To amend the Help America Vote Act of 2002 to protect voting rights and to improve the administration of Federal elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2007

Mr. DODD (for himself and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to protect voting rights and to improve the administration of Federal elections, and for other purposes.

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 “Voting Opportunity and Technology Enhancement Rights Act of 2007”.

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

Sec. 1. Short title; table of contents.
SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The right of all eligible citizens to vote and have their vote counted is the cornerstone of a democratic form of government and the core precondition of government of the people, by the people, and for the people.

(2) The right of citizens of the United States to vote is a fundamental civil right guaranteed under the United States Constitution.

(3) Congress has an obligation to reaffirm the right of each American to have an equal opportunity to vote and have that vote counted in Federal elections, regardless of color, ethnicity, disability, language, or the resources of the community in which they live.
(4) Congress has an obligation to ensure the uniform and nondiscriminatory exercise of that right by removing barriers in the form of election administration procedures and technology and insufficient and unequal resources of State and local governments.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To secure the opportunity to participate in democracy for all eligible American citizens by establishing a national Federal write-in absentee ballot for Federal elections.

(2) To expand and establish uniform and nondiscriminatory requirements and standards to remove administrative procedural barriers and technological obstacles to casting a vote and having that vote counted in Federal elections.

(3) To expand and establish uniform and nondiscriminatory requirements and standards to provide for the accessibility, accuracy, verifiability, privacy, and security of all voting systems and technology used in Federal elections.

(4) To provide a Federal funding mechanism for the States to implement the requirements and standards to preserve and protect voting rights and
the integrity of Federal elections in the United States.

SEC. 3. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) IN GENERAL.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by adding at the end the following new subtitle:

“Subtitle C—Additional Requirements

“SEC. 321. USE OF NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

“(a) IN GENERAL.—Any person who is otherwise qualified to vote in a Federal election in a State shall be permitted to use the national Federal write-in absentee ballot prescribed by the Election Assistance Commission under section 298 to cast a vote in an election for Federal office.

“(b) SUBMISSION AND PROCESSING.—

“(1) IN GENERAL.—Except as otherwise provided in this section, a national Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved.
“(2) DEADLINE.—An otherwise eligible national Federal write-in absentee ballot shall be counted if postmarked or signed before the close of the polls on election day and received by the appropriate State election official on or before the date which is 10 days after the date of the election or the date provided for receipt of absentee ballots under State law, whichever is later.

“(e) SPECIAL RULES.—The following rules shall apply with respect to national Federal write-in absentee ballots:

“(1) In completing the ballot, the voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

“(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

“(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot.
“(d) EFFECTIVE DATE.—Each State shall be re-
quired to comply with the requirements of this section on
and after January 1, 2008.”.

(2) CONFORMING AMENDMENT.—Section 401
of the Help America Vote Act of 2002 (42 U.S.C.
15511) is amended by striking “and 303” and in-
serting “303, and subtitle C”.

(b) NATIONAL FEDERAL WRITE-IN ABSENTEE BAL-
LOT.—

(1) IN GENERAL.—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
subtitle:

“Subtitle E—Guidance and
Standards

“SEC. 297. NATIONAL FEDERAL WRITE-IN ABSENTEE BAL-
LOT.

“(a) FORM OF BALLOT.—The Commission shall pre-
scribe a national Federal write-in absentee ballot (includ-
ing a secrecy envelope and mailing envelope for such bal-
lot) for use in elections for Federal office.

“(b) STANDARDS.—The Commission shall prescribe
standards for—
“(1) distributing the national Federal write-in absentee ballot, including standards for distributing such ballot through the Internet; and

“(2) processing and submission of the national Federal write-in absentee ballot.”.

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) carrying out the duties described in subtitle E.”.

(e) COORDINATION WITH UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.—

(1) IN GENERAL.—The Presidential designee under the Uniformed and Overseas Absentee Voting Act, in consultation with the Election Assistance Commission, shall facilitate the use and return of the national Federal write-in ballot for absent uniformed services voters and overseas voters.

(2) DEFINITIONS.—The terms “absent uniformed service voter” and “overseas voter” shall have the meanings given such terms by section 107

SEC. 4. VOTER VERIFIED BALLOTS.

(a) Verification.—

(1) In general.—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) Voter verified ballots.—In order to meet the requirements of paragraph (1)(A)(i), on and after January 1, 2009:

“(A) The voting system shall provide an independent means of voter verification which meets the requirements of subparagraph (B) and which allows each voter to verify the ballot before it is cast and counted.

“(B) A means of voter verification meets the requirements of this subparagraph if the voting system allows the voter to choose from one of the following options to verify the voter’s vote selection:

“(i) A paper record.

“(ii) An audio record.

“(iii) A pictorial record.
“(iv) An electronic record or other means that provides for voter verification that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides privacy and independence equal to that provided for other voters.

“(C) Any means of verification described in clause (ii), (iii), or (iv) of subparagraph (B) must provide verification which is equal or superior to verification through the use of a paper record.

“(D) The requirements of this paragraph shall not apply to any voting system purchased before January 1, 2009, in order to meet the requirements of paragraph (3)(B).”.

(2) CONFORMING AMENDMENT.—Clause (i) of section 301(a)(1)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(1)(A)(i)) is amended by inserting “and consistent with the requirements of paragraphs (2), (4), and (7)” after “independent manner”.

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(b) GUIDANCE.—Subtitle E of title II of the Help America Vote Act of 2002, as added by this Act, is amended by adding at the end the following new section:

“SEC. 298. VOTER VERIFIED BALLOTS.

“The Commission shall issue uniform and non-discriminatory standards—

“(1) for voter verified ballots required under section 301(a)(7); and

“(2) for meeting the audit requirements of section 301(a)(2).”.

(c) REPORTS.—

(1) ELECTION ASSISTANCE COMMISSION.—Section 207 of the Help America Vote Act of 2002 (42 U.S.C. 15327) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) A description of the progress on implementing the voter verified ballot requirements of section 301(a)(7) and the impact of the use of such requirements on the accessibility, privacy, security, usability, and auditability of voting systems.”.

(2) STATE REPORTS.—Section 258 of the Help America Vote Act of 2002 (42 U.S.C. 15408) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph
(3) and inserting “; and”, and by adding at the end the following new paragraph:

“(4) an analysis and description in the form and manner prescribed by the Commission of the progress on implementing the voter verified ballot requirements of section 301(a)(7).”.

SEC. 5. REQUIREMENTS FOR COUNTING PROVISIONAL BALLOTS.

(a) In General.—Section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) Statewide Counting of Provisional Ballots.—For purposes of subsection (a)(4), notwithstanding at which polling place a provisional ballot is cast within the State, the State shall count such ballot if the individual who cast such ballot is otherwise eligible to vote.”.

(b) Effective Date.—

(1) In General.—Subsection (e) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(e)), as redesignated under subsection (a), is amended by adding at the end the following:

“(2) Effective Date for Statewide Counting of Provisional Ballots.—Each State shall be
required to comply with the requirements of sub-
section (d) on and after January 1, 2008.”.

(2) CONFORMING AMENDMENT.—Subsection (e)
of section 302 of the Help America Vote Act of
2002 (42 U.S.C. 15482(e)), as redesignated under
subsection (a), is amended by striking “Each” and
inserting the following:

“(1) IN GENERAL.—Except as provided in para-
graph (2), each”.

SEC. 6. MINIMUM REQUIRED VOTING SYSTEMS AND POLL
WORKERS IN POLLING PLACES.

(a) IN GENERAL.—Subtitle C of title III of the Help
America Vote Act of 2002, as added by this Act, is amend-
ed by adding at the end the following new section:

“SEC. 322. MINIMUM REQUIRED VOTING SYSTEMS AND
POLL WORKERS.

“(a) IN GENERAL.—Each State shall provide for the
minimum required number of voting systems and poll
workers for each polling place on the day of any Federal
election and on any days during which such State allows
early voting for a Federal election in accordance with the
standards determined under section 299.

“(b) EFFECTIVE DATE.—Each State shall be re-
quired to comply with the requirements of this section on
and after January 1, 2008.”.
(b) STANDARDS.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 299. STANDARDS FOR ESTABLISHING THE MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.

“(a) IN GENERAL.—The Commission shall issue standards regarding the minimum number of voting systems and poll workers required in each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

“(b) DISTRIBUTION.—The standards described in subsection (a) shall provide for a uniform and nondiscriminatory geographic distribution of such systems and workers.

“(c) DEVIATION.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from any allocation requirements in the case of unforeseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.”

SEC. 7. ELECTION DAY REGISTRATION.

(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:
“SEC. 323. ELECTION DAY REGISTRATION.

“(a) IN GENERAL.—

“(1) REGISTRATION.—Notwithstanding section 8(a)(1)(D) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6), each State shall permit any individual on the day of a Federal election—

“(A) to register to vote in such election at the polling place using the form established by the Election Assistance Commission pursuant to section 297; and

“(B) to cast a vote in such election.

“(2) EXCEPTION.—The requirements under paragraph (1) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

“(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2009.”.

(b) ELECTION DAY REGISTRATION FORM.—Subtitle E of title II of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:
“SEC. 299A. ELECTION DAY REGISTRATION FORM.

“The Commission shall develop an election day reg-
istration form for elections for Federal office.”.

SEC. 8. INTEGRITY OF VOTER REGISTRATION LIST.

Subtitle C of title III of the Help America Vote Act
of 2002, as added and amended by this Act, is amended
by adding at the end the following new section:

“SEC. 324. REMOVAL FROM VOTER REGISTRATION LIST.

“(a) Public Notice.—Not later than 45 days before
any Federal election, each State shall provide public notice
of all names which have been removed from the voter reg-
istration list of such State under section 303 since the
later of the most recent election for Federal office or the
day of the most recent previous public notice provided
under this section.

“(b) Notice to Individual Voters.—

“(1) In General.—No individual shall be re-
moved from the voter registration list under section
303 unless such individual is first provided with a
notice which meets the requirements of paragraph
(2).

“(2) Requirements of Notice.—The notice
required under paragraph (1) shall be—

“(A) provided to each voter in a uniform
and nondiscriminatory manner;
“(B) consistent with the requirements of
the National Voter Registration Act of 1993
(42 U.S.C. 1973gg et seq.); and
“(C) in the form and manner prescribed by
the Election Assistance Commission.
“(e) EFFECTIVE DATE.—Each State shall be re-
quired to comply with the requirements of this section on
and after January 1, 2008.”.

SEC. 9. EARLY VOTING.

(a) IN GENERAL.—Subtitle C of title III of the Help
America Vote Act of 2002, as added and amended by this
Act, is amended by adding at the end the following new
section:

“SEC. 325. EARLY VOTING.
“(a) IN GENERAL.—Each State shall allow individ-
uals to vote in an election for Federal office not less than
15 days prior to the day scheduled for such election in
the same manner as voting is allowed on such day.
“(b) MINIMUM EARLY VOTING REQUIREMENTS.—
Each polling place which allows voting prior to the day
of a Federal election pursuant to subsection (a) shall—
“(1) allow such voting for no less than 4 hours
on each day (other than Sunday); and
“(2) have uniform hours each day for which
such voting occurs.
“(c) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2008.”.

(b) STANDARDS FOR EARLY VOTING.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 299B. STANDARDS FOR EARLY VOTING.

“(a) IN GENERAL.—The Commission shall issue standards for the administration of voting prior to the day scheduled for a Federal election. Such standards shall include the nondiscriminatory geographic placement of polling places at which such voting occurs.

“(b) DEVIATION.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from any requirement in the case of unforeseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.”.

SEC. 10. ACCELERATION OF STUDY ON ELECTION DAY AS A PUBLIC HOLIDAY.

Section 241 of the Help America Vote Act of 2002 (42 U.S.C. 15381) is amended by adding at the end the following new subsection:

“(d) REPORT ON ELECTION DAY.—
“(1) IN GENERAL.—The report required under subsection (a) with respect to election administration issues described in subsection (b)(10) shall be submitted not later than 6 months after the date of the enactment of the Voting Opportunity and Technology Enhancement Rights Act of 2007.

“(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 210 for fiscal year 2007, $100,000 shall be authorized solely to carry out the purposes of this subsection.”.

SEC. 11. 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.—The amendments made by this section shall take effect on January 1, 2008.
SEC. 12. VOTER REGISTRATION.

(a) IN GENERAL.—Paragraph (4) of section 303(b) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(4)) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION.—On and after January 1, 2009—

“(i) in lieu of the questions and statements required under subparagraph (A), such mail voter registration form shall include an affidavit to be signed by the registrant attesting both to citizenship and age; and

“(ii) subparagraph (B) shall not apply.”.

(b) INTERNET REGISTRATION.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 326. INTERNET REGISTRATION.

“(a) INTERNET REGISTRATION.—Each State shall establish a program under which individuals may access and submit voter registration forms electronically through the Internet.
“(b) Effective Date.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.”.

e) Standards for Internet Registration.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 299C. STANDARDS FOR INTERNET REGISTRATION PROGRAMS.

“The Commission shall establish standards regarding the design and operation of programs which allow electronic voter registration through the Internet.”.

SEC. 13. ESTABLISHING VOTER IDENTIFICATION.

(a) In General.—

(1) In Person Voting.—Clause (i) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(i)) is amended by striking “or” at the end of subclause (I) and by adding at the end the following new subclause:

“(III) executes a written affidavit attesting to such individual’s identity; or”.

(2) Voting By Mail.—Clause (ii) of section 303(b)(2)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by strik-
(a) VERIFICATION OF VOTER IDENTIFICATION.—Subsection (a) of section 303 of the Help America Vote Act of 2002, as added and amended by this Act, is amended by striking the period at the end of subclause (II) and inserting “; or”, and by adding at the end the following new subclause:

“(III) a written affidavit, executed by such individual, attesting to such individual’s identity.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2008.

(b) STANDARDS FOR VERIFYING VOTER INFORMATION.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 299D. VOTER IDENTIFICATION.

“The Commission shall develop standards for verifying the identification information required under section 303(a)(5) in connection with the registration of an individual to vote in a Federal election.”.

SEC. 14. IMPARTIAL ADMINISTRATION OF ELECTIONS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:
“SEC. 327. ELECTION ADMINISTRATION REQUIREMENTS.

“(a) NOTICE OF CHANGES IN STATE ELECTION LAWS.—Not later than 15 days prior to any Federal election, each State shall issue a public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

“(b) OBSERVERS.—

“(1) IN GENERAL.—Each State shall allow uniform and nondiscriminatory access to any polling place for purposes of observing a Federal election to—

“(A) party challengers;

“(B) voting rights and civil rights organizations; and

“(C) nonpartisan domestic observers and international observers.

“(2) NOTICE OF DENIAL OF OBSERVATION REQUEST.—Each State shall issue a public notice with respect to any denial of a request by any observer described in paragraph (1) for access to any polling place for purposes of observing a Federal election. Such notice shall be issued not later than 24 hours after such denial.

“(c) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2008.”.
SEC. 15. STRENGTHENING THE ELECTION ASSISTANCE COMMISSION.

(a) BUDGET REQUESTS.—Part 1 of subtitle A of title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by inserting after section 209 the following new section:

“SEC. 209A. SUBMISSION OF BUDGET REQUESTS.

“Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.”.

(b) EXEMPTION FROM PAPERWORK REDUCTION ACT.—Paragraph (1) of section 3502 of title 44, United States Code, is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) the Election Assistance Commission;”.

(c) RULEMAKING.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15239) is amended—

(1) by striking “The Commission” and inserting the following:
“(a) IN GENERAL.—Except as provided in subsection (b), the Commission”, and

(2) by inserting at the end the following new subsection:

“(b) EXCEPTION.—On and after January 1, 2008, subsection (a) shall not apply to any authority granted under subtitle E of this title or subtitle C of title III.”.

(d) NIST AUTHORITY.—Subtitle E of title II of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 299E. TECHNICAL SUPPORT.

“At the request of the Commission, the Director of the National Institute of Standards and Technology shall provide the Commission with technical support necessary for the Commission to carry out its duties under this title.”.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 210 of the Help America Vote Act of 2002 (42 U.S.C. 15330) is amended by striking “for each of fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed $10,000,000 for each such year)” and inserting “$23,000,000 for fiscal year 2007 (of which $3,000,000 are authorized solely to carry out the purposes}
of section 299E) and such sums as may be necessary for succeeding fiscal years”.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 257 of the Help America Vote Act of 2002 (42 U.S.C. 15408(a)) is amended by adding at the end the following new paragraphs:

“(4) For fiscal year 2007, $2,000,000,000.

“(5) For each fiscal year after 2007, such sums as are necessary.”.