

107TH CONGRESS
1ST SESSION

S. 379

To establish the National Commission on the Modernization of Federal Elections to conduct a study of Federal voting procedures and election administration, to establish the Federal Election Modernization Grant Program to provide grants to States and localities for the modernization of voting procedures and election administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2001

Mr. SCHUMER (for himself, Mr. BROWNBACK, Mr. KENNEDY, Mr. CLELAND, Mr. KERRY, Mr. LEAHY, Mr. DURBIN, Mr. KOHL, Ms. COLLINS, Ms. LANDRIEU, Mr. MCCAIN, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To establish the National Commission on the Modernization of Federal Elections to conduct a study of Federal voting procedures and election administration, to establish the Federal Election Modernization Grant Program to provide grants to States and localities for the modernization of voting procedures and election administration, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Election Mod-
3 ernization Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds as follows:

6 (1) The right to vote is fundamental to citizen-
7 ship, and it is vital that Americans have confidence
8 in the manner and conduct of elections.

9 (2) Many Americans use antiquated methods to
10 vote and tabulate the results in Federal elections. In
11 the age of the microchip, Federal elections are still
12 conducted using punch cards and voting machines
13 invented in the 19th century and no longer even
14 manufactured.

15 (3) Our failure to modernize our system for vot-
16 ing and administering elections has led to a variety
17 of damaging effects.

18 (4) First, voters experience unnecessary delay,
19 confusion, and inconvenience when voting.

20 (5) Second, our outdated voting system may
21 produce incomplete or inaccurate results, as when
22 machines tabulating votes misread ballots or when
23 decades-old voting machines break down on election
24 day.

1 (6) Third, the speed and timeliness of tab-
2 ulating votes is often compromised by antiquated
3 technology and methods.

4 (7) Fourth, the problems inherent in our cur-
5 rent system of voting play a role in depressing voter
6 turnout, which has declined by nearly 20 percent in
7 only 40 years.

8 (8) In addition, voters in rural areas of the
9 United States face unique difficulties in reaching
10 polling places and in affording the acquisition of new
11 technology to conduct elections.

12 (9) Recently, States have begun experimenting
13 with new and innovative ways of voting and admin-
14 istering elections. For example, Oregon conducts
15 elections by mail, Delaware voters use computerized
16 voting terminals, and the Democratic Party in Ari-
17 zona has conducted a Presidential primary election
18 via the Internet.

19 (10) Local governments, which are often
20 charged with buying new voting equipment and pay-
21 ing for other facets of administering elections, often
22 lack the funds needed to upgrade their election sys-
23 tems.

24 (11) It is urgently necessary to build upon ex-
25 perimentation at the State and international level,

1 study which new systems and ideas merit wider im-
 2 plementation, and provide the funding necessary to
 3 enable States and localities to modernize their elec-
 4 tion systems.

5 **TITLE I—ESTABLISHMENT OF A**
 6 **NATIONAL COMMISSION ON**
 7 **THE MODERNIZATION OF**
 8 **FEDERAL ELECTIONS**

9 **SEC. 101. ESTABLISHMENT OF A NATIONAL COMMISSION.**

10 There is established the National Commission on the
 11 Modernization of Federal Elections.

12 **SEC. 102. MEMBERSHIP OF THE COMMISSION.**

13 (a) NUMBER AND APPOINTMENT.—The Commission
 14 shall be composed of 12 members, including—

15 (1) two members appointed by the President;

16 (2) one member appointed by the Majority
 17 Leader of the Senate;

18 (3) two members appointed by the Minority
 19 Leader of the Senate;

20 (4) one member appointed by the Speaker of
 21 the House of Representatives;

22 (5) two members appointed by the Minority
 23 Leader of the House of Representatives;

24 (6) the Director of the Office of Election Ad-
 25 ministration of the Federal Election Commission,

1 who shall be a nonvoting member of the Commis-
2 sion;

3 (7) one member jointly appointed by the Na-
4 tional Association of Secretaries of State and the
5 National Association of State Election Directors,
6 who shall be a nonvoting member of the Commis-
7 sion;

8 (8) one member jointly appointed by the Inter-
9 national Institute of Municipal Clerks; the National
10 Association of County Recorders, Election Officials
11 and Clerks; and the International Association of
12 Clerks, Recorders, Election Officials, and Treas-
13 urers, who shall be a nonvoting member of the Com-
14 mission; and

15 (9) one member currently serving on and ap-
16 pointed by the United States Commission on Civil
17 Rights, who shall be a nonvoting member of the
18 Commission.

19 (b) CONSULTATION AND BALANCE REQUIRED.—The
20 Majority Leader of the Senate, the Minority Leader of the
21 Senate, the Speaker of the House of Representatives, and
22 the Minority Leader of the House of Representatives shall
23 consult among themselves prior to appointment of the
24 members of the Commission in order to achieve, to the
25 maximum extent possible, fair and equitable representa-

1 tion of various points of view with respect to the matters
 2 to be studied by the Commission under section 103, and
 3 regional and geographical balance among the members of
 4 the Commission.

5 (c) FEDERAL OFFICERS AND EMPLOYEES.—Aside
 6 from the Director of the Office of Election Administration
 7 of the Federal Election Commission and the member of
 8 the United States Commission on Civil Rights, no member
 9 of the Commission may be an officer or employee of the
 10 United States.

11 (d) DATE OF APPOINTMENT.—The appointments of
 12 the members of the Commission shall be made not later
 13 than 20 days after the date of enactment of this Act.

14 (e) TERMS.—Each member of the Commission shall
 15 be appointed for the life of the Commission.

16 (f) VACANCIES.—A vacancy in the Commission shall
 17 not affect its powers, but shall be filled in the same man-
 18 ner as the original appointment was made.

19 (g) CHAIRPERSON AND VICE CHAIRPERSON.—The
 20 Commission shall select a Chairperson and Vice Chair-
 21 person from among its members.

22 **SEC. 103. DUTIES OF THE COMMISSION.**

23 (a) STUDY.—The Commission shall complete a thor-
 24 ough study of—

1 (1) current and alternate methods and instru-
2 ments of voting and counting votes in Federal elec-
3 tions;

4 (2) current and alternate methods of ensuring
5 the accessibility of voting, polling places, and voting
6 equipment to all voters, including members of the
7 Armed Forces, blind and disabled voters, and elderly
8 voters;

9 (3) current and alternate methods of ensuring
10 the accuracy of lists of registered voters, and ensur-
11 ing that all registered voters appear on polling lists;

12 (4) current and alternate methods of admin-
13 istering and ensuring the security and integrity of
14 Federal elections;

15 (5) current and alternate methods of educating
16 voters concerning the methods and instruments of
17 voting and other aspects of elections;

18 (6) matters particularly relevant to voting and
19 administering elections in rural and urban areas;

20 (7) conducting Federal elections on different
21 days, at different places, and during different hours;
22 and

23 (8) how the Federal Government can, on a per-
24 manent basis, best provide ongoing assistance to
25 State and local authorities to improve the adminis-

tration of Federal elections; which existing or new Federal agency should provide such assistance; and what levels of funding will be necessary to provide such assistance, including the amount to be appropriated under section 208.

(b) RECOMMENDATIONS.—

(1) RECOMMENDATIONS OF BEST PRACTICES IN VOTING AND ELECTION ADMINISTRATION.—After studying the matters set forth in subsection (a) (1) through (7), the Commission shall develop specific recommendations as to which methods of voting and administering elections studied by the Commission would—

(A) be most convenient, accessible, and easy to use for voters in Federal elections, including members of the Armed Forces, blind and disabled voters, and elderly voters;

(B) yield the most accurate and expeditious results in Federal elections;

(C) afford all voters an equal opportunity to vote; and

(D) be most efficient and cost-effective for use in Federal elections.

(2) RECOMMENDATIONS FOR PROVIDING ASSISTANCE IN FEDERAL ELECTIONS.—After studying

1 the matter set forth in subsection (a)(8), the Com-
2 mission shall recommend how the Federal Govern-
3 ment can, on a permanent basis, best provide ongoing
4 assistance to State and local authorities to improve
5 the administration of Federal elections, which
6 existing or new Federal agency should provide such
7 assistance, and what levels of funding will be necessary
8 to provide such assistance, including the
9 amount to be appropriated under section 208.

10 (c) REPORTS.—

11 (1) FINAL REPORT.—Not later than December
12 31, 2001, the Commission shall submit a final report
13 to the President and Congress. The report shall
14 contain a detailed statement of the findings and conclusions
15 of the Commission as to the matters studied pursuant
16 to subsection (a), a detailed statement of the recommendations
17 developed pursuant to subsection (b), and any dissenting or minority
18 opinions of the members of the Commission.

19 (2) INTERIM REPORTS.—The Commission shall
20 determine whether any matter to be studied under
21 subsection (a), and any recommendation under subsection
22 (b), may be the subject of an interim report submitted
23 prior to the final report required by sub-
24

1 section (c)(1), and in time for full or partial imple-
2 mentation before the Federal elections held in 2002.

3 (3) ADDITIONAL REPORTS.—The Commission
4 may, together with the final report submitted under
5 paragraph (1), submit such additional reports to the
6 President and Congress as the Commission deter-
7 mines appropriate.

8 **SEC. 104. MEETINGS.**

9 (a) IN GENERAL.—The Commission shall meet at the
10 call of the Chairperson. All meetings shall be open to the
11 public.

12 (b) INITIAL MEETING.—Not later than 20 days after
13 the date on which all members of the Commission have
14 been appointed, the Commission shall hold its first meet-
15 ing.

16 (c) QUORUM.—A majority of the members of the
17 Commission shall constitute a quorum, but a lesser num-
18 ber of members may hold hearings.

19 **SEC. 105. POWERS OF THE COMMISSION.**

20 (a) HEARINGS AND SESSIONS.—The Commission
21 may hold such hearings for the purpose of carrying out
22 this Act, sit and act at such times and places, take such
23 testimony, and receive such evidence as the Commission
24 considers advisable to carry out this Act. The Commission

1 may administer oaths and affirmations to witnesses ap-
2 pearing before the Commission.

3 (b) VOTING.—All actions of the Commission shall be
4 by a majority vote. A vote of 1 member of the Commission
5 shall have the same weight as the vote of any other mem-
6 ber of the Commission.

7 (c) INFORMATION FROM FEDERAL AGENCIES.—The
8 Commission may secure directly from any Federal depart-
9 ment or agency such information as the Commission con-
10 sider necessary to carry out this Act. Upon request of
11 the Chairperson of the Commission, the head of such de-
12 partment or agency shall furnish such information to the
13 Commission.

14 (d) WEBSITE.—For purposes of conducting the study
15 under this title, the Commission shall establish a website
16 to facilitate public comment and participation, and shall
17 also make all information on its website available in print.

18 (e) POSTAL SERVICES.—The Commission may use
19 the United States mails in the same manner and under
20 the same conditions as other departments and agencies of
21 the Federal Government.

22 (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the
23 request of the Chairperson of the Commission, the Admin-
24 istrator of the General Services Administration shall pro-
25 vide to the Commission, on a reimbursable basis, the ad-

1 ministrative support services that are necessary to enable
2 the Commission to carry out its duties under this Act.

3 (g) CONTRACTS.—The Commission may contract
4 with and compensate persons and Federal agencies for
5 supplies and services without regard to section 3709 of
6 the Revised Statutes (42 U.S.C. 5).

7 (h) GIFTS AND DONATIONS.—The Commission may
8 accept, use, and dispose of gifts or donations of services
9 or property to carry out this Act.

10 **SEC. 106. COMMISSION PERSONNEL MATTERS.**

11 (a) COMPENSATION OF MEMBERS.—Each member of
12 the Commission who is not an officer or employee of the
13 Federal Government shall be compensated at a rate equal
14 to the daily equivalent of the annual rate of basic pay pre-
15 scribed for level IV of the Executive Schedule under sec-
16 tion 5315 of title 5, United States Code, for each day (in-
17 cluding travel time) during which such member is engaged
18 in the performance of the duties of the Commission. All
19 members of the Commission who are officers or employees
20 of the United States shall serve without compensation in
21 addition to that received for their services as officers or
22 employees of the United States.

23 (b) TRAVEL EXPENSES.—The members of the Com-
24 mission shall be allowed travel expenses, including per
25 diem in lieu of subsistence, at rates authorized for employ-

ees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the

1 Commission without reimbursement, and such detail shall
2 be without interruption or loss of civil service status or
3 privilege.

4 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
5 **TENT SERVICES.**—The Chairperson of the Commission
6 may procure temporary and intermittent services under
7 section 3109(b) of title 5, United States Code, at rates
8 for individuals which do not exceed the daily equivalent
9 of the annual rate of basic pay prescribed for level V of
10 the Executive Schedule under section 5316 of such title.

11 **SEC. 107. TERMINATION OF THE COMMISSION.**

12 The Commission shall terminate 30 days after the
13 date on which the Commission submits its final report
14 under this title.

15 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) **IN GENERAL.**—There are authorized to be appro-
17 priated \$10,000,000 for fiscal year 2002 to the Commis-
18 sion to carry out this title.

19 (b) **AVAILABILITY.**—Any sums appropriated under
20 the authorization contained in this section shall remain
21 available, without fiscal year limitation, until expended.

1 **TITLE II—FEDERAL ELECTION**
2 **MODERNIZATION GRANTS**

3 **SEC. 201. ESTABLISHMENT OF GRANT PROGRAM.**

4 The Attorney General, acting through the Assistant
5 Attorney General for the Office of Justice Programs, after
6 consultation with the Director of the Office of Election
7 Administration of the Federal Election Commission, shall
8 develop and publish a plan to award and disburse annual
9 Federal Election Modernization Grants to States and lo-
10 calities.

11 **SEC. 202. CRITERIA.**

12 The Assistant Attorney General for the Office of Jus-
13 tice Programs' plan for awarding and disbursing Federal
14 Election Modernization Grants to States and localities
15 shall include such criteria for considering applications and
16 awarding grants as the Assistant Attorney General for the
17 Office of Justice Programs, after consultation with the Di-
18 rector of the Office of Election Administration of the Fed-
19 eral Election Commission, shall prescribe. Such criteria
20 shall include—

21 (1) the nature and quantity of deficiencies in an
22 applying State's or locality's methods of voting in
23 and administering Federal elections; and

1 (2) the applying State's or locality's need for
2 Federal assistance in implementing the recommenda-
3 tions of the Commission.

4 The Assistant Attorney General for the Office of Justice
5 Programs shall ensure that, to the extent practicable, the
6 distribution of Federal Election Modernization Grants is
7 geographically equitable.

8 **SEC. 203. USES OF GRANT FUNDING.**

9 (a) IN GENERAL.—Subject to subsection (b), States
10 and localities may use Federal Election Modernization
11 Grants to implement any recommendation of the Commis-
12 sion, issued under section 103(b)(1) of this Act, including
13 acquiring new equipment or technology, hiring new em-
14 ployees or contractors, training new or existing personnel,
15 educating voters concerning new means of voting or ad-
16 ministering elections, or in any other way appropriate to
17 implement any recommendation of the Commission.

18 (b) BLIND PEOPLE AND PERSONS WITH DISABIL-
19 ITIES.—Any method or instrument of voting funded by the
20 Federal Election Modernization Grant shall be fully acces-
21 sible to blind people and persons with disabilities and shall
22 ensure that such voters are afforded the opportunity to
23 vote under the same conditions of privacy and independ-
24 ence as other voters.

1 **SEC. 204. DEADLINE FOR APPLICATIONS AND DISBURSE-**
2 **MENT OF ANNUAL AWARDS.**

3 (a) INITIAL APPLICATIONS AND DISBURSEMENT.—
4 States and localities may submit initial applications to the
5 Assistant Attorney General for the Office of Justice Pro-
6 grams for Federal Election Modernization Grants at any
7 time up to 45 days after the Commission's issuance of the
8 final report required under title I of this Act. The Assist-
9 ant Attorney General for the Office of Justice Programs
10 shall act on such initial applications, and commence dis-
11 bursement of awards, within 45 days of the application
12 deadline.

13 (b) SUBSEQUENT APPLICATIONS AND DISBURSE-
14 MENTS.—States and localities may submit subsequent, an-
15 nual applications to the Assistant Attorney General for the
16 Office of Justice Programs for Federal Election Mod-
17 ernization Grants by such deadlines as the Assistant At-
18 torney General for the Office of Justice Programs shall
19 prescribe. The Assistant Attorney General for the Office
20 of Justice Programs shall act on such subsequent, annual
21 applications, and commence disbursement of awards, by
22 such deadlines as the Assistant Attorney General for the
23 Office of Justice Programs shall prescribe.

24 **SEC. 205. MATCHING FUNDS.**

25 The Assistant Attorney General for the Office of Jus-
26 tice Programs shall ensure that any State or locality re-

1 ceiving a Federal Election Modernization Grant shall ex-
 2 pend State or local funds in an amount equal to not less
 3 than 25 percent of the amount of the Federal Election
 4 Modernization Grant for any project for which the Federal
 5 Election Modernization Grant was awarded, except that
 6 the Assistant Attorney General for the Office of Justice
 7 Programs may waive this requirement in whole or in part
 8 under such terms and conditions as the Assistant Attorney
 9 General for the Office of Justice Programs may prescribe
 10 in order to meet the requirements of section 202.

11 **SEC. 206. AUDITS.**

12 The Assistant Attorney General for the Office of Jus-
 13 tice Programs shall audit the records of any State pro-
 14 gram funded by a Federal Election Modernization Grant
 15 and ensure that Federal funds are used in accordance with
 16 Federal law.

17 **SEC. 207. REPORTS.**

18 (a) REPORTS TO THE ASSISTANT ATTORNEY GEN-
 19 ERAL FOR THE OFFICE OF JUSTICE PROGRAMS.—No
 20 later than 6 months following receipt of a Federal Election
 21 Modernization Grant, a State or locality shall submit a
 22 report to the Assistant Attorney General for the Office
 23 of Justice Programs describing the terms of, and all activi-
 24 ties funded by, the Federal Election Modernization Grant.
 25 Such reports shall be made available to the public.

1 (b) REPORTS TO CONGRESS.—No later than 9
 2 months following disbursement of Federal Election Mod-
 3 ernization Grants to States and localities, the Assistant
 4 Attorney General for the Office of Justice Programs shall
 5 submit a report to Congress on the Federal Election Mod-
 6 ernization Grant program, including a description and
 7 analysis of all activities funded by Federal Election Mod-
 8 ernization Grants, and any recommendations for amend-
 9 ments to this Act or related provisions of law.

10 **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated to the Depart-
 12 ment of Justice Programs \$500,000,000 for each of fiscal
 13 years 2002, 2003, 2004, 2005, and 2006, or such lesser
 14 amount recommended by the Commission pursuant to sec-
 15 tion 103(b)(2), for Federal Election Modernization Grants
 16 and the costs of administering the Federal Election Mod-
 17 ernization Grant program, of which not more than 1 per-
 18 cent may be used for administrative costs.

19 **SEC. 209. SPENDING AUTHORIZED BY THIS TITLE TO BE**
 20 **OFFSET.**

21 (a) IN GENERAL.—Budget authority provided as au-
 22 thorized by this title shall be offset by reductions in budget
 23 authority provided to existing programs.

24 (b) COMMITTEES ON APPROPRIATIONS.—The Com-
 25 mittees on Appropriations of the House of Representatives

1 and the Senate shall reduce budget authority as required
2 by subsection (a) in any fiscal year that budget authority
3 is provided as authorized by this title.

4 **TITLE III—RULES OF** 5 **CONSTRUCTION**

6 **SEC. 301. OTHER ACTS WITH RESPECT TO VOTING PROCE-** 7 **DURES.**

8 Nothing in this Act shall be construed to prohibit the
9 enactment of an Act with respect to voting procedures
10 during the period in which the Commission is carrying out
11 its duties under this Act.

12 **SEC. 302. THE VOTING RIGHTS ACT, THE NATIONAL VOTER** 13 **REGISTRATION ACT, THE REHABILITATION** 14 **ACT, AND THE AMERICANS WITH DISABIL-** 15 **ITIES ACT.**

16 (a) Nothing in this Act and no action taken pursuant
17 to this Act shall supersede, restrict, or limit the applica-
18 tion of the Voting Rights Act of 1965 (42 U.S.C. 1973aa
19 et seq.), the National Voter Registration Act of 1993 (42
20 U.S.C. 1973gg et seq.), the Rehabilitation Act of 1973
21 (42 U.S.C. 791 et seq.), or the Americans with Disabilities
22 Act of 1990 (42 U.S.C. 12101 et seq.).

- 1 (b) Nothing in this Act authorizes or requires conduct
2 that is prohibited by an Act that is described in subsection
3 (a).

