is so available; and

3 “(3) the State took the public comments made
4 regarding the preliminary version of the plan into
5 account in preparing the plan which was filed with
6 the Commission.

7 **“SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.**

8 “(a) IN GENERAL.—There are authorized to be ap-
9 propriated such sums as are necessary for payments under
10 this title for fiscal years 2018 and 2019.

11 “(b) AVAILABILITY.—Any amounts appropriated
12 pursuant to the authority of subsection (a) shall remain
13 available without fiscal year limitation until expended.

14 **“SEC. 1008. REPORTS.**

15 “Not later than 6 months after the end of the fiscal
16 year for which a State received a payment under this title,
17 the State shall submit a report to the Commission on the
18 activities conducted with the funds provided, and shall in-
19 clude in the report—

20 “(1) a list of expenditures made with respect to
21 each category of activities described in section
22 1001(b); and

23 “(2) an analysis and description of the activities
24 funded under this title to meet the requirements of
25 this title and an analysis and description of how

1 such activities conform to the State plan under sec-
2 tion 1004.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 of such Act is amended by adding at the end the following:

“TITLE X—ELECTION TECHNOLOGY IMPROVEMENT GRANTS

“Sec. 1001. Election technology improvement grants.

“Sec. 1002. Allocation of funds.

“Sec. 1003. Condition for receipt of funds.

“Sec. 1004. State plan.

“Sec. 1005. Process for development and filing of plan; publication by Commis-
sion.

“Sec. 1006. Requirement for public notice and comment.

“Sec. 1007. Authorization of appropriations.

“Sec. 1008. Reports.”.

5 **SEC. 4. CONTRACTING ASSISTANCE.**

6 (a) IN GENERAL.—The Administrator of the General
7 Services Administration, in consultation with the Director
8 of the National Institute of Standards and Technology,
9 shall take such actions as may be necessary through com-
10 petitive processes—

11 (1) to qualify a set of private sector organiza-
12 tions which are capable of providing cybersecurity
13 services to States to secure their election systems
14 and infrastructure from cyber attacks;

15 (2) to establish contract vehicles to enable
16 States to access the services of one or more of such
17 private sector organizations as soon as payments are
18 made under title X of the Help America Vote Act
19 of 2002, as added by section 3;

1 (3) to ensure that such contract vehicles permit
2 individual States to augment Federal funds with
3 funding otherwise available to the States; and

4 (4) to provide a list of qualified organizations to
5 the Election Assistance Commission in order to en-
6 sure it is readily available to State election officials.

7 (b) STATE DEFINED.—In this section, the term
8 “State” means each of the several States, the District of
9 Columbia, the Commonwealth of Puerto Rico, Guam,
10 American Samoa, and the United States Virgin Islands.

11 **SEC. 5. INFORMATION SHARING WITH STATE ELECTION OF-**
12 **FICIALS.**

13 (a) SECURITY CLEARANCE.—

14 (1) EXPEDITING PROVISION OF CLEARANCE
15 FOR CHIEF STATE ELECTION OFFICIALS.—Not later
16 than 30 days after the date of enactment of this
17 Act, the Secretary of Homeland Security shall estab-
18 lish an expedited process for providing the appro-
19 priate security clearance for the chief State election
20 official of each State and 1 designee selected by such
21 official to ensure that information relating to
22 cybersecurity incidents and threats is communicated
23 to such officials in a timely manner.

24 (2) STATE DEFINED.—In this subsection, the
25 term “State” means each of the several States, the

1 District of Columbia, the Commonwealth of Puerto
2 Rico, Guam, American Samoa, and the United
3 States Virgin Islands.

4 (b) INFORMATION SHARING.—Not later than 30 days
5 after the date of enactment of this Act, the Secretary of
6 Homeland Security and the Director of National Intel-
7 ligence shall establish a cybersecurity incident notification
8 process and cybersecurity incident response protocols for
9 the sharing of information among State and Federal offi-
10 cials relating to election cybersecurity threats,
11 vulnerabilities, and breaches.

12 (c) REPORT TO CONGRESS.—

13 (1) IN GENERAL.—Not later than 30 days after
14 the day of enactment of this Act, and each year
15 thereafter, the Secretary of Homeland Security and
16 the Director of National Intelligence shall submit a
17 joint report to appropriate congressional committees
18 in both classified and unclassified form, on foreign
19 threats to elections in the United States. The report
20 shall address the current and probable threats to our
21 election system and strategies to prevent foreign in-
22 terference.

23 (2) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—For purposes of paragraph (1), the term
25 “appropriate congressional committees” means—

1 (A) the Committee on Rules and Adminis-
2 tration, the Committee on Armed Services, the
3 Committee on Homeland Security and Govern-
4 mental Affairs, the Committee on Appropria-
5 tions, and the Select Committee on Intelligence
6 of the Senate; and

7 (B) the Committee on House Administra-
8 tion, the Committee on Armed Services, the
9 Committee on Homeland Security, the Com-
10 mittee on Appropriations, and the Permanent
11 Select Committee on Intelligence of the House
12 of Representatives.

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