

istrative action as the Commission determines appropriate.

**(2) Costs**

The report submitted under paragraph (1) shall contain an estimate of the costs of establishing the program described in subsection (a)(1).

**(3) Implementation**

The report submitted under paragraph (1) shall contain an analysis of the feasibility of implementing the program described in subsection (a)(1) with respect to the absentee ballots to be submitted in the general election for Federal office held in 2004.

**(4) Recommendations regarding the elderly and disabled**

The report submitted under paragraph (1) shall—

(A) include recommendations on ways that program described in subsection (a)(1) would target elderly individuals and individuals with disabilities; and

(B) identify methods to increase the number of such individuals who vote in elections for Federal office.

**(c) Postal Service defined**

The term “Postal Service” means the United States Postal Service established under section 201 of title 39.

(Pub. L. 107-252, title II, §246, Oct. 29, 2002, 116 Stat. 1691.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 15386 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 20987. Consultation with Standards Board and Board of Advisors**

The Commission shall carry out its duties under this part in consultation with the Standards Board and the Board of Advisors.

(Pub. L. 107-252, title II, §247, Oct. 29, 2002, 116 Stat. 1692.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 15387 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**PART D—ELECTION ASSISTANCE**

**SUBPART 1—REQUIREMENTS PAYMENTS**

**§ 21001. Requirements payments**

**(a) In general**

The Commission shall make a requirements payment each year in an amount determined under section 21002 of this title to each State which meets the conditions described in section 21003 of this title for the year.

**(b) Use of funds**

**(1) In general**

Except as provided in paragraphs (2) and (3), a State receiving a requirements payment

shall use the payment only to meet the requirements of subchapter III.

**(2) Other activities**

A State may use a requirements payment to carry out other activities to improve the administration of elections for Federal office if the State certifies to the Commission that—

(A) the State has implemented the requirements of subchapter III; or

(B) the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 21002(c) of this title.

**(3) Activities under Uniformed and Overseas Citizens Absentee Voting Act**

A State shall use a requirements payment made using funds appropriated pursuant to the authorization under section 21007(a)(4) of this title only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act [52 U.S.C. 20301 et seq.] imposed as a result of the provisions of and amendments made by the Military and Overseas Voter Empowerment Act.

**(c) Retroactive payments**

**(1) In general**

Notwithstanding any other provision of this part, including the maintenance of effort requirements of section 21004(a)(7) of this title, a State may use a requirements payment as a reimbursement for costs incurred in obtaining voting equipment which meets the requirements of section 21081 of this title if the State obtains the equipment after the regularly scheduled general election for Federal office held in November 2000.

**(2) Special rule regarding multiyear contracts**

A State may use a requirements payment for any costs for voting equipment which meets the requirements of section 21081 of this title that, pursuant to a multiyear contract, were incurred on or after January 1, 2001, except that the amount that the State is otherwise required to contribute under the maintenance of effort requirements of section 21004(a)(7) of this title shall be increased by the amount of the payment made with respect to such multiyear contract.

**(d) Adoption of Commission guidelines and guidance not required to receive payment**

Nothing in this subpart may be construed to require a State to implement any of the voluntary voting system guidelines or any of the voluntary guidance adopted by the Commission with respect to any matter as a condition for receiving a requirements payment.

**(e) Schedule of payments**

As soon as practicable after the initial appointment of all members of the Commission (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make requirements payments to States under this subpart.

**(f) Limitation**

A State may not use any portion of a requirements payment—

- (1) to pay costs associated with any litigation, except to the extent that such costs otherwise constitute permitted uses of a requirements payment under this subpart; or
- (2) for the payment of any judgment.

(Pub. L. 107-252, title II, §251, Oct. 29, 2002, 116 Stat. 1692; Pub. L. 111-84, div. A, title V, §588(a), Oct. 28, 2009, 123 Stat. 2333.)

#### Editorial Notes

##### REFERENCES IN TEXT

Subchapter III, referred to in subsec. (b)(1), (2)(A), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§21081 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsec. (b)(3), is Pub. L. 99-410, Aug. 28, 1986, 100 Stat. 924, which is classified principally to chapter 203 (§20301 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Military and Overseas Voter Empowerment Act, referred to in subsec. (b)(3), is subtitle H (§§575-589) of title V of div. A of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2318. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section was formerly classified to section 15401 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

##### AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-84, §588(a)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(3). Pub. L. 111-84, §588(a)(2), added par. (3).

#### § 21002. Allocation of funds

##### (a) In general

Subject to subsection (c), the amount of a requirements payment made to a State for a year shall be equal to the product of—

- (1) the total amount appropriated for requirements payments for the year pursuant to the authorization under section 21007 of this title; 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 (as reported in the most recent decennial census); and
- (2) the total voting age population of all States (as reported in the most recent decennial census).

##### (c) Minimum amount of payment

The amount of a requirements 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, one-half of 1 percent of the total amount appropriated for requirements payments for the year under section 21007 of this title; or
- (2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the

United States Virgin Islands, one-tenth of 1 percent of such total amount.

##### (d) Pro rata reductions

The Administrator<sup>1</sup> shall make such pro rata reductions to the allocations determined under subsection (a) as are necessary to comply with the requirements of subsection (c).

##### (e) Continuing availability of funds after appropriation

A requirements payment made to a State under this subpart shall be available to the State without fiscal year limitation.

(Pub. L. 107-252, title II, §252, Oct. 29, 2002, 116 Stat. 1693.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15402 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 21003. Condition for receipt of funds

##### (a) In general

A State is eligible to receive a requirements payment for a fiscal year if the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official, has filed with the Commission a statement certifying that the State is in compliance with the requirements referred to in subsection (b). A State may meet the requirement of the previous sentence by filing with the Commission a statement which reads as follows: “\_\_\_\_\_ hereby certifies that it is in compliance with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.” (with the blank to be filled in with the name of the State involved).

##### (b) State plan requirement; certification of compliance with applicable laws and requirements

The requirements referred to in this subsection are as follows:

- (1) The State has filed with the Commission a State plan covering the fiscal year which the State certifies—

(A) contains each of the elements described in section 21004(a) of this title (or, for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 21007(a)(4) of this title, contains the element described in paragraph (14) of such section) with respect to the fiscal year;

(B) is developed in accordance with section 21005 of this title; and

(C) meets the public notice and comment requirements of section 21006 of this title.

- (2)(A) Subject to subparagraph (B), the State has filed with the Commission a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedures required under section 21112 of this title (or has included such a plan in the State plan

<sup>1</sup> So in original. Probably should be “Commission”.

filed under paragraph (1)), and has such procedures in place for purposes of meeting the requirements of such section. If the State does not include such an implementation plan in the State plan filed under paragraph (1), the requirements of sections 21005(b) and 21006 of this title shall apply to the implementation plan in the same manner as such requirements apply to the State plan.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 21007(a)(4) of this title.

(3) The State is in compliance with each of the laws described in section 21145 of this title, as such laws apply with respect to this chapter.

(4) To the extent that any portion of the requirements payment is used for activities other than meeting the requirements of subchapter III—

(A) the State's proposed uses of the requirements payment are not inconsistent with the requirements of subchapter III; and

(B) the use of the funds under this paragraph is consistent with the requirements of section 21001(b) of this title.

(5)(A) Subject to subparagraph (B), the State has appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) and, in the case of a State that uses a requirements payment as a reimbursement under section 21001(c)(2) of this title, an additional amount equal to the amount of such reimbursement.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 21007(a)(4) of this title for fiscal year 2010, except that if the State does not appropriate funds in accordance with subparagraph (A) prior to the last day of fiscal year 2011, the State shall repay to the Commission the requirements payment which is appropriated pursuant to such authorization.

**(c) Methods of compliance left to discretion of State**

The specific choices on the methods of complying with the elements of a State plan shall be left to the discretion of the State.

**(d) Timing for filing of certification**

A State may not file a statement of certification under subsection (a) until the expiration of the 45-day period (or, in the case of a fiscal year other than the first fiscal year for which a requirements payment is made to the State under this part, the 30-day period) which begins on the date notice of the State plan under this part is published in the Federal Register pursuant to section 21005(b) of this title.

**(e) Chief State election official defined**

In this part, 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) [now 52 U.S.C. 20509] to be responsible for coordination of the State's responsibilities under such Act.

(Pub. L. 107-252, title II, § 253, Oct. 29, 2002, 116 Stat. 1693; Pub. L. 111-84, div. A, title V, § 588(b)(1)(B)–(3), Oct. 28, 2009, 123 Stat. 2333; Pub. L. 112-74, div. C, title VI, § 622(2), Dec. 23, 2011, 125 Stat. 927.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 253(b) of the Help America Vote Act of 2002, referred to in subsec. (a), is classified to subsec. (b) of this section.

This chapter, referred to in subsec. (b)(3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

Subchapter III, referred to in subsec. (b)(4), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§ 21081 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The National Voter Registration Act of 1993, referred to in subsec. (e), is Pub. L. 103-31, May 20, 1993, 107 Stat. 77, which is classified principally to chapter 205 (§ 20501 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Section was formerly classified to section 15403 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

**AMENDMENTS**

2011—Subsec. (d). Pub. L. 112-74 inserted “notice of” before “the State plan”.

2009—Subsec. (b)(1)(A). Pub. L. 111-84, § 588(b)(1)(B), substituted “section 15404(a) of this title (or, for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title, contains the element described in paragraph (14) of such section)” for “section 15404 of this title”.

Subsec. (b)(2). Pub. L. 111-84, § 588(b)(2), designated existing provisions as subpar. (A), substituted “Subject to subparagraph (B), the State” for “The State”, and added subpar. (B).

Subsec. (b)(5). Pub. L. 111-84, § 588(b)(3), designated existing provisions as subpar. (A), substituted “Subject to subparagraph (B), the State” for “The State”, and added subpar. (B).

**§ 21004. State plan**

**(a) In general**

The State plan shall contain a description of each of the following:

(1) How the State will use the requirements payment to meet the requirements of subchapter III, and, if applicable under section 21001(a)(2) of this title, to carry out other activities to improve the administration of elections.

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activi-

ties described in paragraph (1), including a description of—

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of subchapter III.

(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 21081 of this title.

(5) How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this subpart, including information on fund management.

(6) The State's proposed budget for activities under this subpart, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—

(A) the costs of the activities required to be carried out to meet the requirements of subchapter III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 21112 of this title.

(10) If the State received any payment under subchapter I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless notice of the change—

(A) is developed and published in the Federal Register in accordance with section

21005 of this title in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 21006 of this title in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date notice of the change is published in the Federal Register in accordance with subparagraph (A).

(12) In the case of a State with a State plan in effect under this part during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

(13) A description of the committee which participated in the development of the State plan in accordance with section 21005 of this title and the procedures followed by the committee under such section and section 21006 of this title.

(14) How the State will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act.

## **(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 requirements payment is made to the State under this subpart.

(B) The requirements payment made to the State under this subpart.

(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 requirements payment is made to the State under this subpart.

### **(3) Treatment of States that require changes to State law**

In the case of a State that requires State legislation to establish the fund described in this subsection, the Commission shall defer disbursement of the requirements payment to such State until such time as legislation establishing the fund is enacted.

## **(c) Protection against actions based on information in plan**

### **(1) In general**

No action may be brought under this chapter against a State or other jurisdiction on the basis of any information contained in the State plan filed under this subpart.

**(2) Exception for criminal acts**

Paragraph (1) may not be construed to limit the liability of a State or other jurisdiction for criminal acts or omissions.

(Pub. L. 107-252, title II, § 254, Oct. 29, 2002, 116 Stat. 1694; Pub. L. 111-84, div. A, title V, § 588(b)(1)(A), Oct. 28, 2009, 123 Stat. 2333; Pub. L. 112-74, div. C, title VI, § 622(3), (4), Dec. 23, 2011, 125 Stat. 927.)

**Editorial Notes****REFERENCES IN TEXT**

Subchapter III, referred to in subsec. (a)(1), (3), (6)(A), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§ 21081 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The Military and Overseas Voter Empowerment Act, referred to in subsec. (a)(14), is subtitle H (§§ 575-589) of title V of div. A of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2318. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Section was formerly classified to section 15404 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

2011—Subsec. (a)(11). Pub. L. 112-74 inserted “notice of” before “the change” in introductory provisions and subpar. (C).

2009—Subsec. (a)(14). Pub. L. 111-84 added par. (14).

**§ 21005. Process for development and filing of plan; publication by Commission****(a) In general**

The chief State election official shall develop the State plan under this part through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the States, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official.

**(b) Publication of plan by Commission**

After receiving the State plan of a State under this part, the Commission shall cause to have the plan posted on the Commission’s website with a notice published in the Federal Register.

(Pub. L. 107-252, title II, § 255, Oct. 29, 2002, 116 Stat. 1697; Pub. L. 112-74, div. C, title VI, § 622(1), Dec. 23, 2011, 125 Stat. 926.)

**Editorial Notes****CODIFICATION**

Section was formerly classified to section 15405 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

2011—Subsec. (b). Pub. L. 112-74 inserted “posted on the Commission’s website with a notice” after “cause to have the plan”.

**§ 21006. Requirement for public notice and comment**

For purposes of section 21001(a)(1)(C)<sup>1</sup> of this title, a State plan meets the public notice and comment requirements of this section if—

(1) not later than 30 days prior to the submission of the plan, the State made a preliminary version of the plan available for public inspection and comment;

(2) the State publishes notice that the preliminary version of the plan is so available; and

(3) the State took the public comments made regarding the preliminary version of the plan into account in preparing the plan which was filed with the Commission.

(Pub. L. 107-252, title II, § 256, Oct. 29, 2002, 116 Stat. 1697.)

**Editorial Notes****REFERENCES IN TEXT**

Section 21001(a)(1)(C) of this title, referred to in text, probably should be a reference to section 21003(b)(1)(C) of this title because there is no subsec. (a)(1)(C) in section 21001 and subsec. (b)(1)(C) of section 21003 relates to public notice and comment requirements of section 21006 of this title.

**CODIFICATION**

Section was formerly classified to section 15406 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 21007. Authorization of appropriations****(a) In general**

In addition to amounts transferred under section 20904(c) of this title, there are authorized to be appropriated for requirements payments under this subpart the following amounts:

(1) For fiscal year 2003, \$1,400,000,000.

(2) For fiscal year 2004, \$1,000,000,000.

(3) For fiscal year 2005, \$600,000,000.

(4) For fiscal year 2010 and subsequent fiscal years, such sums as are necessary for purposes of making requirements payments to States to carry out the activities described in section 21001(b)(3) of this title.

**(b) Availability**

Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

(Pub. L. 107-252, title II, § 257, Oct. 29, 2002, 116 Stat. 1697; Pub. L. 111-84, div. A, title V, § 588(c), Oct. 28, 2009, 123 Stat. 2334.)

**Editorial Notes****CODIFICATION**

Section was formerly classified to section 15407 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

2009—Subsec. (a)(4). Pub. L. 111-84 added par. (4).

**§ 21008. Reports**

Not later than 6 months after the end of each fiscal year for which a State received a require-

<sup>1</sup> See References in Text note below.

ments payment under this subpart, the State shall submit a report to the Commission on the activities conducted with the funds provided during the year, and shall include in the report—

(1) a list of expenditures made with respect to each category of activities described in section 21001(b) of this title;

(2) the number and type of articles of voting equipment obtained with the funds; and

(3) an analysis and description of the activities funded under this subpart to meet the requirements of this chapter and an analysis and description of how such activities conform to the State plan under section 21004 of this title.

(Pub. L. 107-252, title II, §258, Oct. 29, 2002, 116 Stat. 1697.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section was formerly classified to section 15408 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### SUBPART 2—PAYMENTS TO STATES AND UNITS OF LOCAL GOVERNMENT TO ASSURE ACCESS FOR INDIVIDUALS WITH DISABILITIES

### § 21021. Payments to States and units of local government to assure access for individuals with disabilities

#### (a) In general

The Secretary of Health and Human Services shall make a payment to each eligible State and each eligible unit of local government (as described in section 21023 of this title).

#### (b) Use of funds

An eligible State and eligible unit of local government shall use the payment received under this subpart for—

(1) making polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(2) providing individuals with disabilities and the other individuals described in paragraph (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections for Federal office.

#### (c) Schedule of payments

As soon as practicable after October 29, 2002 (but in no event later than 6 months thereafter),

and not less frequently than once each calendar year thereafter, the Secretary shall make payments under this subpart.

(Pub. L. 107-252, title II, §261, Oct. 29, 2002, 116 Stat. 1698.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15421 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

### § 21022. Amount of payment

#### (a) In general

The amount of a payment made to an eligible State or an eligible unit of local government for a year under this subpart shall be determined by the Secretary.

#### (b) Continuing availability of funds after appropriation

A payment made to an eligible State or eligible unit of local government under this subpart shall be available without fiscal year limitation.

(Pub. L. 107-252, title II, §262, Oct. 29, 2002, 116 Stat. 1698.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15422 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

### § 21023. Requirements for eligibility

#### (a) Application

Each State or unit of local government that desires to receive a payment under this subpart for a fiscal year shall submit an application for the payment to the Secretary at such time and in such manner and containing such information as the Secretary shall require.

#### (b) Contents of application

Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought; and

(2) provide such additional information and certifications as the Secretary determines to be essential to ensure compliance with the requirements of this subpart.

#### (c) Protection against actions based on information in application

##### (1) In general

No action may be brought under this chapter against a State or unit of local government on the basis of any information contained in the application submitted under subsection (a).

##### (2) Exception for criminal acts

Paragraph (1) may not be construed to limit the liability of a State or unit of local government for criminal acts or omissions.

(Pub. L. 107-252, title II, §263, Oct. 29, 2002, 116 Stat. 1698.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29,

2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was formerly classified to section 15423 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

### § 21024. Authorization of appropriations

#### (a) In general

There are authorized to be appropriated to carry out the provisions of this subpart the following amounts:

- (1) For fiscal year 2003, \$50,000,000.
- (2) For fiscal year 2004, \$25,000,000.
- (3) For fiscal year 2005, \$25,000,000.

#### (b) Availability

Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

(Pub. L. 107-252, title II, § 264, Oct. 29, 2002, 116 Stat. 1699.)

#### Editorial Notes

#### CODIFICATION

Section was formerly classified to section 15424 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

### § 21025. Reports

#### (a) Reports by recipients

Not later than the<sup>1</sup> 6 months after the end of each fiscal year for which an eligible State or eligible unit of local government received a payment under this subpart, the State or unit shall submit a report to the Secretary on the activities conducted with the funds provided during the year, and shall include in the report a list of expenditures made with respect to each category of activities described in section 21021(b) of this title.

#### (b) Report by Secretary to Committees

With respect to each fiscal year for which the Secretary makes payments under this subpart, the Secretary shall submit a report on the activities carried out under this subpart to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

(Pub. L. 107-252, title II, § 265, Oct. 29, 2002, 116 Stat. 1699.)

#### Editorial Notes

#### CODIFICATION

Section was formerly classified to section 15425 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### SUBPART 3—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

### § 21041. Grants for research on voting technology improvements

#### (a) In general

The Commission shall make grants to assist entities in carrying out research and develop-

ment 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 subpart if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) certifications 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 the blind and visually impaired, 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 [52 U.S.C. 10301 et seq.]); and

(2) such other information and certifications 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 subpart using funds provided under this subpart shall be subject to chapter 18 of title 35 (relating to patent rights in inventions made with Federal assistance).

#### (d) Recommendation of topics for research

##### (1) In general

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 this subpart during the year.

##### (2) Review of grant applications received by Commission

The Commission shall submit each application it receives for a grant under this subpart to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

##### (3) Monitoring and adjustment of grant activities at request of Commission

After the Commission has awarded a grant under this subpart, the Commission may request that the Director monitor the grant, and (to the extent permitted under the terms of the grant as awarded) the Director may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

##### (4) Evaluation of grants at request of Commission

###### (A) In general

In the case of a grant for which the Commission submits the application to the Director under paragraph (2) or requests that the Director monitor the grant under para-

<sup>1</sup> So in original.

graph (3), the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

**(B) Inclusion in reports**

The Commission shall include the evaluations submitted under subparagraph (A) for a year in the report submitted for the year under section 20927 of this title.

**(e) Provision of information on projects**

The Commission may provide to the Technical Guidelines Development Committee under subpart 3 of part A of this subchapter such information regarding the activities funded under this subpart as the Commission deems necessary to assist the Committee in carrying out its duties.

(Pub. L. 107–252, title II, §271, Oct. 29, 2002, 116 Stat. 1699.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Voting Rights Act of 1965, referred to in subsec. (b)(1), is Pub. L. 89–110, Aug. 6, 1965, 79 Stat. 437, which is classified generally to chapters 103 (§10301 et seq.), 105 (§10501 et seq.), and 107 (§10701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Section was formerly classified to section 15441 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 21042. Report**

**(a) In general**

Each entity which receives a grant under this subpart shall submit to the Commission 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.

(Pub. L. 107–252, title II, §272, Oct. 29, 2002, 116 Stat. 1700.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 15442 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 21043. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated for grants under this subpart \$20,000,000 for fiscal year 2003.

**(b) Availability of funds**

Amounts appropriated pursuant to the authorization under this section shall remain available, without fiscal year limitation, until expended.

(Pub. L. 107–252, title II, §273, Oct. 29, 2002, 116 Stat. 1700.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 15443 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**SUBPART 4—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY**

**§ 21051. 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 tested and implemented on a trial basis so that the results of such tests and trials are reported to Congress.

**(b) Eligibility**

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

(1) certifications 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 the blind and visually impaired, 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 [52 U.S.C. 10301 et seq.] and the requirements of this chapter); and

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

**(c) Recommendation of topics for pilot programs**

**(1) In general**

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 pilot programs funded with grants awarded under this subpart during the year.

**(2) Review of grant applications received by Commission**

The Commission shall submit each application it receives for a grant under this subpart to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

**(3) Monitoring and adjustment of grant activities at request of Commission**

After the Commission has awarded a grant under this subpart, the Commission may request that the Director monitor the grant, and (to the extent permitted under the terms of the grant as awarded) the Director may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.



#### (4) Evaluation of grants at request of Commission

##### (A) In general

In the case of a grant for which the Commission submits the application to the Director under paragraph (2) or requests that the Director monitor the grant under paragraph (3), the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

##### (B) Inclusion in reports

The Commission shall include the evaluations submitted under subparagraph (A) for a year in the report submitted for the year under section 20927 of this title.

#### (d) Provision of information on projects

The Commission may provide to the Technical Guidelines Development Committee under subpart 3 of part A of this subchapter such information regarding the activities funded under this subpart as the Commission deems necessary to assist the Committee in carrying out its duties.

(Pub. L. 107-252, title II, § 281, Oct. 29, 2002, 116 Stat. 1701.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in subsec. (b)(1), is Pub. L. 89-110, Aug. 6, 1965, 79 Stat. 437, which is classified generally to chapters 103 (§10301 et seq.), 105 (§10501 et seq.), and 107 (§10701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (b)(1), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section was formerly classified to section 15451 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 21052. Report

##### (a) In general

Each entity which receives a grant under this subpart shall submit to the Commission 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.

(Pub. L. 107-252, title II, § 282, Oct. 29, 2002, 116 Stat. 1702.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15452 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 21053. Authorization of appropriations

##### (a) In general

There are authorized to be appropriated for grants under this subpart \$10,000,000 for fiscal year 2003.

##### (b) Availability of funds

Amounts appropriated pursuant to the authorization under this section shall remain available, without fiscal year limitation, until expended.

(Pub. L. 107-252, title II, § 283, Oct. 29, 2002, 116 Stat. 1702.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15453 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### SUBPART 5—PROTECTION AND ADVOCACY SYSTEMS

#### § 21061. Payments for protection and advocacy systems

##### (a) In general

In addition to any other payments made under this part, the Secretary of Health and Human Services shall pay the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)) of each State to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places. In providing such services, protection and advocacy systems shall have the same general authorities as they are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

##### (b) Minimum grant amount

The minimum amount of each grant to a protection and advocacy system shall be determined and allocated as set forth in subsections (c)(1)(B), (c)(3), (c)(4), (c)(5), (e), and (g) of section 794e of title 29, except that the amount of the grants to systems referred to in subsection (c)(3)(B)<sup>1</sup> shall not be less than \$70,000, and the amount of the grants to systems referred to in subsections (c)(1)(B) and (c)(4)<sup>1</sup> shall not be less than \$35,000.

##### (c) Eligible grant recipients

###### (1) Definition of State

For the purposes of this section, the term “State” shall have the meaning given such term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

###### (2) American Indian consortium eligible

A system serving the American Indian consortium for which funds have been reserved under section 794e(c)(1)(B) of title 29 shall be eligible for payments under subsection (a) in the same manner as a protection and advocacy system of a State.

<sup>1</sup> So in original. Probably should be followed by “of that section”.

**(d) Training and technical assistance program****(1) In general**

Not later than 90 days after the date on which the initial appropriation of funds for a fiscal year is made pursuant to the authorization under section 21062 of this title, the Secretary shall set aside 7 percent of the amount appropriated under such section and use such portion to make payments to eligible entities to provide training and technical assistance with respect to the activities carried out under this section.

**(2) Use of funds**

A recipient of a payment under this subsection may use the payment to support training in the use of voting systems and technologies, and to demonstrate and evaluate the use of such systems and technologies, by individuals with disabilities (including blindness) in order to assess the availability and use of such systems and technologies for such individuals. At least one of the recipients under this subsection shall use the payment to provide training and technical assistance for non-visual access.

**(3) Eligibility**

An entity is eligible to receive a payment under this subsection if the entity—

(A) is a public or private nonprofit entity with demonstrated experience in voting issues for individuals with disabilities;

(B) is governed by a board with respect to which the majority of its members are individuals with disabilities or family members of such individuals or individuals who are blind; and

(C) submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 107–252, title II, § 291, Oct. 29, 2002, 116 Stat. 1702; Pub. L. 117–182, § 2, Sept. 30, 2022, 136 Stat. 2178.)

**Editorial Notes**

## REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (a), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

## CODIFICATION

Section was formerly classified to section 15461 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

2022—Subsec. (b). Pub. L. 117–182, § 2(b), inserted “(c)(1)(B),” after “as set forth in subsections” and substituted “subsection (c)(3)(B) shall not be less than \$70,000, and the amount of the grants to systems referred to in subsections (c)(1)(B) and (c)(4) shall not be less than \$35,000.” for “subsections (c)(3)(B) and (c)(4)(B) of that section shall be not less than \$70,000 and \$35,000, respectively.”

Subsecs. (c), (d). Pub. L. 117–182, § 2(a), added subsec. (c) and redesignated former subsec. (c) as (d).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–182, § 3, Sept. 30, 2022, 136 Stat. 2179, provided that: “The amendments made by section 2 [amending this section] shall take effect at the start of the first fiscal year starting after the date of the enactment of this Act [Sept. 30, 2022].”

**§ 21062. Authorization of appropriations****(a) In general**

In addition to any other amounts authorized to be appropriated under this part, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006, and for each subsequent fiscal year such sums as may be necessary, for the purpose of making payments under section 21061(a) of this title; except that none of the funds provided by this subsection shall be used to initiate or otherwise participate in any litigation related to election-related disability access, notwithstanding the general authorities that the protection and advocacy systems are otherwise afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

**(b) Availability**

Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

(Pub. L. 107–252, title II, § 292, Oct. 29, 2002, 116 Stat. 1703.)

**Editorial Notes**

## REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (a), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

## CODIFICATION

Section was formerly classified to section 15462 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 6—NATIONAL STUDENT AND PARENT  
MOCK ELECTION**§ 21071. National Student and Parent Mock Election****(a) In general**

The Election Assistance Commission is authorized to award grants to the National Student and Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for students and their parents. Such activities may—

(1) include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an “issues forum”;

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences, and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

#### (b) Requirement

The National Student and Parent Mock Election shall present awards to outstanding student and parent mock election projects.

(Pub. L. 107-252, title II, § 295, Oct. 29, 2002, 116 Stat. 1703.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15471 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### § 21072. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this part \$200,000 for fiscal year 2003 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(Pub. L. 107-252, title II, § 296, Oct. 29, 2002, 116 Stat. 1704.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 15472 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

#### SUBCHAPTER III—UNIFORM AND NON-DISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

##### PART A—REQUIREMENTS

#### § 21081. Voting systems standards

##### (a) Requirements

Each voting system used in an election for Federal office shall meet the following requirements:

##### (1) In general

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before

the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than one candidate for a single office—

(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

##### (2) Audit capacity

##### (A) In general

The voting system shall produce a record with an audit capacity for such system.

##### (B) Manual audit capacity

(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.

(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

##### (3) Accessibility for individuals with disabilities

The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and