

HELP AMERICA VOTE ACT OF 2002

SEC. 102. REPLACEMENT OF PUNCH CARD OR LEVER VOTING MACHINES.

(a) ESTABLISHMENT OF PROGRAM.--

(1) IN GENERAL--Not later than 45 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a payment to each State eligible under subsection (b) in which a precinct within that State used a punch card voting system or a lever voting system to administer the regularly scheduled general election for Federal office held in November 2000 (in this section referred to as a "qualifying precinct").

(2) USE OF FUNDS.— A State shall use the funds provided under a payment under this section (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in qualifying precincts within that State with a voting system (by purchase, lease, or such other arrangement as may be appropriate) that— does not use punch cards or levers; is not inconsistent with the requirements of the laws described in section 906; and meets the requirements of section 301.

(3) DEADLINE.--

(A) IN GENERAL--Except as provided in subparagraph (B), a State receiving a payment under the program under this section shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(B) WAIVER.--If a State certifies to the Administrator not later than January 1, 2004, that the State will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, the State shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State will be replaced in time for the first election for Federal office held after January 1, 2006.

(b) ELIGIBILITY.--

(1) IN GENERAL--A State is eligible to receive a payment under the program under this section if it submits to the Administrator a notice not later than the date that is 6 months after the date of the enactment of this Act (in such form as the Administrator may require) that contains-- certifications that the State will use the payment (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in the qualifying precincts within the State by the deadline described in subsection (a)(3); certifications that the State will continue to comply with the laws described in section 906; certifications that the replacement voting systems will meet the requirements of section 301; and such other information and certifications as the Administrator may require which are necessary for the administration of the program.

(2) COMPLIANCE OF STATES THAT REQUIRE CHANGES TO STATE LAW.--In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this subsection, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.

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(c) AMOUNT OF PAYMENT.--

(1) IN GENERAL.--Subject to paragraph (2) and section 103(b), the amount of payment made to a State under the program under this section shall be equal to the product of—

(A) the number of the qualifying precincts within the State; and

(B) \$4,000

(2) REDUCTION.--If the amount of funds appropriated pursuant to the authority of section 104(a)(2) is insufficient to ensure that each State receives the amount of payment calculated under paragraph (1), the Administrator shall reduce the amount specified in paragraph (1)(B) to ensure that the entire amount appropriated under such section is distributed to the States.

(d) REPAYMENT OF FUNDS FOR FAILURE TO MEET DEADLINES.--

(1) IN GENERAL.--If a State receiving funds under the program under this section fails to meet the deadline applicable to the State under subsection (a)(3), the State shall pay to the Administrator an amount equal to the noncompliant precinct percentage of the amount of the funds provided to the State under the program.

(2) NONCOMPLIANT PRECINCT PERCENTAGE DEFINED.--In this subsection, the term "noncompliant precinct percentage" means, with respect to a State, the amount (expressed as a percentage) equal to the quotient of--

(A) the number of qualifying precincts within the State for which the State failed to meet the applicable deadline; and

(B) the total number of qualifying precincts in the State.

(e) PUNCH CARD VOTING SYSTEM DEFINED.--For purposes of this section, a "punch card voting system" includes any of the following voting systems:

- (1) C.E.S.
- (2) Datavote.
- (3) PBC Counter.
- (4) Pollstar.
- (5) Punch Card.
- (6) Vote Recorder.
- (7) Votomatic.

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SEC. 301. 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.

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(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 votes;
- (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
- (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

(4) ALTERNATIVE LANGUAGE ACCESSIBILITY.--The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

(5) ERROR RATES.--The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.

(6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE.--Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

(b) VOTING SYSTEM DEFINED.--In this section, the term "voting system" means—

- (1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—
 - (A) to define ballots;
 - (B) to cast and count votes;
 - (C) to report or display election results; and
 - (D) to maintain and produce any audit trail information; and
- (2) the practices and associated documentation used—
 - (A) to identify system components and versions of such components;
 - (B) to test the system during its development and maintenance;
 - (C) to maintain records of system errors and defects;
 - (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
 - (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

CONSTRUCTION.—

(1) IN GENERAL.--Nothing in this section shall be construed to prohibit a State or jurisdiction which used a particular type of voting system in the elections for Federal office held in November 2000 from using the same type of system after the effective date of this section, so long as the system meets or is modified to meet the requirements of this section.

(2) PROTECTION OF PAPER BALLOT VOTING SYSTEMS.--For purposes of subsection (a)(1)(A)(i), the term "verify" may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements.

(d) EFFECTIVE DATE.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

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SEC. 906. NO EFFECT ON OTHER LAWS.

(a) In General.--Except as specifically provided in section 303(b) of this Act with regard to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), nothing in this Act may be construed to authorize or require conduct prohibited under any of the following laws, or to supersede, restrict, or limit the application of such laws:

- (1) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).
- (2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).
- (3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).
- (4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).
- (5) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- (6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) No Effect on Preclearance or Other Requirements Under Voting Rights Act.--The approval by the Administrator or the Commission of a payment or grant application under title I or title II, or any other action taken by the Commission or a State under such title, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) or any other requirements of such Act.