

if included in the enactment of the Help America Vote Act of 2002 [Pub. L. 107-252, see Tables for classification].”

§ 20903. Guaranteed minimum payment amount

(a) In general

In addition to any other payments made under this subchapter, the Administrator shall make a payment to each State to which a payment is made under either section 20901 or 20902 of this title and with respect to which the aggregate amount paid under such sections is less than \$5,000,000 in an amount equal to the difference between the aggregate amount paid to the State under sections 20901 and 20902 of this title and \$5,000,000. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands, the previous sentence shall be applied as if each reference to “\$5,000,000” were a reference to “\$1,000,000”.

(b) Pro rata reductions

The Administrator shall make such pro rata reductions to the amounts described in sections 20901(d) and 20902(c) of this title as are necessary to comply with the requirements of subsection (a).

(Pub. L. 107-252, title I, §103, Oct. 29, 2002, 116 Stat. 1672.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15303 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20904. Authorization of appropriations

(a) In general

There are authorized to be appropriated for payments under this subchapter \$650,000,000, of which—

- (1) 50 percent shall be for payments under section 20901 of this title; and
- (2) 50 percent shall be for payments under section 20902 of this title.

(b) Continuing availability of funds after appropriation

Any payment made to a State under this subchapter shall be available to the State without fiscal year limitation (subject to subsection (c)(2)(B)).

(c) Use of returned funds and funds remaining unexpended for requirements payments

(1) In general

The amounts described in paragraph (2) shall be transferred to the Election Assistance Commission (established under subchapter II) and used by the Commission to make requirements payments under subpart 1 of part D of subchapter II.

(2) Amounts described

The amounts referred to in this paragraph are as follows:

- (A) Any amounts paid to the Administrator by a State under section 20902(d)(1) of this title.
- (B) Any amounts appropriated for payments under this subchapter which remain unobligated as of September 1, 2003.

(d) Deposit of amounts in State election fund

When a State has established an election fund described in section 21004(b) of this title, the State shall ensure that any funds provided to the State under this subchapter are deposited and maintained in such fund.

(e) Authorization of appropriations for Administrator

In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Administrator such sums as may be necessary to administer the programs under this subchapter.

(Pub. L. 107-252, title I, §104, Oct. 29, 2002, 116 Stat. 1672.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15304 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20905. Administration of programs

In administering the programs under this subchapter, the Administrator shall take such actions as the Administrator considers appropriate to expedite the payment of funds to States.

(Pub. L. 107-252, title I, §105, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15305 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20906. Effective date

The Administrator shall implement the programs established under this subchapter in a manner that ensures that the Administrator is able to make payments under the program not later than the expiration of the 45-day period which begins on October 29, 2002.

(Pub. L. 107-252, title I, §106, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15306 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBCHAPTER II—COMMISSION

PART A—ESTABLISHMENT AND GENERAL ORGANIZATION

SUBPART 1—ELECTION ASSISTANCE COMMISSION

§ 20921. Establishment

There is hereby established as an independent entity the Election Assistance Commission (hereafter in this subchapter referred to as the “Commission”), consisting of the members appointed under this subpart. Additionally, there

is established the Election Assistance Commission Standards Board (including the Executive Board of such Board) and the Election Assistance Commission Board of Advisors under subpart 2 of this part (hereafter in this subpart referred to as the “Standards Board” and the “Board of Advisors”, respectively) and the Technical Guidelines Development Committee under subpart 3 of this part.

(Pub. L. 107-252, title II, §201, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15321 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20922. Duties

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

(1) carrying out the duties described in subpart 3 of this part (relating to the adoption of voluntary voting system guidelines), including the maintenance of a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general;

(2) carrying out the duties described in part B of this subchapter (relating to the testing, certification, decertification, and recertification of voting system hardware and software);

(3) carrying out the duties described in part C of this subchapter (relating to conducting studies and carrying out other activities to promote the effective administration of Federal elections);

(4) carrying out the duties described in part D of this subchapter (relating to election assistance), and providing information and training on the management of the payments and grants provided under such part;

(5) carrying out the duties described in part B of subchapter III (relating to the adoption of voluntary guidance); and

(6) developing and carrying out the Help America Vote College Program under subchapter V.

(Pub. L. 107-252, title II, §202, Oct. 29, 2002, 116 Stat. 1673.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15322 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20923. Membership and appointment

(a) Membership

(1) In general

The Commission shall have four members appointed by the President, by and with the advice and consent of the Senate.

(2) Recommendations

Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the Member of Congress involved.

(3) Qualifications

Each member of the Commission shall have experience with or expertise in election administration or the study of elections.

(4) Date of appointment

The appointments of the members of the Commission shall be made not later than 120 days after October 29, 2002.

(b) Term of service

(1) In general

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

(2) Terms of initial appointees

As designated by the President at the time of nomination, of the members first appointed—

(A) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and

(B) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

(3) Vacancies

(A) In general

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

(B) Expired terms

A member of the Commission shall serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) Unexpired terms

An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) Chair and vice chair

(1) In general

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

(2) Number of terms

A member of the Commission may serve as the chairperson and vice chairperson for only

1 term each during the term of office to which such member is appointed.

(d) Compensation

(1) In general

Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5.

(2) Other activities

No member appointed to the Commission under subsection (a) may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment before sitting as a member of the Commission.

(Pub. L. 107-252, title II, §203, Oct. 29, 2002, 116 Stat. 1674.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15323 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20924. Staff

(a) Executive Director, General Counsel, and other staff

(1) Executive Director

The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5.

(2) Term of service for Executive Director

The Executive Director shall serve for a term of 4 years. An Executive Director may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(3) Procedure for appointment

(A) In general

When a vacancy exists in the position of the Executive Director, the Standards Board and the Board of Advisors shall each appoint a search committee to recommend at least three nominees for the position.

(B) Requiring consideration of nominees

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

(C) Interim service of General Counsel

If a vacancy exists in the position of the Executive Director, the General Counsel of the Commission shall serve as the acting Executive Director until the Commission appoints a new Executive Director in accordance with this paragraph.

(D) Special rules for interim Executive Director

(i) Convening of search committees

The Standards Board and the Board of Advisors shall each appoint a search com-

mittee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) Interim initial appointment

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

(4) General Counsel

The Commission shall have a General Counsel, who shall be appointed by the Commission and who shall serve under the Executive Director. The General Counsel shall serve for a term of 4 years, and may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(5) Other staff

Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(6) Applicability of certain civil service laws

The Executive Director, General Counsel, and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of that title.

(b) Experts and consultants

Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5 by a vote of the Commission.

(c) Staff of Federal agencies

Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this chapter.

(d) Arranging for assistance for Board of Advisors and Standards Board

At the request of the Board of Advisors or the Standards Board, the Commission may enter into such arrangements as the Commission considers appropriate to make personnel available to assist the Boards with carrying out their duties under this subchapter (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) Consultation with Board of Advisors and Standards Board on certain matters

In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Board of Advisors and the Standards Board.

(Pub. L. 107-252, title II, §204, Oct. 29, 2002, 116 Stat. 1675.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), 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 15324 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20925. Powers

(a) Hearings and sessions

The Commission may hold such hearings for the purpose of carrying out this chapter, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this chapter. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) Information from Federal agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this chapter. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal services

The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Administrative support services

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this chapter.

(e) Contracts

The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 6101 of title 41.

(Pub. L. 107-252, title II, §205, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), 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 15325 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

In subsec. (e), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 20926. Dissemination of information

In carrying out its duties, the Commission shall, on an ongoing basis, disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) in a manner that is consistent with the requirements of chapter 19 of title 44 information on the activities carried out under this chapter.

(Pub. L. 107-252, title II, §206, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 15326 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20927. Annual report

Not later than January 31 of each year (beginning with 2004), the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate detailing its activities during the fiscal year which ended on September 30 of the previous calendar year, and shall include in the report the following information:

(1) A detailed description of activities conducted with respect to each program carried out by the Commission under this chapter, including information on each grant or other payment made under such programs.

(2) A copy of each report submitted to the Commission by a recipient of such grants or payments which is required under such a program, including reports submitted by States receiving requirements payments under subpart 1 of part D of this subchapter, and each other report submitted to the Commission under this chapter.

(3) Information on the voluntary voting system guidelines adopted or modified by the Commission under subpart 3 of this part and information on the voluntary guidance adopted under part B of subchapter III.

(4) All votes taken by the Commission.

(5) Such other information and recommendations as the Commission considers appropriate.

(Pub. L. 107-252, title II, §207, Oct. 29, 2002, 116 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in pars. (1) and (2), 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 15327 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20928. Requiring majority approval for actions

Any action which the Commission is authorized to carry out under this chapter may be carried out only with the approval of at least three of its members.

(Pub. L. 107-252, title II, §208, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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 15328 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20929. Limitation on rulemaking authority

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 20508(a) of this title.

(Pub. L. 107-252, title II, §209, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15329 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20930. Authorization of appropriations

In addition to the amounts authorized for payments and grants under this subchapter and the amounts authorized to be appropriated for the program under section 21123 of this title, there are authorized to be appropriated for each of the fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed \$10,000,000 for each such year) for the Commission to carry out this subchapter.

(Pub. L. 107-252, title II, §210, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15330 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

§ 20941. Establishment

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

(Pub. L. 107-252, title II, §211, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15341 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20942. Duties

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in subpart 3 of this part, review the voluntary voting system guidelines under such subpart, the voluntary guidance under subchapter III, and the best practices recommendations contained in the report submitted under section 20982(b) of this title.

(Pub. L. 107-252, title II, §212, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

REFERENCES IN TEXT

Subchapter III, referred to in text, 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.

CODIFICATION

Section was formerly classified to section 15342 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20943. Membership of Standards Board

(a) Composition

(1) In general

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

(A) Fifty-five shall be State election officials selected by the chief State election official of each State.

(B) Fifty-five shall be local election officials selected in accordance with paragraph (2).

(2) List of local election officials

Each State’s local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall se-

lect (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) Requiring mix of political parties represented

The two members of the Standards Board who represent the same State may not be members of the same political party.

(b) Procedures for notice and certification of appointment

(1) Notice to chair of Federal Election Commission

Not later than 90 days after October 29, 2002, the chief State election official of the State shall transmit a notice to the chair of the Federal Election Commission containing—

(A) the name of the State election official who agrees to serve on the Standards Board under this subchapter; and

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

(2) Certification

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

(3) Effect of failure to provide notice

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

(4) Role of Commission

Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) Executive Board

(1) In general

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

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

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

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

(2) Terms

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

(3) Staggering of initial terms

Of the members first selected to serve on the Executive Board of the Standards Board—

(A) three shall serve for 1 term;

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

(C) three shall serve for 3 consecutive terms,

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

(4) Duties

In addition to any other duties assigned under this subchapter, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

(Pub. L. 107-252, title II, §213, Oct. 29, 2002, 116 Stat. 1678.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15343 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20944. Membership of Board of Advisors

(a) In general

The Board of Advisors shall be composed of 37 members appointed as follows:

(1) Two members appointed by the National Governors Association.

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

(3) Two members appointed by the National Association of Secretaries of State.

(4) Two members appointed by the National Association of State Election Directors.

(5) Two members appointed by the National Association of Counties.

(6) Two members appointed by the National Association of County Recorders, Election Administrators, and Clerks.¹

(7) Two members appointed by the United States Conference of Mayors.

(8) Two members appointed by the Election Center.

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

(10) Two members appointed by the United States Commission on Civil Rights.

(11) Two members appointed by the Architectural and Transportation Barrier³ Compliance Board under section 792 of title 29.

¹ So in original. Probably should be "National Association of County Recorders, Election Officials and Clerks."

² So in original. Probably should be "International Association of Clerks, Recorders, Election Officials and Treasurers."

³ So in original. Probably should be "Barriers".

(12) The chief of the Office of Public Integrity of the Department of Justice,⁴ or the chief's designee.

(13) The chief of the Voting Section of the Civil Rights Division of the Department of Justice or the chief's designee.

(14) The director of the Federal Voting Assistance Program of the Department of Defense.

(15) Four members representing professionals in the field of science and technology, of whom—

(A) one each shall be appointed by the Speaker and the Minority Leader of the House of Representatives; and

(B) one each shall be appointed by the Majority Leader and the Minority Leader of the Senate.

(16) Eight members representing voter interests, of whom—

(A) four members shall be appointed by the Committee on House Administration of the House of Representatives, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member; and

(B) four members shall be appointed by the Committee on Rules and Administration of the Senate, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member.

(b) Manner of appointments

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

(c) Term of service; vacancy

Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed. Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) Chair

The Board of Advisors shall elect a Chair from among its members.

(Pub. L. 107-252, title II, §214, Oct. 29, 2002, 116 Stat. 1680.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15344 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20945. Powers of Boards; no compensation for service

(a) Hearings and sessions

(1) In general

To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this chap-

ter, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this subchapter, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) Meetings

The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the voluntary voting system guidelines referred to it under section 20962 of this title;

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

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

(b) Information from Federal agencies

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

(c) Postal services

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

(d) Administrative support services

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

(e) No compensation for service

Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Board.

(Pub. L. 107-252, title II, §215, Oct. 29, 2002, 116 Stat. 1681.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b), 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

⁴ So in original. Probably means the Public Integrity Section of the Criminal Division of the Department of Justice.

chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15345 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20946. Status of Boards and members for purposes of claims against Board

(a) In general

The provisions of chapters 161 and 171 of title 28 shall apply with respect to the liability of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) Exception for criminal acts and other willful conduct

Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

(Pub. L. 107-252, title II, §216, Oct. 29, 2002, 116 Stat. 1681.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15346 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

§ 20961. Technical Guidelines Development Committee

(a) Establishment

There is hereby established the Technical Guidelines Development Committee (hereafter in this subpart referred to as the “Development Committee”).

(b) Duties

(1) In general

The Development Committee shall assist the Executive Director of the Commission in the development of the voluntary voting system guidelines.

(2) Deadline for initial set of recommendations

The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) Membership

(1) In general

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

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

- (i) Members of the Standards Board.
- (ii) Members of the Board of Advisors.
- (iii) Members of the Architectural and Transportation Barrier Compliance Board under section 792 of title 29.

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

(C) A representative of the Institute of Electrical and Electronics Engineers.

(D) Two representatives of the National Association of State Election Directors selected by such Association who are not members of the Standards Board or Board of Advisors, and who are not of the same political party.

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

(2) Quorum

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

(d) No compensation for service

Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) Technical support from National Institute of Standards and Technology

(1) In general

At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this part.

(2) Technical support

The technical support provided under paragraph (1) shall include intramural research and development in areas to support the development of the voluntary voting system guidelines under this subpart, including—

(A) the security of computers, computer networks, and computer data storage used in voting systems, including the computerized list required under section 21083(a) of this title;

(B) methods to detect and prevent fraud;

(C) the protection of voter privacy;

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

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

(3) No private sector intellectual property rights in guidelines

No private sector individual or entity shall obtain any intellectual property rights to any

guideline or the contents of any guideline (or any modification to any guideline) adopted by the Commission under this chapter.

(f) Publication of recommendations in Federal Register

At the time the Commission adopts any voluntary voting system guideline pursuant to section 20962 of this title, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the guideline adopted.

(Pub. L. 107-252, title II, § 221, Oct. 29, 2002, 116 Stat. 1682.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(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 15361 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20962. Process for adoption

(a) General requirement for notice and comment

Consistent with the requirements of this section, the final adoption of the voluntary voting system guidelines (or modification of such a guideline) shall be carried out by the Commission in a manner that provides for each of the following:

- (1) Publication of notice of the proposed guidelines in the Federal Register.
- (2) An opportunity for public comment on the proposed guidelines.
- (3) An opportunity for a public hearing on the record.
- (4) Publication of the final guidelines in the Federal Register.

(b) Consideration of recommendations of Development Committee; submission of proposed guidelines to Board of Advisors and Standards Board

(1) Consideration of recommendations of Development Committee

In developing the voluntary voting system guidelines and modifications of such guidelines under this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Guidelines Development Committee under section 20961 of this title.

(2) Board of Advisors

The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this subpart (or any modifications to such guidelines) to the Board of Advisors.

(3) Standards Board

The Executive Director of the Commission shall submit the guidelines proposed to be

adopted under this subpart (or any modifications to such guidelines) to the Executive Board of the Standards Board, which shall review the guidelines (or modifications) and forward its recommendations to the Standards Board.

(c) Review

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

(d) Final adoption

(1) In general

A voluntary voting system guideline described in subsection (b) (or modification of such a guideline) shall not be considered to be finally adopted by the Commission unless the Commission votes to approve the final adoption of the guideline (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (c).

(2) Minimum period for consideration of comments and recommendations

The Commission may not vote on the final adoption of a guideline described in subsection (b) (or modification of such a guideline) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the proposed guideline (or modification) to the Board of Advisors and the Standards Board under subsection (b).

(e) Special rule for initial set of guidelines

Notwithstanding any other provision of this subpart, the most recent set of voting system standards adopted by the Federal Election Commission prior to October 29, 2002, shall be deemed to have been adopted by the Commission as of October 29, 2002, as the first set of voluntary voting system guidelines adopted under this subpart.

(Pub. L. 107-252, title II, § 222, Oct. 29, 2002, 116 Stat. 1683.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15362 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART B—TESTING, CERTIFICATION, DECERTIFICATION, AND RECERTIFICATION OF VOTING SYSTEM HARDWARE AND SOFTWARE

§ 20971. Certification and testing of voting systems

(a) Certification and testing

(1) In general

The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) Optional use by States

At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) Laboratory accreditation**(1) Recommendations by National Institute of Standards and Technology**

Not later than 6 months after the Commission first adopts voluntary voting system guidelines under subpart 3 of part A of this subchapter, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

(2) Approval by Commission**(A) In general**

The Commission shall vote on the accreditation of any laboratory under this section, taking into consideration the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a vote of the Commission.

(B) Accreditation of laboratories not on Director list

The Commission shall publish an explanation for the accreditation of any laboratory not included on the list submitted by the Director of the National Institute of Standards and Technology under paragraph (1).

(c) Continuing review by National Institute of Standards and Technology**(1) In general**

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

(2) Approval by Commission required for revocation

The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission.

(d) Transition

Until such time as the Commission provides for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories under this section, the accreditation of laboratories

and the procedure for the testing, certification, decertification, and recertification of voting system hardware and software used as of October 29, 2002, shall remain in effect.

(Pub. L. 107-252, title II, § 231, Oct. 29, 2002, 116 Stat. 1684.)

Editorial Notes**CODIFICATION**

Section was formerly classified to section 15371 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART C—STUDIES AND OTHER ACTIVITIES TO PROMOTE EFFECTIVE ADMINISTRATION OF FEDERAL ELECTIONS**§ 20981. Periodic studies of election administration issues****(a) In general**

On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(1) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services and overseas voters, individuals with disabilities, including the blind and visually impaired, and voters with limited proficiency in the English language;

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

(3) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and

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

(b) Election administration issues described

For purposes of subsection (a), the election administration issues described in this subsection are as follows:

(1) Methods and mechanisms of election technology and voting systems used in voting and counting votes in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems.

(2) Ballot designs for elections for Federal office.

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

(4) Methods of conducting provisional voting.

(5) Methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.

(6) Nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office.

(7) Identifying, deterring, and investigating methods of voter intimidation.

(8) Methods of recruiting, training, and improving the performance of poll workers.

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

(10) The feasibility and advisability of conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time and establishing—

(A) a legal public holiday under section 6103 of title 5 as the date on which general elections for Federal office are held;

(B) the Tuesday next after the 1st Monday in November, in every even numbered year, as a legal public holiday under such section;

(C) a date other than the Tuesday next after the 1st Monday in November, in every even numbered year as the date on which general elections for Federal office are held; and

(D) any date described in subparagraph (C) as a legal public holiday under such section.

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

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

(13)(A) The laws and procedures used by each State that govern—

(i) recounts of ballots cast in elections for Federal office;

(ii) contests of determinations regarding whether votes are counted in such elections; and

(iii) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office.

(B) The best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i).

(C) Whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

(14) The technical feasibility of providing voting materials in eight or more languages for voters who speak those languages and who have limited English proficiency.

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

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

(17) The best methods for establishing voting system performance benchmarks, expressed as

a percentage of residual vote in the Federal contest at the top of the ballot.

(18) Broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

(19) Such other matters as the Commission determines are appropriate.

(c) Reports

The Commission shall submit to the President and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on each study conducted under subsection (a) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

(Pub. L. 107-252, title II, § 241, Oct. 29, 2002, 116 Stat. 1686.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15381 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

ELECTION DATA COLLECTION GRANTS

Pub. L. 110-161, div. D, title V, § 501, Dec. 26, 2007, 121 Stat. 1997, required the Election Assistance Commission to establish an election data collection grant program.

§ 20982. Study, report, and recommendations on best practices for facilitating military and overseas voting

(a) Study

(1) In general

The Commission, in consultation with the Secretary of Defense, shall conduct a study on the best practices for facilitating voting by absent uniformed services voters (as defined in section 20310(1) of this title) and overseas voters (as defined in section 20310(5) of this title).

(2) Issues considered

In conducting the study under paragraph (1) the Commission shall consider the following issues:

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

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots, including the right of such voters to cast a secret ballot.

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

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

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

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

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

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

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

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

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

(b) Report and recommendations

Not later than the date that is 18 months after October 29, 2002, the Commission shall submit to the President and Congress a report on the study conducted under subsection (a)(1) together with recommendations identifying the best practices used with respect to the issues considered under subsection (a)(2).

(Pub. L. 107-252, title II, §242, Oct. 29, 2002, 116 Stat. 1688.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15382 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20983. Report on human factor research

Not later than 1 year after October 29, 2002, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall submit a report to Congress which assesses the areas of human factor research, including usability engineering and human-computer and human-machine interaction, which feasibly could be applied to voting products and systems design to ensure the usability and accuracy of voting products and systems, including methods to improve access for individuals with disabilities (including blindness) and individuals with limited proficiency in the English language and to reduce voter error and the number of spoiled ballots in elections.

(Pub. L. 107-252, title II, §243, Oct. 29, 2002, 116 Stat. 1688.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15383 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20984. Study and report on voters who register by mail and use of Social Security information

(a) Registration by mail

(1) Study

(A) In general

The Commission shall conduct a study of the impact of section 21083(b) of this title on voters who register by mail.

(B) Specific issues studied

The study conducted under subparagraph (A) shall include—

(i) an examination of the impact of section 21083(b) of this title on first time mail registrant voters who vote in person, including the impact of such section on voter registration;

(ii) an examination of the impact of such section on the accuracy of voter rolls, including preventing ineligible names from being placed on voter rolls and ensuring that all eligible names are placed on voter rolls; and

(iii) an analysis of the impact of such section on existing State practices, such as the use of signature verification or attestation procedures to verify the identity of voters in elections for Federal office, and an analysis of other changes that may be made to improve the voter registration process, such as verification or additional information on the registration card.

(2) Report

Not later than 18 months after the date on which section 21083(b)(2) of this title takes effect, the Commission shall submit a report to the President and Congress on the study conducted under paragraph (1)(A) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

(b) Use of Social Security information

Not later than 18 months after the date on which section 21083(a)(5) of this title takes effect, the Commission, in consultation with the Commissioner of Social Security, shall study and report to Congress on the feasibility and advisability of using Social Security identification numbers or other information compiled by the Social Security Administration to establish voter registration or other election law eligibility or identification requirements, including the matching of relevant information specific to an individual voter, the impact of such use on national security issues, and whether adequate safeguards or waiver procedures exist to protect the privacy of an individual voter.

(Pub. L. 107-252, title II, §244, Oct. 29, 2002, 116 Stat. 1689.)

Editorial Notes

REFERENCES IN TEXT

For the effective dates of subsecs. (a)(5) and (b)(2) of section 21083 of this title, referred to in subsecs. (a)(2) and (b), see section 21083(d) of this title.

CODIFICATION

Section was formerly classified to section 15384 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20985. Study and report on electronic voting and the electoral process

(a) Study

(1) In general

The Commission shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) Issues to be studied

The Commission may include in the study conducted under paragraph (1) an examination of—

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communication with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Inter-

net voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy of vote counts in Federal, State, and local elections.

(b) Report

(1) Submission

Not later than 20 months after October 29, 2002, the Commission shall transmit to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on the results of the study conducted under subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Commission.

(2) Internet posting

In addition to the dissemination requirements under chapter 19 of title 44, the Election Administration Commission shall post the report transmitted under paragraph (1) on an Internet website.

(Pub. L. 107-252, title II, § 245, Oct. 29, 2002, 116 Stat. 1690.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15385 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20986. Study and report on free absentee ballot postage

(a) Study on the establishment of a free absentee ballot postage program

(1) In general

The Commission, in consultation with the Postal Service, shall conduct a study on the feasibility and advisability of the establishment of a program under which the Postal Service shall waive or otherwise reduce the amount of postage applicable with respect to absentee ballots submitted by voters in general elections for Federal office (other than balloting materials mailed under section 3406 of title 39) that does not apply with respect to the postage required to send the absentee ballots to voters.

(2) Public survey

As part of the study conducted under paragraph (1), the Commission shall conduct a survey of potential beneficiaries under the program described in such paragraph, including the elderly and disabled, and shall take into account the results of such survey in determining the feasibility and advisability of establishing such a program.

(b) Report

(1) Submission

Not later than the date that is 1 year after October 29, 2002, the Commission shall submit to Congress a report on the study conducted under subsection (a)(1) together with recommendations for such legislative and admin-

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 Administrator¹ 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

¹ 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)¹ 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-

¹ 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 the¹ 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-

¹ 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)¹ 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)¹ 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.

¹ 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