

## HELP AMERICA VOTE ACT OF 2001

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DECEMBER 10, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. NEY, from the Committee on House Administration,  
submitted the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany H.R. 3295]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Help America Vote Act of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—PUNCH CARD VOTING MACHINES

##### Subtitle A—Replacement of Machines

- Sec. 101. Establishment of program.
- Sec. 102. Eligibility.
- Sec. 103. Amount of payment.
- Sec. 104. Audit and repayment of funds.
- Sec. 105. Punch card voting system defined.

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### Subtitle B—Enhancing Performance of Existing Systems

- Sec. 111. Establishment of program.
- Sec. 112. Eligibility.
- Sec. 113. Amount of payment.
- Sec. 114. Audit and repayment of funds.

### Subtitle C—General Provisions

- Sec. 121. Authorization of appropriations.
- Sec. 122. Punch card voting system defined.

## TITLE II—COMMISSION

### Subtitle A—Establishment and General Organization

#### PART 1—ELECTION ASSISTANCE COMMISSION

- Sec. 201. Establishment.
- Sec. 202. Duties.
- Sec. 203. Membership and appointment.
- Sec. 204. Staff.
- Sec. 205. Powers.
- Sec. 206. Limitation on rulemaking authority.
- Sec. 207. Authorization of appropriations.

#### PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

- Sec. 211. Establishment.
- Sec. 212. Duties.
- Sec. 213. Membership of Standards Board.
- Sec. 214. Membership of Board of Advisors.
- Sec. 215. Powers of boards; no compensation for service.
- Sec. 216. Status of boards and members for purposes of claims against board.

### Subtitle B—Voluntary Election Standards

- Sec. 221. Development of voluntary election standards.
- Sec. 222. Technical standards development committee.
- Sec. 223. Process for adoption of voluntary standards.
- Sec. 224. Certification and testing of voting systems.
- Sec. 225. Dissemination of information.

### Subtitle C—Election Assistance

#### PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS

- Sec. 231. Election fund payments to States for voting system improvements.
- Sec. 232. Allocation of funds.
- Sec. 233. Conditions for receipt of funds.
- Sec. 234. Authorization of appropriations.

#### PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

- Sec. 241. Grants for research on voting technology improvements.
- Sec. 242. Report.
- Sec. 243. Authorization of appropriations.

#### PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

- Sec. 251. Pilot program.
- Sec. 252. Report.
- Sec. 253. Authorization of appropriations.

#### PART 4—MISCELLANEOUS

- Sec. 261. Role of National Institute of Standards and Technology.
- Sec. 262. Reports.
- Sec. 263. Audit.

## TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

- Sec. 301. Establishment of Program.
- Sec. 302. Activities under Program.
- Sec. 303. Authorization of appropriations.

## TITLE IV—HELP AMERICA VOTE FOUNDATION

- Sec. 401. Help America Vote Foundation.

## TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

- Sec. 501. Minimum standards for State election systems.
- Sec. 502. Standards described.
- Sec. 503. Enforcement.
- Sec. 504. Effective date.

## TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

- Sec. 601. Voting assistance programs.
- Sec. 602. Designation of single State office to provide information on registration and absentee ballots for all voters in State.
- Sec. 603. Report on absentee ballots transmitted and received after general elections.
- Sec. 604. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters.
- Sec. 605. Additional duties of Presidential designee under Uniformed and Overseas Citizens Absentee Voting Act.
- Sec. 606. Use of buildings on military installations and reserve component facilities as polling places.

## TITLE VII—REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL

Sec. 701. Reduced postage rates for official election mail.

## TITLE VIII—TRANSITION PROVISIONS

## Subtitle A—Transfer to Commission of Functions Under Certain Laws

Sec. 801. Federal Election Campaign Act of 1971.  
 Sec. 802. National Voter Registration Act of 1993.  
 Sec. 803. Transfer of property, records, and personnel.  
 Sec. 804. Effective date; transition.

## Subtitle B—Coverage of Commission Under Certain Laws and Programs

Sec. 811. Treatment of Commission personnel under certain civil service laws.  
 Sec. 812. Coverage under Inspector General Act of 1978.

## TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. State defined.  
 Sec. 902. Miscellaneous provisions to protect integrity of election process.  
 Sec. 903. No effect on other laws.

## TITLE I—PUNCH CARD VOTING MACHINES

## Subtitle A—Replacement of Machines

## SEC. 101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services (hereafter in this title referred to as the “Administrator”) shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) USE OF FUNDS.—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to replace its punch card voting system with a voting system which does not use punch cards (by purchase, lease, or such other arrangement as may be appropriate).

(c) DEADLINE.—

(1) IN GENERAL.—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that all of the punch card voting systems under its jurisdiction have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) WAIVER.—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to “November 2002” were a reference to “November 2004”; and

(B) the reference in paragraph (1)(B) to “November 2004” were a reference to “November 2006”.

## SEC. 102. ELIGIBILITY.

(a) STATES.—A State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to replace punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in replacing punch card voting systems the State will continue to meet its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act;

(3) assurances that in replacing punch card voting systems the State will provide for alternative language accessibility for individuals with limited English proficiency, consistent with the requirements of the Voting Rights Act of 1965 and any other applicable provisions of law; and

(4) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) **UNIT OF LOCAL GOVERNMENT.**—A unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to replace punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

**SEC. 103. AMOUNT OF PAYMENT.**

(a) **IN GENERAL.**—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of replacing the punch card voting systems used in each precinct in the State or unit (as the case may be), except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) \$6,000.

(b) **APPLICABLE PER PRECINCT MATCHING RATE DEFINED.**—In subsection (a), the “applicable per precinct matching rate” is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

**SEC. 104. AUDIT AND REPAYMENT OF FUNDS.**

(a) **AUDIT.**—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) **REPAYMENT FOR FAILURE TO MEET DEADLINES.**—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 101(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

**SEC. 105. PUNCH CARD VOTING SYSTEM DEFINED.**

For purposes of this subtitle, a “punch card voting system” means any of the following voting systems:

(1) C.E.S.

(2) Datavote.

(3) PBC Counter.

(4) Pollstar.

(5) Punch Card.

(6) Vote Recorder.

(7) Votomatic.

## **Subtitle B—Enhancing Performance of Existing Systems**

**SEC. 111. ESTABLISHMENT OF PROGRAM.**

(a) **IN GENERAL.**—Not later than 30 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a one-time payment to each eligible State or unit of local government

which used a punch card voting system to administer the regularly scheduled general election for Federal office held in November 2000.

(b) **USE OF FUNDS.**—A State or unit of local government shall use the funds provided under a payment under this subtitle (either directly or as reimbursement) to make technical enhancements to the performance of its punch card voting system (by any arrangement as may be appropriate).

(c) **DEADLINE.**—

(1) **IN GENERAL.**—A State or unit of local government receiving a payment under the program under this subtitle shall—

(A) obligate the funds provided for the uses described in subsection (b) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002; and

(B) ensure that technical enhancements have been made to the performance of all of the punch card voting systems under its jurisdiction in time for the regularly scheduled general election for Federal office to be held in November 2004.

(2) **WAIVER.**—If a State or unit of local government provides the Election Assistance Commission (established under section 201) (not later than the date of the regularly scheduled general election for Federal office to be held in November 2002) with a notice that the State or unit will not meet the deadlines described in paragraph (1) and includes in the notice the reasons for the failure to meet such deadlines, and the Commission finds that there is good cause for the failure to meet such deadlines, paragraph (1) shall apply to the State or unit as if—

(A) the reference in paragraph (1)(A) to “November 2002” were a reference to “November 2004”; and

(B) the reference in paragraph (1)(B) to “November 2004” were a reference to “November 2006”.

#### **SEC. 112. ELIGIBILITY.**

(a) **STATES.**—Subject to subsection (c), a State is eligible to receive a payment under the program under this subtitle if it submits to the Administrator an application not later than 120 days after the date of the enactment of this Act (in such form as the Administrator may require) which contains—

(1) assurances that the State will use the payment (either directly or as reimbursement) to make technical enhancements to the performance of punch card voting systems in jurisdictions within the State which used such systems to carry out the general Federal election held in November 2000;

(2) assurances that in enhancing the performance of such voting systems the State will continue to meet its duties under the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and the Americans With Disabilities Act; and

(3) such other information and assurances as the Administrator may require which are necessary for the administration of the program.

(b) **UNITS OF LOCAL GOVERNMENT.**—Subject to subsection (c), a unit of local government is eligible to receive a payment under the program under this subtitle if it submits to the Administrator—

(1) not later than the date of the regularly scheduled general election for Federal office to be held in November 2002, a statement of its intent to participate in the program, including assurances that the State in which the unit is located—

(A) failed to submit an application under subsection (a) within the deadline specified under such subsection,

(B) is otherwise not eligible to receive a payment under the program, or

(C) will not use the payment to enhance the performance of punch card voting systems in the unit; and

(2) an application (at such time and in such form as the Administrator may require) which contains similar assurances to those required to be provided by a State in its application under subsection (a).

(c) **PROHIBITING PARTICIPATION IN PUNCH CARD REPLACEMENT PROGRAM.**—A State or unit of local government is not eligible to receive a payment under the program under this subtitle if the State or unit receives a payment under the program under subtitle A.

#### **SEC. 113. AMOUNT OF PAYMENT.**

(a) **IN GENERAL.**—The amount of payment made to a State or unit of local government under the program under this subtitle shall be equal to the applicable per precinct matching rate of the cost to the State or unit (as the case may be) of the activities to be funded with the payment under the program in each precinct in the State

or unit (as the case may be) , except that in no case may the amount of the payment exceed the product of—

(1) the number of voting precincts administered by the State or unit which used a punch card voting system to carry out the general Federal election held in November 2000; and

(2) \$2,000.

(b) **APPLICABLE PER PRECINCT MATCHING RATE DEFINED.**—In subsection (a), the “applicable per precinct matching rate” is—

(1) 90 percent; or

(2) 95 percent, in the case of a precinct whose average per capita income is within the lowest quartile of average per capita incomes for all precincts in the United States (as determined by the 2000 decennial census).

**SEC. 114. AUDIT AND REPAYMENT OF FUNDS.**

(a) **AUDIT.**—Funds provided under the program under this subtitle shall be subject to audit by the Administrator.

(b) **REPAYMENT FOR FAILURE TO MEET REQUIREMENTS.**—If a State or unit of local government (as the case may be) receiving funds under the program under this subtitle fails to meet the deadlines applicable to the State or unit under section 111(c), the State or unit shall pay to the Administrator an amount equal to the amount of the funds provided to the State or unit under the program.

## Subtitle C—General Provisions

**SEC. 121. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated for payments under this title \$400,000,000, to remain available until expended (subject to subsection (b)).

(b) **USE OF RETURNED FUNDS AND FUNDS REMAINING UNEXPENDED FOR ELECTION FUND PAYMENTS.**—

(1) **IN GENERAL.**—The amounts referred to in paragraph (2) shall be transferred to the Election Assistance Commission (established under title II) and used by the Commission to make Election Fund payments under part 1 of subtitle C of title II.

(2) **AMOUNTS DESCRIBED.**—The amounts referred to in this paragraph are as follows:

(A) Any amounts appropriated pursuant to the authorization under this section which remain unobligated as of the date of the regularly scheduled general election for Federal office held in November 2002.

(B) Any amounts paid to the Administrator by a State or unit of local government under section 104(b).

(B) Any amounts paid to the Administrator by a State or unit of local government under section 114(b).

**SEC. 122. PUNCH CARD VOTING SYSTEM DEFINED.**

For purposes of this title, a “punch card voting system” means any of the following voting systems:

(1) C.E.S.

(2) Datavote.

(3) PBC Counter.

(4) Pollstar.

(5) Punch Card.

(6) Vote Recorder.

(7) Votomatic.

## TITLE II—COMMISSION

### Subtitle A—Establishment and General Organization

#### PART 1—ELECTION ASSISTANCE COMMISSION

##### SEC. 201. ESTABLISHMENT.

There is hereby established as an independent entity in the executive branch the Election Assistance Commission (hereafter in this title referred to as the “Commission”), consisting of—

- (1) the members appointed under this part;
- (2) the Election Assistance Commission Standards Board established under part 2 (including the Executive Board of such Board); and
- (3) the Election Assistance Commission Board of Advisors established under part 2.

##### SEC. 202. DUTIES.

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

- (1) carrying out the duties described in subtitle B (relating to voluntary election standards);
- (2) carrying out the duties described in subtitle C (relating to election assistance); and
- (3) developing and carrying out the Help America Vote College Program under title III.

##### SEC. 203. MEMBERSHIP AND APPOINTMENT.

###### (a) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall have 4 members appointed by the President, by and with the consent of the Senate, of whom—

- (A) 1 shall be appointed from among a list of nominees submitted by the majority leader of the Senate;
- (B) 1 shall be appointed from among a list of nominees submitted by the minority leader of the Senate;
- (C) 1 shall be appointed from among a list of nominees submitted by the Speaker of the House of Representatives; and
- (D) 1 shall be appointed from among a list of nominees submitted by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Each member of the Commission shall have experience with or expertise in election administration or the study of elections, except that no individual may serve as a member of the Commission if the individual is an officer or employee of the Federal Government at any time during the period of service on the Commission.

(3) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

###### (b) TERM OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

(2) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

- (A) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and
- (B) 2 of the members (not more than 1 of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

###### (3) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) EXPIRED TERMS.—A member of the Commission may serve on the Commission after the expiration of the member’s term until the successor of such member has taken office as a member of the Commission.

(C) UNEXPIRED TERMS.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) CHAIR AND VICE CHAIR.—The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated with the same political party.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall each be paid at an annual rate equal to \$30,000.

(2) TRAVEL EXPENSES.—Members of the Commission shall each receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) OUTSIDE EMPLOYMENT PERMITTED.—A member of the Commission may hold any other office or employment not inconsistent or in conflict with the member's duties, responsibilities, and powers as a member of the Commission.

#### SEC. 204. STAFF.

(a) EXECUTIVE DIRECTOR AND OTHER STAFF.—

(1) IN GENERAL.—The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(2) TERM OF SERVICE FOR EXECUTIVE DIRECTOR.—Except as provided in paragraph (3)(C), the Executive Director shall serve for a term of 4 years. An Executive Director may be reappointed for additional terms.

(3) PROCEDURE FOR APPOINTMENT.—

(A) IN GENERAL.—When a vacancy exists in the position of the Executive Director, the Election Assistance Commission Standards Board and the Election Assistance Commission Board of Advisors (described in part 2) shall each appoint a search committee to recommend not fewer than 3 nominees for the position.

(B) REQUIRING CONSIDERATION OF NOMINEES.—Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

(C) SPECIAL RULES FOR FIRST EXECUTIVE DIRECTOR.—

(i) CONVENING OF SEARCH COMMITTEES.—The Standards Board and the Board of Advisors shall each appoint a search committee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) INTERIM INITIAL APPOINTMENT.—Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as the first Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the first Executive Director from serving any additional term.

(4) OTHER STAFF.—Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(5) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule.

(b) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, with the approval of a majority of the members of the Commission.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Chair, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(d) ARRANGING FOR ASSISTANCE FOR BOARD OF ADVISORS AND STANDARDS BOARD.—At the request of the Election Assistance Commission Board of Advisors or the Election Assistance Commission Standards Board established under part 2, the Executive Director shall enter into such arrangements as the Executive Director considers appropriate to make personnel available to assist the Boards with car-



rying out their duties under this title (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) **CONSULTATION WITH BOARD OF ADVISORS AND STANDARDS BOARD ON CERTAIN MATTERS.**—In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board established under part 2.

**SEC. 205. POWERS.**

(a) **HEARINGS AND SESSIONS.**—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Chair of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(e) **CONTRACTS.**—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

**SEC. 206. LIMITATION ON RULEMAKING AUTHORITY.**

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under the National Voter Registration Act of 1993.

**SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

In addition to the amounts authorized for payments and grants under subtitle C and the amounts authorized to be appropriated for the program under section 303, there are authorized to be appropriated for each of the fiscal years 2002 through 2004 such sums as may be necessary (but not to exceed \$10,000,000 for each such year) for the Commission to carry out its duties under this title.

## **PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS**

**SEC. 211. ESTABLISHMENT.**

There are hereby established the Election Assistance Commission Standards Board (hereafter in this title referred to as the “Standards Board”) and the Election Assistance Commission Board of Advisors (hereafter in this title referred to as the “Board of Advisors”).

**SEC. 212. DUTIES.**

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in section 223, review any of the voluntary engineering and procedural performance standards described in section 221(a)(1), any of the voluntary standards described in section 221(a)(4), and any of the voluntary election management practice standards described in section 221(a)(6) (and any modifications to such standards) which are recommended by the Commission under subtitle B.

**SEC. 213. MEMBERSHIP OF STANDARDS BOARD.**

(a) **COMPOSITION.**—

(1) **IN GENERAL.**—Subject to certification by the chair of the Federal Election Commission under subsection (b), the Standards Board shall be composed of 110 members as follows:

(A) 55 shall be the chief State election officials of each State.

(B) 55 shall be local election officials selected in accordance with paragraph (2).

(2) LIST OF LOCAL ELECTION OFFICIALS.—Each State's local election officials shall select (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) REQUIRING MIX OF POLITICAL PARTIES REPRESENTED.—The 2 members of the Standards Board who represent the same State may not be members of the same political party.

(b) PROCEDURES FOR NOTICE AND CERTIFICATION OF APPOINTMENT.—

(1) NOTICE TO CHAIR OF FEDERAL ELECTION COMMISSION.—Not later than 90 days after the date of the enactment of this Act, a State shall transmit a notice to chair of the Federal Election Commission containing—

(A) a statement that the chief election official of the State agrees to serve on the Standards Board under this title; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) who will serve on the Standards Board under this title.

(2) CERTIFICATION.—Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the chief election official and the representative local election official are appointed as members of the Standards Board under this title.

(3) EFFECT OF FAILURE TO PROVIDE NOTICE.—If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the Executive Board under subsection (c).

(4) ROLE OF COMMISSION.—Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) EXECUTIVE BOARD.—

(1) IN GENERAL.—Not later than 60 days after the last day on which the appointment of any of its members may be certified under subsection (b), the Standards Board shall select 9 of its members to serve as the Executive Board of the Standards Board, of whom—

(A) not more than 5 may be chief State election officials;

(B) not more than 5 may be local election officials; and

(C) not more than 5 may be members of the same political party.

(2) TERMS.—Except as provided in paragraph (3), members of the Executive Board of the Standards Board shall serve for a term of 2 years and may not serve for more than 3 consecutive terms.

(3) STAGGERING OF INITIAL TERMS.—Of the members first selected to serve on the Executive Board of the Standards Board—

(A) 3 shall serve for one term;

(B) 3 shall serve for 2 consecutive terms; and

(C) 3 shall serve for 3 consecutive terms,

as determined by lot at the time the members are first appointed.

(4) DUTIES.—In addition to any other duties assigned under this title, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

#### SEC. 214. MEMBERSHIP OF BOARD OF ADVISORS.

(a) IN GENERAL.—The Board of Advisors shall be composed of 25 members appointed as follows:

(1) 2 members appointed by the United States Commission on Civil Rights.

(2) 2 members appointed by the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(3) 2 members appointed by the National Governors Association.

(4) 2 members appointed by the National Conference of State Legislatures.

(5) 2 members appointed by the National Association of Secretaries of State.

(6) 2 members appointed by the National Association of State Election Directors.

(7) 2 members appointed by the National Association of Counties.

(8) 2 members appointed by the National Association of County Recorders, Election Administrators, and Clerks.

(9) 2 members appointed by the United States Conference of Mayors.

(10) 2 members appointed by the Election Center.

(11) 2 members appointed by the International Association of County Recorders, Election Officials, and Treasurers.

(12) 2 members representing professionals in the field of science and technology, of whom 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the majority leader of the Senate (or, if the majority leader is a member of the same political party as the Speaker, by the minority leader of the Senate).

(13) The chief of the Office of Public Integrity of the Department of Justice, or the chief's designee.

(b) DIVERSITY IN APPOINTMENTS.—Appointments shall be made to the Board of Advisors under subsection (a) in a manner which ensures that the Board of Advisors will be bipartisan in nature and will reflect the various geographic regions of the United States.

(c) TERM OF SERVICE; VACANCY.—Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed. Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) CHAIR.—The Board of Advisors shall elect a Chair from among its members.

#### SEC. 215. POWERS OF BOARDS; NO COMPENSATION FOR SERVICE.

(a) HEARINGS AND SESSIONS.—

(1) IN GENERAL.—To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this title, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) MEETINGS.—The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the standards referred to it under section 223;

(B) in the case of the Standards Board, not less frequently than once every 2 years for purposes of selecting the Executive Board; and

(C) at such other times as it considers appropriate for purposes of conducting such other business as it considers appropriate consistent with this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Standards Board and the Board of Advisors may each secure directly from any Federal department or agency such information as the Board considers necessary to carry out this Act. Upon request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the head of such department or agency shall furnish such information to the Board.

(c) POSTAL SERVICES.—The Standards Board and the Board of Advisors may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal Government.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the Administrator of the General Services Administration shall provide to the Board, on a reimbursable basis, the administrative support services that are necessary to enable the Board to carry out its duties under this title.

(e) NO COMPENSATION FOR SERVICE.—Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

#### SEC. 216. STATUS OF BOARDS AND MEMBERS FOR PURPOSES OF CLAIMS AGAINST BOARD.

(a) IN GENERAL.—The provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) EXCEPTION FOR CRIMINAL ACTS AND OTHER WILLFUL CONDUCT.—Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act

or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

## Subtitle B—Voluntary Election Standards

### SEC. 221. DEVELOPMENT OF VOLUNTARY ELECTION STANDARDS.

(a) IN GENERAL.—The Commission shall:

(1) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary engineering and procedural performance standards for voting systems used in Federal elections which shall meet the following requirements:

(A) The scope of the standards should include security (including a documentary audit for non-ballot systems), the procedures for certification and decertification of software and hardware, the assessment of usability, and operational guidelines for the proper use and maintenance of equipment.

(B) The standards should provide that voters have the opportunity to correct errors at the precinct or other polling place, either within the voting equipment itself or in the operational guidelines to administrators for using the equipment, under conditions which assure privacy to the voter.

(C) Each voting tally system certified for use should include as part of the certification a proposed statement of what constitutes a proper vote in the design and operation of the system.

(D) New voting equipment systems certified either by the Federal government or by any State should provide a practical and effective means for voters with physical disabilities to cast a secret ballot.

(2) Maintain a clearinghouse of information on the experiences of State and local governments in implementing the voluntary standards described in paragraph (1) and in operating voting systems in general.

(3) In accordance with section 224, provide for the voluntary testing, certification, decertification, and recertification of voting systems.

(4) Advise States and units of local government regarding compliance with the requirements of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) and compliance with other Federal laws regarding accessibility of registration facilities and polling places. Additionally, in accordance with section 223, the Commission shall develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years thereafter) voluntary standards for maintaining and enhancing the accessibility and privacy of registration facilities, polling places, and voting methods with the goal of promoting for all individuals, including the elderly and individuals with disabilities, the accessibility of polling places and the effective use of voting systems and voting equipment which provide the opportunity for casting a secure and secret ballot, and shall include in such standards voluntary guidelines regarding accessibility and ease-of-use for States and units of local government to use when obtaining voting equipment and selecting polling places. In carrying out this paragraph, the Commission shall consult with the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) and other individuals and entities with expertise in the accessibility of facilities for individuals with disabilities.

(5) Make periodic studies available to the public regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(A) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services, blind and disabled voters, and voters with limited English proficiency;

(B) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(C) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote; and

(D) will be efficient and cost-effective for use.

(6) In accordance with section 223, develop (through the Executive Director of the Commission), adopt, and update (not less often than every 4 years) voluntary election management practice standards for State and local election officials to maintain and enhance the administration of Federal elections, including standards developed in consultation with the Secretary of Defense to govern the treatment of absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) which will include provisions to address each of the following:

(A) The rights of residence of uniformed services voters absent due to military orders.

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots.

(C) The rights of absent uniformed services voters and overseas voters to submit absentee ballot applications early during an election year.

(D) The appropriate pre-election deadline for mailing absentee ballots to absent uniformed services voters and overseas voters.

(E) The appropriate minimum period between the mailing of absentee ballots to absent uniformed services voters and overseas voters and the deadline for receipt of such ballots.

(F) The timely transmission of balloting materials to absent uniformed services voters and overseas voters.

(G) Security and privacy concerns in the transmission, receipt, and processing of ballots from absent uniformed services voters and overseas voters, including the need to protect against fraud.

(H) The use of a single application by absent uniformed services voters and overseas voters for absentee ballots for all Federal elections occurring during a year.

(I) The use of a single application for voter registration and absentee ballots by absent uniformed services voters and overseas voters.

(J) The use of facsimile machines and electronic means of transmission of absentee ballot applications and absentee ballots to absent uniformed services voters and overseas voters.

(K) Other issues related to the rights of absent uniformed services voters and overseas voters to participate in elections.

(7) Carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7) regarding mail voter registration.

(8) Make information on the Federal election system available to the public and the media.

(9) At the request of State officials, assist such officials in the review of election or vote counting procedures in Federal elections, through bipartisan panels of election professionals assembled by the Commission for such purpose.

(10) Compile and make available to the public the official certified results of general elections for Federal office and reports comparing the rates of voter registration, voter turnout, voting system functions, and ballot errors among jurisdictions in the United States.

(11) Gather information and serve as a clearinghouse concerning issues relating to Federal, State, and local elections.

(b) ELECTION ADMINISTRATION ISSUES DESCRIBED.—The election administration issues described in this subsection are as follows:

(1) Current and alternate methods and mechanisms of voting and counting votes in elections for Federal office.

(2) Current and alternate ballot designs for elections for Federal office.

(3) Current and alternate methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that all registered voters appear on the polling list at the appropriate polling site.

(4) Current and alternate methods of conducting provisional voting.

(5) Current and alternate methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including disabled voters and voters with limited English proficiency.

(6) Current and alternate methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.

(7) Current and alternate methods of recruiting and improving the performance of poll workers.

(8) Federal and State laws governing the eligibility of persons to vote.

(9) Current and alternate methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) Matters particularly relevant to voting and administering elections in rural and urban areas.

(11) Conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time.

(12) The ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(c) CONSULTATION WITH STANDARDS BOARD AND BOARD OF ADVISORS.—The Commission shall carry out its duties under this subtitle in consultation with the Standards Board and the Board of Advisors.

**SEC. 222. TECHNICAL STANDARDS DEVELOPMENT COMMITTEE.**

(a) ESTABLISHMENT.—There is hereby established the Technical Standards Development Committee (hereafter in this subtitle referred to as the “Development Committee”).

(b) DUTIES.—

(1) IN GENERAL.—The Development Committee shall assist the Executive Director of the Commission in the development of voluntary standards under this subtitle by recommending standards (and modifications to standards) to ensure the usability, accuracy, security, accessibility, and integrity of voting systems and voting equipment.

(2) DEADLINE FOR INITIAL SET OF RECOMMENDATIONS.—The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

(i) Members of the Standards Board.

(ii) Members of the Board of Advisors.

(iii) Members of the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(B) A representative of the American National Standards Institute.

(C) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

(2) QUORUM.—A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

(d) NO COMPENSATION FOR SERVICE.—Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) TECHNICAL SUPPORT FROM NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this subtitle.

(f) PUBLICATION OF RECOMMENDATIONS IN FEDERAL REGISTER.—At the time the Commission adopts any standard pursuant to section 223, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the standard adopted.

**SEC. 223. PROCESS FOR ADOPTION OF VOLUNTARY STANDARDS.**

(a) CONSIDERATION OF RECOMMENDATIONS OF DEVELOPMENT COMMITTEE; SUBMISSION OF PROPOSED VOLUNTARY STANDARDS TO BOARD OF ADVISORS AND STANDARDS BOARD.—

(1) CONSIDERATION OF RECOMMENDATIONS OF DEVELOPMENT COMMITTEE.—In developing standards and modifications for purposes of this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Standards Development Committee under section 222.

(2) BOARD OF ADVISORS.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice

standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Board of Advisors.

(3) STANDARDS BOARD.—The Executive Director of the Commission shall submit each of the voluntary engineering and procedural performance standards (described in section 221(a)(1)), each of the voluntary standards described in section 221(a)(4), and each of the voluntary election management practice standards (described in section 221(a)(6)) developed by the Executive Director (or any modifications to such standards) to the Executive Board of the Standards Board, who shall review the standard (or modification) and forward its recommendations to the Standards Board.

(b) REVIEW.—Upon receipt of a voluntary standard described in subsection (a) (or modification of such a standard) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the standard (or modification) to the Commission.

(c) FINAL APPROVAL.—

(1) IN GENERAL.—A voluntary standard described in subsection (a) (or modification of such a standard) shall not be considered to be finally adopted by the Commission unless the majority of the members of the Commission vote to approve the final adoption of the standard (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (b).

(2) MINIMUM PERIOD FOR CONSIDERATION OF COMMENTS AND RECOMMENDATIONS.—The Commission may not vote on the final adoption of a voluntary standard described in subsection (a) (or modification of such a standard) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the standard (or modification) to the Board of Advisors and the Standards Board under subsection (a).

#### SEC. 224. CERTIFICATION AND TESTING OF VOTING SYSTEMS.

(a) CERTIFICATION AND TESTING.—

(1) IN GENERAL.—The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) OPTIONAL USE BY STATES.—At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) LABORATORY ACCREDITATION.—

(1) RECOMMENDATIONS BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Not later than 6 months after the Commission first adopts voluntary engineering and procedural performance standards under this subtitle, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

(2) APPROVAL BY COMMISSION.—The Commission shall vote on the proposed accreditation of each laboratory on the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a majority vote of the members of the Commission.

(c) CONTINUING REVIEW BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) IN GENERAL.—In cooperation with the Commission and in consultation with the Standards Board and the Board of Advisors, the Director of the National Institute of Standards and Technology shall monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission under this section, and shall make such recommendations to the Commission as it considers appropriate with respect to the continuing accreditation of such laboratories, including recommendations to revoke the accreditation of any such laboratory.

(2) APPROVAL BY COMMISSION REQUIRED FOR REVOCATION.—The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a majority vote of the members of the Commission.

#### SEC. 225. DISSEMINATION OF INFORMATION.

On an ongoing basis, the Commission shall disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) information on the activities carried out under this subtitle, including—

(1) the voluntary election standards adopted by the Commission, together with guidelines for applying the standards and other information to assist in their implementation;

(2) the list of laboratories accredited to carry out testing, certification, decertification, and recertification of voting system hardware and software under section 224; and

(3) a list of voting system hardware and software products which have been certified pursuant to section 224 as meeting the applicable voluntary standards adopted by the Commission under this subtitle.

## **Subtitle C—Election Assistance**

### **PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS**

#### **SEC. 231. ELECTION FUND PAYMENTS TO STATES FOR VOTING SYSTEM IMPROVEMENTS.**

(a) **IN GENERAL.**—The Commission shall make an Election Fund payment each year in an amount determined under section 232 to each State which meets the requirements described in section 233 for the year.

(b) **USE OF FUNDS.**—A State receiving an Election Fund payment shall use the payment for any or all of the following activities:

- (1) Establishing and maintaining accurate lists of eligible voters.
- (2) Encouraging eligible voters to vote.
- (3) Improving verification and identification of voters at the polling place.
- (4) Improving equipment and methods for casting and counting votes.
- (5) Recruiting and training election official and poll workers.
- (6) Improving the quantity and quality of available polling places.
- (7) Educating voters about their rights and responsibilities.
- (8) Assuring access for voters with physical disabilities.
- (9) Carrying out other activities to improve the administration of elections in the State.

(c) **ADOPTION OF COMMISSION STANDARDS NOT REQUIRED TO RECEIVE PAYMENT.**—Nothing in this part may be construed to require a State to implement any of the voluntary standards adopted by the Commission with respect to any matter as a condition for receiving an Election Fund payment.

(d) **SCHEDULE OF PAYMENTS.**—As soon as practicable after all members of the Commission are appointed (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make Election Fund payments to States under this part.

#### **SEC. 232. ALLOCATION OF FUNDS.**

(a) **IN GENERAL.**—Subject to subsection (c), the amount of an Election Fund payment made to a State for a year shall be equal to the product of—

- (1) the total amount appropriated for Election Fund payments for the year under section 234; and
- (2) the State allocation percentage for the State (as determined under subsection (b)).

(b) **STATE ALLOCATION PERCENTAGE DEFINED.**—The “State allocation percentage” for a State is the amount (expressed as a percentage) equal to the quotient of—

- (1) the voting age population of the State; and
- (2) the total voting age population of all States.

(c) **MINIMUM AMOUNT OF PAYMENT.**—The amount of an Election Fund payment made to a State for a year may not be less than—

- (1) in the case of any of the several States or the District of Columbia,  $\frac{1}{2}$  of 1 percent of the total amount appropriated for Election Fund payments for the year under section 234; or
- (2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, 20% of the amount described in paragraph (1).

(d) **CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.**—An Election Fund payment made to a State under this part shall be available to the State without fiscal year limitation.

#### **SEC. 233. CONDITIONS FOR RECEIPT OF FUNDS.**

(a) **IN GENERAL.**—In order to receive an Election Fund payment for a fiscal year, the chief State election official of the State shall provide the Commission with the following certifications:



(1) A certification that the State has authorized and appropriated funds for carrying out the activities for which the Election Fund payment is made in an amount equal to 25 percent of the total amount to be spent for such activities (taking into account the Election Fund payment and the amount spent by the State).

(2) A certification that the State has set a uniform Statewide benchmark for voting system performance in each local jurisdiction administering elections, expressed as a percentage of residual vote in the contest at the top of the ballot, and requires local jurisdictions to report data relevant to this benchmark after each general election for Federal office.

(3) A certification that the State is in compliance with the voluntary voting system standards and certification processes adopted by the Commission or that the State has enacted legislation establishing its own State voting system standards and processes which (at a minimum) ensure that new voting mechanisms have the audit capacity to produce a record for each ballot cast.

(4) A certification that—

(A) in each precinct or polling place in the State, there is at least one voting system available which is fully accessible to individuals with physical disabilities; and

(B) if the State uses any portion of its Election Fund payment to obtain new voting machines, at least one voting machine in each polling place in the State will be fully accessible to individuals with physical disabilities.

(5) A certification that the State has established a fund described in subsection (b) for purposes of administering its activities under this part.

(6) A certification that, in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), and the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(7) A certification that the State provides for voter education and poll worker training programs to improve access to and participation in the electoral process, and provides relevant training in the requirements of the National Voter Registration Act of 1993 for personnel of State motor vehicle authority offices and other voter registration agencies designated by the State under such Act.

(8) A certification that the Election Fund payment has not and will not supplant funds provided under existing programs funded in the State for carrying out the activities for which the Election Fund payment is made.

**(b) REQUIREMENTS FOR ELECTION FUND.—**

(1) **ELECTION FUND DESCRIBED.**—For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the Election Fund payment is made to the State under this part.

(B) The Election Fund payment made to the State under this part.

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.

(2) **USE OF FUND.**—Amounts in the fund shall be used by the State exclusively to carry out the activities for which the Election Fund payment is made to the State under this part.

(c) **METHODS OF COMPLIANCE LEFT TO DISCRETION OF STATE.**—The specific choices on the methods of complying with the requirements described in subsection (a) shall be left to the discretion of the State.

(d) **CHIEF STATE ELECTION OFFICIAL DEFINED.**—In this subtitle, the “chief State election official” of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for coordination of the State’s responsibilities under such Act.

**SEC. 234. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for Election Fund payments under this part an aggregate amount of \$2,250,000,000 for fiscal years 2002 through 2004.

## **PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS**

### **SEC. 241. GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS.**

(a) **IN GENERAL.**—The Commission shall make grants to assist entities in carrying out research and development to improve the quality, reliability, accuracy, accessibility, affordability, and security of voting equipment, election systems, and voting technology.

(b) **ELIGIBILITY.**—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the research and development funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

(c) **APPLICABILITY OF REGULATIONS GOVERNING PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE.**—Any invention made by the recipient of a grant under this part using funds provided under this part shall be subject to chapter 18 of title 35, United States Code (relating to patent rights in inventions made with Federal assistance).

### **SEC. 242. REPORT.**

(a) **IN GENERAL.**—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) **DEADLINE.**—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

### **SEC. 243. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for grants under this part \$20,000,000 for fiscal year 2002.

## **PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY**

### **SEC. 251. PILOT PROGRAM.**

(a) **IN GENERAL.**—The Commission shall make grants to carry out pilot programs under which new technologies in voting systems and equipment are implemented on a trial basis.

(b) **ELIGIBILITY.**—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) assurances that the pilot programs funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities (including blind individuals), the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and assurances as the Commission may require.

### **SEC. 252. REPORT.**

(a) **IN GENERAL.**—Each entity which receives a grant under this part shall submit to the Commission, Congress, and the President a report describing the activities carried out with the funds provided under the grant.

(b) **DEADLINE.**—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

### **SEC. 253. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for grants under this part \$10,000,000 for fiscal year 2002.

## PART 4—MISCELLANEOUS

### SEC. 261. ROLE OF NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) **RECOMMENDATION OF TOPICS FOR RESEARCH UNDER VOTING RESEARCH GRANTS AND PILOT PROGRAMS.**—The Director of the National Institute of Standards and Technology (hereafter in this section referred to as the “Director”) shall submit to the Commission an annual list of the Director’s suggestions for issues which may be the subject of research funded with grants awarded under part 2 and part 3 during the year.

(b) **REVIEW OF GRANT APPLICATIONS RECEIVED BY COMMISSION.**—The Commission shall submit each application it receives for a grant under part 2 or part 3 to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

(c) **MONITORING AND ADJUSTMENT OF GRANT ACTIVITIES.**—After the Commission has awarded a grant under part 2 or part 3, the Director shall monitor the grant and (to the extent permitted under the terms of the grant as awarded) may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

(d) **EVALUATION OF COMPLETED GRANTS.**—

(1) **IN GENERAL.**—After the recipient of a grant awarded by the Commission has completed the terms of the grant, the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

(2) **INCLUSION IN REPORTS.**—The Commission shall include the evaluations submitted under paragraph (1) for a year in the report submitted for the year under section 262.

(e) **INTRAMURAL RESEARCH AND DEVELOPMENT.**—The Director shall establish a program for intramural research and development in areas to support the development of voluntary technical standards for voting products and systems, including—

(1) the security of computers, computer networks, and computer data storage used in voting products and systems, including the Statewide voter registration networks required under the minimum standard described in section 502(1);

(2) methods to detect and prevent fraud;

(3) the protection of voter privacy;

(4) the role of human factors in the design and application of voting products and systems, including assistive technologies for individuals with disabilities and varying levels of literacy; and

(5) remote access voting, including voting through the Internet.

### SEC. 262. REPORTS.

(a) **ANNUAL REPORTS ON ACTIVITIES.**—Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate on the activities carried out by the Commission under this subtitle during the previous fiscal year, and shall include in the report a description of all applications for Election Fund payments and grants received by the Commission during the year under this subtitle and the disposition of such applications.

(b) **REPORT ON HUMAN FACTOR RESEARCH.**—Not later than 1 year after the date of the enactment of this Act, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall submit a report to Congress which assesses the areas of human factor research, including usability engineering and human-computer and human-machine interaction, which feasibly could be applied to voting products and systems design to ensure the usability and accuracy of voting products and systems, including methods to improve access for individuals with disabilities and to reduce voter error and the number of spoiled ballots in elections.

### SEC. 263. AUDIT.

(a) **IN GENERAL.**—As a condition of receiving funds under this subtitle, a State or entity described in part 2 or part 3 shall agree that such funds shall be subject to audit if 2 or more members of the Commission vote to require an audit.

(b) **MANDATORY AUDIT.**—In addition to audits conducted pursuant to subsection (a), all funds provided under this subtitle shall be subject to mandatory audit at least once during the lifetime of the programs under this subtitle.

## TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

### SEC. 301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the appointment of its members, the Election Assistance Commission shall develop a program to be known as the “Help America Vote College Program” (hereafter in this title referred to as the “Program”).

(b) PURPOSES OF PROGRAM.—The purpose of the Program shall be—

- (1) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and
- (2) to encourage State and local governments to use the services of the students participating in the Program.

### SEC. 302. ACTIVITIES UNDER PROGRAM.

(a) IN GENERAL.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in section 301(b).

(b) REQUIREMENTS FOR GRANT RECIPIENTS.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(c) COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

### SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

In addition to any funds authorized to be appropriated to the Commission under section 207, there are authorized to be appropriated to carry out this title—

- (1) \$5,000,000 for fiscal year 2002; and
- (2) such sums as may be necessary for each succeeding fiscal year.

## TITLE IV—HELP AMERICA VOTE FOUNDATION

### SEC. 401. HELP AMERICA VOTE FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1525 the following:

#### “CHAPTER 1526—HELP AMERICA VOTE FOUNDATION

“Sec.

“152601. Organization.

“152602. Purposes.

“152603. Board of directors.

“152604. Officers and employees.

“152605. Powers.

“152606. Principal office.

“152607. Service of process.

“152608. Annual audit.

“152609. Civil action by Attorney General for equitable relief.

“152610. Immunity of United States Government.

“152611. Authorization of appropriations.

“152612. Annual report.

#### “§ 152601. Organization

“(a) FEDERAL CHARTER.—The Help America Vote Foundation (in this chapter, the ‘foundation’) is a federally chartered corporation.

“(b) NATURE OF FOUNDATION.—The foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

“(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the foundation has perpetual existence.

#### “§ 152602. Purposes

“(a) IN GENERAL.—The purposes of the foundation are to—

“(1) mobilize secondary school students (including students educated in the home) in the United States to participate in the election process in a non-partisan manner as poll workers or assistants;

“(2) place secondary school students (including students educated in the home) as nonpartisan poll workers or assistants to local election officials in precinct polling places across the United States; and

“(3) establish cooperative efforts with State and local election officials, local educational agencies, superintendents and principals of public and private secondary schools, and other appropriate nonprofit charitable and educational organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code to further the purposes of the foundation.

“(b) **REQUIRING ACTIVITIES TO BE CARRIED OUT ON NONPARTISAN BASIS.**—The foundation shall carry out its purposes without partisan bias or without promoting any particular point of view regarding any issue, and shall ensure that each participant in its activities is governed in a balanced manner which does not reflect any partisan bias.

“(c) **CONSULTATION WITH STATE ELECTION OFFICIALS.**—The foundation shall carry out its purposes under this section in consultation with the chief election officials of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

**“§ 152603. Board of directors**

“(a) **GENERAL.**—The board of directors is the governing body of the foundation.

“(b) **MEMBERS AND APPOINTMENT.**—(1) The board consists of 12 directors, who shall be appointed not later than 60 days after the date of the enactment of this chapter as follows:

“(A) 4 directors (of whom not more than 2 may be members of the same political party) shall be appointed by the President.

“(B) 2 directors shall be appointed by the Speaker of the House of Representatives.

“(C) 2 directors shall be appointed by the minority leader of the House of Representatives.

“(D) 2 directors shall be appointed by the majority leader of the Senate.

“(E) 2 directors shall be appointed by the minority leader of the Senate.

“(2) In addition to the directors described in paragraph (1), the chair and ranking minority member of the Committee on House Administration of the House of Representatives (or their designees) and the chair and ranking minority member of the Committee on Rules and Administration of the Senate (or their designees) shall each serve as an ex officio nonvoting member of the board.

“(3) A director is not an employee of the Federal government and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States (except as may otherwise be provided in this chapter).

“(4) The terms of office of the directors are 4 years.

“(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

“(c) **CHAIR.**—The directors shall select one of the directors as the chair of the board. The individual selected may not be a current or former holder of any partisan elected office or a current or former officer of any national committee of a political party.

“(d) **QUORUM.**—The number of directors constituting a quorum of the board shall be established under the bylaws of the foundation.

“(e) **MEETINGS.**—The board shall meet at the call of the chair of the board for regularly scheduled meetings, except that the board shall meet not less often than annually.

“(f) **REIMBURSEMENT OF EXPENSES.**—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

“(g) **LIABILITY OF DIRECTORS.**—Directors are not personally liable, except for gross negligence.

**“§ 152604. Officers and employees**

“(a) **APPOINTMENT OF OFFICERS AND EMPLOYEES.**—The board of directors appoints, removes, and replaces officers and employees of the foundation.

“(b) **STATUS AND COMPENSATION OF EMPLOYEES.**—

“(1) **IN GENERAL.**—Officers and employees of the foundation—

“(A) are not employees of the Federal government (except as may otherwise be provided in this chapter);

“(B) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

“(C) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5.

“(2) AVAILABILITY OF FEDERAL EMPLOYEE RATES FOR TRAVEL.—For purposes of any schedules of rates negotiated by the Administrator of General Services for the use of employees of the Federal government who travel on official business, officers and employees of the foundation who travel while engaged in the performance of their duties under this chapter shall be deemed to be employees of the Federal government.

**“§ 152605. Powers**

“(a) GENERAL.—The foundation may—

“(1) adopt a constitution and bylaws;

“(2) adopt a seal which shall be judicially noticed; and

“(3) do any other act necessary to carry out this chapter.

“(b) POWERS AS TRUSTEE.—To carry out its purposes, the foundation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

“(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

“(2) to acquire property or an interest in property by purchase or exchange;

“(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

“(4) to borrow money and issue instruments of indebtedness;

“(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

“(6) to sue and be sued; and

“(7) to do any other act necessary and proper to carry out the purposes of the foundation.

“(c) ENCUMBERED OR RESTRICTED GIFTS.—A gift, devise, or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the foundation.

“(d) CONTRACTS.—The foundation may enter into such contracts with public and private entities as it considers appropriate to carry out its purposes.

“(e) ANNUAL CONFERENCE IN WASHINGTON METROPOLITAN AREA.—During each year (beginning with 2003), the foundation may sponsor a conference in the Washington, D.C., metropolitan area to honor secondary school students and other individuals who have served (or plan to serve) as poll workers and assistants and who have otherwise participated in the programs and activities of the foundation.

**“§ 152606. Principal office**

“The principal office of the foundation shall be in the District of Columbia unless the board of directors determines otherwise. However, the foundation may conduct business throughout the States, territories, and possessions of the United States.

**“§ 152607. Service of process**

“The foundation shall have a designated agent to receive service of process for the foundation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the foundation.

**“§ 152608. Annual audit**

“The foundation shall enter into a contract with an independent auditor to conduct an annual audit of the foundation.

**“§ 152609. Civil action by Attorney General for equitable relief**

“The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the foundation—

“(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152602 of this title; or

“(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

**“§ 152610. Immunity of United States Government**

“The United States Government is not liable for any debts, defaults, acts, or omissions of the foundation. The full faith and credit of the Government does not extend to any obligation of the foundation.

**“§ 152611. Authorization of appropriations**

“There are authorized to be appropriated to the foundation for carrying out the purposes of this chapter—

“(1) \$5,000,000 for fiscal year 2002; and

“(2) such sums as may be necessary for each succeeding fiscal year.

**“§ 152612. Annual report**

“As soon as practicable after the end of each fiscal year, the foundation shall submit a report to the Commission, the President, and Congress on the activities of the foundation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments. Such report shall contain information gathered from participating secondary school students describing the nature of the work they performed in assisting local election officials and the value they derived from the experience of educating participants about the electoral process.”

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1525 the following new item:

“1526. Help America Vote Foundation .....152601”.

## **TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS**

**SEC. 501. MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS.**

(a) IN GENERAL.—The chief State election official of each State shall certify in writing to the Election Assistance Commission that—

(1) in administering election systems, the State is in compliance with the existing applicable requirements of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans With Disabilities Act of 1990; and

(2) the State has enacted legislation to enable the State to meet each of the minimum standards for State election systems described in section 502.

(b) METHODS OF IMPLEMENTATION LEFT TO DISCRETION OF STATE.—The specific choices on the methods of implementing the legislation enacted pursuant to subsection (a)(2) shall be left to the discretion of the State.

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

**SEC. 502. STANDARDS DESCRIBED.**

The minimum standards for State election systems described in this section are as follows:

(1) The State will implement a Statewide voter registration system networked to every local jurisdiction in the State, with provisions for sharing data with other States, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) The State election system includes provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance which removes registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993, registrants who have not voted in 2 or more consecutive general elections for Federal office and who have not responded to a notice shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(3) The State permits, by the deadline required under section 504(b), in-preinct provisional voting by every voter who claims to be qualified to vote in the State, or has adopted an alternative which achieves the same objective, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, all votes in the State in general elections for Federal office are cast by mail.

(4) The State has adopted uniform standards that define what will constitute a vote on each category of voting equipment certified for use in the State.

(5) The State has implemented safeguards to ensure that absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act) in the jurisdiction have the opportunity to vote and to have their votes counted.

(6) The State requires new voting systems to provide a practical and effective means for voters with physical disabilities to cast a secret ballot.

(7) If the State uses voting systems which give voters the opportunity to correct errors, the State shall ensure that voters are able to check for and correct errors under conditions which assure privacy. States, and units of local government within the States, replacing all voting machines within their jurisdiction shall ensure that the new voting system gives voters the opportunity to correct errors before the vote is cast.

#### SEC. 503. ENFORCEMENT.

(a) REPORT BY COMMISSION TO ATTORNEY GENERAL.—If a State does not provide a certification under section 501 to the Election Assistance Commission, or if the Commission has credible evidence that a State's certification is false or that a State is carrying out activities in violation of the terms of the certification, the Commission shall notify the Attorney General.

(b) ACTION BY ATTORNEY GENERAL.—After receiving notice from the Commission under subsection (a), the Attorney General may bring a civil action against a State in an appropriate district court for such declaratory or injunctive relief as may be necessary to remedy a violation of this title.

#### SEC. 504. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the requirements of this title shall take effect upon the expiration of the 2-year period which begins on the date of the enactment of this Act, except that if the chief State election official of a State certifies that good cause exists to waive the requirements of this title with respect to the State until the date of the regularly scheduled general election for Federal office held in November 2004, the requirements shall apply with respect to the State beginning on the date of such election.

(b) DEADLINES FOR IMPLEMENTATION OF PROVISIONAL VOTING.—The minimum standard described in section 502(3) (relating to permitting in-precinct provisional voting) shall apply with respect to the regularly scheduled general election for Federal office held in November 2002 and each succeeding election for Federal office, except that if the chief State election official of a State certifies that good cause exists to delay the implementation of such standard in the State, the standard shall apply in the State with respect to the regularly scheduled general election for Federal office held in November 2004 and each succeeding election for Federal office held in the State.

## TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

#### SEC. 601. VOTING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

##### **“§ 1566. Voting assistance: compliance assessments; assistance**

“(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

“(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term ‘voting assistance programs’ means—

“(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and

“(2) any similar program.

“(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—

“(A) an annual review of the effectiveness of voting assistance programs; and

“(B) an annual review of the compliance with voting assistance programs of that armed force.



“(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

“(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

“(A) the effectiveness during the preceding calendar year of voting assistance programs; and

“(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

“(d) INSPECTOR GENERAL ASSESSMENTS.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

“(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

“(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

“(C) other requirements of law regarding voting by members of the armed forces.

“(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

“(3) Each assessment under paragraph (1) shall include a review of such compliance—

“(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

“(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

“(C) within unit voting assistance officers to measure program effectiveness.

“(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

“(f) VOTING ASSISTANCE OFFICERS.—(1) Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer. The Secretary of each military department shall certify to Congress that (at a minimum) a voting assistance officer has been appointed or assigned for each military installation and major command under the jurisdiction of the department and that a replacement will be appointed if the original officer is no longer able to serve.

“(2) Under regulations and procedures prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member's duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.

“(3) As part of each assessment prepared by the Secretary of a military department under subsection (e), the Secretary shall—

“(A) specify the number of members of the armed forces under the jurisdiction of the Secretary who are appointed or assigned to duty as voting assistance officers;

“(B) specify the ratio of voting assistance officers to active duty members of the armed forces under the jurisdiction of the Secretary;

“(C) indicate whether this number and ratio comply with the requirements of the Federal Voting Assistance Program; and

“(D) describe the training such members receive to perform their duties as voting assistance officers.

“(g) REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS.—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall, to the maximum extent practicable, ensure that members of the armed forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements

and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

“(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists, reenlists, or voluntarily extends an enlistment or who completes a permanent change of station in an active or reserve component of the Army, Navy, Air Force, or Marine Corps shall receive such form at the time of the enlistment, reenlistment, extension, or completion of the permanent change of station, or as soon thereafter as practicable.

“(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the armed forces and their dependents of election timing, registration requirements, and voting procedures.

“(h) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

“(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

“(3) The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.

“(4) In this section, the term ‘general Federal election month’ means November in an even-numbered year.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1566. Voting assistance: compliance assessments; assistance.”.

(b) INITIAL REPORT.—The first report under section 1566(c)(3) of title 10, United States Code, as added by subsection (a), shall be submitted not later than March 31, 2003.

**SEC. 602. DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOTS FOR ALL VOTERS IN STATE.**

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Each State”; and

(2) by adding at the end the following new subsection:

“(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.—

“(1) IN GENERAL.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

“(2) RECOMMENDATION REGARDING USE OF OFFICE TO ACCEPT AND PROCESS MATERIALS.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State’s duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all

absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.”.

**SEC. 603. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.**

(a) **IN GENERAL.**—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 602, is amended by adding at the end the following new subsection:

“(c) **REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.**—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2001) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.”.

(b) **DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.**—The Election Assistance Commission, working with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board, shall develop a standardized format for the reports submitted by States and units of local government under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

**SEC. 604. SIMPLIFICATION OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROCEDURES FOR ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.**

(a) **REQUIRING STATES TO ACCEPT OFFICIAL FORM FOR SIMULTANEOUS VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION; DEADLINE FOR PROCESSING APPLICATION.**—

(1) **IN GENERAL.**—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1), as amended by section 602, is amended—

(A) by amending paragraph (2) to read as follows:

“(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;”;

(B) by striking the period at the end of paragraph (3) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application.”.

(2) **CONFORMING AMENDMENTS.**—Section 101(b)(2) of such Act (42 U.S.C. 1973ff(b)(2)) is amended by striking “as recommended in section 104” and inserting “as required under section 102(4)”.

(b) **USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.**—Section 104 of such Act (42 U.S.C. 1973ff–3) is amended to read as follows:

**“SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.**

“(a) **IN GENERAL.**—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.

“(b) **EXCEPTION FOR VOTERS CHANGING REGISTRATION.**—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

“(c) **REVISION OF OFFICIAL POST CARD FORM.**—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

“(1) request an absentee ballot for each election for Federal office held in a State during a year; or

“(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

“(d) NO EFFECT ON VOTER REMOVAL PROGRAMS.—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.”.

**SEC. 605. ADDITIONAL DUTIES OF PRESIDENTIAL DESIGNEE UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.**

(a) EDUCATING ELECTION OFFICIALS ON RESPONSIBILITIES UNDER ACT.—Section 101(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(1)) is amended by striking the semicolon at the end and inserting the following: “, and ensuring that such officials are aware of the requirements of this Act;”.

(b) DEVELOPMENT OF STANDARD OATH FOR USE WITH MATERIALS.—

(1) IN GENERAL.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking “and” at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury.”.

(2) REQUIRING STATES TO USE STANDARD OATH.—Section 102(a) of such Act (42 U.S.C. 1973ff–1(b)), as amended by sections 603 and 605(a), is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).”.

(c) PROVIDING BREAKDOWN BETWEEN OVERSEAS VOTERS AND ABSENT UNIFORMED SERVICES VOTERS IN STATISTICAL ANALYSIS OF VOTER PARTICIPATION.—Section 101(b)(6) of such Act (42 U.S.C. 1973ff(b)(6)) is amended by inserting after “participation” the following: “(listed separately for overseas voters and absent uniformed services voters)”.

**SEC. 606. USE OF BUILDINGS ON MILITARY INSTALLATIONS AND RESERVE COMPONENT FACILITIES AS POLLING PLACES.**

(a) LIMITED USE OF MILITARY INSTALLATIONS AUTHORIZED.—Section 2670 of title 10, United States Code, is amended—

(1) by striking “Under” and inserting “(a) USE BY RED CROSS.—Under”;

(2) by striking “this section” and inserting “this subsection”; and

(3) by adding at the end the following new subsection:

“(b) USE AS POLLING PLACES.—(1) Notwithstanding any other provision of law, the Secretary of a military department may make a building located on a military installation under the jurisdiction of the Secretary available for use as a polling place in any Federal, State, or local public election, but only if such use is limited to eligible voters who reside on that military installation.

“(2) If a building located on a military installation is made available under paragraph (1) as the site of a polling place, the Secretary shall continue to make the building available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and timely manner, of the reasons why the building will no longer be made available as a polling place.

“(3) In this section, the term ‘military installation’ has the meaning given the term in section 2687(e) of this title.”.

(b) USE OF RESERVE COMPONENT FACILITIES.—(1) Section 18235 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) Pursuant to a lease or other agreement under subsection (a)(2), the Secretary may make a facility covered by subsection (a) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law. If a facility is made available as the site of a polling place with respect to an election, the Secretary shall continue to make the facility available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and timely manner, of the reasons why the facility will no longer be made available as a polling place.”.

(2) Section 18236 of such title is amended by adding at the end the following:

“(e) Pursuant to a lease or other agreement under subsection (c)(1), a State may make a facility covered by subsection (c) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law.”.

(c) CONFORMING AMENDMENTS TO TITLE 18.—(1) Section 592 of title 18, United States Code, is amended by adding at the end the following new sentence:

“This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.”.

(2) Section 593 of such title is amended by adding at the end the following new sentence:

“This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.”.

(d) CONFORMING AMENDMENT TO VOTING RIGHTS LAW.—Section 2003 of the Revised Statutes of the United States (42 U.S.C. 1972) is amended by adding at the end the following new sentence: “Making a military installation or reserve component facility available as a polling place in a Federal, State, or local public election in accordance with section 2670(b), 18235, or 18236 of title 10, United States Code, is deemed to be consistent with this section.”.

(e) CLERICAL AMENDMENTS.—(1) The heading of section 2670 of title 10, United States Code, is amended to read as follows:

**“§ 2670. Buildings on military installations: use by American National Red Cross and as polling places in Federal, State, and local elections”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

“2670. Buildings on military installations: use by American National Red Cross and as polling places in Federal, State, and local elections.”.

## TITLE VII—REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL

### SEC. 701. REDUCED POSTAGE RATES FOR OFFICIAL ELECTION MAIL.

(a) IN GENERAL.—Section 3629 of title 39, United States Code, is amended to read as follows:

#### **“§ 3629. Reduced rates for official election mail**

“(a) Notwithstanding any other provision of this title, the rate of postage for any first-class mail matter shall, in the case of official election mail, be equal to 50 percent of the regular first-class rate, subject to subsection (c).

“(b) For purposes of this section, the term ‘official election mail’ means any mailing by a State or local election official that—

“(1) is mailed in the course of official business;

“(2) consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner; and

“(3) bears such logo or other markings as the Postal Service may require.

Such term does not include any mailing that includes any mail matter intended to promote government action unrelated to the conduct of an election.

“(c) Nothing in this section shall, with respect to any official election mail, be considered to make unavailable—

“(1) any free mailing privilege under section 3406 or any other provision of law for which such mail otherwise qualifies; or

“(2) any reduced rate of postage under section 3626 or any other provision of law for which such mail otherwise qualifies, if lower than the rate that would otherwise apply under subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by striking the item relating to section 3629 and inserting the following:

“3629. Reduced rates for official election mail.”.

## TITLE VIII—TRANSITION PROVISIONS

### Subtitle A—Transfer to Commission of Functions Under Certain Laws

#### SEC. 801. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION OF FEDERAL ELECTION COMMISSION.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Office of the Election Administration, established within the Federal Election Commission, exercised before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

- (1) in paragraph (8), by inserting “and” at the end;
- (2) in paragraph (9), by striking “; and” and inserting a period; and
- (3) by striking paragraph (10) and the second and third sentences.

#### SEC. 802. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Federal Election Commission exercised under the National Voter Registration Act of 1993 before the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7(a)) is amended by striking “Federal Election Commission” and inserting “Election Assistance Commission”.

#### SEC. 803. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission for appropriate allocation.

(b) PERSONNEL.—

(1) IN GENERAL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission.

(2) EFFECT.—Any full-time or part-time personnel employed in permanent positions shall not be separated or reduced in grade or compensation because of the transfer under this subsection during the 1-year period beginning on the date of the enactment of this Act.

#### SEC. 804. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect upon the appointment of all members of the Election Assistance Commission under section 203.

(b) TRANSITION.—With the consent of the entity involved, the Election Assistance Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Election Assistance Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

### Subtitle B—Coverage of Commission Under Certain Laws and Programs

#### SEC. 811. TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.

(a) COVERAGE UNDER HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting “or the Election Assistance Commission” after “Commission”.

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting “or the Election Assistance Commission” after “Commission”.

#### SEC. 812. COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “the Election Assistance Commission,” after “Federal Election Commission,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 180 days after the appointment of all members of the Election Assistance Commission under section 203.

## **TITLE IX—MISCELLANEOUS PROVISIONS**

### **SEC. 901. STATE DEFINED.**

In this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

### **SEC. 902. MISCELLANEOUS PROVISIONS TO PROTECT INTEGRITY OF ELECTION PROCESS.**

(a) **CLARIFICATION OF ABILITY OF ELECTION OFFICIALS TO REMOVE REGISTRANTS FROM OFFICIAL LIST OF VOTERS ON GROUNDS OF CHANGE OF RESIDENCE.**—Section 8(b)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(b)(2)) is amended by striking the period at the end and inserting the following: “, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual has not voted or appeared to vote in 2 or more consecutive general elections for Federal office and has not notified the applicable registrar (in person or in writing) or responded to a notice sent by the applicable registrar during the period in which such elections are held that the individual intends to remain registered in the registrar’s jurisdiction.”.

(b) **PROHIBITING EFFORTS BY POLL WORKERS TO COERCE VOTERS TO CAST VOTES FOR EVERY OFFICE ON BALLOT.**—Section 594 of title 18, United States Code, is amended—

(1) by striking “Whoever” and inserting “(a) Whoever”; and

(2) by adding at the end the following new subsection:

“(b) For purposes of subsection (a), a poll worker who urges or encourages a voter who has not cast a vote for each office listed on the ballot to return to the voting booth to cast votes for every office, or who otherwise intimidates, harasses, or coerces the voter to vote for each such office (or who attempts to intimidate, harass, or coerce the voter to vote for each such office), shall be considered to have intimidated, threatened, or coerced (or to have attempted to intimidate, threaten, or coerce) the voter for the purpose of interfering with the voter’s right to vote as the voter may choose. Nothing in this subsection shall prohibit a poll worker from providing information to a voter who requests assistance.”.

### **SEC. 903. NO EFFECT ON OTHER LAWS.**

(a) **IN GENERAL.**—Nothing in this Act and no action taken pursuant to this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, or the Americans with Disabilities Act of 1990.

(b) **NO CONDUCT AUTHORIZED WHICH IS PROHIBITED UNDER OTHER LAWS.**—Nothing in this Act authorizes or requires any conduct which is prohibited by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990.

(c) **APPLICATION TO STATES, LOCAL GOVERNMENTS, AND COMMISSION.**—Except as specifically provided in the case of the National Voter Registration Act of 1993, nothing in this Act may be construed to affect the application of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans with Disabilities Act of 1990 to any State, unit of local government, or other person, or to grant to the Election Assistance Commission the authority to carry out activities inconsistent with such Acts.

## **PURPOSE OF THE LEGISLATION**

The purpose of H.R. 3295, the Help America Vote Act of 2001, can be stated very simply—it is to improve our country’s election system. The circumstances surrounding the election that took place in November 2000 brought an increased focus on the process of election administration, and highlighted the need for improvements. The Help America Vote Act of 2001 will make it possible to implement needed improvements.

Historically, elections in this country have been administered at the state and local level. This system has many benefits that must

be preserved. The dispersal of responsibility for election administration has made it impossible for a single centrally controlled authority to dictate how elections will be run, and thereby be able to control the outcome. This leaves the power and responsibility for running elections where it should be, in the hands of the citizens of this country. Local control has the further added benefit of allowing for flexibility, so that local authorities can tailor their procedures to meet the demands of disparate and unique communities. Further by leaving the responsibility for election administration in the hands of local authorities, if a problem arises, the citizens who live within their jurisdictions know whom to hold accountable. The local authorities who bear the responsibility cannot now, and should not in the future be able to, point the finger of blame at some distant, unaccountable, centralized bureaucracy.

While local control must be preserved, it is time to recognize that the federal government can play a valuable roll by assisting state and local government in modernizing their election systems. H.R. 3295 will, for the first time, give the state and local governments some financial assistance, from the federal government, to improve their election infrastructure.

#### SUMMARY OF THE LEGISLATION

##### PUNCH CARD REPLACEMENT PROGRAM

The disadvantages of punch card voting systems were highlighted during the recount that took place in Florida following the November 2000 election. Large portions of the American public have lost confidence in them. For systems that use a blank punch card, a failure to properly align the card behind the ballot can result in the casting of a vote for a candidate the voter did not mean to select. The perforated chad on the punch card may not be completely punched out, so the machine counter does not register any vote for that office. In the event of a close election, punch cards are ill suited to a recount. Running the ballots through a counter repeatedly during a recount can result in the detachment of additional chads, essentially creating votes that were never meant to be cast. If a manual recount must be resorted to, officials are faced with the unenviable task of attempting to divine the intent of a voter based on the amount of depression or partial detachment of a chad.

H.R. 3295 seeks to make punch card systems a part of our history, not our future. It authorizes \$400 million to replace them. Any State or jurisdiction that used punch card voting systems in the November 2000 general election is eligible to receive up to \$6000 per precinct to replace them. They must obligate the funds before the next federal election in November 2002, and must have all their punch card systems replaced before the election in November 2004 (though they can get either deadline extended by 2 years for good cause shown). To hasten the dispersal of these dollars, this program will be administered by the General Services Administration.

Some jurisdictions may choose not to replace their punch card systems, but H.R. 3295 makes funds available to those jurisdictions that want to modernize their systems. Additionally, the bill makes available funds for enhancement of these systems. For example,



punch card systems can be made far more reliable if they are counted at the precinct, rather than at a central location. The enhancement program will provide funds to make improvements that will restore public confidence in punch card machines where they remain in use.

#### ELECTION ASSISTANCE COMMISSION

H.R. 3295 creates a new federal commission that will be tasked with providing information and assistance to state and local governments on best practices to successfully administer elections. The Commission has been structured to perform an advisory, as opposed to an administrative roll, in elections. The Commission has no rule making authority. The four commissioners will be recommended by the congressional leadership and will be appointed by the President. No more than two commissioners may be of the same party, to assure that the Commission acts in a nonpartisan fashion. The Commissioners will have experience or expertise in election administration or the study of elections, and will serve on a part time basis.

In establishing this commission, the Committee sought to involve the state and local officials who will be tasked with carrying out its recommendations. Two boards were created under the Commission, the Advisory Board and the Standards Board. The twenty-five member Advisory Board will consist of representatives from various groups that are involved with or care about election administration issues. The Standards Board will consist of the chief state election official, and a local election official, from each of the 50 states, the District of Columbia and the territories. The Boards will review and comment on any proposed standards prior to consideration by the Commission. Since those who serve on the Board will determine if their jurisdictions will adopt any of the voluntary standards approved, their thoughts and comments will be given serious attention by the Commission.

There is also created under the Commission a Technical Standards Development Committee. The Development Committee will assist the Executive Director of the Commission in the development of voluntary standards by recommending standards pertaining to the usability, accuracy, security, accessibility and integrity of voting systems and equipment. The Development Committee will be chaired by the Director of the National Institute of Standards and Technology, and will consist of members of the Board of Advisors and members of the Standards Board, among others.

Once the Development Committee has developed proposed voluntary standards, it will submit them to the Executive Director. The Executive Director shall then forward the standards (as developed or with modifications) to the Boards for review and comment. After the Boards have had an opportunity to review or comment, the standards will be forwarded to the Commission, which can approve them by majority vote.

This process will ensure that the standards are developed in a way that involves persons with real world technical expertise and experience in election administration. It is a process designed to give the people who will be responsible for administering elections, the state and local elections officials, a voice in the standards development process. By heeding that voice, the Commission should

be able to make recommendations that truly reflect the recognized best practices of election administration.

The Commission will have grant making power. In addition to distributing the election fund payments, the bill authorizes two grant programs. One grant program will be devoted to research on voting technology improvements, the second will distribute grants for pilot programs to test equipment and technology. The research and development program is designed to encourage innovative technological and management strategies that will improve the accessibility, efficiency and security of election systems. This program in conjunction with the pilot program should foster development of these strategies where it may not be cost effective for the private sector to conduct research on their own. Universities, local jurisdictions, and the private sector are eligible to participate alone or as partners. Ideas that can be explored could include, for example, developing ways to communicate in different ways to voters about their registration status before the election. This would avoid unnecessary confusion on Election Day about whether voters are registered and where they should vote. Use of the Internet or telephone systems in this initiative could preclude a great deal of confusion on Election Day and minimize unnecessary administrative burdens processing provisional ballots post election. These and other ideas could be explored to ensure that our election system and its associated technologies are constantly being improved.

#### FUNDING CONDITIONS

H.R. 3295 authorizes \$2.25 billion over three years for Election Fund payments. These funds will be provided to states at a matching rate of 75% (federal) to 25% (state). States will be permitted to use these dollars for a range of activities which improve election administration. This will give states the opportunity to direct fund payments to the areas where the resources are most needed. Jurisdictions that want to modernize their voting equipment can use election fund payments for that purpose. Others may have more pressing needs for modernized statewide registration systems, or better education and training of voters and poll workers. The Election Fund is designed to allow states to determine their greatest needs, and direct resources where they are most needed.

While the States will have flexibility in deciding where to direct dollars, they will be required to meet certain requirements as a condition of receiving funds. These funding conditions are not intended to be unduly burdensome, or to require states to incur obligations that will exceed the amount of funds appropriated and made available to the States. They will, however, ensure that the federal dollars are being spent appropriately, and that recipients meet certain criteria. The Commission will disperse election fund payments, and will monitor compliance with the funding conditions.

#### HELP AMERICA VOTE FOUNDATION AND COLLEGE PROGRAM

There is a critical shortage of poll-workers in this country. Many election officials fear the problem will grow even worse as the volunteers they rely on, many of them retirees, grow older with little national effort to recruit new volunteers. Experienced and well trained poll workers are essential to making our elections run prop-

erly. They provide assistance to voters, make sure proper procedures are followed, and guard the integrity of our elections.

A second well recognized problem in this country is the disengagement of our young people from the electoral process. For far too many of our young citizens, politics is a confusing and uninteresting side show in which they have no desire to participate.

The creation of the Help America Vote Foundation and College Program is designed to address both of these problems. These programs will encourage civic involvement by high school and college students by making them available for service as non-partisan poll workers and assistants to local election authorities. This will have the two-fold benefit of alleviating the shortage of volunteers, while also exposing our youth to the electoral process. Ideally, many of those who will become exposed to the election process for the first time through this program, will cultivate a life long interest in the process, and will continue to serve as election volunteers for many years, or at a minimum continue to be engaged in American civic life as informed citizens and voters.

The College Program will be administered by the Election Assistance Commission. The High School Program will be set up as a federally chartered corporation. The Commission will make grants for the college program, while the federal corporation created will administer the High School program. Both programs must be carried out without partisan bias, and without promoting any particular point of view regarding any issue.

#### MINIMUM STANDARDS

The minimum standards in H.R. 3295 require States to meet certain criteria, regardless of whether or not they accept election fund payments. While they impose minimum requirements, they allow the states to develop their own laws and procedures to fulfill the requirements. The goal of the minimum standards is to improve our election system without issuing dictates that would rob states of the ability to craft their own solutions.

The Minimum Standards are:

(1) The State will implement a Statewide voter registration system networked to every local jurisdiction in the State, with provisions for sharing data with other States, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

One of the most exciting and promising reforms that the Committee explored is statewide registration. In its June 2001 report to Congress, the bipartisan Federal Election Commission, after consulting with state and local election officials, recommended that states "1) develop and implement a statewide computerized voter registration database; 2) insure that all local registration offices are computerized; and 3) link their statewide computerized system, where feasible, with the computerized systems of the collateral public agencies relevant to the NVRA (motor-vehicle offices, public-assistance offices, etc.)". The bi-partisan National Commission on Federal Election Reform ("Ford/Carter Commission") also recommended states adopt such a system, as did the nation's election

administrators in their non-partisan National Task Force on Election Reform.

Creation of such a system will make the registration lists more accurate, and easier to update. It should reduce the incidence of voters appearing at a polling place only to discover that no record of their registration can be found. When voters move from one jurisdiction to another within that state, the statewide system will be able to track that movement. If for some reason a voter remained registered at their old address, the election officials will be able to see that and take corrective action. Requiring states to develop statewide databases will modernize and improve registration nationwide.

People are mobile, but more than three-quarters of all residential moves are in-state. An effective statewide database can therefore be quite useful, including its capacity to address such common issues as the registration of in-state college students and people with second homes within a state. But perhaps the most important beneficiaries of statewide registration systems will be members of lower-income groups, who are more likely to move than higher-income groups within the same state.

The minimum standard requires states to create a single database that is official, centralized and administered at the state level. Databases which simply link existing local databases do not qualify as satisfying this requirement. Multiple databases linking various vendor or local government programs to a statewide system is not sufficient to satisfy this requirement. The intent of the minimum standard is to establish one database that is identical and is the same program throughout the state and local jurisdictions so that all training can be uniform, all records requirements are identical, and that the state has full authority for maintenance and quality matters related to the database. The intent is also to assure that there are not jurisdictional nor vendor issues in terms of operability, problem resolution, or other types of reasons for one part of the system not matching the other.

It is likely that states will find it necessary to create a unique identifier to distinguish registered voters who happen to have the same name and/or birth date. The unique identifier so created will be used to assure that list maintenance functions are attributable to the correct voter; so as to avoid removing registrants who happen to have the same name and birth date as a felon, for example. States are encouraged to use the unique identifier to share information with other governmental offices for purposes such as death certificates, court and tax records, etc., to assure proper maintenance of voter records, file integrity, and protection of voter rights. It is the intent of Congress to encourage the states to develop each statewide database system in such a manner that it will be possible at some point in the future for states to share data between them for the appropriate additions and removal of voters from their rolls.

(2) The State election system includes provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance which removes registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of

1993, registrants who have not voted in 2 or more consecutive general elections for federal office and who have not responded to a notice shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

States must ensure that their registration list is accurate and is updated regularly. Leaving ineligible voters on the rolls leads to a number of problems. It increases costs as more ballots must be printed and more mailings must be sent out to voters that have died or moved away. This is a waste of vital resources that serves no purpose. One of the most damaging effects of inaccurate rolls is that they lead to the public perception that the process can be easily manipulated. When the number of voters on a registration list exceeds a jurisdiction's voting age population (itself an artificially high number because it includes non-citizens and person only temporarily in the jurisdiction), the perception is that the process has no integrity and accountability. Furthermore, when ineligible voters are left on rolls indefinitely, it invites fraud. Those who wish to commit fraud can vote in more than one jurisdiction, or more problematic, cast multiple votes in the names of those they know are no longer eligible.

A fraudulent vote that nullifies a legal one, disenfranchises the legal voter as surely as if his or her vote had never been cast at all. States are therefore obligated to maintain accurate lists, and thereby minimize the opportunities for and the incidence of fraud.

The minimum standard requires that removal of those deemed ineligible must be done in a manner consistent with the National Voter Registration Act. The procedures established by NVRA that guard against removal of eligible registrants remain in effect under this law. Accordingly, H.R. 3295 leaves NVRA intact, and does not undermine it in any way.

(3) The State permits, by the deadline required under section 504(b), in-precinct provisional voting by every voter who claims to be qualified to vote in the State, or has adopted an alternative which achieves the same objective, except that this paragraph shall not apply in the case of a State in which, under law in effect continuously on and after the date of the enactment of this Act, all votes in the State in general elections for Federal office are cast by mail.

The Committee spent considerable time and energy learning about in-precinct provisional voting. In spite of the statewide registration system and file maintenance requirements, there will still be some instances where a voter who is qualified to vote does not appear on the registration list when they present themselves to vote.

In-precinct provisional voting enables people whose eligibility is in doubt to vote in their precinct, without having to travel somewhere else to swear they are eligible to vote, and have their registration verified in the days following an election. The Committee believes provisional voting is necessary to the administration of a fair, democratic, and effective election system, and represents the ultimate safeguard to ensuring a person's right to vote. For these reasons, the Committee has included it in the bill. Under the bill,

in-precinct provisional voting will be required in every jurisdiction except states that have or plan to adopt an alternative which achieves the same objective, such as same-day registration or voting-by-mail.

Studies of the nation's election system find that a significant problem voters experience is to arrive at the polling place believing that they are eligible to vote, and then to be turned away because the election workers cannot find their names on the list of qualified voters.

There are at least eight reasons this occurs:

1. Voters may be turned away because of administrative errors. Poll workers may overlook their names or not match them up with a different spelling. In most jurisdictions, poll workers work from printed lists of voters produced for each precinct. Staff in the offices that produce these lists can make clerical errors.

2. Poll workers may overlook a voter's name on the precinct roster, or may not be aware that the voter is listed on a supplemental roster containing the names of voters who registered shortly before the election.

3. Voters may have their names improperly removed from the voting rolls.

4. Voters may appear at the wrong precinct because they did not receive, or received but did not heed, a notice that their polling place had moved.

5. Motor-vehicle departments or social-service agencies that are supposed to make registration applications available to clients may improperly handle the applications or fail to forward them to proper election officials in a timely manner.

6. Voters may fail to notify their registrar, or fail to re-register, after a change of address.

7. Well-intentioned organizations seeking to register voters may mishandle registration materials.

8. Otherwise qualified citizens may simply fail to register.

Whatever the cause, eligible citizens may believe they have registered. Unfortunately, when they subsequently attempt to vote, they are not on the list. In-precinct provisional voting, or an alternative which achieves the same objective, such as same-day registration (currently used by Idaho, Maine, New Hampshire, Wisconsin, Wyoming, and Minnesota); voting-by-mail (used by Oregon and Washington State); or no voter registration requirement (North Dakota), can solve this problem.

In-precinct provisional voting has four key advantages:

1. Legally qualified voters are no longer turned away at the polls.

2. In-precinct provisional voting limits the ability of states to impose extra hurdles that may have the effect of deterring the use of provisional voting. For example, in Pennsylvania, voters whose names do not appear on the precinct rosters are required to travel to police stations to see an election judge, who determines whether or not they have the right to vote. Voters must then return to the polling location in order to cast their votes. Many voters, who are faced with the choice of traveling to the police station or leaving, ultimately do not vote either because they are intimidated by going to a police station or because it is logistically difficult or inconvenient.

3. Voter participation is easier and more efficient, as poll workers can provide an option to voters who may be angry or frustrated by their absence from the registration list. These often ill-trained and low-paid temporary workers do not have to research or resolve cases on the spot, while other voters impatiently wait in line. Nor are more senior election officials tied down in resolving such questions during Election Day.

4. Voter registration becomes more accurate. The process becomes another way to amend registrations for people who evidently wish to vote. Officials can detect and correct mistakes and the research process, by helping senior administrators notice which problems are causing the mistakes, thus can help many other current and potential voters.

(4) The State has adopted uniform standards that define what will constitute a vote on each category of voting equipment certified for use in the State.

Requiring states to have a uniform standard for what constitutes a vote will ensure that voters receive the equal protection of the laws with respect to the counting of their ballots. Votes should be counted using objective standards put in place before an election contest. Whether or not a vote is counted should not depend on where a voter happens to live, nor should it depend on varying subjective interpretations of state laws by local election officials. Similarly marked ballots should not be discarded in one jurisdiction, but counted in another.

As Americans learned in November and December 2000, a major part of the problem in Florida was that the vote-counting process was subjective and inconsistent, with definitions of what constitutes a vote varying from jurisdiction to jurisdiction. The United States Supreme Court found such a standardless process to be a violation of the Equal Protection Clause of the Constitution.

As the Committee discovered, Florida is not alone. Most states do not prescribe a standard for election officials to follow in recounting votes. Amorphous statutory references to the "intent of the voter" invite still more confusion and ambiguity. "Intent of the voter" is not a standard but rather a subjective judgment, virtually guaranteeing litigation. It is unfair to voters, to candidates and to democracy.

The crux of the problem is that all systems that rely on individual ballots inherently raise questions as to whether a particular configuration is or is not a "vote." Such systems include traditional paper ballots, punch card ballots, connect the arrow ballots, or optical scan ballots, all of which the voter must alter in some manner to create a vote. Lever systems and DRE machines do not create a ballot with voter marks; therefore, there is no particular mark available to review.

Because every vote properly cast must be counted, and recounts are routinely conducted to make certain that all ballots have been properly counted, the Committee believes that uniform standards for what constitutes a vote must be adopted by all states. The definition of a vote shall be as objective as possible and spelled out in clear language before Election Day.

(5) The State has implemented safeguards to ensure that absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas

voters (as defined in section 107(5) of such Act) in the jurisdiction have the opportunity to vote and to have their votes counted.

States must implement safeguards to ensure that absent uniformed service personnel and overseas voters have the opportunity to vote and have their votes counted. Those serving in our military and citizens living abroad face many hurdles when it comes to registering, receiving ballots and casting them timely. States must take action to ensure that these voters have the opportunity to vote and have their votes counted. States need to recognize the difficulties faced by these voters, and take steps to see that their votes are counted. (See below for additional provisions affecting these voters).

(6) The State requires new voting systems to provide a practical and effective means for voters with physical disabilities to cast a secret ballot.

Advancements in technology make it possible for voters with physical disabilities to cast a secret ballot. New systems should strive to make it possible for voters with physical disabilities to cast secret ballots. (See below for additional provisions affecting these voters).

(7) If the State uses voting systems which give voters the opportunity to correct errors, the State shall ensure that voters are able to check for and correct errors under conditions which assure privacy. States, and units of local government within the States, replacing all voting machines within their jurisdiction shall ensure that the new voting system gives voters the opportunity to correct errors before the vote is cast.

In the 2000 presidential election, nearly two million voters, 2% of those who went to the polls, either did not mark their ballot, or marked it in a way that no vote was counted in the presidential contest. Election experts call these votes in which no choice is counted "residual votes." These millions of voters either spoiled their ballots by "overvoting" (appearing to vote for more than one candidate), or by "undervoting" (they marked their choice in a manner that could not be counted, or they marked no choice at all). Of course, an undervoted ballot is not necessarily "spoiled". Millions of voters intentionally do not vote in certain contests for various reasons, complicated the task of determining voter rates.

As the Committee learned in our June hearing, the consensus among engineers, computer scientists, and political scientists who study election systems is that the number of residual votes and the rate of voter error are greatly affected by the kind of equipment that is used. According to one expert who testified before the Committee on what is known as "human usability studies," predictably high levels of user error are evidence of system failure, flawed instructions, or faulty system design.

Whatever the specific causes for residual votes, the fact remains that some votes go uncounted because voters have no opportunity to detect and correct errors before they cast their ballots. Fortunately, there are voting systems available that permit voters to correct ballots in the precinct before they are cast.

The bill will ensure that as jurisdictions scrap obsolete voting systems, they replace them with systems that have the capability to detect errors, for poll site voting (the provisions for second chance voting cannot currently be applied to absentee or mail balloting since the ballot and the voter are separated before counting).



To be sure, this provision will not instantly mandate that all machines in all polling places by a date certain have a second-chance voting capability. The Committee seriously explored the proposal to require all 200,000 jurisdictions nationwide to have second-chance voting by 2004 or, at the latest, 2006. Jurisdictions that failed to meet the deadline would be subject to suite in federal court. As the Committee learned more about the production capability of the voting machine industry, the timelines and procurement processes counties and states must go through to award contracts to voting-machine vendors, and the huge costs involved, the Committee decided that an aggressive deadline might cause more serious problems than it would solve. One disturbing possibility was that jurisdictions that could not meet the deadline, most likely poorer ones, might have their election systems shut down or seriously disrupted during an election while other jurisdictions in the state, most likely affluent ones, that met the deadline could proceed with their elections. The Committee was hard-pressed to imagine a more chilling 14th Amendment problem than this, where some eligible voters in a state could exercise the franchise while others could not.

As to whether the term “error” means overvote, undervote, or something else, the Committee referred to the findings of the National Commission on Federal Election Reform, commonly known as the “Ford-Carter Commission.” The Commission’s definition of “error” is set forth in the accompanying document.

As already noted, many voters intentionally do not vote in every race. The purpose of second chance technology is to provide voters information about their ballot. Voter privacy is an important right that must be protected. While voters should have the opportunity to verify the accuracy of their ballot, they should not be forced to do so under the scrutiny of a poll worker. Once a voter is satisfied of the accuracy of their ballot, it is not the roll or responsibility of a poll worker to inquire as to the voters intent.

Poll workers should, upon request, be available to provide assistance to voters, but voters should not be prompted by poll workers, or have to explain to poll workers why they have not voted in a certain race. The bill ensures voter privacy, by requiring that jurisdictions whose machines have second chance technology must ensure that voters are able to check for and correct errors on their ballots under conditions which assure privacy.

#### MILITARY AND OVERSEAS VOTERS

Those who serve in our military, and citizens living abroad, face peculiar hardships when attempting to vote. Relatively simple things like applying for and transmitting ballots can become a very difficult and lengthy process for these voters. Steps must be taken to protect the rights of these citizens. Military voters risk their very lives in defense of this country. We must repay them by doing everything possible to see that they are able to vote and have their votes counted.

A recent report by the General Accounting Office revealed that over 40% of the installations they visited had not assigned voting assistance officers. The Department of Defense must make certain that a sufficient number of voting assistance officers are assigned, and that those who are assigned are doing their duties. H.R. 3295 requires the Secretary of Defense to certify to Congress that, at a

minimum, a voting assistance officer has been assigned to every installation and major command.

The bill also makes voter registration forms available to service personnel at the time of enlistment, reenlistment or extension of enlistment, to make it easier for them to register. The Secretary of Defense must also ensure that all ballots are properly postmarked, or marked with some other official mark, so that state officials can determine when the ballot left the voter's hands.

States are also required to designate a single point of contact for those in the service and living abroad, to make it easier for them to obtain needed information about elections, registration and voting.

The bill contains a number of the key provisions of the Uniformed and Overseas Citizen Absentee Voting Reform Act of 2001, H.R. 1997, which will help remove existing obstacles to absentee voting now confronting members of our armed services and overseas voters. Those obstacles contributed to the appallingly high level of rejected ballots in Florida and to the inability to vote of many others who wished to do so.

Similarly, the provision requiring the collection and publication of statistics on overseas voting by the states will fill one of the most serious gaps in our ability to monitor the adequacy of the overseas absentee voting regime. For the first time, we will all have the same information about voting access for overseas voters that we now have routinely for voters at home.

#### ACCESSIBILITY STANDARDS AND VOTING RIGHTS OF PERSONS WITH DISABILITIES

##### *Sections 102, 112, 221, 233 and 501 and Compliance with the Americans with Disabilities Act and the Voting Accessibility for the Elderly and Handicapped Act*

In this bill, the Committee reaffirms that public entities, such as States and localities and their responsible officials, must comply to the extent required by law with the Americans with Disabilities Act (ADA) and the Voting Accessibility for the Elderly and Handicapped Act (VAEHA).

The committee bill will enhance compliance with the ADA and VAEHA by enlisting a range of officials in the process of regulating accessibility problems and solutions. For example, the bill requires that the chief election official of each State certify the State's compliance with the applicable provisions of the ADA and the VAEHA, and requires that recipients of election funds provide assurance of compliance with such laws as a condition of their acceptance of federal money.

##### *Section 903 and preservation of existing law*

Section 903 expressly provides that nothing in the bill will supersede, restrict, or limit the application of the VAEHA, the ADA, the Voting Rights Act or the National Voting Registration Act, nor will it authorize or require any conduct prohibited under any of these laws. Thus, the bill continues unchanged—the role of the Department of Justice (DOJ) as the agency responsible for authoritatively construing the ADA and promulgating regulations.

*Voluntary accessibility standards in sections 221 and 222*

The Committee bill creates mechanisms for providing States and localities with technical guidance about improving accessibility through the adoption of voluntary standards by the Election Assistance Commission. The Committee expects that the voluntary standards will offer examples of achievable methods for ensuring accessibility. One example might include the moving of a polling place from an inaccessible historic library building to an accessible city hall building nearby.

These voluntary standards to be issued by the Commission would not, however, replace accessibility regulations and technical assistance provided by the DOJ for individuals with disabilities. Rather, these standards must be consistent with DOJ's regulations, and not serve as authorization for a level of accessibility lower than required by the regulations. In fact, this need for harmonious standards is the reason the bill directs the Commission to consult with the Architecture and Transportation Barrier Compliance Board in developing its voluntary standards.

If a state accepts election fund payments, the bill requires the state to certify its compliance with the voluntary standards for voting systems. This means that a state which accepts funds will be bound by at least two independent sources of law: the state's contractual duty to comply with the Commission's standards for voting systems, and the state's statutory duty to comply with the ADA. While the Committee anticipates that the Commission will take great care to create voluntary standards in a manner that conforms to existing law, compliance with the Commission's standards cannot provide any "safe harbor" against liability under the ADA or other applicable laws.

*Eligibility for election assistance funding under section 233*

One of the eligibility requirements for election assistance funding is that there must be at least one voting system available in each precinct or polling place that is fully accessible to individuals with disabilities. This means that if a State accepts any election assistance funding, the State is required to purchase a fully accessible voting system for each precinct or polling place that does not already have such a Summary

## TITLE I—PUNCH CARD VOTING MACHINES

## Subtitle A—Replacement of Machines

*Sec. 101. Establishment of program*

Provides for a one-time payment, through the General Services Administration, to State or local government to replace punch card voting systems with other kinds. Requires recipients to obligate funds by the November 2002 Federal election and complete replacement by the 2004 election, but deadlines may be extended two years if approved by the Election Assistance Commission established in Sec. 201.

*Sec. 102. Eligibility*

Requires that State applications include assurances that the State will use the payment to replace punch card systems used in

the 2000 election, continue to comply with the Voting Accessibility for the Elderly and Handicapped Act and Americans With Disabilities Act, and provide for alternative language accessibility as required by the Voting Rights Act and other laws.

Permits a local government to apply if the State does not, is ineligible, or will not use the payment to replace punch card systems. Requires that the application include similar assurances as those required of States.

*Sec. 103. Amount of payment*

Sets payment at 90% of replacement cost, or 95% for precincts where per capita income is within the lowest quartile for the United States, with a maximum of \$6,000 times the number of precincts using punch card systems in the jurisdiction during the 2000 election.

*Sec. 104. Audit and repayment of funds*

Makes payments subject to audit. Requires recipients that fail to meet deadlines to return the funds unless granted a waiver.

*Sec. 105. Punch card voting system defined*

Defines punch card voting systems to include C.E.S., Datavote, PBC Counter, Pollstar, Punch Card, Vote Recorder, and Votomatic.

Subtitle A—Enhancing Performance of Existing Systems

*Sec. 111. Establishment of program*

Provides for a one-time payment, through the General Services Administration, to State or local governments to enhance performance of punch card voting systems, with deadlines as in Sec. 101.

*Sec. 112. Eligibility*

Similar to Sec. 102, except funds used for enhancement rather than replacement of systems; also, jurisdictions may not participate in both programs.

*Sec. 113. Amount of payment*

Similar to Sec. 103 except maximum is \$2,000 times the number of covered precincts.

*Sec. 113. Audit and repayment of funds*

Makes payments subject to audit. Requires recipients that fail to meet deadlines to return the funds.

Subtitle C—General Provisions

*Sec. 121. Authorization of appropriations*

Authorizes appropriations of \$400 million, to remain available until expended. Repaid or unobligated funds will be transferred to the Election Assistance Commission.

## TITLE II—COMMISSION

## Subtitle A—Establishment and General Organization

## PART I—ELECTION ASSISTANCE COMMISSION

*Sec. 201. Establishment*

Creates an independent executive branch agency called the Election Assistance Commission.

*Sec. 202. Duties*

Stipulates that the Commission will serve as a national clearing-house and resource on the administration of Federal elections as described in this title and title III.

*Sec. 203. Membership and appointment*

Requires that the four Commission members have election-related experience or expertise and that they be appointed by the President with the consent of the Senate, with one member each chosen from nominees submitted by the President Pro Tempore of the Senate, the Senate minority leader, the Speaker of the House of Representatives, and the House minority leader.

Establishes staggered four-year terms for members, renewable once, and prohibits members from being officers or employees of the Federal government while serving. Requires members to select a chair and vice chair from different political parties.

Sets a commissioner's salary at \$30,000, plus travel expenses, and permits outside employment.

*Sec. 204. Staff*

Creates position of Executive Director to be appointed by the Commission for a four-year renewable term and permits that person to appoint additional staff and use outside experts. Requires staff to consult with the two boards established in this title.

*Sec. 205. Powers*

Empowers the Commission to hold hearings, take testimony, receive evidence, let contracts, obtain information from Federal agencies and support from the General Services Administration, and to use the mails as do other Federal agencies.

*Sec. 206. Limitation on rulemaking authority*

Prohibits the Commission from imposing requirements on State or local governments except as permitted under the National Voter Registration Act.

*Sec. 207. Authorization of appropriations*

Authorizes a maximum appropriation of \$10 million per year through FY2004.

PART II—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD  
AND BOARD OF ADVISORS*Sec. 211. Establishment*

Creates a Standards Board and a Board of Advisors under the Election Assistance Commission.

*Sec. 212. Duties*

Requires that the two boards review the standards described in this title.

*Sec. 213. Membership of Standards Board*

Sets membership at 110, to include, from each State, the chief election official and a local election official chosen by peers in the State, with no two members from a State to be from the same political party.

Requires board to select a nine-member Executive Board, with no more than five to be chief election officials, local election officials, or from the same party. Sets two-year staggered terms with a maximum of two consecutive renewals.

*Sec. 214. Membership of Board of Advisors*

Sets membership at 25, two each appointed by the U.S. Commission on Civil Rights; the Architectural and Transportation Barrier Compliance Board; the National Governors Association; the National Conference of State Legislatures; the National Association of Secretaries of State; the National Association of State Election Directors; the National Association of Counties; the National Association of County Recorders, Election Administrators, and Clerks; the U.S. Conference of Mayors; the Election Center; and the International Association of County Recorders, Election Officials, and Treasurers; with the Speaker of the House and the Senate majority leader each appointing one professional in science and technology; and with the chief of the Office of Public Integrity of the Department of Justice or designee also a member. Requires bipartisan, geographically diverse appoints.

Sets two-year, renewable terms. Requires election of a chair from among the members.

*Sec. 215. Powers of boards; no compensation for service*

Empowers each board to hold hearings, take testimony, and receive evidence, obtain information from Federal agencies and support from the General Services Administration, and to use the mails as do other Federal agencies. Prohibits issuance of subpoenas. Requires each board to meet at least yearly to vote on standards, and the Standards Board to meet at least every two years to select the Executive Board. Prohibits compensation of board members, but permits payment of travel expenses.

*Sec. 216. Status of boards and members for purposes of claims against board*

Applies provisions of 28 U.S.C., Chapters 161 and 171, with respect to liability of boards and members, with an exception for criminal acts and other willful misconduct.

## Subtitle B—Voluntary Election Standards

*Sec. 221. Development of voluntary election standards*

Requires the Commission, in consultation with the two boards, to develop and adopt voluntary voting system standards, accessibility standards, and election management standards, and update them at least every four years.

Requires that the voting system standards include security, certification and decertification procedures, usability assessment, and operational guidelines; provide for error correction by voters; include for each certified system what is proposed to constitute a vote; and provide that certified new systems permit voters with disabilities to cast a secret ballot.

Requires the Commission to serve as a clearinghouse of information on experiences of State and local governments in implementing the standards and in operating voting systems; and to make available to the public studies on certain specified issues in election administration, information on the Federal election system, election results, and information concerning issues relating to Federal, State, and local elections.

Requires consultation with the Compliance Board and other experts with respect to accessibility standards, and that the election management standards address the treatment of uniformed and overseas voters, in consultation with the Secretary of Defense.

Requires the Commission to provide for voluntary testing, certification, decertification, and recertification of voting systems; to advise State and local governments on complying with Federal laws regarding accessibility of registration and polling places; to carry out the provisions of the National Voter Registration Act regarding voter registration by mail; and to assist State officials in review of Federal election procedures.

#### *Sec. 222. Technical Standards Development Committee*

Establishes a 15-member Technical Standards Development committee, to recommend voting system standards and modifications, to be chaired by the Director of the National Institute of Standards and Technology (NIST), and with members appointed jointly by the Director and the Commission and drawn from the Standards Board, the Board of Advisors, the Compliance Board, the American National Standards Institute, and other persons with relevant scientific and technical expertise. Requires NIST to provide technical support.

Prohibits compensation of members, but permits payment of travel expenses.

Requires, when the Commission adopts any standard, publication of corresponding recommendations of the Development Committee in the Federal Register.

#### *Sec. 223. Process for adoption of voluntary standards*

Requires the Executive Director of the Commission to take recommendations of the Development Committee into account in developing standards, and for the two boards to review the proposed standards, with majority vote of the Commission required for adoption.

#### *Sec. 224. Certification and testing of voting systems*

Requires that testing and certification of voting systems be performed by nonfederal laboratories accredited by the Commission, from a list of candidates submitted by the Director of NIST, who will also monitor and review laboratory performance and, when appropriate, make recommendations to the Commission regarding continuing accreditation.

*Sec. 225. Dissemination of information*

Requires the Commission to disseminate to the public—via the Internet, published reports, and other means—information on the standards and guidelines for applying them, the list of accredited laboratories, a list of certified voting system hardware and software, and other activities carried out under this subtitle.

Subtitle C—Election Assistance

PART 1—ELECTION FUND PAYMENTS TO STATES FOR VOTING  
SYSTEM IMPROVEMENTS

*Sec. 231. Election fund payments to States for voting system improvements*

Requires the Commission to make payments to qualifying States to improve the administration of elections.

*Sec. 232. Allocation of funds*

Sets the size of payment to a State at the greater of either a percentage of the total amount appropriated for that year, based on the size of the voting age population in that State as compared to the total for all States; or 0.5 percent of the total appropriated, except 0.1 percent for Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

*Sec. 233. Conditions for receipt of funds*

Requires a State, to be eligible, to certify that it has established an Election Fund, provided a 25 percent match, and set benchmarks for voting system performance; complies with the voluntary voting system standards and certification processes described in subtitle B or has established statutory standards that provide for error correction by voters and for auditing of ballots; provides one or more fully accessible voting systems in each precinct; complies with Federal voting rights law; and provides for voter education and training of poll workers and personnel involved in voter registration. Also requires the State to certify that the Federal share will not supplant existing State funds. Gives States discretion to choose the method of compliance

*Sec. 234. Authorization of appropriations*

Authorizes appropriations totaling \$2.25 billion through FY2004.

PART 2—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY  
IMPROVEMENTS

*Sec. 241. Grants for research on voting technology improvements*

Establishes a grant program to be administered by the Commission for research and development to improve election systems and technology. Requires applicants to assure that funded activities will take accessibility needs into account. Applies 18 U.S.C. 35 with respect to patent rights.

*Sec. 242. Report*

Requires submission of a report describing activities under the grant.



*Sec. 243. Authorization of appropriations*

Authorizes appropriations of \$20 million for FY 2002.

PART 3—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND  
TECHNOLOGY

*Sec. 251. Pilot program*

Establishes a grant program to be administered by the Commission to implement new voting technologies on a trial basis. Requires applicants to assure that the funded activities will take accessibility needs into account.

*Sec. 252. Report*

Requires submission of a report describing activities under the grant.

*Sec. 253. Authorization of appropriations*

Authorizes appropriations of \$10 million for FY2002.

PART 4—MISCELLANEOUS

*Sec. 261. Role of National Institute of Standards and Technology*

Requires the Director of NIST to submit annually to the Commission a list of suggestions for issues to be addressed by the grant programs, review grant applications, monitor grant activities and recommend modifications as necessary, and evaluate completed grants. Also requires the Director to establish an intramural research and development program within NIST to support the development of voluntary technical standards.

*Sec. 262. Reports*

Requires submission of an annual report to Congress by the Commission and a report on the application of human factors research to voting systems.

*Sec. 263. Audit*

Provides for the Commission to audit recipients of funds and requires that each program established under the subtitle be audited at least once during its lifetime.

TITLE III—HELP AMERICA VOTE COLLEGE PROGRAM

*Sec. 301. Establishment of program*

Requires the Commission to establish the “Help America Vote Program,” with the purpose of encouraging students at colleges, universities, and community colleges to serve as nonpartisan poll workers or assistants and to encourage State and local governments to use students in that capacity.

*Sec. 302. Activities under program*

Requires the Commission, in consultation with chief State election officials, to develop materials, sponsor seminars and workshops, advertise the program to students, make grants, assist any institution that wishes to participate, and take other appropriate

actions. Limits grants to nonpartisan undertakings that do not promote a point of view or an issue.

*Sec. 303. Authorization of appropriations*

Authorizes appropriations of \$5 million for FY2002 and sums necessary thereafter.

TITLE IV—HELP AMERICA VOTE FOUNDATION

*Sec. 401. Help America Vote Foundation*

Amends Part B of subtitle II of 36 U.S.C. to establish the federally chartered Help America Vote Foundation to mobilize secondary school students to participate as nonpartisan poll workers and assistants, and to establish cooperative efforts with election officials, local educational agencies, public and private school officials, and other appropriate nonprofit organizations.

Requires the foundation to act without partisan bias or promotion of any particular point of view and to consult with the chief State election officials.

Establishes a 12-member board of directors with four appointed by the President (not more than two from the same political party), two by the Speaker of the House of Representatives, two by the House minority leader, two by the Senate majority leader, and two by the Senate minority leader, and with the chairs and ranking Members of the House Administration Committee and the Senate Rules and Administration Committee as ex officio, nonvoting members.

Sets the term of office at four years and stipulates that members are not employees of the Federal government. Prohibits compensation of board members, but permits payment of travel expenses. Restricts personal liability of members to gross negligence.

Requires the board to meet at least yearly and to select a member as chair, who shall not hold or have held any partisan elected office or national political-party committee office.

Permits the board to appoint and remove officers and employees of the foundation and stipulates that they are not employees of the Federal government except as otherwise provided in this chapter.

Grants the foundation such powers as necessary to carry out this chapter and also the usual powers of a corporation acting as a trustee in the District of Columbia, where the foundation will be located. Permits it to conduct business throughout the United States. Requires the foundation to have a designated agent to receive service of process for it.

Permits the foundation to accept gifts, devises, and bequests for its benefit and to let contracts. Also permits it to sponsor an annual conference to honor persons who have served as poll workers or participated in foundation programs and activities.

Requires an annual audit by an independent auditor.

Permits the Attorney General to bring a civil action for relief for behavior by the foundation that is inconsistent with the purposes designated in this title.

Excludes the U.S. government from any liability or obligation incurred by the foundation.

Authorizes \$5 million for FY 2002 and such sums as necessary thereafter.

## TITLE V—MINIMUM STANDARDS FOR STATE ELECTION SYSTEMS

### *Sec. 501. Minimum standards for State election systems*

Requires each State to certify to the Commission that it is in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans With Disabilities Act of 1990; and that it has, by statute, established standards for its election systems as described in this title. Gives States discretion to choose the method of implementation.

### *Sec. 502. Standards described*

Sets minimum standards, to include a statewide, networked voter registration system in States requiring registration; provisions to ensure accurate, updated registration records; in-precinct provisional voting; uniform standards for what constitutes a vote for each certified voting system; safeguards for voting by uniformed and overseas voters; requirements that new voting systems provide for voters with physical disabilities to cast a secret ballot; and requirements that new voting systems give voters the opportunity to correct errors under conditions which assure privacy.

### *Sec. 503. Enforcement*

Requires the Commission to notify the Attorney General if a State fails to comply, and authorizes the Attorney General, if so notified, to bring a civil action to remedy the violation.

### *Sec. 504. Effective date*

Sets effective date for the provisional voting standard at the November 2002 Federal election and for other provisions in the title at two years from enactment, but permits an extension to the November 2004 Federal election.

## TITLE VI—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

### *Sec. 601. Voting assistance programs*

Amends 10 U.S.C. Chapter 80 to require the Secretary of Defense to ensure compliance by the military services with the Federal Voting Assistance Program and any similar programs.

Requires the Inspector General of each service to conduct an annual review of the effectiveness of and compliance with the programs and to submit the review to the Inspector General for the Department of Defense (DOD), who will prepare an annual report to Congress. Requires the DOD Inspector General to conduct, at 10 or more installations each year, periodic, unannounced assessments of compliance with requirements of law regarding voting by members of the armed forces.

Requires the secretary of each military department to assess compliance as part of installation review or inspection, and to certify to Congress that, for each installation and major command, a voting assistance officer, has been appointed and given the time and resources to perform voting assistance duties. Also requires the

secretaries to specify the number of voting action officers appointed and the ratio of voting action officers to active duty members, to assess compliance of those numbers with requirements, and to describe the training that voting action officers receive.

Requires the secretaries to ensure that members of the military and their dependents have access to information on voter registration and absentee ballot requirements and deadlines. Requires that each person who enlists, reenlists, or completes a permanent change of station receive the national voter registration form.

Requires the secretaries, through voting assistance officers, to provide notice to members of the armed forces of the last date before a general election for which ballots mailed at the facility can be expected to be delivered in a timely fashion to State and local election officials.

Requires the Secretary of Defense to ensure that voting materials are transmitted expeditiously, to conduct periodic surveys of mail shipments at all overseas locations and vessels at sea during the four months preceding an election, and to implement measures to ensure that a postmark or other proof of mailing date is provided on each absentee ballot.

*Sec. 602. Designation of single State office to provide information on registration and absentee ballots for all voters in State*

Amends the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to require each State to designate a single office to provide information to members of the armed services concerning absentee registration and voting in the State. Recommends that the office be responsible for carrying out duties under this Act.

*Sec. 603. Report on absentee ballots transmitted and received after general elections*

Requires that after a Federal election, States submit a public report to the Commission on the number of absentee ballots transmitted to absent uniformed services and overseas voters and the number returned and cast in the election. Requires the Commission to develop a standardized format for such reports.

*Sec. 604. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters*

Amends UOCAVA to require States to accept the post card form as a simultaneous voter registration and absentee ballot application, and to require that an absentee ballot application pertain to all elections for Federal office held in the State during that year, if the applicant so requests. Requires the Presidential designee for UOCAVA to revise the official post card form to enable a voter to request an absentee ballot either for each Federal election held in a State during a year or for only the next scheduled Federal election.

*Sec. 605. Additional duties of presidential designee under Uniformed and Overseas Citizens Absentee Voting Act*

Amends UOCAVA to require the Presidential designee to ensure that State officials are aware of the requirements of that Act, and to prescribe a standard oath regarding perjury in completion of a

document required under the title. Requires States to use the standard oath if the State requires an oath or affirmation for any voting document.

Amends UOCAVA to require separate statistical analysis for overseas voters and absent uniformed services voters.

*Sec. 606. Use of Buildings on Military Installations and Reserve Component Facilities as Polling Places*

Amends 10 U.S.C. 2670 and 18235; 18 U.S.C. 592 and 593; and 42 U.S.C. 2003 to permit the secretary of a military department to make a building located on a military installation available for use as a polling place, in any Federal, State, or local election, for eligible voters who reside on that military installation. Requires that such a polling place continue to be available for subsequent elections unless the secretary provides appropriate advance notice to State and local officials of the reasons why it will not.

TITLE VII—REDUCED POSTAGE RATES FOR OFFICIAL  
ELECTION MAIL

*Sec. 701. Reduced postage rates for official election mail*

Amends 39 U.S.C. 3629 to establish a postage rate of 50% of the regular first-class rate for any State and local official election mail.

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain  
Laws

*Sec. 801. Federal Election Campaign Act of 1971*

Amends section 311 (a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438 (a)) Transfers to the Commission, upon appointment of all members, all functions of the Office of Election Administration of the Federal Election Commission.

*Sec. 802 National Voter Registration Act of 1993*

Amends section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–7(a)). Transfers to the Commission all functions that the Federal Election Commission exercises under the National Voter Registration Act.

*Sec. 803. Transfer of property, records, and personnel*

Transfers to the Commission all personnel, contracts, liabilities, records, property, and other assets or interests of the offices and functions of the Federal Election Commission that are transferred by this subtitle.

*Sec. 804. Effective date; transition*

Requires that this title take effect upon the appointment of all members of the Commission, which is authorized to utilize services from the entities from which functions will be transferred as needed for an orderly transfer.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

*Sec. 811. Treatment of commission personnel under certain civil service laws*

Amends 5 U.S.C. 7323(b)(2)(B)(i)(I) and 3132(a)(1)(C) to specify that Commission personnel are covered by the Hatch Act and that the Commission is excluded from the Senior Executive Service.

*Sec. 812. Coverage under Inspector General Act of 1978*

Amends section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) to provide for coverage under that Act.

TITLE IX—MISCELLANEOUS PROVISIONS

*Sec. 901. State defined*

Defines State to include the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

*Sec. 902. Miscellaneous provisions to protect integrity of election process*

Amends the National Voter Registration Act of 1993 to clarify the ability of election officials to remove from the voter registration list the name of an individual who has not voted in two or more consecutive general elections for Federal office and who has not notified the registrar of an intent to remain registered in the registrar's jurisdiction or who has not responded to a notice from the registrar of voters. Amends 18 U.S.C. 594 to prohibit poll workers from intimidating, harassing, or coercing voters to cast votes for every office on the ballot, but not from providing information to a voter who requests assistance.

*Sec. 903. No effect on other laws*

Stipulates that nothing in the Act authorizes or requires conduct prohibited by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Americans With Disabilities Act of 1990; or may be construed to supersede, restrict, or limit those Acts or the Voting Accessibility for the Elderly and Handicapped Act.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On November 14, 2001, Mr. Ney, Mr. Hoyer, Mr. Blunt and Mr. Fattah introduced H.R. 3295, which was referred to the Committee on House Administration, the Committee on the Judiciary, the Committee on Armed Services, the Committee on Government Reform and the Committee on Science

HEARINGS

The Committee on House Administration held four hearings on election reform in the first session of the 107th Congress.

On April 25, 2001, the Committee held the first hearing on Election Reform.

Members present: Mr. Ney, Mr. Ehlers, Mr. Mica, Mr. Linder, Mr. Reynolds, Mr. Hoyer, Mr. Fattah, Mr. Davis.

Witnesses: J. Kenneth Blackwell, Secretary of State, Ohio; Sharon Priest, Secretary of State, Arkansas; Katherine Harris, Secretary of State, Florida; Rebecca Vigil-Giron, Secretary of State, New Mexico; Ron Thornburgh, Secretary of State, Kansas; Martin Stephens, Speaker of the Utah House of Representatives; John Adams Hurson, Majority Leader, Maryland House of Delegates; Kenneth Mayfield, Commissioner, Dallas County, Texas; Deborah Phillips, President—The Voting Integrity Project; Kristen Cox, National Federation of the Blind; Hilary Shelton, Director NAACP Washington Bureau; Dennis Duggan, American Legion.

On May 10, 2001, the Committee held its second hearing on Election Reform.

Members present: Mr. Ney, Mr. Ehlers, Mr. Mica, Mr. Reynolds, Mr. Hoyer, Mr. Davis.

Witnesses: Doug Lewis, Director—The Election Center; Conny McCormack, Los Angeles County Registrar-Recorder/County Clerk; Connie Schmidt, Election Commissioner, Johnson County, Kansas; Carolyn Jackson, Administrator of Elections, Hamilton County, Tennessee; Pam Iorio, Supervisor of Elections, Hillsborough County, Florida; Linda Lamone, Administrator, Maryland State Administrative Board of Election Laws.

On May 17, 2001, the Committee held its third hearing on Election Reform.

Members present: Mr. Ney, Mr. Ehlers, Mr. Linder, Mr. Hoyer, Mr. Fattah, Mr. Davis.

Witnesses: Tom Davis, Managing Member, iPaper/Diversified Dynamics; William F. Welsh III, Chairman, Election Systems and Software; Brian O'Conner, Executive Vice President, Global Election Systems, Inc.; David E. Hart, Chairman, Hart InterCivic, Inc.; Richard Caruso, Chairman, Shoup Voting Solutions; Marlene Duffy Young, Regional Marketing Representative, Unilect; James Minadeo, Product Manager, Avante; Scott Faibaron, Regional Sales Manager, Envoy (US) Ltd.; Mark Strama, Vice President, Public Elections, election.com; David Chaum, Founder, SureVote; Ralph Munro, Board of Directors, VoteHere; Dennis Vadura, CEO, Web Tools International.

On May 24, 2001, the Committee held its fourth hearing on Election Reform.

Members present: Mr. Ney, Mr. Ehlers, Mr. Doolittle, Mr. Hoyer, and Mr. Fattah.

Witnesses: Christopher Baum, Vice President, Gartner Group; Thomas R. Palfrey, Professor, California Institute of Technology; David Woods, Professor, Ohio State University; Ronald Rivest, Professor, Massachusetts Institute of Technology.

#### MARKUP

On Thursday November 15, 2001, the Committee met to mark up H.R. 3295. The Committee favorably reported H.R. 3295, as amended, by a recorded vote (8–0), a quorum being present.

## MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

## COMMITTEE RECORD VOTES

Clause 3(b) of House rule XIII requires the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report.

*Amendment No. 1*

Offered by Mr. Reynolds. The first vote during the markup came on the amendment offered by Mr. Reynolds.

The amendment would allow, but not require, military base commanders to locate polling places on their installations.

The amendment was approved by a voice vote a quorum being present.

*Amendment No. 2*

Offered by Mr. Hoyer. The second vote during the markup came on the amendment offered by Mr. Hoyer. This amendment would add additional voting system accessibility requirements for the disabled and those with limited proficiency in English.

The vote on the amendment was 3–4 and the amendment was not agreed to.

Member	Yes	No	Present
Mr. Ney .....	.....	X	.....
Mr. Linder .....	.....	X	.....
Mr. Doolittle .....	.....	X	.....
Mr. Reynolds .....	.....	X	.....
Mr. Hoyer .....	X	.....	.....
Mr. Fattah .....	X	.....	.....
Mr. Davis .....	X	.....	.....
Total .....	3	4	.....

The Committee then voted on H.R. 3295, as amended. The bill as amended was agreed to by a recorded vote (8–0).

Member	Yes	No	Present
Mr. Ney .....	X	.....	.....
Mr. Ehlers .....	X	.....	.....
Mr. Linder .....	X	.....	.....
Mr. Doolittle .....	X	.....	.....
Mr. Reynolds .....	X	.....	.....
Mr. Hoyer .....	X	.....	.....
Mr. Fattah .....	X	.....	.....
Mr. Davis .....	X	.....	.....
Total .....	8	0	.....

The Committee then voted to report H.R. 3295 favorably, as amended. The vote to report favorably was approved by recorded vote (8–0).

Member	Yes	No	Present
Mr. Ney .....	X	.....	.....
Mr. Ehlers .....	X	.....	.....
Mr. Linder .....	X	.....	.....
Mr. Doolittle .....	X	.....	.....



Member	Yes	No	Present
Mr. Reynolds .....	X	.....	.....
Mr. Hoyer .....	X	.....	.....
Mr. Fattah .....	X	.....	.....
Mr. Davis .....	X	.....	.....
Total .....	8	0	.....

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Convention Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### GENERAL PERFORMANCE GOALS AND OBJECTIVES

The Committee states, with respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, that the goal and objective of H.R. 3295 is to improve the election infrastructure in the United States.

#### CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII, the Committee states that Article 1, Section 4 of the U.S. Constitution grants Congress the authority to make laws governing the time, place and manner of holding Federal elections.

#### FEDERAL MANDATES

The Committee states, with respect to section 423 of the Congressional Budget Act of 1974, that the bill does not include any significant Federal mandate.

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 3295 is not intended to preempt any state or local law.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 30, 2001.*

Hon. ROBERT W. NEY,  
*Chairman, Committee on House Administration,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3295, the Help America Vote Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz and Matthew Pickford (for federal costs); Susan Sieg Tompkins (for the impact on state, local, and tribal governments); and Paige Piper/Bach (for the impact on the private sector).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 3295, Help America Vote Act of 2001*

Summary: H.R. 3295 would authorize the appropriation of about \$2.8 billion over fiscal year 2002 through 2006, mostly for grants to states and localities to improve voting technology and election administration. The bill would establish the Election Assistance Commission to undertake activities to improve the administration of elections and would set minimum standards for national elections. H.R. 3295 also would require the Department of Defense to implement a voting assistance program for military personnel and other overseas U.S. citizens. Finally, the bill would provide reduced postage rates for official election mailings.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3295 would cost about \$2.8 billion over the 2002–2006 period. In addition, we estimate that enacting the bill would increase costs to the U.S. Postal Service by about \$100 million over the 2002–2003 period. (Postal Service spending is classified as off-budget and is not subject to pay-as-you-go procedures.) The bill would not otherwise affect direct spending or receipts so pay-as-you-go procedures would not apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that title V and certain sections of title VI would fall within that exclusion. Other provisions of the bill would provide grants to states to improve voting procedures and technology. Any costs to state, local, or tribal governments as a result of participating in those programs would be incurred voluntarily. The remaining provisions of the bill contain no intergovernmental or private-sector mandates and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3295 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 370 (commerce and housing credit), and 800 (general government).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Grants to replace punch card voting machines:					
Authorization Level .....	400	0	0	0	0
Estimated Outlays .....	200	200	0	0	0
Voting system improvements:					
Authorization Level .....	750	750	750	0	0
Estimated Outlays .....	75	600	750	675	150
Election Assistance Commission:					
Estimated Authorization Level .....	3	4	4	4	4
Estimated Outlays .....	1	2	3	3	3
Other provisions:					
Estimated Authorization Level .....	37	14	12	12	14
Estimated Outlays .....	20	26	12	12	14
Total:					
Estimated Authorization Level .....	1,190	768	766	16	18
Estimated Outlays .....	296	828	765	690	167
CHANGES IN OFF-BUDGET DIRECT SPENDING					
U.S. Postal Service <sup>1</sup>					
Estimated Budget Authority .....	50	55	0	0	0
Estimated Outlays .....	50	55	0	0	0

<sup>1</sup> These estimated costs would be offset, overtime, by postal rate increases.

**Basis of estimate:** For this estimate, CBO assumes that the bill will be enacted by the end of calendar year 2001 and that the necessary amounts will be appropriated each year. CBO estimates that implementing H.R. 3295 would cost \$2.8 billion over the 2002–2006 period, mostly for voting system improvements. The bill would also increase spending of the Postal Service, which is classified as off-budget.

#### *Spending subject to appropriation*

**Grants to Replace Punch-Card Voting Machines.** H.R. 3295 would authorize the appropriation of \$400 million for fiscal year 2002 for payments for state and local governments to replace punch card voting systems. State and local governments that apply for these funds would be able to receive a maximum of \$6,000 per precinct.

**Voting System Improvements.** The bill would authorize the appropriation of \$2.25 billion over the 2002–2004 period to pay for grants to states and localities for improving voting technology and upgrading equipment, improving voter registration systems, increasing access for voters with disabilities, and enhancing training for poll workers. CBO expects that most of the funds to replace machines and so implement improvements would be spent in fiscal years 2003 through 2005.

**Election Assistance Commission.** Title II would authorize the appropriation of up to \$10 million annually to establish the Election Assistance Commission. The four-member, bipartisan commission would advise state and local governments on election administration. This work would include developing voluntary election management standards, serving as a clearinghouse for information, and reviewing procedures affecting the administration of federal elections. The bill also would transfer all the functions of the Office of Election Administration of the Federal Election Commission to the new commission. CBO estimates that the commission would re-

quire funding of \$3 million to \$4 million annually with estimated outlays of about \$12 million over the 2002–2006 period.

**Other Provisions.** H.R. 3295 also would authorize appropriations for several other programs aimed at improving the election process, including grants to study and improve voting technology, pilot programs to test new technologies, and programs to encourage citizens to get involved in the election process. CBO estimates that, in total, implementing these programs would cost \$84 million over the 2002–2006 period.

H.R. 3295 would direct the Secretary of Defense to coordinate all voting activities for members of the military and other overseas U.S. citizens, includes training voting assistance officers, conducting mail delivery surveys, and providing information on voter registration requirements and deadlines of the various states. Based on information from the Department of Defense, CBO estimates that implementing this section of the bill would result in no significant costs.

*Off-budget costs (direct spending)*

For official mailings sent to voters by local election officials via first-class mail, H.R. 3295 would reduce the postage rate by 50 percent. CBO expects that the reduced postage rate would apply to two mailings every year to each of the 150 million registered voters in the United States. The current first-class rate is 34 cents and is expected to rise to 37 cents by fiscal year 2003, so CBO estimates this provision would cost the Postal Service about \$50 million in 2002 and about \$55 million in 2003. Over time, there would be no net effect from this provision because the Postal Service is required to set rates so that it covers all costs. Postal Service spending and collections are classified as off-budget and would not be subject to pay-as-you-go procedures.

Pay-as-you-go considerations: None.

**Intergovernmental and private-sector impact:** Section 4 of UMRA excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that title V and certain sections of title VI would fall within that exclusion because they enforce an individual's right to vote, and to have that vote counted.

Other provisions of the bill would benefit state and local governments. Specifically, title I would provide grants to states to replace or upgrade punch card voting systems. Provisions of title II would provide payments to states to improve election administration and voter education. In both cases, states must provide up to 25 percent in matching funds to be eligible to receive the assistance. The matching requirement as well as any other costs to state, local, or tribal governments as a result of participating in these programs would be incurred voluntarily.

The remaining provisions of the bill contain no intergovernmental or private-sector mandates and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Mark Grabowicz and Matthew Pickford. Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 36, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE II—PATRIOTIC AND NATIONAL ORGANIZATIONS**

\* \* \* \* \*

**PART B—ORGANIZATIONS**

201. AGRICULTURAL HALL OF FAME .....	20101
* * * * *	
1526. <i>Help America Vote Foundation</i> .....	152601
* * * * *	

**PART B—ORGANIZATIONS**

\* \* \* \* \*

**CHAPTER 1526—HELP AMERICA VOTE FOUNDATION**

Sec.

152601. *Organization.*

152602. *Purposes.*

152603. *Board of directors.*

152604. *Officers and employees.*

152605. *Powers.*

152606. *Principal office.*

152607. *Service of process.*

152608. *Annual audit.*

152609. *Civil action by Attorney General for equitable relief.*

152610. *Immunity of United States Government.*

152611. *Authorization of appropriations.*

152612. *Annual report.*

**§ 152601. Organization**

(a) *FEDERAL CHARTER.*—The *Help America Vote Foundation* (in this chapter, the “foundation”) is a federally chartered corporation.

(b) *NATURE OF FOUNDATION.*—The foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

(c) *PERPETUAL EXISTENCE.*—Except as otherwise provided, the foundation has perpetual existence.

**§ 152602. Purposes**

(a) *IN GENERAL.*—The purposes of the foundation are to—

(1) mobilize secondary school students (including students educated in the home) in the United States to participate in the election process in a nonpartisan manner as poll workers or assistants;

(2) place secondary school students (including students educated in the home) as nonpartisan poll workers or assistants to local election officials in precinct polling places across the United States; and

(3) establish cooperative efforts with State and local election officials, local educational agencies, superintendents and principals of public and private secondary schools, and other appropriate nonprofit charitable and educational organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code to further the purposes of the foundation.

(b) **REQUIRING ACTIVITIES TO BE CARRIED OUT ON NONPARTISAN BASIS.**—The foundation shall carry out its purposes without partisan bias or without promoting any particular point of view regarding any issue, and shall ensure that each participant in its activities is governed in a balanced manner which does not reflect any partisan bias.

(c) **CONSULTATION WITH STATE ELECTION OFFICIALS.**—The foundation shall carry out its purposes under this section in consultation with the chief election officials of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

### **§ 152603. Board of directors**

(a) **GENERAL.**—The board of directors is the governing body of the foundation.

(b) **MEMBERS AND APPOINTMENT.**—(1) The board consists of 12 directors, who shall be appointed not later than 60 days after the date of the enactment of this chapter as follows:

(A) 4 directors (of whom not more than 2 may be members of the same political party) shall be appointed by the President.

(B) 2 directors shall be appointed by the Speaker of the House of Representatives.

(C) 2 directors shall be appointed by the minority leader of the House of Representatives.

(D) 2 directors shall be appointed by the majority leader of the Senate.

(E) 2 directors shall be appointed by the minority leader of the Senate.

(2) In addition to the directors described in paragraph (1), the chair and ranking minority member of the Committee on House Administration of the House of Representatives (or their designees) and the chair and ranking minority member of the Committee on Rules and Administration of the Senate (or their designees) shall each serve as an ex officio nonvoting member of the board.

(3) A director is not an employee of the Federal government and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States (except as may otherwise be provided in this chapter).

(4) The terms of office of the directors are 4 years.

(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

(c) *CHAIR.*—The directors shall select one of the directors as the chair of the board. The individual selected may not be a current or former holder of any partisan elected office or a current or former officer of any national committee of a political party.

(d) *QUORUM.*—The number of directors constituting a quorum of the board shall be established under the bylaws of the foundation.

(e) *MEETINGS.*—The board shall meet at the call of the chair of the board for regularly scheduled meetings, except that the board shall meet not less often than annually.

(f) *REIMBURSEMENT OF EXPENSES.*—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(g) *LIABILITY OF DIRECTORS.*—Directors are not personally liable, except for gross negligence.

#### **§ 152604. Officers and employees**

(a) *APPOINTMENT OF OFFICERS AND EMPLOYEES.*—The board of directors appoints, removes, and replaces officers and employees of the foundation.

(b) *STATUS AND COMPENSATION OF EMPLOYEES.*—

(1) *IN GENERAL.*—Officers and employees of the foundation—

(A) are not employees of the Federal government (except as may otherwise be provided in this chapter);

(B) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

(C) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5.

(2) *AVAILABILITY OF FEDERAL EMPLOYEE RATES FOR TRAVEL.*—For purposes of any schedules of rates negotiated by the Administrator of General Services for the use of employees of the Federal government who travel on official business, officers and employees of the foundation who travel while engaged in the performance of their duties under this chapter shall be deemed to be employees of the Federal government.

#### **§ 152605. Powers**

(a) *GENERAL.*—The foundation may—

(1) adopt a constitution and bylaws;

(2) adopt a seal which shall be judicially noticed; and

(3) do any other act necessary to carry out this chapter.

(b) *POWERS AS TRUSTEE.*—To carry out its purposes, the foundation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

(2) to acquire property or an interest in property by purchase or exchange;

(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

(4) to borrow money and issue instruments of indebtedness;  
 (5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

(6) to sue and be sued; and

(7) to do any other act necessary and proper to carry out the purposes of the foundation.

(c) *ENCUMBERED OR RESTRICTED GIFTS.*—A gift, devise, or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the foundation.

(d) *CONTRACTS.*—The foundation may enter into such contracts with public and private entities as it considers appropriate to carry out its purposes.

(e) *ANNUAL CONFERENCE IN WASHINGTON METROPOLITAN AREA.*—During each year (beginning with 2003), the foundation may sponsor a conference in the Washington, D.C., metropolitan area to honor secondary school students and other individuals who have served (or plan to serve) as poll workers and assistants and who have otherwise participated in the programs and activities of the foundation.

#### **§ 152606. Principal office**

The principal office of the foundation shall be in the District of Columbia unless the board of directors determines otherwise. However, the foundation may conduct business throughout the States, territories, and possessions of the United States.

#### **§ 152607. Service of process**

The foundation shall have a designated agent to receive service of process for the foundation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the foundation.

#### **§ 152608. Annual audit**

The foundation shall enter into a contract with an independent auditor to conduct an annual audit of the foundation.

#### **§ 152609. Civil action by Attorney General for equitable relief**

The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the foundation—

(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152602 of this title; or

(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

#### **§ 152610. Immunity of United States Government**

The United States Government is not liable for any debts, defaults, acts, or omissions of the foundation. The full faith and credit of the Government does not extend to any obligation of the foundation.



**§ 152611. Authorization of appropriations**

*There are authorized to be appropriated to the foundation for carrying out the purposes of this chapter—*

*(1) \$5,000,000 for fiscal year 2002; and*

*(2) such sums as may be necessary for each succeeding fiscal year.*

**§ 152612. Annual report**

*As soon as practicable after the end of each fiscal year, the foundation shall submit a report to the Commission, the President, and Congress on the activities of the foundation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments. Such report shall contain information gathered from participating secondary school students describing the nature of the work they performed in assisting local election officials and the value they derived from the experience of educating participants about the electoral process.*

\* \* \* \* \*

**TITLE 10, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle A—General Military Law**

\* \* \* \* \*

**PART II—PERSONNEL**

\* \* \* \* \*

**CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES**

Sec.

1561. Complaints of sexual harassment: investigation by commanding officers.

\* \* \* \* \*

1566. Voting assistance: compliance assessments; assistance.

\* \* \* \* \*

**§ 1566. Voting assistance: compliance assessments; assistance**

*(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.*

*(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term “voting assistance programs” means—*

*(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and*

*(2) any similar program.*

*(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—*

(A) an annual review of the effectiveness of voting assistance programs; and

(B) an annual review of the compliance with voting assistance programs of that armed force.

(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

(A) the effectiveness during the preceding calendar year of voting assistance programs; and

(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

(d) INSPECTOR GENERAL ASSESSMENTS.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

(C) other requirements of law regarding voting by members of the armed forces.

(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

(3) Each assessment under paragraph (1) shall include a review of such compliance—

(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

(C) within unit voting assistance officers to measure program effectiveness.

(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

(f) VOTING ASSISTANCE OFFICERS.—(1) Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer. The

Secretary of each military department shall certify to Congress that (at a minimum) a voting assistance officer has been appointed or assigned for each military installation and major command under the jurisdiction of the department and that a replacement will be appointed if the original officer is no longer able to serve.

(2) Under regulations and procedures prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member's duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.

(3) As part of each assessment prepared by the Secretary of a military department under subsection (e), the Secretary shall—

(A) specify the number of members of the armed forces under the jurisdiction of the Secretary who are appointed or assigned to duty as voting assistance officers;

(B) specify the ratio of voting assistance officers to active duty members of the armed forces under the jurisdiction of the Secretary;

(C) indicate whether this number and ratio comply with the requirements of the Federal Voting Assistance Program; and

(D) describe the training such members receive to perform their duties as voting assistance officers.

(g) **REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS.**—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall, to the maximum extent practicable, ensure that members of the armed forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists, reenlists, or voluntarily extends an enlistment or who completes a permanent change of station in an active or reserve component of the Army, Navy, Air Force, or Marine Corps shall receive such form at the time of the enlistment, reenlistment, extension, or completion of the permanent change of station, or as soon thereafter as practicable.

(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the armed forces and their dependents of election timing, registration requirements, and voting procedures.

(h) **DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.**—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to over-

seas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

(3) The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.

(4) In this section, the term “general Federal election month” means November in an even-numbered year.

\* \* \* \* \*

## PART IV—SERVICE, SUPPLY, AND PROCUREMENT

\* \* \* \* \*

### CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NONEXCESS PROPERTY

Sec.  
2661. Miscellaneous administrative provisions relating to real property.

\* \* \* \* \*

[2670. Licenses: military installations; erection and use of buildings; American National Red Cross.]

2670. *Buildings on military installations: use by American National Red Cross and as polling places in Federal, State, and local elections.*

\* \* \* \* \*

### [§ 2670. Licenses: military installations; erection and use of buildings; American National Red Cross]

[Under]

**§2670. Buildings on military installations: use by American National Red Cross and as polling places in Federal, State, and local elections**

(a) *USE BY RED CROSS.*—Under such conditions as he may prescribe, the Secretary of any military department may issue a revocable license to the American National Red Cross to—

(1) \* \* \*

\* \* \* \* \*

Supplies stored in buildings erected or used under this [section] subsection are available to aid the civilian population in a serious national disaster.

(b) *USE AS POLLING PLACES.*—(1) *Notwithstanding any other provision of law, the Secretary of a military department may make a building located on a military installation under the jurisdiction of the Secretary available for use as a polling place in any Federal, State, or local public election, but only if such use is limited to eligible voters who reside on that military installation.*

(2) *If a building located on a military installation is made available under paragraph (1) as the site of a polling place, the Secretary shall continue to make the building available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and timely manner, of the reasons why the building will no longer be made available as a polling place.*

(3) *In this section, the term “military installation” has the meaning given the term in section 2687(e) of this title.*

\* \* \* \* \*

**Subtitle E—Reserve Components**

\* \* \* \* \*

**PART V—SERVICE, SUPPLY, AND PROCUREMENT**

\* \* \* \* \*

**CHAPTER 1803—FACILITIES FOR RESERVE COMPONENTS**

\* \* \* \* \*

**§ 18235. Administration; other use permitted by Secretary**

(a) \* \* \*

\* \* \* \* \*

(c) *Pursuant to a lease or other agreement under subsection (a)(2), the Secretary may make a facility covered by subsection (a) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law. If a facility is made available as the site of a polling place with respect to an election, the Secretary shall continue to make the facility available for subsequent elections unless the Secretary provides to the appropriate State or local election officials advance notice, in a reasonable and*

*timely manner, of the reasons why the facility will no longer be made available as a polling place.*

**§ 18236. Contributions to States; other use permitted by States**

(a) \* \* \*

\* \* \* \* \*

*(e) Pursuant to a lease or other agreement under subsection (c)(1), a State may make a facility covered by subsection (c) available for use as a polling place in any Federal, State, or local public election notwithstanding any other provision of law.*

\* \* \* \* \*

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**UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT**

\* \* \* \* \*

**TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE**

**SEC. 101. FEDERAL RESPONSIBILITIES.**

(a) \* \* \*

\* \* \* \* \*

(b) DUTIES OF PRESIDENTIAL DESIGNEE.—The Presidential designee shall—

(1) consult State and local election officials in carrying out this title~~;~~, and ensuring that such officials are aware of the requirements of this Act;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States ~~as recommended in section 104~~ as required under section 102(4);

\* \* \* \* \*

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; ~~and~~

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a statistical analysis of uniformed services voter participation (*listed separately for overseas voters and absent uniformed services voters*), a general assessment of overseas nonmilitary participation, and a description of State-Federal cooperation~~;~~; and

(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact

*in the completion of such a document may constitute grounds for a conviction for perjury.*

\* \* \* \* \*

**SEC. 102. STATE RESPONSIBILITIES.**

(a) *IN GENERAL.*—Each State shall—

(1) \* \* \*

[(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and]

(2) *accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;*

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office[.];

(4) *use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application; and*

(5) *if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).*

(b) *DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.*—

(1) *IN GENERAL.*—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(2) *RECOMMENDATION REGARDING USE OF OFFICE TO ACCEPT AND PROCESS MATERIALS.*—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(c) *REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.*—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2001) on the number of absentee ballots transmitted to absent uniformed services voters and overseas

*voters for the election and the number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.*

\* \* \* \* \*

**[SEC. 104. RECOMMENDATION TO THE STATES TO MAXIMIZE ACCESS TO THE POLLS BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.**

**[To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—**

**[(1) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application;**

**[(2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 101;**

**[(3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;**

**[(4) if an application other than an official post card form (prescribed under section 101) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;**

**[(5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;**

**[(6) permit any oath required for a document under this title to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;**

**[(7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;**

**[(8) assist the Presidential designee in compiling statistical and other information relating to this title; and**

**[(9) provide late registration procedures for persons recently separated from the Armed Forces.]**

**SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.**

*(a) IN GENERAL.—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.*

*(b) EXCEPTION FOR VOTERS CHANGING REGISTRATION.—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.*



(c) *REVISION OF OFFICIAL POST CARD FORM.*—*The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—*

*(1) request an absentee ballot for each election for Federal office held in a State during a year; or*

*(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.*

(d) *NO EFFECT ON VOTER REMOVAL PROGRAMS.*—*Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.*

\* \* \* \* \*

## TITLE 18, UNITED STATES CODE

\* \* \* \* \*

### PART I—CRIMES

\* \* \* \* \*

#### CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

\* \* \* \* \*

##### § 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined under this title or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

*This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.*

##### § 593. Interference by armed forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

Shall be fined under this title or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

*This section shall not apply to the actions of members of the Armed Forces at any polling place on a military installation where a general or special election is held in accordance with section 2670(b), 18235, or 18236 of title 10.*

#### **§ 594. Intimidation of voters**

(a) Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined under this title or imprisoned not more than one year, or both.

(b) *For purposes of subsection (a), a poll worker who urges or encourages a voter who has not cast a vote for each office listed on the ballot to return to the voting booth to cast votes for every office, or who otherwise intimidates, harasses, or coerces the voter to vote for each such office (or who attempts to intimidate, harass, or coerce the voter to vote for each such office), shall be considered to have intimidated, threatened, or coerced (or to have attempted to intimidate, threaten, or coerce) the voter for the purpose of interfering with the voter's right to vote as the voter may choose. Nothing in this subsection shall prohibit a poll worker from providing information to a voter who requests assistance.*

\* \* \* \* \*

### **SECTION 2003 OF THE REVISED STATUTES OF THE UNITED STATES**

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. *Making a military installation or reserve component facility available as a polling place in a Federal, State, or local public election*

*in accordance with section 2670(b), 18235, or 18236 of title 10, United States Code, is deemed to be consistent with this section.*

## TITLE 39, UNITED STATES CODE

\* \* \* \* \*

### PART IV—MAIL MATTER

\* \* \* \* \*

## CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

### SUBCHAPTER I—POSTAL RATE COMMISSION

Sec.

3601. Establishment.

\* \* \* \* \*

### SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

3621. Authority to fix rates and classes.

\* \* \* \* \*

**【3629. Reduced rates for voter registration purposes.】**

*3629. Reduced rates for official election mail.*

\* \* \* \* \*

### SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

\* \* \* \* \*

#### **【§ 3629. Reduced rates for voter registration purposes**

**【The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.】**

#### ***§ 3629. Reduced rates for official election mail***

*(a) Notwithstanding any other provision of this title, the rate of postage for any first-class mail matter shall, in the case of official election mail, be equal to 50 percent of the regular first-class rate, subject to subsection (c).*

*(b) For purposes of this section, the term “official election mail” means any mailing by a State or local election official that—*

*(1) is mailed in the course of official business;*

*(2) consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner; and*

*(3) bears such logo or other markings as the Postal Service may require.*

*Such term does not include any mailing that includes any mail matter intended to promote government action unrelated to the conduct of an election.*

*(c) Nothing in this section shall, with respect to any official election mail, be considered to make unavailable—*

*(1) any free mailing privilege under section 3406 or any other provision of law for which such mail otherwise qualifies; or*

(2) *any reduced rate of postage under section 3626 or any other provision of law for which such mail otherwise qualifies, if lower than the rate that would otherwise apply under subsection (a).*

\* \* \* \* \*

## SECTION 311 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

### ADMINISTRATIVE PROVISIONS

SEC. 311. (a) The Commission shall—

(1) \* \* \*

\* \* \* \* \*

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d); *and*

(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate[; and].

[(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.]

\* \* \* \* \*

## NATIONAL VOTER REGISTRATION ACT OF 1993

\* \* \* \* \*

### SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.

(a) \* \* \*

\* \* \* \* \*

(b) **CONFIRMATION OF VOTER REGISTRATION.**—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) \* \* \*

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote[.], *except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual has not voted or appeared to vote in*

*2 or more consecutive general elections for Federal office and has not notified the applicable registrar (in person or in writing) or responded to a notice sent by the applicable registrar during the period in which such elections are held that the individual intends to remain registered in the registrar's jurisdiction.*

\* \* \* \* \*

#### **SEC. 9. FEDERAL COORDINATION AND REGULATIONS.**

(a) IN GENERAL.—The [Federal Election Commission] *Election Assistance Commission*—

(1) \* \* \*

\* \* \* \* \*

### **TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

### **PART III—EMPLOYEES**

\* \* \* \* \*

#### **Subpart B—Employment and Retention**

#### **CHAPTER 31—AUTHORITY FOR EMPLOYMENT**

\* \* \* \* \*

#### **SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE**

\* \* \* \* \*

#### **§ 3132. Definitions and exclusions**

(a) For the purpose of this subchapter—

(1) “agency” means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

(A) \* \* \*

\* \* \* \* \*

(C) the Federal Election Commission *or the Election Assistance Commission*; or

\* \* \* \* \*

#### **Subpart F—Labor-Management and Employee Relations**

\* \* \* \* \*

#### **CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT**

\* \* \* \* \*

#### **SUBCHAPTER III—POLITICAL ACTIVITIES**

\* \* \* \* \*

**§ 7323. Political activity authorized; prohibitions**

(a) \* \* \*

(b)(1) \* \* \*

(2)(A) \* \* \*

(B) The provisions of subparagraph (A) shall apply to—

(i) an employee of—

(I) the Federal Election Commission or the *Election Assistance Commission*;

\* \* \* \* \*

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**SECTION 8G OF THE INSPECTOR GENERAL ACT OF 1978**

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 11 of this Act, as used in this section—

(1) \* \* \*

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the *Election Assistance Commission*, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, and the United States Postal Service;

\* \* \* \* \*

#### ADDITIONAL VIEWS OF HON. STENY H. HOYER

I write to offer my additional views regarding the importance of ensuring accessibility in voting for people with disabilities. The bill in its present form offers significant gains in voting accessibility for persons with disabilities, especially those with visual impairments. For example, the bill requires that, in a state receiving election fund payments, every polling place or precinct have at least one voting system (hardware and software) that is fully accessible. However, while I agree with everything in the committee report, I wish to emphasize the need to take further steps beyond this bill and beyond the Americans with Disabilities Act to ensure complete accessibility in voting and registration services for persons with disabilities.

Complete voting access must be assured for every voter regardless of whether a state or locality accepts federal election funds and without regard to any significant cost constraints. Voting is one of the fundamental rights of citizens in a Republic. As such, the right should not depend upon the vagaries of local budgets—certainly not in an affluent society like ours. Physical access to the ballot box should be unconditional. Every polling place in America should be accessible to persons with the full range of disabilities. Every polling place should have already at least one voting machine or method that is fully accessible, that is, a voting machine or method that allows a voter with a disability to vote in a manner that is as reliable, fraud-resistant, private, independent and anonymous as that available to anyone else.

One of our most profound accomplishments since the founding of the United States is the progressive broadening of the franchise to include African-Americans, women and others subject to pervasive discrimination. In this process, we have learned that few of the rights or interests of a particular group of Americans can be secure so long as that group lacks the right to vote for officials who will be accountable to them. We have also learned that, as more adult citizens become full participants in our polity, the democratic process is enriched for all. We are still in the process of learning this lesson with regard to persons with disabilities.

Most of the ongoing discrimination against persons with disabilities concerning voting is no longer motivated by deliberate efforts to exclude. However, as the recent GAO report on accessibility documents, the choice, design and administration of polling places, voting methods and machines continues in many instances to be driven by a careless assumption on the part of election administrators that all voters are able-bodied. The General Accounting Office recently found, for example, that many polling places have high door thresholds and inaccessible parking places, and that, even when ramps are installed, in many instances they are hazardous to users. Policymakers must strive to highlight the need to admin-

ister every aspect of elections in a way that recognizes that a portion of the electorate does not enjoy the full range of abilities, disabilities and impairments.

The right to vote is an almost sacred right that should not be casually traded off against other rights and interests. See, e.g., *Harper v. Virginia State Board of Elections*, 383 U.S. 663, 667 (voting is a fundamental right, any alleged infringement of which, must be meticulously scrutinized); *Kramer v. Union Free School District No. 15*, 395 U.S. 621, 626 (1969) (“statutes distributing the franchise constitute the foundation of our representative society [requiring careful examination of a State’s stated interests]”) Corresponding to the fundamental nature of this right, government officials and election administrators at all levels of government must recognize we have a fundamental obligation to guarantee full access to the ballot box for every qualified citizen. Thus, I hope the Senate will go beyond the achievements of this bill to provide a guarantee of full accessibility that is not dependent upon a state’s acceptance of federal funds and that is not limited by any significant cost constraints. Further, I hope we then accept those additional requirements when we meet with the Senate in conference.

However, even before Congress takes additional steps, we should remember, as the committee report explains, that we already have powerful tools for electoral reform available to us, one of which is the Americans with Disabilities Act of 1990 (ADA). In the preamble to that Act, we found that voting is a “critical area” and that discrimination against individuals with disabilities, especially discrimination in the form of isolation and segregation, persists. To redress this discrimination, the ADA insists upon both equality and integration for persons with disabilities.

In the past decade, the ADA has already improved electoral access for persons with disabilities, both through voluntary compliance and through successful litigation in recent cases such as *New York v. Schoharie*, 82 F.Supp.2d 19 (N.D.N.Y. 2000) and *Doe v. Rowe*, 156 F.Supp.2d 35 (D. Me. 2001). But, as the GAO report documents, there is plenty of work left to be done to achieve compliance with the ADA. While the ADA provides an undue burden defense to its general mandates, it still provides a great deal of leverage for correcting the kinds of problems documented by the GAO.

Under the ADA, all voting and registration procedures and services must be accessible. Accessibility includes affording individuals with disabilities an opportunity to cast a ballot in a manner that is as private, independent and anonymous as that afforded other voters, and to vote in an integrated setting with other voters. The ADA includes an integration mandate that bars attempts to achieve accessibility through separate-but-equal kinds of arrangements, a mandate that is limited only by the undue burden defense. See, e.g., *Olmstead v. L.C. by Zimring*, 527 U.S. 581 (1999).

Of course, the ADA’s mandate to offer equal and integrated voting methods to persons with disabilities does nothing to deny a State or local government the right to provide generally to the electorate alternative voting methods such as absentee balloting. Nor does it deny an individual with a disability the right to receive a reasonable accommodation in the form of an absentee ballot, curbside voting, or assistance from a poll worker or other indi-



vidual of his or her choice (other than an individual who is the voter's employer or agent of that employer or officer or agent of the voter's union).

But the fact that an individual with a disability might want to use an absentee ballot or curbside voting as a means of gaining access to voting does not relieve a State or locality from its obligation to make polling places as integrated and accessible as possible. Thus, to comply with the ADA, a public entity (such as a State or unit of local government or a responsible government official) must first survey its polling places and move inaccessible polling places to accessible locations. The defense of undue burden is unavailable if there are accessible places that may reasonably serve as polling places. It will be a rare case in which the need to move a polling place to another location will create an undue burden.

Simple compliance with this requirement—that accessible polling places be chosen in the first place—will result in significant increased accessibility without costing any additional money. Normally, an alteration in polling location will only require a different way of thinking about what constitutes an appropriate polling place.

There may well be situations in which no accessible place is reasonably available as a polling place. In such cases, the public entity must make changes to existing polling places to ensure accessibility, such as installing a ramp providing access for those who use wheelchairs. This obligation, however, is subject to an “undue burden” defense. Thus, in some situations, the entity will not be required to make a polling place accessible, and instead, will be permitted to offer access to voting through such means as curbside voting or absentee balloting.

It is important to note, however, that a State or unit of local government may not, as a first resort, depend upon curbside voting or absentee balloting as its sole means to make polling places accessible. Rather, as noted, the government must first determine whether an integrated means of access can be achieved within the “undue burden” limitation. If such access cannot be achieved within that standard, the public entity may then rely upon alternative, less-integrated means of access to the act of voting, for example, curbside voting or absentee balloting.

The undue burden standard makes allowance for the limitations of poor or rural jurisdictions lacking the resources to achieve a level of accessibility equivalent to that of larger, wealthier or more populous areas. However, an undue burden defense must be assessed in terms of actual—rather than merely formal—resource constraints. An undue burden means significant difficulty or expense in light of the budget of the unit of government responsible for funding registration services, polling places and voting methods, together with any coordinated budget with, or budgetary resources available from, other units of State and local government. See, e.g., H.R. Rep. No. 101-485 (1990), reprinted in Comm. on Educ. and Labor, 101st Cong., Legislative History of the Americans with Dis-

abilities Act, at 340–343 (1990) (providing guidance on the analogous undue hardship determination in the employment context.)

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