H. R. 2360

To amend the Help America Vote Act of 2002 to require States to meet Federal guidelines for the operation of electronic voting equipment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2007

Mr. EHLERS (for himself, Mr. DANIEL E. LUNGREN of California, and Mr. MCCARTHY of California) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to require States to meet Federal guidelines for the operation of electronic voting equipment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Voting Enhancement and Security Act of 2007”.

SEC. 2. ESTABLISHMENT OF FEDERAL GUIDELINES FOR ELECTRONIC VOTING EQUIPMENT.

(a) Establishment of Guidelines; Support From National Institute of Standards and Tech-
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NOLOGY.—Section 221 of the Help America Vote Act of 2002 (42 U.S.C. 15361 et seq.) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

“(f) SPECIAL RULES FOR ESTABLISHMENT OF GUIDELINES FOR ELECTRONIC VOTING EQUIPMENT.—

“(1) ESTABLISHMENT OF GUIDELINES.—In addition to any other guidelines developed under this section, the Development Committee shall develop specific guidelines for the operation of electronic voting equipment in elections for Federal office under which the equipment will comply with each of the following technologies:

“(A) A technology that allows a contemporaneous, redundant, and auditable trail of the votes cast or recorded on such equipment. For purposes of this subparagraph, a trail is ‘contemporaneous’ if it is created and recorded at the same time as the original record.

“(B) A technology that allows each individual who is eligible to vote in such an election to verify the ballot before the individual’s vote is cast into the equipment.
“(C) A technology that ensures reliable security of the equipment from tampering or improper use.

“(D) A technology that ensures that individuals with disabilities who are eligible to vote in the election can vote independently and without assistance.

“(2) TECHNICAL SUPPORT FROM NIST.—The Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support in the development of the guidelines for electronic voting equipment under this subsection, in the same manner as the technical support provided under subsection (e).

“(3) DEADLINE.—The Director shall complete the requirements of subsection (a) not later than January 1, 2010.”.

(b) REQUIRING STATES TO MEET GUIDELINES.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Section 301 of such Act (42 U.S.C. 15481) is amended—

(i) by redesignating subsections (b) through (d) as subsections (e) through (e); and
(ii) by inserting after subsection (a) the following new subsection:

“(b) Special Requirements for Electronic Voting Equipment.—

“(1) In general.—Any voting system which consists in whole or in part of an electronic vote recording device or an electronic vote tabulation device shall meet the voting system guidelines applicable to such devices which are adopted by the Commission pursuant to section 222 (in accordance with the requirements for the development of such guidelines under section 221(f)).

“(2) Definitions.—In this subsection—

“(A) the term ‘vote recording device’ means the mechanism or medium used for recording a voter’s ballot choices; and

“(B) the term ‘vote tabulation device’ means the mechanism or equipment used to tabulate the votes recorded on the vote recording device.

“(3) Effective date.—Paragraph (1) shall apply with respect to elections for Federal office held in 2012 and each succeeding year.”.

(B) Conforming amendment.—Section 301(e) of such Act (42 U.S.C. 15481(e)), as re-
designated by subparagraph (A), is amended by striking “Each State” and inserting “Except as provided in subsection (b), each State”.

(2) Availability of funding for meeting requirements.—Section 257(a) of such Act (42 U.S.C. 15407(a) is amended by adding at the end the following new paragraph:

“(4) For fiscal year 2011, $1,000,000,000, except that any funds provided under the authorization made by this paragraph shall be used by a State only to meet the requirements of section 301(b), or to otherwise modify or replace its voting systems in response to such requirements.”.

SEC. 3. REQUIRING AUDITS OF RESULTS OF ELECTIONS.

(a) Requiring States To Administer Audits in Accordance With State Plan.—Subtitle A of title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by inserting after section 303 the following new section:

“SEC. 303A. AUDITS OF RESULTS OF ELECTIONS.

“(a) Requiring States To Administer Audits in Accordance With State Plan.—

“(1) In general.—Each State shall administer audits of the results of elections for Federal office held in the State in accordance with a State
audit plan which describes the entity responsible for
administering the audits, the procedures for admin-
istering the audits, and the rules for determining
which elections will be subject to audits and the
number of tabulation units in which the audits will
occur.

“(2) TABULATION UNIT DEFINED.—In this sub-
section, the term ‘tabulation unit’ means, with re-
spect to an election, a unit established by the State
prior to the election (such as a precinct, polling loca-
tion, or particular type of voting device) in which the
votes tabulated by the voting system used in the unit
may be compared with the audit of the results of the
ballots cast in the unit.

“(3) SUBMISSION OF PLAN TO COMMISSION.—
Not later than January 1, 2009, the State shall sub-
mit its initial State audit plan under this section to
the Commission.

“(b) CERTIFICATION.—A State does not meet the re-
quirements of this section unless the chief executive of the
State and the chief election official of the State certify
that the State audit plan provides for the fair and effective
administration of audits under procedures that are trans-
parent and open to the public.
“(c) EFFECTIVE DATE.—This section shall apply with respect to the regularly scheduled general elections for Federal office held in November 2010 and each succeeding election for Federal office.”.

(b) AVAILABILITY OF ENFORCEMENT.—Section 401 of such Act (42 U.S.C. 15511) is amended by striking “sections 301, 302, and 303” and inserting “subtitle A of title III”.

(e) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 303 the following:

“303A. Audits of results of elections.”.

SEC. 4. REQUIRING STATES TO DEVELOP AND IMPLEMENT ELECTION SECURITY PROTOCOLS AND CONTINGENCY PLANS.

(a) IN GENERAL.—Subtitle A of title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.), as amended by section 3(a), is further amended by inserting after section 303A the following new section:

“SEC. 303B. DEVELOPMENT AND IMPLEMENTATION OF ELECTION SECURITY PROTOCOLS AND CONTINGENCY PLANS.

“(a) REQUIREMENTS FOR STATES.—Each State and jurisdiction which administers elections for Federal office shall—
“(1) develop and implement security protocols for protecting the voting equipment used in such elections and for ensuring the security of the administration of such elections; and

“(2) develop and implement contingency plans for addressing voting system failures and other emergencies which may occur on the date of such an election, including the protocols to be followed at polling places and the protocols applicable to the use of emergency ballots.

“(b) EFFECTIVE DATE.—This section shall apply with respect to the regularly scheduled general election for Federal office in November 2008 and each succeeding election for Federal office.”.

(b) CLERICAL AMENDMENT.—The table of contents of such Act, as amended by section 3(e), is further amended by inserting after the item relating to section 303A the following:

“303B. Development and implementation of election security protocols and contingency plans.”.