

THE NEY-DODD-HOYER-MCCONNELL HELP AMERICA VOTE ACT OF 2002
(H.R. 3295)

SUMMARY OF HOUSE-SENATE AGREEMENT

I. TITLE I—ANTIQUATED MACHINE BUY-OUT

- \$325 million for buying out punch-card and lever voting machines.
- \$325 million in automatic payments to states to improve election administration.
- Each state is guaranteed to receive at least \$5 million under this title.

II. TITLE II—ELECTION ASSISTANCE COMMISSION

- A federal commission is established, consisting of 2 Republican appointees and 2 Democratic appointees.
- The Commission has no rulemaking authority but, under prescribed procedures, will issue voluntary guidelines for voting systems and the requirements.
- The Commission carries out the grant programs, provides for the certification and testing of voting systems, and studies election issues.

Requirements Payments

- \$3 billion for meeting the requirements, training poll workers, providing voter education, and improving the administration of federal elections.
- Payments are allocated by formula upon the submission of a state plan, developed in an open manner and subject to public notice and comment, and certain self-certifications.

Access Grants

- \$100 million for increasing polling place access for disabled voters.

Research Grants

- \$20 million for research and development to improve voting technology.

Pilot Program Grants

- \$10 million for pilot programs to test new voting systems and equipment.

Protection and Advocacy Systems Payments

- \$40 million for state protection and advocacy systems.

National Student and Parent Mock Election

- \$200,000 to the National Student and Parent Mock Election to promote voter participation.

III. TITLE III—REQUIREMENTS

Each state must:

- Provide voters an opportunity to check for and correct ballot errors in a private and independent manner.

- Have a voting system with a manual audit capacity.
- Provide at least 1 voting machine per precinct that is accessible to the disabled.
- Provide alternative language accessibility pursuant to the Voting Rights Act.
- Have a voting system whose error rate does not exceed the existing rate established by the FEC Office of Election Administration.
- Define what constitutes a legal vote for each type of voting machine used in the state.
- Provide provisional ballots to ensure no individual is turned away at the polls.
- Implement a uniform, centralized computerized statewide voter registration database to ensure accurate lists.

System Integrity

- When registering to vote, individuals must provide a driver's license number or, if the voter does not have a driver's license, the last 4 digits of the Social Security number. If an individual does not have either number, he or she will be assigned a unique identifier.
- First-time voters who register by mail are required to provide identification when they cast their ballots.
- States are obligated to maintain clean and accurate voter registration lists.
- Voters who cast their ballots after the designated poll-closing time as a result of a court order will have their ballots segregated and counted separately.

IV. TITLE IV—ENFORCEMENT

- DOJ may seek injunctive or declaratory relief for violations of the Act.
- Each state receiving funds under the Act must establish an administrative grievance procedure for hearing complaints. States not accepting funds under the Act must either establish a grievance procedure or submit a compliance plan with DOJ.

V. TITLE V—HELP AMERICA VOTE COLLEGE PROGRAM

\$5 million to encourage college students to participate in the political process by volunteering as poll workers.

VI. TITLE VI—HELP AMERICA VOTE FOUNDATION

\$5 million to encourage high school students to participate in the political process by volunteering as poll workers.

VII. TITLE VII—MILITARY

Provisions to improve ballot access for military and overseas voters.

VIII. TITLE VIII—TRANSITION PROVISIONS

Transition provisions from House- and Senate-passed bills.

IX. TITLE IX—MISCELLANEOUS

- The Commission is authorized to conduct audits, including special audits.
- Criminal penalties for conspiracy to deprive voters of a fair election and providing false information in registering and voting.

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SUMMARY OF ANTI-FRAUD PROVISIONS

I. DRIVER'S LICENSE REQUIREMENT FOR VOTER REGISTRATION

Each individual who registers to vote *must* provide a driver's license number or, if the individual does not have a driver's license, the last four digits of his or her Social Security Number (SSN). If an individual lacks either number, the state will assign a unique identifier. A state election official then must match the data in the statewide voter registration database with the information in the state's motor vehicle database, which is generally regarded as the state's most accurate and up-to-date database.

The state motor vehicle authority and the Social Security Administration (SSA) then are required to enter into an agreement under which the SSA will verify the accuracy of the voter registration information provided by the state motor vehicle authority. [NOTE: Under current federal law, every applicant for a driver's license must provide his or her SSN.]

II. VOTER IDENTIFICATION REQUIREMENTS

First-time voters who register by mail must provide proof of identity at some point in the process: at the time of registration, when they vote in person, or when they vote by mail. Such voters must provide a current and valid ID or a copy of a bank statement, paycheck, utility bill, or other government document that shows the name and address of the voter.

III. STATEWIDE VOTER REGISTRATION DATABASE

States will be required to maintain voter registration systems on a statewide level, administered by a state official. The database must be able to produce voter lists for every jurisdiction in the state, and each voter must be issued a unique voter identification number. The statewide system will significantly enhance the ability of states to keep clean lists, free of duplicates and fraudulent voters.

IV. REGISTRATION CARDS

The mail-in registration cards mandated by Motor Voter will now include check-off boxes regarding the citizenship and age of the registrant. If the registrant fails to check the citizenship box, he or she will be notified of the omission and will be given the opportunity to complete the form.

V. REQUIREMENT THAT STATES MAINTAIN ACCURATE VOTER REGISTRATION RECORDS

Voters who have not responded to a notice and have not voted in two or more consecutive general elections for federal office shall be removed from the voter lists. Along with the statewide voter registration database, this provision will greatly assist the states in clearing "dead wood" from their voter records.

VI. PROVISIONAL VOTING

Voters who are challenged or who do not appear on a registration list must be offered the opportunity to cast a provisional ballot. Such voters must sign an affidavit attesting that the voter believes he or she is registered and eligible to vote in that precinct under state law. If the affidavit is verified, the ballot will be tabulated. However, provisional ballots must be held separately, and no such ballot shall be counted until the affidavit is determined to establish the voter's eligibility.

VII. VOTERS WHO CAST BALLOTS AFTER THE POLL-CLOSING TIME AS THE RESULT OF A COURT ORDER

If a federal or state court orders a poll to remain open beyond the time provided by state law, votes cast after poll-closing time must be cast provisionally. Such provisional ballots must be separated and held apart from other provisional ballots.

VIII. CRIMINAL PENALTIES FOR VOTING FRAUD

The following acts will now be considered federal crimes:

- Conspiracy to deprive voters of a fair election.
- Providing false information in registering and voting.

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ASSISTANCE FOR MILITARY AND OVERSEAS VOTERS

The Help America Vote Act contains provisions to improve ballot access for military and overseas voters.

REQUIREMENTS FOR THE DEFENSE DEPARTMENT:

MILITARY VOTING ASSISTANCE OFFICERS MUST BE GUARANTEED THE TIME AND RESOURCES THEY NEED TO HELP MILITARY PERSONNEL VOTE

- GAO study found that such time and resources have often not been provided in the past.

DOD MUST MAKE CERTAIN THAT ALL MILITARY BALLOTS HAVE POSTMARKS (OR OTHER OFFICIAL PROOF OF MAILING DATE) TO ENSURE THAT NO BALLOTS ARE DISQUALIFIED FOR THIS REASON

- In Florida, non-postmarked military ballots became an issue.

DOD MUST PROVIDE MILITARY PERSONNEL WITH APPLICABLE DEADLINES AND OTHER TIMELY INFORMATION ON REGISTRATION AND VOTING

- Military personnel need to be guaranteed this information in order to vote on time.

NEW MILITARY ENLISTEES MUST BE GIVEN A VOTER REGISTRATION FORM

- Welfare applicants get one. Enlistees should too.

REQUIREMENTS FOR STATES:

STATES MUST ESTABLISH A SINGLE STATE OFFICE MANDATED TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE VOTING

- This will make it easier for military personnel to get information on voting processes.

STATES MUST REPORT THE NUMBER OF MILITARY AND OVERSEAS APPLICATIONS AND BALLOTS RECEIVED

- Measuring performance is critical to improving it.

STATES MUST PROVIDE OVERSEAS ABSENTEE BALLOTS FOR TWO GENERAL ELECTIONS TO VOTERS WHO REQUEST THEM

- Voters are saved the time and inconvenience of an annual application.

STATES MUST ACCEPT A STANDARD OATH FOR VERIFYING ELECTION MATERIALS

- Overseas and military voters can use a standard form.

STATES MAY NOT REFUSE BALLOTS FOR BEING SUBMITTED TOO EARLY

- Military personnel who will be isolated for long periods of time (submariners, for example) must be allowed to vote early.

STATES MUST NOTIFY OVERSEAS AND MILITARY VOTERS WHOSE APPLICATIONS HAVE BEEN REJECTED

- This requirement applies to both voter registration and absentee ballot requests.

THE ELECTION ASSISTANCE COMMISSION MUST STUDY AND MAKE RECOMMENDATIONS ON MILITARY ISSUES INCLUDING:

- The Right of Military Voters to Choose Residence;
- The Right to a Secret Ballot for Military Voters;
- Deadlines for Sending Ballots to and from Overseas;
- The Timely Transmission of Balloting Materials;
- Security and Privacy in Transmitting Ballots; and
- Fax and Electronic Transmission of Ballots.

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ENHANCING VOTING FOR PERSONS WITH DISABILITIES

By building on provisions found in the Americans with Disabilities Act (ADA) and the Voting Accessibility for the Elderly and Handicapped Act (VAEHA), the Help America Vote Act makes it easier for persons with disabilities to vote independently and privately. This legislation will ensure that persons with disabilities have the same access to voting as other citizens. The Help America Vote Act:

- Requires that every precinct across the nation have at least one voting machine or system that is accessible to individuals with disabilities by January 1, 2006.
- Authorizes \$100 million in grants to improve polling place access for disabled voters.
- Authorizes an additional \$40 million to improve state protection and advocacy systems. Beginning in 2003, the Secretary of Health and Human Services will award this money in four allotments of \$10 million per year. The grants will be presented to entities in each state that represent persons with disabilities, and will be used to provide services that enable these individuals to participate fully in the electoral process.

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SUMMARY OF ELECTION REQUIREMENTS

I. VOTER RIGHTS

A. Second-Chance Voting

Each voter will be given an opportunity to check for and correct ballot errors in a private and independent manner.

B. Provisional Ballots

An individual whose name does not appear on the official voter registration list will be given the opportunity to cast a provisional ballot, thereby ensuring that no individual is turned away at the polls.

C. Access for Individuals with Disabilities

Each precinct will be required to provide at least 1 voting machine that allows individuals with disabilities to vote in a private and independent manner.

II. VOTING SYSTEM STANDARDS

A. Audit Capacity

Each voting system must produce a permanent paper record with a manual audit capacity.

B. Error Rates

Each voting system must comply with the existing error rate established by the FEC Office of Election Administration.

C. Uniform Standard of What Constitutes a Vote

Each state must define what constitutes a legal vote for each type of voting machine used in the state.

D. Multilingual Accessibility

Each voting system must provide alternative language accessibility pursuant to the Voting Rights Act.

III. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST

Each state must implement a uniform, centralized computerized statewide voter registration list to ensure accurate lists.

IV. VOTING INFORMATION REQUIREMENTS

Election officials must publicly post the following information at each polling place on election day:

- A sample ballot
- The hours during which the polling place will be open
- Instructions on how to cast a ballot or a provisional ballot
- Instructions for mail-in registrants who are first-time voters
- General information on voting rights under federal and state laws
- General information on prohibitions on fraud and misrepresentation

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ELECTION ASSISTANCE COMMISSION

The Help America Vote Act establishes an Election Assistance Commission, which will include four members appointed by the President with the advice and confirmation of the Senate. Several provisions included in this legislation govern the Commission's mandate and future operation. For example, the Help America Vote Act:

- Empowers the Commission to hold hearings, take testimony, receive evidence, let contracts, obtain information from other federal agencies, receive support from GSA, and use the U.S. mail system;
- Requires that the Commission provide information to the public on its activities on an ongoing basis;
- Calls for an annual report to Congress on the Commission's activities;
- Mandates that any action by the Commission be approved by at least three of the four members;
- Prohibits the Commission from imposing any rule or regulation on state or local governments, except as permitted under NVRA;
- Requires annual payments by the Commission to meet allocations included in the Help America Vote Act. Specifically, the legislation authorizes \$3 billion for FY2003 through FY2005;
- Instructs that Commission studies and reports be made on the following issues:
 - 1) Best practices for military and overseas voters;
 - 2) The application of human factors research to voting systems;
 - 3) The impact of voter ID provisions on first time mail registrants;
 - 4) The application of electronic communication and Internet technologies to voting processes; and
 - 5) Reduced postage for absentee ballots;
- Establishes a 110 member Standards Board and a 37 member Board of Advisors to assess voluntary voting standards; and
- Establishes a 15 member Technical Standards Development Committee to recommend overall standards for, and modifications to, voting systems.

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SUMMARY OF AUTHORIZED FUNDS

I. EARLY MONEY PROGRAM

- \$325 million for buying out punch-card and lever voting systems.
- \$325 million in formula payments to states to improve election administration.
- Each state is guaranteed to receive at least \$5 million under this program.

II. REQUIREMENTS PAYMENTS

- \$3 billion for meeting the requirements, training poll workers, providing voter education, and improving the administration of federal elections.
- Payments are allocated by formula upon the submission of a state plan—which describes how the state will meet the Act's requirements and is developed in an open manner and subject to public notice and comment—and certain self-certifications.
- Each state is guaranteed to receive at least ½ of 1 percent of the total amount appropriated for requirements payments.

III. ACCESS GRANTS

- \$100 million for increasing polling place access for disabled voters.
- Both states and local jurisdictions are eligible to receive grants under this program.

IV. RESEARCH GRANTS

\$20 million for research and development projects to improve voting technology.

V. PILOT PROGRAM GRANTS

\$10 million for pilot programs to test new voting systems and equipment.

VI. PROTECTION AND ADVOCACY SYSTEMS PAYMENTS

- \$40 million for state protection and advocacy systems to ensure full participation in the electoral process for individuals with disabilities.
- 7 percent of these funds are set aside for providing training and technical assistance.

VII. HIGH SCHOOL AND COLLEGE PROGRAMS

- \$10 million to encourage high school and college students to participate in the political process by volunteering as poll workers.
- \$200,000 to the National Student and Parent Mock Election.

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FUNDING TABLE

	FY 2003	FY 2004	FY 2005	FY 2006	Total
Title I	\$650 million				\$650 million
Title II					
EAC	\$10 million	\$10 million	\$10 million		\$30 million
Requirements Payments	\$1.4 billion	\$1 billion	\$600 million		\$3 billion
Access Grants	\$50 million	\$25 million	\$25 million		\$100 million
Research Grants	\$20 million				\$20 million
Gift Certificates	\$10 million				\$10 million
R & A Systems	\$10 million	\$10 million	\$10 million	\$10 million	\$40 million
Mock Elections	\$200,000*				\$200,000
Title V College Program	\$5 million*				\$5 million
Title VI High School Program	\$5 million*				\$5 million
Total	\$2.16 billion	\$1.045 billion	\$645 million	\$10 million	\$3.86billion

*Plus such sums as necessary for each succeeding fiscal year