

in any electronic voting system shall be certified by laboratories accredited by the Commission as meeting the requirements of paragraphs (9) and (10).

“(12) SECURITY STANDARDS FOR MANUFACTURERS OF VOTING SYSTEMS USED IN FEDERAL ELECTIONS.—

“(A) IN GENERAL.—No voting system may be used in an election for Federal office unless the manufacturer of such system meets the requirements described in subparagraph (B).

“(B) REQUIREMENTS DESCRIBED.—The requirements described in this subparagraph are as follows:

“(i) The manufacturer shall conduct background checks on individuals who are programmers and developers before such individuals work on any software used in connection with the voting system.

“(ii) The manufacturer shall document the chain of custody for the handling of software used in connection with voting systems.

“(iii) The manufacturer shall ensure that any software used in connection with the voting system is not transferred over the Internet.

“(iv) In the same manner and to the same extent described in paragraph (9), the manufacturer shall provide the codes used in any software used in connection with the voting system to the Commission and may not alter such codes once certification by the Independent Testing Authorities has occurred unless such system is recertified.

“(v) The manufacturer shall implement procedures to ensure internal security, as required by the Director of the National Institute of Standards and Technology.

“(vi) The manufacturer shall meet such other requirements as may be established by the Director of the National Institute of Standards and Technology.”

(d) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the amendments made by this section on and after November 1, 2006.

SEC. 102. REQUIREMENT FOR MANDATORY RECOUNTS.

On and after the date of the enactment of this Act, the Election Assistance Commission shall conduct random unannounced manual mandatory recounts of the voter-verified records of each election for Federal office (and, at the option of the State or jurisdiction involved, of elections for State and local office held at the same time as such an election for Federal office) in 2 percent of the polling locations (or, in the case of any polling location which serves more than 1 precinct, 2 percent of the precincts) in each State and with respect to 2 percent of the ballots cast by uniformed and overseas voters immediately following the election and shall promptly publish the results of those recounts in the Federal Register. In addition, the verification system used by the Election Assistance Commission shall meet the error rate standards described in section 301(a)(5) of the Help America Vote Act of 2002.

SEC. 103. SPECIFIC, DELINEATED REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF BEST PRACTICES.

(a) IN GENERAL.—Subtitle C of title II of the Help America Vote Act of 2002 (42 U.S.C. 15381 et seq.) is amended by—

(1) redesignating section 247 as section 248; and

(2) by inserting after section 246 the following new section:

“SEC. 247. STUDY, TESTING, AND DEVELOPMENT OF BEST PRACTICES TO ENHANCE ACCESSIBILITY AND VOTER-VERIFICATION MECHANISMS FOR DISABLED VOTERS.

“The Election Assistance Commission shall study, test, and develop best practices

to enhance accessibility and voter-verification mechanisms for individuals with disabilities.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 104. VOTER-VERIFICATION AND AUDIT CAPACITY FUNDING.

(a) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by adding at the end the following new part:

“PART 7—VOTER-VERIFICATION AND AUDIT CAPACITY FUNDING

“SEC. 297. VOTER-VERIFICATION AND AUDIT CAPACITY FUNDING.

“(a) PAYMENTS TO STATES.—Subject to subsection (b), not later than the date that is 30 days after the date of the enactment of the Count Every Vote Act of 2005, the Election Assistance Commission shall pay to each State an amount to assist the State in paying for the implementation of the voter-verification and audit capacity requirements of paragraphs (2) and (3) of section 301(a), as amended by subsections (a) and (b) of section 2 of such Act.

“(b) LIMITATION.—The amount paid to a State under subsection (a) for each voting system purchased by a State may not exceed the average cost of adding a printer with accessibility features to each type of voting system that the State could have purchased to meet the requirements described in such subsection.

“SEC. 298. APPROPRIATION.

“There are authorized and appropriated \$500,000,000 to the Election Assistance Commission, without fiscal year limitation, to make payments to States in accordance with section 297(a). Furthermore, there are authorized and appropriated \$20,000,000 to the Election Assistance Commission, for each of fiscal years 2006 through 2010, in addition to any amounts otherwise appropriated for administrative costs to assist with conducting recounts, the implementation of voter verification systems, and improved security measures.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 105. REPORTS AND PROVISION OF SECURITY CONSULTATION SERVICES.

(a) IN GENERAL.—Subtitle C of title II of the Help America Vote Act of 2002 (42 U.S.C. 15381 et seq.) is amended by—

(1) redesignating section 248 as section 249; and

(2) by inserting after section 247 the following new section:

“SEC. 248. REPORTS AND PROVISION OF SECURITY CONSULTATION SERVICES.

“(a) REPORT TO CONGRESS ON SECURITY REVIEW.—Not later than 6 months after the date of the enactment of the Count Every Vote Act of 2005, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall submit to Congress a report on a proposed security review and certification process for all voting systems used in elections for Federal office, including a description of the certification process to be implemented under section 231.

“(b) REPORT TO CONGRESS ON OPERATIONAL AND MANAGEMENT SYSTEMS.—Not later than 3 months after the date of the enactment of the Count Every Vote Act of 2005, the Commission shall submit to Congress a report on operational and management systems applicable with respect to elections for Federal office, including the security standards for manufacturers described in section 301(a)(7), that should be employed to safeguard the security of voting systems, together with a

proposed schedule for the implementation of each such system.

“(c) PROVISION OF SECURITY CONSULTATION SERVICES.—

“(1) IN GENERAL.—On and after the date of the enactment of the Count Every Vote Act of 2005, the Commission, in consultation with the Director of the National Institute of Standards and Technology, shall provide security consultation services to States and local jurisdictions with respect to the administration of elections for Federal office.

“(2) APPROPRIATION.—To carry out the purposes of paragraph (1), \$2,000,000 is appropriated for each of fiscal years 2006 through 2010.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 106. IMPROVEMENTS TO VOTING SYSTEMS.

(a) IN GENERAL.—Subparagraph (B) of section 301(a)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(1)(B)) is amended by striking “, a punch card voting system, or a central count voting system”.

(b) CLARIFICATION OF REQUIREMENTS FOR PUNCH CARD SYSTEMS.—Subparagraph (A) of section 301(a)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(1)(A)) is amended by inserting “punch card voting system,” after “any”.

(c) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the amendments made by this section on and after November 1, 2006.

(d) RESIDUAL VOTE BENCHMARK.—

(1) IN GENERAL.—The error rate of the voting system (as defined under section 301 of the Help America Vote Act of 2002) 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 not exceed the error rate standards established under the voting systems standards issued and maintained by Election Assistance Commission.

(2) RESIDUAL BALLOT PERFORMANCE BENCHMARK.—In addition to the error rate standards described in paragraph (1), the Election Assistance Commission shall issue and maintain a uniform benchmark for the residual ballot error rate that jurisdictions may not exceed. For purposes of the preceding sentence, the residual vote error rate shall be equal to the combination of overvotes, spoiled or uncountable votes, and undervotes cast in the contest at the top of the ballot, but excluding an estimate, based upon the best available research, of intentional undervotes. The Commission shall base the benchmark issued and maintained under this subparagraph on evidence of good practices in representative jurisdictions.

(3) HISTORICALLY HIGH INTENTIONAL UNDERVOTES.—

(A) Congress finds that there are certain distinct communities in certain geographic areas that have historically high rates of intentional undervoting in elections for Federal office, relative to the rest of the Nation.

(B) In establishing the benchmark described in subparagraph (B), the Election Assistance Commission shall—

(i) study and report to Congress on the occurrences of distinct communities that have significantly higher than average rates of historical intentional undervoting; and

(ii) promulgate for local jurisdictions in which that distinct community has a substantial presence either a separate benchmark or an exclusion from the national benchmark, as appropriate.

TITLE II—PROVISIONAL BALLOTS

SEC. 201. REQUIREMENTS FOR CASTING AND COUNTING PROVISIONAL BALLOTS.

(a) ELIGIBILITY OF PROVISIONAL BALLOTS.—