

S. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Count Every Vote Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—VOTER VERIFICATION AND AUDITING

Sec. 101. Promoting accuracy, integrity, and security through preservation of a voter-verified paper record or hard copy.

Sec. 102. Requirement for mandatory recounts.

Sec. 103. Specific, delineated requirement of study, testing, and development of best practices.

Sec. 104. Voter verification and audit capacity funding.

Sec. 105. Reports and provision of security consultation services.

Sec. 106. Improvements to voting systems.

TITLE II—PROVISIONAL BALLOTS

Sec. 201. Requirements for casting and counting provisional ballots.

TITLE III—ADDITIONAL REQUIREMENTS UNDER THE HELP AMERICA VOTE ACT OF 2002**SUBTITLE A—SHORTENING VOTER WAIT TIMES**

Sec. 301. Minimum required voting systems, poll workers, and election resources.

Sec. 302. Requirements for jurisdictions with substantial voter wait times.

SUBTITLE B—NO-EXCUSE ABSENTEE VOTING

Sec. 311. No-excuse absentee voting.

SUBTITLE C—COLLECTION AND DISSEMINATION OF ELECTION DATA

Sec. 321. Data collection.

SUBTITLE D—ENSURING WELL RUN ELECTIONS

Sec. 331. Training of election officials.

Sec. 332. Impartial administration of elections.

SUBTITLE E—STANDARDS FOR PURGING VOTERS

Sec. 341. Standards for purging voters.

SUBTITLE F—ELECTION DAY REGISTRATION AND EARLY VOTING

Sec. 351. Election day registration.

Sec. 352. Early voting.

TITLE IV—VOTER REGISTRATION AND IDENTIFICATION

Sec. 401. Voter registration.

Sec. 402. Establishing voter identification.

Sec. 403. Requirement for Federal certification of technological security of voter registration lists.

TITLE V—PROHIBITION ON CERTAIN CAMPAIGN ACTIVITIES

Sec. 501. Prohibition on certain campaign activities.

TITLE VI—ENDING DECEPTIVE PRACTICES

Sec. 601. Ending deceptive practices.

TITLE VII—CIVIC PARTICIPATION BY EX-OFFENDERS

Sec. 701. Voting rights of individuals convicted of criminal offenses.

TITLE VIII—FEDERAL ELECTION DAY ACT

Sec. 801. Short title.

Sec. 802. Federal Election Day as a public holiday.

Sec. 803. Study on encouraging government employees to serve as poll workers.

TITLE IX—TRANSMISSION OF CERTIFICATE OF ASCERTAINMENT OF ELECTORS

Sec. 901. Transmission of certificate of ascertainment of electors.

TITLE X—STRENGTHENING THE ELECTION ASSISTANCE COMMISSION

Sec. 1001. Strengthening the Election Assistance Commission.

Sec. 1002. Repeal of exemption of Election Assistance Commission from certain Government contracting requirements.

Sec. 1003. Authorization of appropriations.

TITLE I—VOTER VERIFICATION AND AUDITING**SEC. 101. PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH PRESERVATION OF A VOTER-VERIFIED PAPER RECORD OR HARD COPY.**

(a) **VOTER VERIFICATION AND MANUAL AUDIT CAPACITY.**—

(1) **IN GENERAL.**—Section 301(a)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is amended to read as follows:

“(2) **VOTER VERIFICATION AND MANUAL AUDIT CAPACITY.**—

“(A) **VOTER VERIFICATION.**—

“(i) The voting system shall produce an individual voter-verifiable paper record of the vote that shall be made available for inspection and verification by the voter before the vote is cast.

“(ii) The voting system shall provide the voter with an opportunity to correct any error made by the system in the voter-verifiable paper record before the permanent voter-verified paper record is preserved in accordance with subparagraph (B)(i).

“(B) **MANUAL AUDIT CAPACITY.**—The permanent voter-verified paper record produced in accordance with subparagraph (A) shall—

“(i) be preserved within the polling place, in the manner, if any, in which all other paper ballots are preserved within that polling place, or, in the manner employed by the jurisdiction for preserving paper ballots in general, for later use in any manual audit;

“(ii) be suitable for a manual audit equivalent to that of a paper ballot voting system; and

“(iii) be available as the official record and shall be the official record used for any recount conducted with respect to any Federal election in which the system is used.”

(2) **PROHIBITION OF USE OF THERMAL PAPER.**—Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraph:

“(7) **PROHIBITION OF USE OF THERMAL PAPER.**—The voter-verified paper record produced in accordance with paragraph (2)(A) shall not be produced on thermal paper, but shall instead be produced on paper of archival quality.”

(3) **CONFORMING AMENDMENT.**—Section 301(a)(1)(A)(ii) of the Help America Vote Act (42 U.S.C. 15481(a)(1)(A)(ii)) is amended by inserting “and before the paper record is produced under paragraph (2)” before the semicolon at the end.

(b) **VOTER-VERIFICATION OF RESULTS FOR INDIVIDUALS WITH DISABILITIES AND LANGUAGE MINORITY VOTERS.**—Paragraph (3) of section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(3)) is amended to read as follows:

“(3) **ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES AND FOR LANGUAGE MINORITIES.**—

“(A) **IN GENERAL.**—The voting system shall—

“(i) 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, participation (including privacy

and independence), inspection, and verification as for other voters;

“(ii) be accessible for language minority individuals to the extent required under section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1), in a manner that provides the same opportunity for access, participation (including privacy and independence), inspection, and verification as for other voters;

“(iii) satisfy the requirement of clauses (i) and (ii) 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

“(iv) if purchased with funds made available under title II on or after November 1, 2006, meet the voting system standards for disability access (as outlined in this paragraph).

“(B) **VERIFICATION REQUIREMENTS.**—Any direct recording electronic voting system or other voting system described in subparagraph (A)(iii) shall use a mechanism that separates the function of vote generation from the function of vote casting and shall produce, in accordance with paragraph (2)(A), an individual paper record which—

“(i) shall be used to meet the requirements of paragraph (2)(B);

“(ii) shall be available for visual, audio, and pictorial inspection and verification by the voter, with language translation available for all forms of inspection and verification in accordance with the requirements of section 203 of the Voting Rights Act of 1965;

“(iii) shall not require the voter to handle the paper; and

“(iv) shall not preclude the use of Braille or tactile ballots for those voters who need them.

The requirement of clause (iii) shall not apply to any voting system certified by the Independent Testing Authorities before the date of the enactment of this Act.

“(C) **REQUIREMENTS FOR LANGUAGE MINORITIES.**—Any record produced under subparagraph (B) shall be subject to the requirements of section 203 of the Voting Rights Act of 1965 to the extent such section is applicable to the State or jurisdiction in which such record is produced.”

(c) **ADDITIONAL VOTING SYSTEM REQUIREMENTS.**—Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)), as amended by subsection (a)(2), is amended by adding to the end the following new paragraphs:

“(8) **INSTRUCTION OF ELECTION OFFICIALS.**—Each State shall ensure that election officials are instructed on the right of any individual who requires assistance to vote by reason of blindness, other disability, or inability to read or write to be given assistance by a person chosen by that individual under section 208 of the Voting Rights Act of 1965.

“(9) **PROHIBITION OF USE OF UNDISCLOSED SOFTWARE IN VOTING SYSTEMS.**—No voting system shall at any time contain or use any undisclosed software. Any voting system containing or using software shall disclose the source code, object code, and executable representation of that software to the Commission, and the Commission shall make that source code, object code, and executable representation available for inspection upon request to any citizen.

“(10) **PROHIBITION OF USE OF WIRELESS COMMUNICATION DEVICES IN VOTING SYSTEMS.**—No voting system shall use any wireless communication device.

“(11) **CERTIFICATION OF SOFTWARE AND HARDWARE.**—All software and hardware used