

118TH CONGRESS
1ST SESSION

H. R. 466

To amend the Help America Vote Act of 2002 to require voting systems used in elections for Federal office to produce a voter-verified paper ballot of each vote cast on the system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2023

Mr. GOSAR introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on the Budget, 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 paper ballot of each vote cast on the system, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing America’s
5 Elections Act of 2023”.

1 **SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECUR-**
2 **ITY THROUGH VOTER-VERIFIED PERMA-**
3 **NENT PAPER BALLOT.**

4 (a) **BALLOT VERIFICATION AND AUDIT CAPACITY.—**

5 (1) **IN GENERAL.—**Section 301(a)(2) of the
6 Help America Vote Act of 2002 (52 U.S.C.
7 21081(a)(2)) is amended to read as follows:

8 “(2) **BALLOT VERIFICATION AND AUDIT CAPAC-**
9 **ITY.—**

10 “(A) **VOTER-VERIFIED PAPER BALLOTS.—**

11 “(i) **VERIFICATION.—**(I) The voting
12 system shall require the production of a
13 voter-verified paper ballot of the voter’s
14 vote that shall be created by or made avail-
15 able for inspection and verification by the
16 individual voter before the voter’s vote is
17 cast and counted. For purposes of this
18 subclause, a voter-verified paper ballot in-
19 cludes (but is not limited to) a paper ballot
20 marked by the voter for the purpose of
21 being counted by hand or read by an opti-
22 cal scanner or other similar device, a paper
23 ballot prepared by the voter to be mailed
24 to an election official (whether from a do-
25 mestic or overseas location), a paper ballot
26 created through the use of a ballot mark-

1 ing device or system, or a paper ballot pro-
2 duced by a touch screen or other electronic
3 voting machine, so long as in each case the
4 voter is permitted to verify the ballot in a
5 paper form in accordance with this sub-
6 paragraph.

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

13 “(III) The voting system shall not
14 preserve the voter-verified paper ballots in
15 any manner that makes it possible, at any
16 time after the ballot has been cast, to asso-
17 ciate a voter with the record of the voter’s
18 vote.

19 “(ii) PRESERVATION.—The voter-
20 verified paper ballot produced in accord-
21 ance with clause (i) shall be used as the of-
22 ficial ballot for purposes of any recount or
23 audit conducted with respect to any elec-
24 tion for Federal office in which the voting
25 system is used, and shall be preserved in

1 accordance with regulations promulgated
2 by the Commission to establish criteria for
3 the proper preservation and retention of
4 the official ballots in the election.

5 “(iii) MANUAL AUDIT CAPACITY.—
6 Each paper ballot produced pursuant to
7 clause (i) shall be suitable for a manual
8 audit equivalent to that of a paper ballot
9 voting system, in accordance with the
10 methods described in subparagraph (B).

11 “(B) APPROVED METHODS FOR MANUAL
12 AUDITS.—The methods described in this sub-
13 paragraph with respect to the manual audit of
14 voter-verified paper ballots are—

15 “(i) audits conducted through the use
16 of programmable electronic counting ma-
17 chines which are not capable of being con-
18 nected to the Internet, as determined in
19 accordance with regulations promulgated
20 by the Commission; or

21 “(ii) if no machine described in clause
22 (i) is available, an audit conducted by a
23 hand count.

24 “(C) RESOLUTION OF DISPUTES WHEN
25 PAPER BALLOTS HAVE BEEN SHOWN TO BE

1 COMPROMISED.—In the event that the paper
2 ballots produced pursuant to subparagraph (A)
3 with respect to an election for Federal office
4 have been compromised, the State shall resolve
5 the dispute over the results of the election in
6 accordance with dispute resolution processes es-
7 tablished under regulations promulgated by the
8 Commission.

9 “(D) DEADLINE FOR PROMULGATION OF
10 REGULATIONS.—The Commission shall promul-
11 gate the regulations described in this paragraph
12 not later than November 1, 2023.”.

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

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

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

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

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

8 (D) in subparagraph (B)(ii), by striking
9 “counted” and inserting “counted, in accord-
10 ance with paragraphs (2) and (3)”.

11 (b) AVAILABILITY OF ADDITIONAL FUNDING TO EN-
12 ABLE STATES TO MEET COSTS OF REVISED REQUIRE-
13 MENT.—

14 (1) EXTENSION OF REQUIREMENTS PAYMENTS
15 FOR MEETING REVISED REQUIREMENT; AMOUNTS
16 DEEMED TO MEET REQUIREMENTS FOR EMERGENCY
17 FUNDING.—Section 257(a) of such Act (52 U.S.C.
18 21007(a)) is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(5) For fiscal year 2023, such sums as may be
21 necessary to enable States to meet the requirements
22 of section 301(a)(2) which are first imposed on the
23 State pursuant to the amendments made by section
24 2(a) of the Securing America’s Elections Act of
25 2021. Any amount appropriated pursuant to the au-

1 thorization under this paragraph shall be designated
2 by the Congress as being for an emergency require-
3 ment pursuant to section 251(b)(2)(A)(i) of the Bal-
4 anced Budget and Emergency Deficit Control Act of
5 1985.”.

6 (2) AMOUNT OF PAYMENT BASED ON COSTS IN-
7 CURRED IN MEETING REVISED REQUIREMENTS.—
8 Section 252 of such Act (52 U.S.C. 21002) is
9 amended—

10 (A) in subsection (a), by striking “sub-
11 section (c)” and inserting “subsections (c) and
12 (e)”;

13 (B) by redesignating subsection (e) as sub-
14 section (f); and

15 (C) by inserting after subsection (d) the
16 following new subsection:

17 “(e) SPECIAL RULE FOR FISCAL YEAR 2023.—

18 “(1) COVERAGE OF COSTS OF MEETING RE-
19 VISED BALLOT VERIFICATION AND AUDIT CAPACITY
20 REQUIREMENTS.—The amount of a requirements
21 payment made to a State from funds appropriated
22 for fiscal year 2023 shall be equal to the State’s es-
23 timate of the reasonable costs the State expects to
24 incur to meet the requirements referred to in para-
25 graph (3), as contained in the statement filed by the

1 State with the Commission under section
2 253(f)(1)(A)(ii).

3 “(2) RECOUPMENT OF OVERPAYMENTS.—If a
4 State receives a requirements payment from funds
5 appropriated for fiscal year 2020, the State shall
6 agree to repay to the Commission the excess (if any)
7 of—

8 “(A) the amount of the payment; over

9 “(B) the actual costs incurred by the State
10 in meeting the requirements referred to in para-
11 graph (3), as contained in the statement filed
12 by the State with the Commission under section
13 253(f)(1)(B).

14 “(3) REQUIREMENTS DESCRIBED.—The re-
15 quirements referred to in this paragraph are the re-
16 quirements of section 301(a)(2) (relating to ballot
17 verification and audit capacity) which are first im-
18 posed on the State pursuant to the amendments
19 made by section 2(a) of the Securing America’s
20 Elections Act of 2023.”.

21 (3) REVISED CONDITIONS FOR RECEIPT OF
22 FUNDS.—Section 253 of such Act (52 U.S.C.
23 21003) is amended—

1 (A) in subsection (a), by striking “A State
2 is eligible” and inserting “Except as provided in
3 subsection (f), a State is eligible”; and

4 (B) by adding at the end the following new
5 subsection:

6 “(f) SPECIAL RULE FOR FISCAL YEAR 2023.—

7 “(1) IN GENERAL.—Notwithstanding any other
8 provision of this part, a State is eligible to receive
9 a requirements payment from funds appropriated for
10 fiscal year 2023 if, at any time after the funds are
11 appropriated, the chief executive officer of the State,
12 or designee, in consultation and coordination with
13 the chief State election official—

14 “(A) files a statement with the Commis-
15 sion—

16 “(i) describing how the State will use
17 the payment to meet the requirements of
18 section 301(a)(2) (relating to ballot
19 verification and audit capacity) which are
20 first imposed on the State pursuant to the
21 amendment made by section 2(a) of the
22 Securing America’s Elections Act of 2023,
23 and

1 “(ii) containing the State’s estimate
2 of the reasonable costs the State expects to
3 incur to meet such requirements; and

4 “(B) certifies to the Commission that,
5 upon completing the replacement or upgrading
6 of its voting systems to meet such require-
7 ments, the State will file a statement with the
8 Commission containing the actual costs in-
9 curred by the State in meeting such require-
10 ments.

11 “(2) CERTIFICATIONS BY STATES THAT RE-
12 QUIRE CHANGES TO STATE LAW.—In the case of a
13 State that requires State legislation to carry out any
14 activity covered by any certification submitted under
15 this subsection, the State shall be permitted to make
16 the certification notwithstanding that the legislation
17 has not been enacted at the time the certification is
18 submitted and such State shall submit an additional
19 certification once such legislation is enacted.”.

20 (4) PERMITTING USE OF FUNDS FOR REIM-
21 BURSEMENT FOR COSTS PREVIOUSLY INCURRED.—
22 Section 251(c)(1) of such Act (52 U.S.C.
23 21001(c)(1)) is amended by striking the period at
24 the end and inserting the following: “, or as a reim-
25 bursement for any costs incurred in meeting the re-

1 requirements of section 301(a)(2) which are first im-
2 posed pursuant to the amendments made by section
3 2(a) of the Securing America’s Elections Act of
4 2023 or in otherwise replacing or upgrading voting
5 systems in response to such amendments.”.

6 (5) RULE OF CONSTRUCTION REGARDING USE
7 OF FUNDS TO REPLACE OR UPGRADE SYSTEMS OB-
8 TAINED WITH FUNDS PROVIDED PREVIOUSLY UNDER
9 HELP AMERICA VOTE ACT OF 2002.—Nothing in the
10 amendments made by this subsection or in any other
11 provision of the Help America Vote Act of 2002 may
12 be construed to prohibit a State from using any
13 funds provided under such Act pursuant to the
14 amendments made by this subsection (or any funds
15 provided under such Act prior to the date of the en-
16 actment of this Act which remain unexpended as of
17 the date of the enactment of this Act) to replace or
18 upgrade a voting system purchased or otherwise ob-
19 tained in whole or in part using funds received
20 under title I or II of the Help America Vote Act at
21 any time before the date of the enactment of this
22 Act.

23 (6) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply with respect to fiscal
25 years beginning with fiscal year 2023.

1 (c) STUDY AND REPORT ON USE OF OPEN-SOURCE
2 SOFTWARE IN VOTING SYSTEMS.—

3 (1) STUDY.—The Secretary of Homeland Secu-
4 rity and the Election Assistance Commission, acting
5 jointly, shall conduct a study of the feasibility and
6 desirability of using open-source software in voting
7 systems, based on information obtained from elec-
8 tions for Federal office held in 2020 through 2022.

9 (2) REPORT.—Not later than July 1, 2025, the
10 Secretary and the Commission shall submit to Con-
11 gress a report on the study conducted under para-
12 graph (1), and shall include in the report such rec-
13 ommendations as the Secretary and Commission
14 consider appropriate regarding the possible use of
15 open-source software in the voting systems used to
16 administer elections for Federal office held in 2024.

17 (3) DEVELOPMENT AND MAINTENANCE OF
18 SOFTWARE.—If the Secretary and the Commission
19 include in the report submitted under paragraph (2)
20 a recommendation that State election officials use
21 open-source software in the voting systems used to
22 administer elections for Federal office in the State—

23 (A) the Commission shall enter into a part-
24 nership with appropriate private entities, in-
25 cluding entities engaged in the business of

1 maintaining open-source software, to develop,
2 test, certify, and maintain open-source software
3 for such purpose for elections held in 2028 or
4 any succeeding year; and

5 (B) the Commission shall ensure that such
6 certified software is available without cost to
7 State election officials.

8 (d) EFFECTIVE DATE FOR NEW REQUIREMENTS.—
9 Section 301(d) of such Act (52 U.S.C. 21081(d)) is
10 amended to read as follows:

11 “(d) EFFECTIVE DATE.—

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

16 “(2) SPECIAL RULE FOR CERTAIN REQUIRE-
17 MENTS.—The requirements of subsection (a)(2)
18 which are first imposed on a State and jurisdiction
19 pursuant to the amendments made by section 2(a)
20 of the Securing America’s Elections Act of 2023
21 shall apply with respect to the regularly scheduled
22 general election for Federal office held in November
23 2024 and each succeeding election for Federal of-
24 fice.”.

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