

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8281
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Safeguard American
3 Voter Eligibility Act” or the “SAVE Act”.

**4 SEC. 2. ENSURING ONLY CITIZENS ARE REGISTERED TO
5 VOTE IN ELECTIONS FOR FEDERAL OFFICE.**

6 (a) DEFINITION OF DOCUMENTARY PROOF OF
7 UNITED STATES CITIZENSHIP.—Section 3 of the National
8 Voter Registration Act of 1993 (52 U.S.C. 20502) is
9 amended—

10 (1) by striking “As used” and inserting “(a) IN
11 GENERAL.—As used”; and

12 (2) by adding at the end the following:

13 “(b) DOCUMENTARY PROOF OF UNITED STATES
14 CITIZENSHIP.—As used in this Act, the term ‘documen-
15 tary proof of United States citizenship’ means, with re-
16 spect to an applicant for voter registration, any of the fol-
17 lowing:

1 “(1) A form of identification issued consistent
2 with the requirements of the REAL ID Act of 2005
3 that indicates the applicant is a citizen of the United
4 States.

5 “(2) A valid United States passport.

6 “(3) The applicant’s official United States mili-
7 tary identification card, together with a United
8 States military record of service showing that the
9 applicant’s place of birth was in the United States.

10 “(4) A valid government-issued photo identifica-
11 tion card issued by a Federal, State or Tribal gov-
12 ernment showing that the applicant’s place of birth
13 was in the United States.

14 “(5) A valid government-issued photo identifica-
15 tion card issued by a Federal, State or Tribal gov-
16 ernment other than an identification described in
17 paragraphs (1) through (4), but only if presented to-
18 gether with one or more of the following:

19 “(A) A certified birth certificate issued by
20 a State, a unit of local government in a State,
21 or a Tribal government which—

22 “(i) was issued by the State, unit of
23 local government, or Tribal government in
24 which the applicant was born;

1 “(ii) was filed with the office respon-
2 sible for keeping vital records in the State;

3 “(iii) includes the full name, date of
4 birth, and place of birth of the applicant;

5 “(iv) lists the full names of one or
6 both of the parents of the applicant;

7 “(v) has the signature of an individual
8 who is authorized to sign birth certificates
9 on behalf of the State, unit of local govern-
10 ment, or Tribal government in which the
11 applicant was born;

12 “(vi) includes the date that the certifi-
13 cate was filed with the office responsible
14 for keeping vital records in the State; and

15 “(vii) has the seal of the State, unit
16 of local government, or Tribal government
17 that issued the birth certificate.

18 “(B) An extract from a United States hos-
19 pital Record of Birth created at the time of the
20 applicant’s birth which indicates that the appli-
21 cant’s place of birth was in the United States.

22 “(C) A final adoption decree showing the
23 applicant’s name and that the applicant’s place
24 of birth was in the United States.

1 “(D) A Consular Report of Birth Abroad
2 of a citizen of the United States or a certifi-
3 cation of the applicant’s Report of Birth of a
4 United States citizen issued by the Secretary of
5 State.

6 “(E) A Naturalization Certificate or Cer-
7 tificate of Citizenship issued by the Secretary of
8 Homeland Security or any other document or
9 method of proof of United States citizenship
10 issued by the Federal government pursuant to
11 the Immigration and Nationality Act.

12 “(F) An American Indian Card issued by
13 the Department of Homeland Security with the
14 classification ‘KIC’.”.

15 (b) IN GENERAL.—Section 4 of the National Voter
16 Registration Act of 1993 (52 U.S.C. 20503) is amended—

17 (1) in subsection (a), by striking “subsection
18 (b)” and inserting “subsection (c)”;

19 (2) by redesignating subsection (b) as sub-
20 section (c); and

21 (3) by inserting after subsection (a) the fol-
22 lowing new subsection:

23 “(b) REQUIRING APPLICANTS TO PRESENT DOCU-
24 MENTARY PROOF OF UNITED STATES CITIZENSHIP.—
25 Under any method of voter registration in a State, the

1 State shall not accept and process an application to reg-
2 ister to vote in an election for Federal office unless the
3 applicant presents documentary proof of United States
4 citizenship with the application.”.

5 (c) REGISTRATION WITH APPLICATION FOR MOTOR
6 VEHICLE DRIVER’S LICENSE.—Section 5 of the National
7 Voter Registration Act of 1993 (52 U.S.C. 20504) is
8 amended—

9 (1) in subsection (a)(1), by striking “Each
10 State motor vehicle driver’s license application” and
11 inserting “Subject to the requirements under section
12 8(j), each State motor vehicle driver’s license appli-
13 cation”;

14 (2) in subsection (c)(1), by striking “Each
15 State shall include” and inserting “Subject to the
16 requirements under section 8(j), each State shall in-
17 clude”;

18 (3) in subsection (c)(2)(B)—

19 (A) in clause (i), by striking “and” at the
20 end;

21 (B) in clause (ii), by adding “and” at the
22 end; and

23 (C) by adding at the end the following new
24 clause:

1 “(iii) verify that the applicant is a cit-
2 izen of the United States;”;

3 (4) in subsection (c)(2)(C)(i), by striking “(in-
4 cluding citizenship)” and inserting “, including the
5 requirement that the applicant provides documentary
6 proof of United States citizenship”; and

7 (5) in subsection (c)(2)(D)(iii), by striking “;
8 and” and inserting the following: “, other than as
9 evidence in a criminal proceeding or immigration
10 proceeding brought against an applicant who know-
11 ingly attempts to register to vote and knowingly
12 makes a false declaration under penalty of perjury
13 that the applicant meets the eligibility requirements
14 to register to vote in an election for Federal office;
15 and”.

16 (d) REQUIRING DOCUMENTARY PROOF OF UNITED
17 STATES CITIZENSHIP WITH NATIONAL MAIL VOTER
18 REGISTRATION FORM.—Section 6 of the National Voter
19 Registration Act of 1993 (52 U.S.C. 20505) is amended—

20 (1) in subsection (a)(1)—

21 (A) by striking “Each State shall accept
22 and use” and inserting “Subject to the require-
23 ments under section 8(j), each State shall ac-
24 cept and use”; and

1 (B) by striking “Federal Election Commis-
2 sion” and inserting “Election Assistance Com-
3 mission”;

4 (2) in subsection (b), by adding at the end the
5 following: “The chief State election official of a
6 State shall take such steps as may be necessary to
7 ensure that residents of the State are aware of the
8 requirement to provide documentary proof of United
9 States citizenship to register to vote in elections for
10 Federal office in the State.”;

11 (3) in subsection (c)(1)—

12 (A) in subparagraph (A), by striking
13 “and” at the end;

14 (B) in subparagraph (B) by striking the
15 period at the end and inserting “; and”; and

16 (C) by adding at the end the following new
17 subparagraph:

18 “(C) the person did not provide documentary
19 proof of United States citizenship when registering
20 to vote.”; and

21 (4) by adding at the end the following new sub-
22 section:

23 “(e) ENSURING PROOF OF UNITED STATES CITIZEN-
24 SHIP.—

1 “(1) PRESENTING PROOF OF UNITED STATES
2 CITIZENSHIP TO ELECTION OFFICIAL.—An applicant
3 who submits the mail voter registration application
4 form prescribed by the Election Assistance Commis-
5 sion pursuant to section 9(a)(2) or a form described
6 in paragraph (1) or (2) of subsection (a) shall not
7 be registered to vote in an election for Federal office
8 unless—

9 “(A) the applicant presents documentary
10 proof of United States citizenship in person to
11 the office of the appropriate election official not
12 later than the deadline provided by State law
13 for the receipt of a completed voter registration
14 application for the election; or

15 “(B) in the case of a State which permits
16 an individual to register to vote in an election
17 for Federal office at a polling place on the day
18 of the election and on any day when voting, in-
19 cluding early voting, is permitted for the elec-
20 tion, the applicant presents documentary proof
21 of United States citizenship to the appropriate
22 election official at the polling place not later
23 than the date of the election.

24 “(2) NOTIFICATION OF REQUIREMENT.—Upon
25 receiving an otherwise completed mail voter registra-

1 tion application form prescribed by the Election As-
2 sistance Commission pursuant to section 9(a)(2) or
3 a form described in paragraph (1) or (2) of sub-
4 section (a), the appropriate election official shall
5 transmit a notice to the applicant of the requirement
6 to present documentary proof of United States citi-
7 zenship under this subsection, and shall include in
8 the notice instructions to enable the applicant to
9 meet the requirement.

10 “(3) ACCESSIBILITY.—Each State shall, in con-
11 sultation with the Election Assistance Commission,
12 ensure that reasonable accommodations are made to
13 allow an individual with a disability who submits the
14 mail voter registration application form prescribed
15 by the Election Assistance Commission pursuant to
16 section 9(a)(2) or a form described in paragraph (1)
17 or (2) of subsection (a) to present documentary
18 proof of United States citizenship to the appropriate
19 election official.”.

20 (e) REQUIREMENTS FOR VOTER REGISTRATION
21 AGENCIES.—Section 7 of the National Voter Registration
22 Act of 1993 (52 U.S.C. 20506) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (4)(A), by adding at the
25 end the following new clause:

1 “(iv) Receipt of documentary proof of
2 United States citizenship of each applicant to
3 register to vote in elections for Federal office in
4 the State.”; and

5 (B) in paragraph (6)—

6 (i) in subparagraph (A)(i)(I), by strik-
7 ing “(including citizenship)” and inserting
8 “, including the requirement that the ap-
9 plicant provides documentary proof of
10 United States citizenship”; and

11 (ii) by redesignating subparagraph
12 (B) as subparagraph (C); and

13 (iii) by inserting after subparagraph
14 (A) the following new subparagraph:

15 “(B) ask the applicant the question, ‘Are you a
16 citizen of the United States?’ and if the applicant
17 answers in the affirmative require documentary
18 proof of United States citizenship prior to providing
19 the form under subparagraph (C);”; and

20 (2) in subsection (c)(1), by inserting “who are
21 citizens of the United States” after “for persons”.

22 (f) REQUIREMENTS WITH RESPECT TO ADMINISTRA-
23 TION OF VOTER REGISTRATION.—Section 8 of the Na-
24 tional Voter Registration Act of 1993 (52 U.S.C. 20507)
25 is amended—

1 (1) in subsection (a)—

2 (A) by striking “In the administration of
3 voter registration” and inserting “Subject to
4 the requirements of subsection (j), in the ad-
5 ministration of voter registration”; and

6 (B) in paragraph (3)—

7 (i) in subparagraph (B), by striking
8 “or” at the end; and

9 (ii) by adding at the end the following
10 new subparagraphs:

11 “(D) based on documentary proof or
12 verified information that the registrant is not a
13 United States citizen; or

14 “(E) the registration otherwise fails to
15 comply with applicable State law;”;

16 (2) by redesignating subsection (j) as sub-
17 section (l); and

18 (3) by inserting after subsection (i) the fol-
19 lowing new subsections:

20 “(j) ENSURING ONLY CITIZENS ARE REGISTERED TO
21 VOTE.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of this Act, a State may not register an in-
24 dividual to vote in elections for Federal office held
25 in the State unless, at the time the individual ap-

1 plies to register to vote, the individual provides docu-
2 mentary proof of United States citizenship.

3 “(2) ADDITIONAL PROCESSES IN CERTAIN
4 CASES.—

5 “(A) PROCESS FOR THOSE WITHOUT DOC-
6 UMENTARY PROOF.—

7 “(i) IN GENERAL.—Subject to any rel-
8 evant guidance adopted by the Election As-
9 sistance Commission, each State shall es-
10 tablish a process under which an applicant
11 who cannot provide documentary proof of
12 United States citizenship under paragraph
13 (1) may, if the applicant signs an attesta-
14 tion under penalty of perjury that the ap-
15 plicant is a citizen of the United States
16 and eligible to vote in elections for Federal
17 office, submit such other evidence to the
18 appropriate State or local official dem-
19 onstrating that the applicant is a citizen of
20 the United States and such official shall
21 make a determination as to whether the
22 applicant has sufficiently established
23 United States citizenship for purposes of
24 registering to vote in elections for Federal
25 office in the State.

1 “(ii) AFFIDAVIT REQUIREMENT.—If a
2 State or local official makes a determina-
3 tion under clause (i) that an applicant has
4 sufficiently established United States citi-
5 zenship for purposes of registering to vote
6 in elections for Federal office in the State,
7 such determination shall be accompanied
8 by an affidavit developed under clause (iii)
9 signed by the official swearing or affirming
10 the applicant sufficiently established
11 United States citizenship for purposes of
12 registering to vote.

13 “(iii) DEVELOPMENT OF AFFIDAVIT
14 BY THE ELECTION ASSISTANCE COMMIS-
15 SION.—The Election Assistance Commis-
16 sion shall develop a uniform affidavit for
17 use by State and local officials under
18 clause (ii), which shall—

19 “(I) include an explanation of the
20 minimum standards required for a
21 State or local official to register an
22 applicant who cannot provide docu-
23 mentary proof of United States citi-
24 zenship to vote in elections for Fed-
25 eral office in the State; and

1 “(II) require the official to ex-
2 plain the basis for registering such
3 applicant to vote in such elections.

4 “(B) PROCESS IN CASE OF CERTAIN DIS-
5 CREPANCIES IN DOCUMENTATION.—Subject to
6 any relevant guidance adopted by the Election
7 Assistance Commission, each State shall estab-
8 lish a process under which an applicant can
9 provide such additional documentation to the
10 appropriate election official of the State as may
11 be necessary to establish that the applicant is
12 a citizen of the United States in the event of a
13 discrepancy with respect to the applicant’s doc-
14 umentary proof of United States citizenship.

15 “(3) STATE REQUIREMENTS.—Each State shall
16 take affirmative steps on an ongoing basis to ensure
17 that only United States citizens are registered to
18 vote under the provisions of this Act, which shall in-
19 clude the establishment of a program described in
20 paragraph (4) not later than 30 days after the date
21 of the enactment of this subsection.

22 “(4) PROGRAM DESCRIBED.—A State may meet
23 the requirements of paragraph (3) by establishing a
24 program under which the State identifies individuals

1 who are not United States citizens using information
2 supplied by one or more of the following sources:

3 “(A) The Department of Homeland Secu-
4 rity through the Systematic Alien Verification
5 for Entitlements (‘SAVE’) or otherwise.

6 “(B) The Social Security Administration
7 through the Social Security Number
8 Verification Service, or otherwise.

9 “(C) State agencies that supply State iden-
10 tification cards or driver’s licenses where the
11 agency confirms the United States citizenship
12 status of applicants.

13 “(D) Other sources, including databases,
14 which provide confirmation of United States
15 citizenship status.

16 “(5) AVAILABILITY OF INFORMATION.—

17 “(A) IN GENERAL.—At the request of a
18 State election official (including a request re-
19 lated to a process established by a State under
20 paragraph (2)(A) or (2)(B)), any head of a
21 Federal department or agency possessing infor-
22 mation relevant to determining the eligibility of
23 an individual to vote in elections for Federal of-
24 fice shall, not later than 24 hours after receipt
25 of such request, provide the official with such

1 information as may be necessary to enable the
2 official to verify that an applicant for voter reg-
3 istration in elections for Federal office held in
4 the State or a registrant on the official list of
5 eligible voters in elections for Federal office
6 held in the State is a citizen of the United
7 States, which shall include providing the official
8 with such batched information as may be re-
9 quested by the official.

10 “(B) USE OF SAVE SYSTEM.—The Sec-
11 retary of Homeland Security may respond to a
12 request received under paragraph (1) by using
13 the system for the verification of immigration
14 status under the applicable provisions of section
15 1137 of the Social Security Act (42 U.S.C.
16 1320b-7), as established pursuant to section
17 121(c) of the Immigration Reform and Control
18 Act of 1986 (Public Law 99–603).

19 “(C) SHARING OF INFORMATION.—The
20 heads of Federal departments and agencies
21 shall share information with each other with re-
22 spect to an individual who is the subject of a
23 request received under paragraph (A) in order
24 to enable them to respond to the request.

1 “(D) INVESTIGATION FOR PURPOSES OF
2 REMOVAL.—The Secretary of Homeland Secu-
3 rity shall conduct an investigation to determine
4 whether to initiate removal proceedings under
5 section 239 of the Immigration and Nationality
6 Act (8 U.S.C. 1229) if it is determined pursu-
7 ant to subparagraph (A) or (B) that an alien
8 (as such term is defined in section 101 of the
9 Immigration and Nationality Act (8 U.S.C.
10 1101)) is unlawfully registered to vote in elec-
11 tions for Federal office.

12 “(E) PROHIBITING FEES.—The Secretary
13 may not charge a fee for responding to a
14 State’s request under paragraph (A).

15 “(k) REMOVAL OF NONCITIZENS FROM REGISTRA-
16 TION ROLLS.—A State shall remove an individual who is
17 not a citizen of the United States from the official list
18 of eligible voters for elections for Federal office held in
19 the State at any time upon receipt of documentation or
20 verified information that a registrant is not a United
21 States citizen.”.

22 (g) CLARIFICATION OF AUTHORITY OF STATE TO RE-
23 MOVE NONCITIZENS FROM OFFICIAL LIST OF ELIGIBLE
24 VOTERS.—

1 (1) IN GENERAL.—Section 8(a)(4) of the Na-
2 tional Voter Registration Act of 1993 (52 U.S.C.
3 20507(a)(4)) is amended—

4 (A) by striking “or” at the end of subpara-
5 graph (A);

6 (B) by adding “or” at the end of subpara-
7 graph (B); and

8 (C) by adding at the end the following new
9 subparagraph:

10 “(C) documentary proof or verified infor-
11 mation that the registrant is not a United
12 States citizen;”.

13 (2) CONFORMING AMENDMENT.—Section
14 8(c)(2)(B)(i) of such Act (52 U.S.C.
15 20507(c)(2)(B)(i)) is amended by striking “(4)(A)”
16 and inserting “(4)(A) or (C)”.

17 (h) REQUIREMENTS WITH RESPECT TO FEDERAL
18 MAIL VOTER REGISTRATION FORM.—

19 (1) CONTENTS OF MAIL VOTER REGISTRATION
20 FORM.—Section 9(b) of such Act (52 U.S.C.
21 20508(b)) is amended—

22 (A) in paragraph (2)(A), by striking “(in-
23 cluding citizenship)” and inserting “(including
24 an explanation of what is required to present

1 documentary proof of United States citizen-
2 ship)”;

3 (B) in paragraph (3), by striking “and” at
4 the end;

5 (C) in paragraph (4), by striking the pe-
6 riod at the end and inserting “; and”; and

7 (D) by adding at the end the following new
8 paragraph:

9 “(5) shall include a section, for use only by a
10 State or local election official, to record the type of
11 document the applicant presented as documentary
12 proof of United States citizenship, including the date
13 of issuance, the date of expiration (if any), the office
14 which issued the document, and any unique identi-
15 fication number associated with the document.”.

16 (2) INFORMATION ON MAIL VOTER REGISTRA-
17 TION FORM.—Section 9(b)(4) of such Act (52
18 U.S.C. 20508(b)(4)) is amended—

19 (A) by redesignating clauses (i) through
20 (iii) as subparagraphs (A) through (C), respec-
21 tively; and

22 (B) in subparagraph (C) (as so redesign-
23 ated), by striking the period at the end and in-
24 serting the following: “, other than as evidence
25 in a criminal proceeding or immigration pro-

1 ceeding brought against an applicant who at-
2 tempts to register to vote and makes a false
3 declaration under penalty of perjury that the
4 applicant meets the eligibility requirements to
5 register to vote in an election for Federal of-
6 fice.”.

7 (i) PRIVATE RIGHT OF ACTION.—Section 11(b)(1) of
8 the National Voter Registration Act of 1993 (52 U.S.C.
9 20510(b)(1)) is amended by striking “a violation of this
10 Act” and inserting “a violation of this Act, including the
11 act of an election official who registers an applicant to
12 vote in an election for Federal office who fails to present
13 documentary proof of United States citizenship,”.

14 (j) CRIMINAL PENALTIES.—Section 12(2) of such
15 Act (52 U.S.C. 20511(2)) is amended—

16 (1) by striking “or” at the end of subparagraph
17 (A);

18 (2) by redesignating subparagraph (B) as sub-
19 paragraph (D); and

20 (3) by inserting after subparagraph (A) the fol-
21 lowing new subparagraphs:

22 “(B) in the case of an officer or employee
23 of the executive branch, providing material as-
24 sistance to a noncitizen in attempting to reg-

1 ister to vote or vote in an election for Federal
2 office;

3 “(C) registering an applicant to vote in an
4 election for Federal office who fails to present
5 documentary proof of United States citizenship;
6 or”.

7 (k) APPLICABILITY OF REQUIREMENTS TO CERTAIN
8 STATES.—

9 (1) IN GENERAL.—Subsection (c) of section 4
10 of the National Voter Registration Act of 1993 (52
11 U.S.C. 20503), as redesignated by subsection (b), is
12 amended by striking “This Act does not apply to a
13 State” and inserting “Except with respect to the re-
14 quirements under subsection (i) and (j) of section 8
15 in the case of a State described in paragraph (2),
16 this Act does not apply to a State”.

17 (2) PERMITTING STATES TO ADOPT REQUIRE-
18 MENTS AFTER ENACTMENT.—Section 4 of such Act
19 (52 U.S.C. 20503) is amended by adding at the end
20 the following new subsection:

21 “(d) PERMITTING STATES TO ADOPT CERTAIN RE-
22 QUIREMENTS AFTER ENACTMENT.—Subsection (j) of sec-
23 tion 8 shall not apply to a State described in subsection
24 (c)(2) if the State, by law or regulation, adopts require-
25 ments which are identical to the requirements under this

1 subsection not later than 60 days after the date of the
2 first election for Federal office which is held in the State
3 after the date of the enactment of the SAVE Act.”.

4 **SEC. 3. ELECTION ASSISTANCE COMMISSION GUIDANCE.**

5 Not later than 10 days after the date of the enact-
6 ment of this Act, the Election Assistance Commission shall
7 adopt and transmit to the chief State election official of
8 each State guidance with respect to the implementation
9 of the requirements under the National Voter Registration
10 Act of 1993 (52 U.S.C. 20501 et seq.), as amended by
11 section 2.

12 **SEC. 4. INAPPLICABILITY OF PAPERWORK REDUCTION**
13 **ACT.**

14 Subchapter I of chapter 35 of title 44 (commonly re-
15 ferred to as the “Paperwork Reduction Act”) shall not
16 apply with respect to the development or modification of
17 voter registration materials under the National Voter Reg-
18 istration Act of 1993 (52 U.S.C. 20501 et seq.), as
19 amended by section 2, including the development or modi-
20 fication of any voter registration application forms.

21 **SEC. 5. DUTY OF SECRETARY OF HOMELAND SECURITY TO**
22 **NOTIFY ELECTION OFFICIALS OF NATU-**
23 **RALIZATION.**

24 Upon receiving information that an individual has be-
25 come a naturalized citizen of the United States, the Sec-

1 retary of Homeland Security shall promptly provide notice
2 of such information to the appropriate chief election offi-
3 cial of the State in which such individual is domiciled.

4 **SEC. 6. RULE OF CONSTRUCTION REGARDING PROVI-**
5 **SIONAL BALLOTS.**

6 Nothing in this Act or in any amendment made by
7 this Act may be construed to supercede, restrict, or other-
8 wise affect the ability of an individual to cast a provisional
9 ballot in an election for Federal office or to have the ballot
10 counted in the election if the individual is a citizen of the
11 United States.

12 **SEC. 7. RULE OF CONSTRUCTION REGARDING EFFECT ON**
13 **STATE EXEMPTIONS FROM OTHER FEDERAL**
14 **LAWS.**

15 Nothing in this Act or in any amendment made by
16 this Act may be construed to affect the exemption of a
17 State from any requirement of any Federal law other than
18 the National Voter Registration Act of 1993 (52 U.S.C.
19 20501 et seq.).

20 **SEC. 8. EFFECTIVE DATE.**

21 This Act and the amendments made by this Act shall
22 take effect on the date of the enactment of this Act, and
23 shall apply with respect to applications for voter registra-
24 tion which are submitted on or after such date.

