

109TH CONGRESS
1ST SESSION

S. 450

To amend the Help America Vote Act of 2002 to require a voter-verified paper record, to improve provisional balloting, to impose additional requirements under such Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mrs. CLINTON (for herself, Mrs. BOXER, Mr. KERRY, Mr. LAUTENBERG, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified paper record, to improve provisional balloting, to impose additional requirements under such Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Count Every Vote Act of 2005”.

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

Sec. 1. Short title; table of contents.

TITLE I—VOTER VERIFICATION AND AUDITING

- Sec. 101. Promoting accuracy, integrity, and security through preservation of a voter-verified paper record or hard copy.
- Sec. 102. Requirement for mandatory recounts.
- Sec. 103. Specific, delineated requirement of study, testing, and development of best practices.
- Sec. 104. Voter verification and audit capacity funding.
- Sec. 105. Reports and provision of security consultation services.
- Sec. 106. Improvements to voting systems.

TITLE II—PROVISIONAL BALLOTS

- Sec. 201. Requirements for casting and counting provisional ballots.

TITLE III—ADDITIONAL REQUIREMENTS UNDER THE HELP AMERICA VOTE ACT OF 2002

Subtitle A—Shortening Voter Wait Times

- Sec. 301. Minimum required voting systems, poll workers, and election resources.
- Sec. 302. Requirements for jurisdictions with substantial voter wait times.

Subtitle B—No-Excuse Absentee Voting

- Sec. 311. No-excuse absentee voting.

Subtitle C—Collection and Dissemination of Election Data

- Sec. 321. Data collection.

Subtitle D—Ensuring Well Run Elections

- Sec. 331. Training of election officials.
- Sec. 332. Impartial administration of elections.

Subtitle E—Standards for Purging Voters

- Sec. 341. Standards for purging voters.

Subtitle F—Election Day Registration and Early Voting

- Sec. 351. Election day registration.
- Sec. 352. Early voting.

TITLE IV—VOTER REGISTRATION AND IDENTIFICATION

- Sec. 401. Voter registration.
- Sec. 402. Establishing voter identification.
- Sec. 403. Requirement for Federal certification of technological security of voter registration lists.

TITLE V—PROHIBITION ON CERTAIN CAMPAIGN ACTIVITIES

- Sec. 501. Prohibition on certain campaign activities.

TITLE VI—ENDING DECEPTIVE PRACTICES

- Sec. 601. Ending deceptive practices.

TITLE VII—CIVIC PARTICIPATION BY EX-OFFENDERS

Sec. 701. Voting rights of individuals convicted of criminal offenses.

TITLE VIII—FEDERAL ELECTION DAY ACT

Sec. 801. Short title.

Sec. 802. Federal Election Day as a public holiday.

Sec. 803. Study on encouraging government employees to serve as poll workers.

TITLE IX—TRANSMISSION OF CERTIFICATE OF ASCERTAINMENT
OF ELECTORS

Sec. 901. Transmission of certificate of ascertainment of electors.

TITLE X—STRENGTHENING THE ELECTION ASSISTANCE
COMMISSION

Sec. 1001. Strengthening the Election Assistance Commission.

Sec. 1002. Repeal of exemption of Election Assistance Commission from certain
Government contracting requirements.

Sec. 1003. Authorization of appropriations.

1 **TITLE I—VOTER VERIFICATION**
2 **AND AUDITING**

3 **SEC. 101. PROMOTING ACCURACY, INTEGRITY, AND SECUR-**
4 **ITY THROUGH PRESERVATION OF A VOTER-**
5 **VERIFIED PAPER RECORD OR HARD COPY.**

6 (a) VOTER VERIFICATION AND MANUAL AUDIT CA-
7 PACITY.—

8 (1) IN GENERAL.—Section 301(a)(2) of the
9 Help America Vote Act of 2002 (42 U.S.C.
10 15481(a)(2)) is amended to read as follows:

11 “(2) VOTER VERIFICATION AND MANUAL AUDIT
12 CAPACITY.—

13 “(A) VOTER VERIFICATION.—

14 “(i) The voting system shall produce
15 an individual voter-verifiable paper record
16 of the vote that shall be made available for

1 inspection and verification by the voter be-
2 fore the vote is cast.

3 “(ii) The voting system shall provide
4 the voter with an opportunity to correct
5 any error made by the system in the voter-
6 verifiable paper record before the perma-
7 nent voter-verified paper record is pre-
8 served in accordance with subparagraph
9 (B)(i).

10 “(B) MANUAL AUDIT CAPACITY.—The per-
11 manent voter-verified paper record produced in
12 accordance with subparagraph (A) shall—

13 “(i) be preserved within the polling
14 place, in the manner, if any, in which all
15 other paper ballots are preserved within
16 that polling place, or, in the manner em-
17 ployed by the jurisdiction for preserving
18 paper ballots in general, for later use in
19 any manual audit;

20 “(ii) be suitable for a manual audit
21 equivalent to that of a paper ballot voting
22 system; and

23 “(iii) be available as the official record
24 and shall be the official record used for
25 any recount conducted with respect to any

1 Federal election in which the system is
2 used.”.

3 (2) PROHIBITION OF USE OF THERMAL
4 PAPER.—Section 301(a) of the Help America Vote
5 Act of 2002 (42 U.S.C. 15481(a)) is amended by
6 adding at the end the following new paragraph:

7 “(7) PROHIBITION OF USE OF THERMAL
8 PAPER.—The voter-verified paper record produced in
9 accordance with paragraph (2)(A) shall not be pro-
10 duced on thermal paper, but shall instead be pro-
11 duced on paper of archival quality.”.

12 (3) CONFORMING AMENDMENT.—Section
13 301(a)(1)(A)(ii) of the Help America Vote Act (42
14 U.S.C. 15481(a)(1)(A)(ii)) is amended by inserting
15 “and before the paper record is produced under
16 paragraph (2)” before the semicolon at the end.

17 (b) VOTER-VERIFICATION OF RESULTS FOR INDIVID-
18 UALS WITH DISABILITIES AND LANGUAGE MINORITY
19 VOTERS.—Paragraph (3) of section 301(a) of the Help
20 America Vote Act of 2002 (42 U.S.C. 15481(a)(3)) is
21 amended to read as follows:

22 “(3) ACCESSIBILITY FOR INDIVIDUALS WITH
23 DISABILITIES AND FOR LANGUAGE MINORITIES.—

24 “(A) IN GENERAL.—The voting system
25 shall—

1 “(i) be accessible for individuals with
2 disabilities, including nonvisual accessi-
3 bility for the blind and visually impaired,
4 in a manner that provides the same oppor-
5 tunity for access, participation (including
6 privacy and independence), inspection, and
7 verification as for other voters;

8 “(ii) be accessible for language minor-
9 ity individuals to the extent required under
10 section 203 of the Voting Rights Act of
11 1965 (42 U.S.C. 1973aa-1), in a manner
12 that provides the same opportunity for ac-
13 cess, participation (including privacy and
14 independence), inspection, and verification
15 as for other voters;

16 “(iii) satisfy the requirement of
17 clauses (i) and (ii) through the use of at
18 least one direct recording electronic voting
19 system or other voting system equipped for
20 individuals with disabilities at each polling
21 place; and

22 “(iv) if purchased with funds made
23 available under title II on or after Novem-
24 ber 1, 2006, meet the voting system stand-

1 ards for disability access (as outlined in
2 this paragraph).

3 “(B) VERIFICATION REQUIREMENTS.—Any
4 direct recording electronic voting system or
5 other voting system described in subparagraph
6 (A)(iii) shall use a mechanism that separates
7 the function of vote generation from the func-
8 tion of vote casting and shall produce, in ac-
9 cordance with paragraph (2)(A), an individual
10 paper record which—

11 “(i) shall be used to meet the require-
12 ments of paragraph (2)(B);

13 “(ii) shall be available for visual,
14 audio, and pictorial inspection and
15 verification by the voter, with language
16 translation available for all forms of in-
17 spection and verification in accordance
18 with the requirements of section 203 of the
19 Voting Rights Act of 1965;

20 “(iii) shall not require the voter to
21 handle the paper; and

22 “(iv) shall not preclude the use of
23 Braille or tactile ballots for those voters
24 who need them.

1 The requirement of clause (iii) shall not apply
 2 to any voting system certified by the Inde-
 3 pendent Testing Authorities before the date of
 4 the enactment of this Act.

5 “(C) REQUIREMENTS FOR LANGUAGE MI-
 6 NORITIES.—Any record produced under sub-
 7 paragraph (B) shall be subject to the require-
 8 ments of section 203 of the Voting Rights Act
 9 of 1965 to the extent such section is applicable
 10 to the State or jurisdiction in which such record
 11 is produced.”.

12 (c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—
 13 Section 301(a) of the Help America Vote Act of 2002 (42
 14 U.S.C. 15481(a)), as amended by subsection (a)(2), is
 15 amended by adding to the end the following new para-
 16 graphs:

17 “(8) INSTRUCTION OF ELECTION OFFICIALS.—
 18 Each State shall ensure that election officials are in-
 19 structed on the right of any individual who requires
 20 assistance to vote by reason of blindness, other dis-
 21 ability, or inability to read or write to be given as-
 22 sistance by a person chosen by that individual under
 23 section 208 of the Voting Rights Act of 1965.

24 “(9) PROHIBITION OF USE OF UNDISCLOSED
 25 SOFTWARE IN VOTING SYSTEMS.—No voting system

1 shall at any time contain or use any undisclosed
2 software. Any voting system containing or using
3 software shall disclose the source code, object code,
4 and executable representation of that software to the
5 Commission, and the Commission shall make that
6 source code, object code, and executable representa-
7 tion available for inspection upon request to any cit-
8 izen.

9 “(10) PROHIBITION OF USE OF WIRELESS COM-
10 MUNICATION DEVICES IN VOTING SYSTEMS.—No
11 voting system shall use any wireless communication
12 device.

13 “(11) CERTIFICATION OF SOFTWARE AND
14 HARDWARE.—All software and hardware used in any
15 electronic voting system shall be certified by labora-
16 tories accredited by the Commission as meeting the
17 requirements of paragraphs (9) and (10).

18 “(12) SECURITY STANDARDS FOR MANUFAC-
19 TURERS OF VOTING SYSTEMS USED IN FEDERAL
20 ELECTIONS.—

21 “(A) IN GENERAL.—No voting system may
22 be used in an election for Federal office unless
23 the manufacturer of such system meets the re-
24 quirements described in subparagraph (B).

1 “(B) REQUIREMENTS DESCRIBED.—The
2 requirements described in this subparagraph
3 are as follows:

4 “(i) The manufacturer shall conduct
5 background checks on individuals who are
6 programmers and developers before such
7 individuals work on any software used in
8 connection with the voting system.

9 “(ii) The manufacturer shall docu-
10 ment the chain of custody for the handling
11 of software used in connection with voting
12 systems.

13 “(iii) The manufacturer shall ensure
14 that any software used in connection with
15 the voting system is not transferred over
16 the Internet.

17 “(iv) In the same manner and to the
18 same extent described in paragraph (9),
19 the manufacturer shall provide the codes
20 used in any software used in connection
21 with the voting system to the Commission
22 and may not alter such codes once certifi-
23 cation by the Independent Testing Au-
24 thorities has occurred unless such system
25 is recertified.

1 “(v) The manufacturer shall imple-
2 ment procedures to ensure internal secu-
3 rity, as required by the Director of the Na-
4 tional Institute of Standards and Tech-
5 nology.

6 “(vi) The manufacturer shall meet
7 such other requirements as may be estab-
8 lished by the Director of the National In-
9 stitute of Standards and Technology.”.

10 (d) **EFFECTIVE DATE.**—Each State and jurisdiction
11 shall be required to comply with the amendments made
12 by this section on and after November 1, 2006.

13 **SEC. 102. REQUIREMENT FOR MANDATORY RECOUNTS.**

14 On and after the date of the enactment of this Act,
15 the Election Assistance Commission shall conduct random
16 unannounced manual mandatory recounts of the voter-
17 verified records of each election for Federal office (and,
18 at the option of the State or jurisdiction involved, of elec-
19 tions for State and local office held at the same time as
20 such an election for Federal office) in 2 percent of the
21 polling locations (or, in the case of any polling location
22 which serves more than 1 precinct, 2 percent of the pre-
23 cincts) in each State and with respect to 2 percent of the
24 ballots cast by uniformed and overseas voters immediately
25 following the election and shall promptly publish the re-

1 sults of those recounts in the Federal Register. In addi-
2 tion, the verification system used by the Election Assist-
3 ance Commission shall meet the error rate standards de-
4 scribed in section 301(a)(5) of the Help America Vote Act
5 of 2002.

6 **SEC. 103. SPECIFIC, DELINEATED REQUIREMENT OF**
7 **STUDY, TESTING, AND DEVELOPMENT OF**
8 **BEST PRACTICES.**

9 (a) IN GENERAL.—Subtitle C of title II of the Help
10 America Vote Act of 2002 (42 U.S.C. 15381 et seq.) is
11 amended by—

12 (1) redesignating section 247 as section 248;

13 and

14 (2) by inserting after section 246 the following
15 new section:

16 **“SEC. 247. STUDY, TESTING, AND DEVELOPMENT OF BEST**
17 **PRACTICES TO ENHANCE ACCESSIBILITY**
18 **AND VOTER-VERIFICATION MECHANISMS**
19 **FOR DISABLED VOTERS.**

20 “The Election Assistance Commission shall study,
21 test, and develop best practices to enhance accessibility
22 and voter-verification mechanisms for individuals with dis-
23 abilities.”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act.

4 **SEC. 104. VOTER-VERIFICATION AND AUDIT CAPACITY**
 5 **FUNDING.**

6 (a) IN GENERAL.—Subtitle D of title II of the Help
 7 America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is
 8 amended by adding at the end the following new part:

9 **“PART 7—VOTER-VERIFICATION AND AUDIT**
 10 **CAPACITY FUNDING**

11 **“SEC. 297. VOTER-VERIFICATION AND AUDIT CAPACITY**
 12 **FUNDING.**

13 “(a) PAYMENTS TO STATES.—Subject to subsection
 14 (b), not later than the date that is 30 days after the date
 15 of the enactment of the Count Every Vote Act of 2005,
 16 the Election Assistance Commission shall pay to each
 17 State an amount to assist the State in paying for the im-
 18 plementation of the voter-verification and audit capacity
 19 requirements of paragraphs (2) and (3) of section 301(a),
 20 as amended by subsections (a) and (b) of section 2 of such
 21 Act.

22 “(b) LIMITATION.—The amount paid to a State
 23 under subsection (a) for each voting system purchased by
 24 a State may not exceed the average cost of adding a print-
 25 er with accessibility features to each type of voting system

1 that the State could have purchased to meet the require-
2 ments described in such subsection.

3 **“SEC. 298. APPROPRIATION.**

4 “There are authorized and appropriated
5 \$500,000,000 to the Election Assistance Commission,
6 without fiscal year limitation, to make payments to States
7 in accordance with section 297(a). Furthermore, there are
8 authorized and appropriated \$20,000,000 to the Election
9 Assistance Commission, for each of fiscal years 2006
10 through 2010, in addition to any amounts otherwise ap-
11 propriated for administrative costs to assist with con-
12 ducting recounts, the implementation of voter verification
13 systems, and improved security measures.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 105. REPORTS AND PROVISION OF SECURITY CON-**
18 **SULTATION SERVICES.**

19 (a) IN GENERAL.—Subtitle C of title II of the Help
20 America Vote Act of 2002 (42 U.S.C. 15381 et seq.), as
21 amended by section 103, is amended by—

22 (1) redesignating section 248 as section 249;

23 and

24 (2) by inserting after section 247 the following
25 new section:

1 **“SEC. 248. REPORTS AND PROVISION OF SECURITY CON-**
2 **SULTATION SERVICES.**

3 “(a) REPORT TO CONGRESS ON SECURITY RE-
4 VIEW.—Not later than 6 months after the date of the en-
5 actment of the Count Every Vote Act of 2005, the Com-
6 mission, in consultation with the Director of the National
7 Institute of Standards and Technology, shall submit to
8 Congress a report on a proposed security review and cer-
9 tification process for all voting systems used in elections
10 for Federal office, including a description of the certifi-
11 cation process to be implemented under section 231.

12 “(b) REPORT TO CONGRESS ON OPERATIONAL AND
13 MANAGEMENT SYSTEMS.—Not later than 3 months after
14 the date of the enactment of the Count Every Vote Act
15 of 2005, the Commission shall submit to Congress a report
16 on operational and management systems applicable with
17 respect to elections for Federal office, including the secu-
18 rity standards for manufacturers described in section
19 301(a)(7), that should be employed to safeguard the secu-
20 rity of voting systems, together with a proposed schedule
21 for the implementation of each such system.

22 “(c) PROVISION OF SECURITY CONSULTATION SERV-
23 ICES.—

24 “(1) IN GENERAL.—On and after the date of
25 the enactment of the Count Every Vote Act of 2005,
26 the Commission, in consultation with the Director of

1 the National Institute of Standards and Technology,
2 shall provide security consultation services to States
3 and local jurisdictions with respect to the adminis-
4 tration of elections for Federal office.

5 “(2) APPROPRIATION.—To carry out the pur-
6 poses of paragraph (1), \$2,000,000 is appropriated
7 for each of fiscal years 2006 through 2010.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 106. IMPROVEMENTS TO VOTING SYSTEMS.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 301(a)(1) of the Help America Vote Act of 2002 (42
14 U.S.C. 15481(a)(1)(B)) is amended by striking “, a punch
15 card voting system, or a central count voting system”.

16 (b) CLARIFICATION OF REQUIREMENTS FOR PUNCH
17 CARD SYSTEMS.—Subparagraph (A) of section 301(a)(1)
18 of the Help America Vote Act of 2002 (42 U.S.C.
19 15481(a)(1)(A)) is amended by inserting “punch card vot-
20 ing system,” after “any”.

21 (c) EFFECTIVE DATE.—Each State and jurisdiction
22 shall be required to comply with the amendments made
23 by this section on and after November 1, 2006.

24 (d) RESIDUAL VOTE BENCHMARK.—

1 (1) IN GENERAL.—The error rate of the voting
2 system (as defined under section 301 of the Help
3 America Vote Act of 2002) in counting ballots (de-
4 termined by taking into account only those errors
5 which are attributable to the voting system and not
6 attributable to an act of the voter) shall not exceed
7 the error rate standards established under the voting
8 systems standards issued and maintained by Elec-
9 tion Assistance Commission.

10 (2) RESIDUAL BALLOT PERFORMANCE BENCH-
11 MARK.—In addition to the error rate standards de-
12 scribed in paragraph (1), the Election Assistance
13 Commission shall issue and maintain a uniform
14 benchmark for the residual ballot error rate that ju-
15 risdictions may not exceed. For purposes of the pre-
16 ceding sentence, the residual vote error rate shall be
17 equal to the combination of overvotes, spoiled or un-
18 countable votes, and undervotes cast in the contest
19 at the top of the ballot, but excluding an estimate,
20 based upon the best available research, of intentional
21 undervotes. The Commission shall base the bench-
22 mark issued and maintained under this subpara-
23 graph on evidence of good practices in representative
24 jurisdictions.

1 (3) HISTORICALLY HIGH INTENTIONAL UNDER-
2 VOTES.—

3 (A) Congress finds that there are certain
4 distinct communities in certain geographic
5 areas that have historically high rates of inten-
6 tional undervoting in elections for Federal of-
7 fice, relative to the rest of the Nation.

8 (B) In establishing the benchmark de-
9 scribed in subparagraph (B), the Election As-
10 sistance Commission shall—

11 (i) study and report to Congress on
12 the occurrences of distinct communities
13 that have significantly higher than average
14 rates of historical intentional undervoting;
15 and

16 (ii) promulgate for local jurisdictions
17 in which that distinct community has a
18 substantial presence either a separate
19 benchmark or an exclusion from the na-
20 tional benchmark, as appropriate.

21 **TITLE II—PROVISIONAL**
22 **BALLOTS**

23 **SEC. 201. REQUIREMENTS FOR CASTING AND COUNTING**
24 **PROVISIONAL BALLOTS.**

25 (a) ELIGIBILITY OF PROVISIONAL BALLOTS.—

1 (1) IN GENERAL.—Paragraph (4) of section
2 302(a) of the Help America Vote Act of 2002 (42
3 U.S.C. 15482(a)(4)) is amended by inserting at the
4 end the following new sentence: “The determination
5 of eligibility shall be made without regard to the lo-
6 cation at which the voter cast the provisional ballot
7 and without regard to any requirement to present
8 identification to any election official.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall apply to States and jurisdic-
11 tions on and after November 1, 2006.

12 (b) TIMELY PROCESSING OF BALLOTS.—

13 (1) IN GENERAL.—Subsection (a) of section
14 302 of the Help America Vote Act of 2002 (42
15 U.S.C. 15482(a)) is amended by inserting after
16 paragraph (5) the following new paragraph:

17 “(6) The appropriate State election official
18 shall develop, according to guidelines established by
19 the Election Assistance Commission, reasonable pro-
20 cedures to assure the timely processing and counting
21 of provisional ballots, including—

22 “(A) standards for timely processing and
23 counting to assure that, after the conclusion of
24 the provisional vote count, parties and can-
25 didates may have full, timely, and effective re-

1 course to the recount and contest procedures
2 provided by State law; and

3 “(B) standards for the informed participa-
4 tion of candidates and parties such as are con-
5 sistent with reasonable procedures to protect
6 the security, confidentiality, and integrity of
7 personal information collected in the course of
8 the processing and counting of provisional bal-
9 lots.”.

10 (2) EFFECTIVE DATE.—Subsection (d) of sec-
11 tion 302 of the Help America Vote Act of 2002 (42
12 U.S.C. 15482(d)) is amended—

13 (A) by striking “Each State” and inserting
14 the following:

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), each State”; and

17 (B) by inserting at the end the following
18 new paragraph:

19 “(2) PROCESSING.—Each State shall be re-
20 quired to comply with the requirements of subsection
21 (a)(6) on and after the date that is 6 months after
22 the date of the enactment of the Count Every Vote
23 Act of 2005.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on the date that
3 is 6 months after the date of enactment of this Act.

4 **TITLE III—ADDITIONAL RE-**
5 **REQUIREMENTS UNDER THE**
6 **HELP AMERICA VOTE ACT OF**
7 **2002**

8 **Subtitle A—Shortening Voter Wait**
9 **Times**

10 **SEC. 301. MINIMUM REQUIRED VOTING SYSTEMS, POLL**
11 **WORKERS, AND ELECTION RESOURCES.**

12 (a) MINIMUM REQUIREMENTS.—

13 (1) IN GENERAL.—Title III of the Help Amer-
14 ica Vote Act of 2002 (42 U.S.C. 15481 et seq.) is
15 amended by adding at the end the following new
16 subtitle:

17 **“Subtitle C—Additional**
18 **Requirements**

19 **“SEC. 321. MINIMUM REQUIRED VOTING SYSTEMS AND**
20 **POLL WORKERS.**

21 “(a) IN GENERAL.—Each State shall provide for the
22 minimum required number of voting systems, poll workers,
23 and other election resources (including all other physical
24 resources) for each voting site on the day of any Federal
25 election and on any days during which such State allows

1 early voting for a Federal election in accordance with the
2 standards determined under section 299.

3 “(b) VOTING SITE.—For purposes of this section and
4 section 299, the term ‘voting site’ means a polling loca-
5 tion, except that in the case of any polling location which
6 serves more than 1 precinct, such term shall mean a pre-
7 cinct.

8 “(c) EFFECTIVE DATE.—Each State shall be re-
9 quired to comply with the requirements of this section on
10 and after October 1, 2006.”.

11 (2) CONFORMING AMENDMENT.—Section 401
12 of the Help America Vote Act of 2002 (42 U.S.C.
13 15511) is amended by striking “and 303” and in-
14 serting “303, and subtitle C”.

15 (b) STANDARDS.—

16 (1) IN GENERAL.—Title II of the Help America
17 Vote Act of 2002 (42 U.S.C. 15321 et seq.) is
18 amended by adding at the end the following new
19 subtitle:

1 **“Subtitle E—Guidance and**
2 **Standards**

3 **“SEC. 299. STANDARDS FOR ESTABLISHING THE MINIMUM**
4 **REQUIRED VOTING SYSTEMS AND POLL**
5 **WORKERS.**

6 “(a) IN GENERAL.—Not later than January 1, 2006,
7 the Commission shall issue standards regarding the min-
8 imum number of voting systems, poll workers, and other
9 election resources (including all other physical resources)
10 required under section 321 on the day of any Federal elec-
11 tion and on any days during which early voting is allowed
12 for a Federal election.

13 “(b) DISTRIBUTION.—

14 “(1) IN GENERAL.—The standards described in
15 subsection (a) shall provide for a uniform and non-
16 discriminatory distribution of such systems, workers,
17 and other resources, and shall take into account,
18 among other factors, the following with respect to
19 any voting site:

20 “(A) The voting age population.

21 “(B) Voter turnout in past elections.

22 “(C) The number of voters registered.

23 “(D) The number of voters who have reg-
24 istered since the most recent Federal election.

1 “(E) Census data for the population served
2 by such voting site.

3 “(F) The educational levels and socio-economic factors of the population served by such
4 voting site.

6 “(G) The needs and numbers of disabled
7 voters and voters with limited English proficiency.

9 “(H) The type of voting systems used.

10 “(2) NO FACTOR DISPOSITIVE.—The standards
11 shall provide that any distribution of such systems
12 shall take into account the totality of all relevant
13 factors, and no single factor shall be dispositive
14 under the standards.

15 “(3) PURPOSE.—To the extent possible, the
16 standards shall provide for a distribution of voting
17 systems, poll workers, and other election resources
18 with the goals of—

19 “(A) ensuring an equal waiting time for all
20 voters in the State; and

21 “(B) preventing a waiting time of over 1
22 hour at any polling place.

23 “(c) DEVIATION.—The standards described in sub-
24 section (a) shall permit States, upon giving reasonable
25 public notice, to deviate from any allocation requirements

1 in the case of unforeseen circumstances such as a natural
2 disaster or terrorist attack.”.

3 (2) CONFORMING AMENDMENT.—Section 202
4 of the Help America Vote Act of 2002 (42 U.S.C.
5 15322) is amended by redesignating paragraphs (5)
6 and (6) as paragraphs (6) and (7), respectively, and
7 by inserting after paragraph (4) the following new
8 paragraph:

9 “(5) carrying out the duties described under
10 subtitle E;”.

11 **SEC. 302. REQUIREMENTS FOR JURISDICTIONS WITH SUB-**
12 **STANTIAL VOTER WAIT TIMES.**

13 (a) IN GENERAL.—The Help America Vote Act of
14 2002 (42 U.S.C. 15301 et seq.) is amended by adding at
15 the end the following new title:

16 **“TITLE X—REMEDIAL PLANS**
17 **FOR STATES WITH EXCESSIVE**
18 **VOTER WAIT TIMES**

19 **“SEC. 1001. REMEDIAL PLANS FOR STATES WITH EXCES-**
20 **SIVE VOTER WAIT TIMES.**

21 “(a) IN GENERAL.—Each jurisdiction for which the
22 Election Assistance Commission determines that a sub-
23 stantial number of voters waited more than 90 minutes
24 to cast a vote in the election on November 2, 2004, shall

1 comply with a State remedial plan established under this
2 section.

3 “(b) STATE REMEDIAL PLANS.—For each State or
4 jurisdiction which is required to comply with this section,
5 the Election Assistance Commission shall establish a State
6 remedial plan to minimize the waiting times of voters.

7 “(c) JURISDICTION.—For purposes of this section,
8 the term ‘jurisdiction’ has the same meaning as the term
9 ‘registrar’s jurisdiction’ under section 8 of the National
10 Voter Registration Act of 1993.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **Subtitle B—No-Excuse Absentee**
15 **Voting**

16 **SEC. 311. NO-EXCUSE ABSENTEE VOTING.**

17 Subtitle C of title III of the Help America Vote Act
18 of 2002, as added by this Act, is amended by adding at
19 the end the following new section:

20 **“SEC. 322. NO-EXCUSE ABSENTEE VOTING.**

21 “(a) IN GENERAL.—Each State and jurisdiction shall
22 permit any person who is otherwise qualified to vote in
23 an election for Federal office to vote in such election in
24 a manner other than in person without regard to any re-
25 strictions on absentee voting under State law.

1 “(b) SUBMISSION AND PROCESSING.—

2 “(1) IN GENERAL.—Any ballot cast under sub-
3 section (a) shall be submitted and processed in the
4 manner provided for absentee ballots under State
5 law.

6 “(2) DEADLINE.—Any ballot cast under sub-
7 section (a) shall be counted if postmarked or signed
8 before the close of the polls on election day and re-
9 ceived by the appropriate State election official on or
10 before the date which is 10 days after the date of
11 the election or the date provided for the receipt of
12 absentee ballots under State law, whichever is later.

13 “(c) EFFECTIVE DATE.—Each State and jurisdiction
14 shall be required to comply with the requirements of this
15 section on and after October 1, 2006.”.

16 **Subtitle C—Collection and**
17 **Dissemination of Election Data**

18 **SEC. 321. DATA COLLECTION.**

19 Subtitle C of title III of the Help America Vote Act
20 of 2002, as added and amended by this Act, is amended
21 by adding at the end the following new section:

22 **“SEC. 323. PUBLIC REPORTS ON FEDERAL ELECTIONS.**

23 “(a) IN GENERAL.—Not later than 6 months after
24 a Federal election, each State and jurisdiction shall pub-

1 lically report information on such election, including the fol-
2 lowing information with respect to the election:

3 “(1) The total number of individuals of voting
4 age in the population.

5 “(2) The total number of individuals registered
6 to vote.

7 “(3) The total number of registered voters who
8 voted.

9 “(4) The number of absentee and overseas bal-
10 lots requested, including the numbers of such ballots
11 requested by military personnel and citizens living
12 overseas.

13 “(5) The number of absentee and overseas bal-
14 lots cast, including the numbers of such ballots cast
15 by military personnel and citizens living overseas.

16 “(6) The total number of absentee and overseas
17 ballots counted, including the number of such ballots
18 which were cast by military personnel and citizens
19 living overseas that were counted.

20 “(7) The total number of absentee and overseas
21 ballots rejected, including the numbers of such bal-
22 lots which were cast by military personnel and citi-
23 zens living overseas that were rejected, and the rea-
24 sons for any such rejections.

1 “(8) The number of votes cast in early voting
2 at the polls before the day of the election.

3 “(9) The number of provisional ballots cast.

4 “(10) The number of provisional ballots count-
5 ed.

6 “(11) The number of provisional ballots re-
7 jected and the reasons any provisional ballots were
8 rejected.

9 “(12) The number of voting sites (within the
10 meaning of section 321(b)) in the State or jurisdic-
11 tion.

12 “(13) The number of voting machines in each
13 such voting site on election day and the type of each
14 voting machine.

15 “(14) The total number of voting machines
16 available in the State or jurisdiction for distribution
17 to each such voting site.

18 “(15) The total number of voting machines ac-
19 tually distributed to such voting sites (including vot-
20 ing machines distributed as replacement voting ma-
21 chines on the day of the election).

22 “(16) The total number of voting machines of
23 any type, whether electronic or manual, that mal-
24 functioned on the day of the election and the reason
25 for any malfunction.

1 “(17) The total number of voting machines that
2 were replaced on the day of the election.

3 “(b) REPORT BY EAC.—The Commission shall col-
4 lect the information published under subsection (a) and
5 shall report to Congress not later than 9 months after any
6 Federal election the following:

7 “(1) The funding and expenditures of each
8 State under the provisions of this Act.

9 “(2) The voter turnout in the election.

10 “(3) The number of registered voters and the
11 number of individuals eligible to register who are not
12 registered.

13 “(4) The number of voters who have registered
14 to vote in a Federal election since the most recent
15 such election.

16 “(5) The extent to which voter registration in-
17 formation has been shared among government agen-
18 cies (including any progress on implementing state-
19 wide voter registration databases under section
20 303(a)).

21 “(6) The extent to which accurate voter infor-
22 mation has been maintained over time.

23 “(7) The number and types of new voting sys-
24 tems purchased by States and jurisdictions.

1 “(8) The amount of time individuals waited to
2 vote.

3 “(9) The number of early votes, provisional
4 votes, absentee ballots, and overseas ballots distrib-
5 uted, cast, and counted.

6 “(10) The amount of training that poll workers
7 received.

8 “(11) The number of poll workers.

9 “(12) The number of polling locations and pre-
10 cincts.

11 “(13) The ratio of the number of voting ma-
12 chines to the number of registered voters.

13 “(14) any other information pertaining to elec-
14 toral participation as the Commission deems appro-
15 priate.

16 “(c) Each State and jurisdiction shall be required to
17 comply with the requirements of this section on and after
18 November 1, 2006.”.

19 **Subtitle D—Ensuring Well Run**
20 **Elections**

21 **SEC. 331. TRAINING OF ELECTION OFFICIALS.**

22 Subtitle C of title III of the Help America Vote Act
23 of 2002, as added and amended by this Act, is amended
24 by adding at the end the following new section:

1 **“SEC. 324. TRAINING OF ELECTION OFFICIALS.**

2 “(a) IN GENERAL.—Each State and jurisdiction shall
3 require that each person who works in a polling place dur-
4 ing an election for Federal office receives adequate train-
5 ing not earlier than 3 months before the election.

6 “(b) TRAINING.—The training required under sub-
7 section (a) shall, at a minimum, include—

8 “(1) hands-on training on all voting systems
9 used in the election;

10 “(2) training on accommodating individuals
11 with disabilities, individuals who are of limited
12 English proficiency, and individuals who are illit-
13 erate;

14 “(3) training on requirements for the identifica-
15 tion of voters;

16 “(4) training on the appropriate use of provi-
17 sional ballots and the process for casting such bal-
18 lots;

19 “(5) training on registering voters on the day
20 of the election;

21 “(6) training on which individuals have the au-
22 thority to challenge voter eligibility and the process
23 for any such challenges; and

24 “(7) training on security procedures.

1 “(c) EFFECTIVE DATE.—Each State and jurisdiction
2 shall be required to comply with the requirements of this
3 section on and after August 1, 2006.”.

4 **SEC. 332. IMPARTIAL ADMINISTRATION OF ELECTIONS.**

5 Subtitle C of title III of the Help America Vote Act
6 of 2002, as added and amended by this Act, is amended
7 by adding at the end the following new section:

8 **“SEC. 325. ELECTION ADMINISTRATION REQUIREMENTS.**

9 “(a) PUBLICATION OF STATE ELECTION LAWS.—

10 “(1) IN GENERAL.—Each State shall be re-
11 quired to publish all State laws, regulations, proce-
12 dures, and practices relating to Federal elections on
13 January 1 of each year in which there is a regularly
14 scheduled election for a Federal office.

15 “(2) MAINTENANCE OF LAWS ON THE INTER-
16 NET.—Each State shall be required to maintain an
17 updated version of all material published under
18 paragraph (1) on an easily accessible public web site
19 on the Internet.

20 “(b) NOTICE OF CHANGES IN STATE ELECTION
21 LAWS.—Not later than 15 days prior to any Federal elec-
22 tion, each State shall issue a public notice describing all
23 changes in State law affecting voting in Federal elections
24 and the administration of Federal elections since the most
25 recent prior such election. If any State or local government

1 makes any change affecting the administration of Federal
2 elections within 15 days of a Federal election, the State
3 or local government shall provide adequate public notice.

4 “(c) OBSERVERS.—

5 “(1) STANDARDS.—Each State shall issue non-
6 discriminatory standards for granting access to non-
7 partisan election observers. Such standards shall
8 take into account the need to avoid disruption and
9 crowding in polling places.

10 “(2) IN GENERAL.—Each State shall allow uni-
11 form and nondiscriminatory access to any polling
12 place for purposes of observing a Federal election to
13 nonpartisan domestic observers (including voting
14 rights and civil rights organizations) and inter-
15 national observers in accordance with the standards
16 published under paragraph (1).

17 “(3) NOTICE OF DENIAL OF OBSERVATION RE-
18 QUEST.—Each State shall issue a public notice with
19 respect to any denial of a request by any observer
20 described in paragraph (2) for access to any polling
21 place for purposes of observing a Federal election.
22 Such notice shall be issued not later than 24 hours
23 after such denial.

1 “(d) EFFECTIVE DATE.—Each State shall be re-
2 quired to comply with the requirements of this section on
3 and after October 1, 2006.”

4 **Subtitle E—Standards for Purging** 5 **Voters**

6 **SEC. 341. STANDARDS FOR PURGING VOTERS.**

7 Subtitle C of title III of the Help America Vote Act
8 of 2002, as added and amended by this Act, is amended
9 by adding at the end the following new section:

10 **“SEC. 326. REMOVAL FROM VOTER REGISTRATION LIST.**

11 “(a) PUBLIC NOTICE.—Not later than 45 days before
12 any Federal election, each State shall provide public notice
13 of—

14 “(1) all names which have been removed from
15 the voter registration list of such State under section
16 303 since the later of the most recent election for
17 Federal office or the day of the most recent previous
18 public notice provided under this section; and

19 “(2) the criteria, processes, and procedures
20 used to determine which names were removed.

21 “(b) NOTICE TO INDIVIDUAL VOTERS.—

22 “(1) IN GENERAL.—No individual shall be re-
23 moved from the voter registration list under section
24 303 unless such individual is first provided with a

1 notice which meets the requirements of paragraph
2 (2).

3 “(2) REQUIREMENTS OF NOTICE.—The notice
4 required under paragraph (1) shall be—

5 “(A) provided to each voter in a uniform
6 and nondiscriminatory manner;

7 “(B) consistent with the requirements of
8 the National Voter Registration Act of 1993
9 (42 U.S.C. 1973gg et seq.); and

10 “(C) in the form and manner prescribed by
11 the Election Assistance Commission.

12 “(c) PRIVACY.—No State or jurisdiction may disclose
13 the reason for the removal of any voter from the voter
14 registration list unless ordered to do so by a court of com-
15 petent jurisdiction.

16 “(d) EFFECTIVE DATE.—Each State shall be re-
17 quired to comply with the requirements of this section on
18 and after September 1, 2006.”.

19 **Subtitle F—Election Day**
20 **Registration and Early Voting**

21 **SEC. 351. ELECTION DAY REGISTRATION.**

22 (a) REQUIREMENT.—Subtitle C of title III of the
23 Help America Vote Act of 2002, as added and amended
24 by this Act, is amended by adding at the end the following
25 new section:

1 **“SEC. 327. ELECTION DAY REGISTRATION.**

2 “(a) IN GENERAL.—

3 “(1) REGISTRATION.—Notwithstanding section
4 8(a)(1)(D) of the National Voter Registration Act of
5 1993 (42 U.S.C. 1973gg-6), each State shall permit
6 any individual on the day of a Federal election—

7 “(A) to register to vote in such election at
8 the polling place using the form established by
9 the Election Assistance Commission pursuant
10 to section 299A; and

11 “(B) to cast a vote in such election and
12 have that vote counted in the same manner as
13 a vote cast by an eligible voter who properly
14 registered during the regular registration pe-
15 riod.

16 “(2) EXCEPTION.—The requirements under
17 paragraph (1) shall not apply to a State in which,
18 under a State law in effect continuously on and after
19 the date of the enactment of this Act, there is no
20 voter registration requirement for individuals in the
21 State with respect to elections for Federal office.

22 “(b) EFFECTIVE DATE.—Each State shall be re-
23 quired to comply with the requirements of subsection (a)
24 on and after October 1, 2006.”.

25 (b) ELECTION DAY REGISTRATION FORM.—Subtitle
26 E of title II of the Help America Vote Act of 2002, as

1 added by this Act, is amended by adding at the end the
 2 following new section:

3 **“SEC. 299A. ELECTION DAY REGISTRATION FORM.**

4 “The Commission shall develop an election day reg-
 5 istration form for elections for Federal office.”.

6 **SEC. 352. EARLY VOTING.**

7 (a) REQUIREMENTS.—Subtitle C of title III of the
 8 Help America Vote Act of 2002, as added and amended
 9 by this Act, is amended by adding at the end the following
 10 new section:

11 **“SEC. 328. EARLY VOTING.**

12 “(a) IN GENERAL.—Each State shall allow individ-
 13 uals to vote in an election for Federal office not less than
 14 15 days prior to the day scheduled for such election in
 15 the same manner as voting is allowed on such day.

16 “(b) MINIMUM EARLY VOTING REQUIREMENTS.—
 17 Each polling place which allows voting prior to the day
 18 of a Federal election pursuant to subsection (a) shall—

19 “(1) allow such voting for no less than 4 hours
 20 on each day (other than Sunday); and

21 “(2) have minimum uniform hours each day for
 22 which such voting occurs.

23 “(c) APPLICATION OF ELECTION DAY REGISTRATION
 24 TO EARLY VOTING.—A State shall permit individuals to
 25 register to vote at each polling place which allows voting

1 prior to the day of a Federal election pursuant to sub-
2 section (a) in the same manner as the State is required
3 to permit individuals to register to vote and vote on the
4 day of the election under section 327.

5 “(d) EFFECTIVE DATE.—Each State shall be re-
6 quired to comply with the requirements of this section on
7 and after October 1, 2006.”.

8 (b) STANDARDS FOR EARLY VOTING.—Subtitle E of
9 the Help America Vote Act of 2002, as added and amend-
10 ed by this Act, is amended by adding at the end the fol-
11 lowing new section:

12 **“SEC. 299B. STANDARDS FOR EARLY VOTING.**

13 “(a) IN GENERAL.—The Commission shall issue
14 standards for the administration of voting prior to the day
15 scheduled for a Federal election. Such standards shall in-
16 clude the nondiscriminatory geographic placement of poll-
17 ing places at which such voting occurs and the public list-
18 ing of the date, time, and location of polling places no
19 earlier than 10 days before the date on which such voting
20 begins.

21 “(b) DEVIATION.—The standards described in sub-
22 section (a) shall permit States, upon giving reasonable
23 public notice, to deviate from any requirement in the case
24 of unforeseen circumstances such as a natural disaster or
25 a terrorist attack.”.

1 **TITLE IV—VOTER REGISTRA-**
2 **TION AND IDENTIFICATION**

3 **SEC. 401. VOTER REGISTRATION.**

4 (a) IN GENERAL.—Paragraph (4) of section 303(b)
5 of the Help America Vote Act of 2002 (42 U.S.C.
6 15483(b)(4)) is amended by adding at the end the fol-
7 lowing new subparagraph:

8 “(C) EXCEPTION.—On and after the date
9 of the enactment of this Act—

10 “(i) in lieu of the questions and state-
11 ments required under subparagraph (A),
12 such mail voter registration form shall in-
13 clude an affidavit to be signed by the reg-
14 istrant attesting both to citizenship and
15 age; and

16 “(ii) subparagraph (B) shall not
17 apply.”.

18 (b) PROCESSING OF REGISTRATION APPLICA-
19 TIONS.—

20 (1) IN GENERAL.—Subtitle C of title III of the
21 Help America Vote Act of 2002, as added and
22 amended by this Act, is amended by adding at the
23 end the following new section:

1 **“SEC. 329. PROCESSING OF REGISTRATION APPLICATIONS.**

2 “(a) IN GENERAL.—Notwithstanding any other pro-
3 vision of law, each State and jurisdiction shall accept and
4 process a voter registration application for an election for
5 Federal office unless there is a material omission or infor-
6 mation that specifically affects the eligibility of the voter.

7 “(b) PRESUMPTION TO REGISTER.—There shall be a
8 presumption that persons who submit voter registration
9 applications should be registered.

10 “(c) PRESUMPTION TO CURE MATERIAL OMIS-
11 SION.—Each State and jurisdiction shall—

12 “(1) provide a process to permit voters an op-
13 portunity to cure any material omission within a
14 reasonable period of time; and

15 “(2) accept any application which is so cured as
16 having been filed on the date on which such applica-
17 tion is originally received.

18 “(d) EFFECTIVE DATE.—Each State and jurisdiction
19 shall be required to comply with the requirements of this
20 subsection on and after October 1, 2006.”.

21 (2) MATERIAL OMISSION.—Subtitle E of title II
22 of the Help America Vote Act of 2002, as added and
23 amended by this Act, is amended by adding at the
24 end the following new section:

1 **“SEC. 299C. STANDARDS FOR MATERIAL OMISSION FROM**
2 **REGISTRATION FORMS.**

3 “(a) IN GENERAL.—The Election Assistance Com-
4 mission shall establish guidelines as to what does and does
5 not constitute a ‘material omission or information that
6 specifically affects the eligibility of the voter’ for purposes
7 of section 329.

8 “(b) CERTAIN INFORMATION NOT A MATERIAL
9 OMISSION.—In establishing the guidelines under sub-
10 section (a), the Commission shall provide that the fol-
11 lowing shall not constitute a ‘material omission or infor-
12 mation that specifically affects the eligibility of the voter’:

13 “(1) The failure to provide a social security
14 number or driver’s license number.

15 “(2) The failure to provide information con-
16 cerning citizenship or age in a manner other than
17 the attestation required under section 9(b)(2) of the
18 National Voter Registration Act of 1993 (42 U.S.C.
19 1973–gg–7).”.

20 (c) INTERNET REGISTRATION.—

21 (1) IN GENERAL.—Subtitle C of title II of the
22 Help America Vote Act of 2002 (42 U.S.C. 15381),
23 as added and amended by this Act, is amended by
24 redesignating section 249 as section 250 and by in-
25 serting after section 248 the following new section:

1 **“SEC. 249. STUDY ON INTERNET REGISTRATION AND**
2 **OTHER USES OF THE INTERNET IN FEDERAL**
3 **ELECTIONS.**

4 “(a) **STUDY.**—The Commission shall conduct a study
5 on—

6 “(1) the feasibility of voter registration through
7 the Internet for Federal elections; and

8 “(2) other uses of the Internet in Federal elec-
9 tions, including—

10 “(A) the use of the Internet to publicize
11 information related to Federal elections; and

12 “(B) the use of the Internet to vote in
13 Federal elections.

14 “(b) **REPORT.**—Not later than 6 months after the
15 date of the enactment of the Count Every Vote Act of
16 2005, the Commission shall transmit to Congress a report
17 on the results of the study conducted under subsection
18 (a).”.

19 (2) **EFFECTIVE DATE.**—The amendments made
20 by this subsection shall take effect on the date of the
21 enactment of this Act.

22 **SEC. 402. ESTABLISHING VOTER IDENTIFICATION.**

23 (a) **IN GENERAL.**—

24 (1) **IN PERSON VOTING.**—Clause (i) of section
25 303(b)(2)(A) of the Help America Vote Act of 2002
26 (42 U.S.C. 15483(b)(2)(A)(i)) is amended by strik-

1 ing “or” at the end of subclause (I) and by adding
2 at the end the following new subclause:

3 “(III) executes a written affidavit
4 attesting to such individual’s identity;
5 or”.

6 (2) VOTING BY MAIL.—Clause (ii) of section
7 303(b)(2)(A) of the Help America Vote Act of 2002
8 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by strik-
9 ing “or” at the end of subclause (I), by striking the
10 period at the end of subclause (II) and inserting “;
11 or”, and by adding at the end the following new sub-
12 clause:

13 “(III) a written affidavit, exe-
14 cuted by such individual, attesting to
15 such individual’s identity.”.

16 (3) EFFECTIVE DATE.—Each State and juris-
17 diction shall be required to comply with the amend-
18 ments made by this subsection on and after Novem-
19 ber 1, 2006.

20 (b) STANDARDS FOR VERIFYING VOTER INFORMA-
21 TION.—Subtitle E of the Help America Vote Act of 2002,
22 as added and amended by this Act, is amended by adding
23 at the end the following new section:

1 **“SEC. 299D. VOTER IDENTIFICATION.**

2 “The Commission shall develop standards for
3 verifying the identification information required under sec-
4 tion 303(a)(5) in connection with the registration of an
5 individual to vote in a Federal election.”.

6 (c) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—
7 Subtitle D of title II of the Help America Vote Act of
8 2002 (42 U.S.C. 15401 et seq.), as amended by this Act,
9 is amended by adding at the end the following:

10 **“PART 8—PHOTO IDENTIFICATION**

11 **“SEC. 298A. PAYMENTS FOR FREE PHOTO IDENTIFICATION.**

12 “(a) IN GENERAL.—In addition to any other pay-
13 ments made under this subtitle, the Election Assistance
14 Commission shall make payments to States to promote the
15 issuance to registered voters of free photo identifications.

16 “(b) USE OF FUNDS.—A State receiving a payment
17 under this part shall use the payment only to provide free
18 photo identification cards to registered voters who do not
19 have an identification card and who cannot obtain an iden-
20 tification card without undue hardship.

21 “(c) ALLOCATION OF FUNDS.—

22 “(1) IN GENERAL.—The amount of the grant
23 made to a State under this part for a year shall be
24 equal to the product of—

1 “(A) the total amount appropriated for
2 payments under this part for the year under
3 section 298B; and

4 “(B) an amount equal to—

5 “(i) the voting age population of the
6 State (as reported in the most recent de-
7 cennial census); divided by

8 “(ii) the total voting age of all eligible
9 States which submit an application for
10 payments under this part (as reported in
11 the most recent decennial census).

12 **“SEC. 298B. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) IN GENERAL.—In addition to any other
14 amounts authorized to be appropriated under this subtitle,
15 there are authorized to be appropriated \$10,000,000 for
16 fiscal year 2006 and such sums as are necessary for each
17 subsequent fiscal year for the purpose of making payments
18 under section 298A.

19 “(b) AVAILABILITY.—Any amounts appropriated
20 pursuant to the authority of this section shall remain
21 available until expended.”.

1 **SEC. 403. REQUIREMENT FOR FEDERAL CERTIFICATION OF**
 2 **TECHNOLOGICAL SECURITY OF VOTER REG-**
 3 **ISTRATION LISTS.**

4 (a) IN GENERAL.—Section 303(a)(3) of the Help
 5 America Vote Act of 2002 (42 U.S.C. 15483(a)(3)) is
 6 amended by striking “measures to prevent the” and in-
 7 serting “measures, as certified by the Election Assistance
 8 Commission, to prevent”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall take effect on the date of the enactment
 11 of this Act.

12 **TITLE V—PROHIBITION ON**
 13 **CERTAIN CAMPAIGN ACTIVITIES**

14 **SEC. 501. PROHIBITION ON CERTAIN CAMPAIGN ACTIVI-**
 15 **TIES.**

16 (a) IN GENERAL.—Title III of the Federal Election
 17 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
 18 by inserting after section 319 the following new section:

19 “CAMPAIGN ACTIVITIES BY ELECTION OFFICIALS AND
 20 VOTING SYSTEM MANUFACTURERS

21 “SEC. 319A. (a) PROHIBITION.—

22 “(1) CHIEF STATE ELECTION OFFICIALS.—It
 23 shall be unlawful for any chief State election official
 24 to take part in prohibited political activities with re-
 25 spect to any election for Federal office over which
 26 such official has managerial authority.

1 “(2) VOTING SYSTEM MANUFACTURERS.—It
2 shall be unlawful for any person who owns or serves
3 as the chief executive officer, chief financial officer,
4 chief operating officer, or president of any entity
5 that designs or manufactures a voting system to
6 take part in prohibited political activities with re-
7 spect to any election for a Federal office for which
8 a voting system produced by such manufacturer is
9 used.

10 “(b) DEFINITIONS.—For purposes of this section:

11 “(1) CHIEF STATE ELECTION OFFICIAL.—The
12 term ‘chief State election official’ means the indi-
13 vidual designated as such under section 10 of the
14 National Voter Registration Act of 1993.”

15 “(2) PROHIBITED POLITICAL ACTIVITIES.—The
16 term ‘prohibited political activities’ means cam-
17 paigning to support or oppose a candidate or slate
18 of candidates for Federal office, making public
19 speeches in support of such a candidate, fundraising
20 and collecting contributions on behalf of such a can-
21 didate, distributing campaign materials with respect
22 to such a candidate, organizing campaign events
23 with respect to such a candidate, and serving in any
24 position on any political campaign committee of such
25 a candidate.

1 “(c) OWNERSHIP.—For purposes of subsection
2 (a)(2), a person shall be considered to own an entity if
3 such person controls at least 20 percent, by vote or value,
4 of the entity.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **TITLE VI—ENDING DECEPTIVE** 9 **PRACTICES**

10 **SEC. 601. ENDING DECEPTIVE PRACTICES.**

11 (a) IN GENERAL.—

12 (1) Subsection (b) of section 2004 of the Re-
13 vised Statutes (42 U.S.C. 1971(b)) is amended—

14 (A) by striking “No person” and inserting
15 the following:

16 “(1) IN GENERAL.—No person”; and

17 (B) by inserting at the end the following
18 new paragraph:

19 “(2) DECEPTIVE ACTS.—No person, whether
20 acting under color of law or otherwise, shall know-
21 ingly deceive any other person regarding the time,
22 place, or manner of conducting a general, primary,
23 run-off, or special election for the office of Presi-
24 dent, Vice President, presidential elector, Member of
25 the Senate, or Member of the House of Representa-

1 tives, Delegates, or Commissioners from the Terri-
2 tories or possessions; nor shall any person knowingly
3 deceive any person regarding the qualifications or
4 restrictions of voter eligibility for any general, pri-
5 mary, run-off, or special election for the office of
6 President, Vice President, presidential elector, Mem-
7 ber of the Senate, or Member of the House of Rep-
8 resentatives, Delegates, or Commissioners from the
9 Territories or possessions.”.

10 (2) The heading of section 2004(b) of the Re-
11 vised Statutes is amended by striking “OR COER-
12 CION” and inserting “COERCION, OR DECEPTIVE
13 ACTS”.

14 (b) CRIMINAL PENALTY.—Section 594 of title 18,
15 United States Code, is amended—

16 (1) by striking “Whoever” and inserting the fol-
17 lowing:

18 “(a) INTIMIDATION.—Whoever”; and

19 (2) by inserting at the end the following:

20 “(b) DECEPTIVE ACTS.—Whoever knowingly deceives
21 any person regarding—

22 “(1) the time, place, or manner of conducting
23 a general, primary, run-off, or special election for
24 the office of President, Vice President, presidential
25 elector, Member of the Senate, or Member of the

1 House of Representatives, Delegates, or Commis-
 2 sioners from the Territories or possessions; or

3 “(2) the qualifications or restrictions of voter
 4 eligibility for any general, primary, run-off or special
 5 election for the office of President, Vice President,
 6 presidential elector, Member of the Senate, or Mem-
 7 ber of the House of Representatives, Delegates, or
 8 Commissioners from the Territories or possessions
 9 shall be fined under this title, imprisoned not more than
 10 one year, or both.”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect on the date of the enactment
 13 of this Act.

14 **TITLE VII—CIVIC PARTICIPA-**
 15 **TION BY EX-OFFENDERS**

16 **SEC. 701. VOTING RIGHTS OF INDIVIDUALS CONVICTED OF**
 17 **CRIMINAL OFFENSES.**

18 (a) SHORT TITLE.—This title may be cited as the
 19 Civic Participation Act of 2005.

20 (b) FINDINGS AND PURPOSE.—

21 (1) FINDINGS.—Congress makes the following
 22 findings:

23 (A) The right to vote is the most basic
 24 constitutive act of citizenship and regaining the
 25 right to vote reintegrates offenders into free so-

1 ciety. The right to vote may not be abridged or
2 denied by the United States or by any State on
3 account of race, color, gender, or previous con-
4 dition of servitude. Basic constitutional prin-
5 ciples of fairness and equal protection require
6 an equal opportunity for United States citizens
7 to vote in Federal elections.

8 (B) Congress has ultimate supervisory
9 power over Federal elections, an authority that
10 has repeatedly been upheld by the Supreme
11 Court.

12 (C) Although State laws determine the
13 qualifications for voting in Federal elections,
14 Congress must ensure that those laws are in ac-
15 cordance with the Constitution. Currently, those
16 laws vary throughout the Nation, resulting in
17 discrepancies regarding which citizens may vote
18 in Federal elections.

19 (D) An estimated 4,700,000 individuals in
20 the United States, or 1 in 44 adults, currently
21 cannot vote as a result of a felony conviction.
22 Women represent about 676,000 of those
23 4,700,000.

24 (E) State disenfranchisement laws dis-
25 proportionately impact ethnic minorities.

1 (F) Fourteen States disenfranchise some
2 or all ex-offenders who have fully served their
3 sentences, regardless of the nature or serious-
4 ness of the offense.

5 (G) In those States that disenfranchise ex-
6 offenders who have fully served their sentences,
7 the right to vote can be regained in theory, but
8 in practice this possibility is often illusory.

9 (H) In those States that disenfranchise ex-
10 offenders, an ex-offender's right to vote can
11 only be restored through a gubernatorial pardon
12 or order, or a certificate granted by a parole
13 board. Some States require waiting periods as
14 long as 10 years after completion of the sen-
15 tence before an ex-offender can initiate the ap-
16 plication for restoration of the right to vote.

17 (I) Offenders convicted of a Federal of-
18 fense often have additional barriers to regaining
19 voting rights. Many States do not offer a res-
20 toration procedure for Federal offenders who
21 have completed supervision. The only method
22 available to such persons is a Presidential par-
23 don.

1 (J) Few persons who seek to have their
2 right to vote restored have the financial and po-
3 litical resources needed to succeed.

4 (K) Thirteen percent of the African-Amer-
5 ican adult male population, or 1,400,000 Afri-
6 can-American men, are disenfranchised. Given
7 current rates of incarceration, 3 in 10 African-
8 American men in the next generation will be
9 disenfranchised at some point during their life-
10 times. Hispanic citizens are also disproportion-
11 ately disenfranchised, since those citizens are
12 disproportionately represented in the criminal
13 justice system.

14 (L) The discrepancies described in this
15 paragraph should be addressed by Congress, in
16 the name of fundamental fairness and equal
17 protection.

18 (2) PURPOSE.—The purpose of this title is to
19 restore fairness in the Federal election process by
20 ensuring that ex-offenders who have fully served
21 their sentences are not denied the right to vote.

22 (c) DEFINITIONS.—In this title:

23 (1) CORRECTIONAL INSTITUTION OR FACIL-
24 ITY.—The term “correctional institution or facility”
25 means any prison, penitentiary, jail, or other institu-

1 tion or facility for the confinement of individuals
2 convicted of criminal offenses, whether publicly or
3 privately operated, except that such term does not
4 include any residential community treatment center
5 (or similar public or private facility).

6 (2) ELECTION.—The term “election” means—

7 (A) a general, special, primary, or runoff
8 election;

9 (B) a convention or caucus of a political
10 party held to nominate a candidate;

11 (C) a primary election held for the selec-
12 tion of delegates to a national nominating con-
13 vention of a political party; or

14 (D) a primary election held for the expres-
15 sion of a preference for the nomination of per-
16 sons for election to the office of President.

17 (3) FEDERAL OFFICE.—The term “Federal of-
18 fice” means the office of President or Vice Presi-
19 dent, or of Senator or Representative in, or Delegate
20 or Resident Commissioner to, Congress.

21 (4) PAROLE.—The term “parole” means parole
22 (including mandatory parole), or conditional or su-
23 pervised release (including mandatory supervised re-
24 lease), imposed by a Federal, State, or local court.

1 (5) PROBATION.—The term “probation” means
2 probation, imposed by a Federal, State, or local
3 court, with or without a condition on the individual
4 involved concerning—

5 (A) the individual’s freedom of movement;

6 (B) the payment of damages by the indi-
7 vidual;

8 (C) periodic reporting by the individual to
9 an officer of the court; or

10 (D) supervision of the individual by an of-
11 ficer of the court.

12 (d) RIGHTS OF CITIZENS.—The right of an individual
13 who is a citizen of the United States to vote in any election
14 for Federal office shall not be denied or abridged because
15 that individual has been convicted of a criminal offense
16 unless, at the time of the election, such individual—

17 (1) is serving a felony sentence in a correctional
18 institution or facility; or

19 (2) is on parole or probation for a felony of-
20 fense

21 (e) ENFORCEMENT.—

22 (1) ATTORNEY GENERAL.—The Attorney Gen-
23 eral may bring a civil action in a court of competent
24 jurisdiction to obtain such declaratory or injunctive

1 relief as is necessary to remedy a violation of this
2 section.

3 (2) PRIVATE RIGHT OF ACTION.—

4 (A) NOTICE.—A person who is aggrieved
5 by a violation of this section may provide writ-
6 ten notice of the violation to the chief election
7 official of the State involved.

8 (B) ACTION.—Except as provided in sub-
9 paragraph (C), if the violation is not corrected
10 within 90 days after receipt of a notice provided
11 under subparagraph (A), or within 20 days
12 after receipt of the notice if the violation oc-
13 curred within 120 days before the date of an
14 election for Federal office, the aggrieved person
15 may bring a civil action in such a court to ob-
16 tain declaratory or injunctive relief with respect
17 to the violation.

18 (C) ACTION FOR VIOLATION SHORTLY BE-
19 FORE A FEDERAL ELECTION.—If the violation
20 occurred within 30 days before the date of an
21 election for Federal office, the aggrieved person
22 shall not be required to provide notice to the
23 chief election official of the State under sub-
24 paragraph (A) before bringing a civil action in

1 such a court to obtain declaratory or injunctive
2 relief with respect to the violation.

3 (f) RELATION TO OTHER LAWS.—

4 (1) NO PROHIBITION ON LESS RESTRICTIVE
5 LAWS.—Nothing in this section shall be construed to
6 prohibit a State from enacting any State law that
7 affords the right to vote in any election for Federal
8 office on terms less restrictive than those terms es-
9 tablished by this section.

10 (2) NO LIMITATION ON OTHER LAWS.—The
11 rights and remedies established by this section shall
12 be in addition to all other rights and remedies pro-
13 vided by law, and shall not supersede, restrict, or
14 limit the application of the Voting Rights Act of
15 1965 (42 U.S.C. 1973 et seq.) or the National Voter
16 Registration Act of 1993 (42 U.S.C. 1973gg et
17 seq.).

18 (g) NOTIFICATION OF RESTORATION OF VOTING
19 RIGHTS.—Subtitle C of title III of the Help America Vote
20 Act of 2002, as added and amended by this Act, is amend-
21 ed by adding at the end the following new section:

22 **“SEC. 330. NOTIFICATION OF RESTORATION OF VOTING**
23 **RIGHTS.**

24 “**(a) NOTIFICATION.**—

1 “(1) IN GENERAL.—On the date determined
2 under subsection (b), each State shall notify any
3 qualified ex-offender who resides in the State that
4 such qualified ex-offender has the right to vote in an
5 election for Federal office pursuant to the Civic Par-
6 ticipation Act of 2005 and may register to vote in
7 any such election.

8 “(2) QUALIFIED EX-OFFENDER.—For the pur-
9 pose of this section, the term ‘qualified ex-offender’
10 means any individual who resides in the State who
11 has been convicted of a criminal offense and is not
12 serving a felony sentence in a correctional institution
13 or facility and who is not on parole or probation for
14 a felony offense.

15 “(b) DATE OF NOTIFICATION.—The notification re-
16 quired under subsection (a) shall be given on the later of
17 the date on which such individual is released from a cor-
18 rectional institution or facility for serving a felony sen-
19 tence or the date on which such individual is released from
20 parole for a felony offense.

21 “(c) DEFINITIONS.—Any term which is used in this
22 section that is also used in the Civic Participation Act of
23 2005 shall have the meaning given to such term in that
24 Act.

1 “(d) EFFECTIVE DATE.—Each State shall be re-
 2 quired to comply with the requirements of this section on
 3 and after the date of the enactment of the Civic Participa-
 4 tion Act of 2005.”.

5 (h) EFFECTIVE DATE.—

6 (1) IN GENERAL.—This section shall apply to
 7 citizens of the United States voting in any election
 8 for Federal office after the date of the enactment of
 9 this Act.

10 (2) AMENDMENTS.—The amendment made by
 11 subsection (g) shall take effect on the date of the en-
 12 actment of this Act.

13 **TITLE VIII—FEDERAL ELECTION** 14 **DAY ACT**

15 **SEC. 801. SHORT TITLE.**

16 This title may be cited as the “Federal Election Day
 17 Act of 2005”.

18 **SEC. 802. FEDERAL ELECTION DAY AS A PUBLIC HOLIDAY.**

19 (a) ELECTION DAY AS A FEDERAL HOLIDAY.—Sec-
 20 tion 6103(a) of title 5, United States Code, is amended
 21 by inserting after the matter relating to Columbus Day,
 22 the following undesignated paragraph:

23 “Federal Election Day, the Tuesday next after
 24 the first Monday in November in each even num-
 25 bered year.”.

1 (b) CONFORMING AMENDMENT.—Section 241(b) of
2 the Help America Vote Act of 2002 (42 U.S.C. 15381(b))
3 is amended by striking paragraph (10) and by redesignig-
4 nating paragraphs (11) through (19) as paragraphs (10)
5 through (18), respectively.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act.

9 **SEC. 803. STUDY ON ENCOURAGING GOVERNMENT EM-**
10 **PLOYEES TO SERVE AS POLL WORKERS.**

11 (a) IN GENERAL.—Subtitle C of title II of the Help
12 America Vote Act of 2002 (42 U.S.C. 15381), as added
13 and amended by this Act, is amended by redesignating
14 section 250 as section 250A and by inserting after section
15 249 the following new section:

16 **“SEC. 250. STUDY ON ENCOURAGING GOVERNMENT EM-**
17 **PLOYEES TO SERVE AS POLL WORKERS.**

18 “(a) STUDY.—The Commission shall conduct a study
19 on appropriate methods to encourage State and local gov-
20 ernment employees to serve as poll workers in Federal
21 elections.

22 “(b) REPORT.—Not later than 6 months after the
23 date of the enactment of the Count Every Vote Act of
24 2005, the Commission shall transmit to Congress a report
25 on the results of the study conducted under subsection (a).

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—Of the
 2 amount authorized to be appropriated under section 210
 3 for fiscal year 2006, \$100,000 shall be authorized solely
 4 to carry out the purposes of this section.”.

5 (b) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on the date of the enactment
 7 of this Act.

8 **TITLE IX—TRANSMISSION OF**
 9 **CERTIFICATE OF ASCERTAIN-**
 10 **MENT OF ELECTORS**

11 **SEC. 901. TRANSMISSION OF CERTIFICATE OF ASCERTAIN-**
 12 **MENT OF ELECTORS.**

13 (a) IN GENERAL.—Section 6 of title 3, United States
 14 Code, is amended—

15 (1) by inserting “and before the date that is 6
 16 days before the date on which the electors are to
 17 meet under section 7,” after “under and in pursu-
 18 ance of the laws of such State providing for such as-
 19 certainment,”; and

20 (2) by striking “by registered mail” and insert-
 21 ing “by overnight courier”.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on the date of the enactment
 24 of this Act.

1 **TITLE X—STRENGTHENING THE**
2 **ELECTION ASSISTANCE COM-**
3 **MISSION**

4 **SEC. 1001. STRENGTHENING THE ELECTION ASSISTANCE**
5 **COMMISSION.**

6 (a) RULEMAKING AUTHORITY.—Part 1 of subtitle A
7 of Title II of the Help America Vote Act of 2002 (42
8 U.S.C. 15321 et seq.) is amended by striking section 209.

9 (b) BUDGET REQUESTS.—Part 1 of subtitle A of title
10 II of the Help America Vote Act of 2002 (42 U.S.C.
11 15321 et seq.), as amended by subsection (a), is amended
12 by inserting after section 208 the following new section:

13 **“SEC. 209. SUBMISSION OF BUDGET REQUESTS.**

14 “Whenever the Commission submits any budget esti-
15 mate or request to the President or the Office of Manage-
16 ment and Budget, it shall concurrently transmit a copy
17 of such estimate or request to the Congress and to the
18 Committee on House Administration of the House of Rep-
19 resentatives and the Committee on Rules and Administra-
20 tion of the Senate.”.

21 (c) EXEMPTION FROM PAPERWORK REDUCTION
22 ACT.—Paragraph (1) of section 3502 of title 44, United
23 States Code, is amended by redesignating subparagraphs
24 (B), (C), and (D) as subparagraphs (C), (D), and (E),

1 respectively, and by inserting after subparagraph (A) the
2 following new subparagraph:

3 “(B) the Election Assistance Commis-
4 sion;”.

5 (d) NIST AUTHORITY.—Subtitle E of title II of the
6 Help America Vote Act of 2002, as added and amended
7 by this Act, is amended by adding at the end the following
8 new section:

9 **“SEC. 299E. TECHNICAL SUPPORT.**

10 “At the request of the Commission, the Director of
11 the National Institute of Standards and Technology shall
12 provide the Commission with technical support necessary
13 for the Commission to carry out its duties under this
14 title.”.

15 (e) AUTHORIZATION OF APPROPRIATIONS.—Section
16 210 of the Help America Vote Act of 2002 (42 U.S.C.
17 15330) is amended by striking “for each of fiscal years
18 2003 through 2005 such sums as may be necessary (but
19 not to exceed \$10,000,000 for each such year)” and in-
20 serting “\$35,000,000 for fiscal year 2006 (of which
21 \$4,000,000 are authorized solely to carry out the purposes
22 of section 299E) and such sums as may be necessary for
23 the succeeding fiscal year”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 1002. REPEAL OF EXEMPTION OF ELECTION ASSIST-**
5 **ANCE COMMISSION FROM CERTAIN GOVERN-**
6 **MENT CONTRACTING REQUIREMENTS.**

7 (a) IN GENERAL.—Section 205 of the Help America
8 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-
9 ing subsection (e).

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply with respect to contracts entered
12 into by the Election Assistance Commission on or after
13 the date of enactment of this Act.

14 **SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.**

15 Subsection (a) of section 257 of the Help America
16 Vote Act of 2002 (42 U.S.C. 15408(a)) is amended by
17 adding at the end the following new paragraphs:

18 “(4) For fiscal year 2006, \$3,000,000,000.

19 “(5) For each fiscal year after 2006, such sums
20 as are necessary.”.

○