

107TH CONGRESS  
1ST SESSION

# S. 218

To establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2001

Mr. McCONNELL (for himself, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ALLARD, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. BURNS, Mr. BENNETT, Mr. BREAUX, Mr. HUTCHINSON, Mr. SANTORUM, Mr. WARNER, Mr. REID, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Election Reform Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—ELECTION ADMINISTRATION COMMISSION

Sec. 101. Establishment of Election Administration Commission.

Sec. 102. Duties of the Commission.

Sec. 103. Membership.

Sec. 104. Powers of the Commission.

Sec. 105. Commission personnel matters.

Sec. 106. Authorization of appropriations.

Sec. 107. Office of Election Administration of the Federal Election Commission.

Sec. 108. Uniformed and Overseas Citizens Absentee Voting Act.

Sec. 109. Technical amendments.

TITLE II—ELECTION ADMINISTRATION ADVISORY BOARD

Sec. 201. Establishment of Election Administration Advisory Board.

Sec. 202. Duty of the Board.

Sec. 203. Board personnel matters.

Sec. 204. Termination of the Board.

Sec. 205. Authorization of appropriations.

TITLE III—ABSENT UNIFORMED SERVICES VOTERS

Sec. 301. Maximizing access to the polls by absent uniformed services voters.

TITLE IV—MISCELLANEOUS

Sec. 401. Relationship to other laws.

3 **TITLE I—ELECTION**  
 4 **ADMINISTRATION COMMISSION**  
 5 **SEC. 101. ESTABLISHMENT OF ELECTION ADMINISTRATION**  
 6 **COMMISSION.**

7 There is established the Election Administration  
 8 Commission (in this Act referred to as the “Commis-  
 9 sion”).

10 **SEC. 102. DUTIES OF THE COMMISSION.**

11 (a) IN GENERAL.—The Commission shall—

1           (1)(A) not later than 1 year after the date of  
2           enactment of this Act, develop and adopt, by vote of  
3           the Commission, voluntary engineering and proce-  
4           dural performance standards for voting systems used  
5           in Federal, State, and local elections; and

6           (B) not less frequently than once every 4 years,  
7           update the standards developed and adopted under  
8           subparagraph (A) by vote of the Commission;

9           (2)(A) advise States regarding compliance with  
10          the requirements of the Voting Accessibility for the  
11          Elderly and Handicapped Act (42 U.S.C. 1973ee et  
12          seq.) and compliance with other Federal laws re-  
13          garding accessibility of registration facilities and  
14          polling places;

15          (B) not later than 1 year after the date of en-  
16          actment of this Act, develop and adopt, by vote of  
17          the Commission, voluntary procedures for maintain-  
18          ing and enhancing the accessibility of registration  
19          facilities, polling places, and voting methods for vot-  
20          ers, including disabled voters; and

21          (C) not less frequently than once every 4 years,  
22          update the voluntary procedures developed and  
23          adopted under subparagraph (B);

24          (3) have primary responsibility to carry out  
25          Federal functions under title I of the Uniformed and

1 Overseas Citizens Absentee Voting Act (42 U.S.C.  
2 1973ff et seq.) as the Presidential designee;

3 (4) develop, update, and adopt, by vote of the  
4 Commission, not less often than every 4 years, rec-  
5 ommendations for voluntary procedures for main-  
6 taining and enhancing the administration of Federal,  
7 State, and local elections;

8 (5) carry out the provisions of section 9 of the  
9 National Voter Registration Act of 1993 (42 U.S.C.  
10 1973gg-7) regarding mail voter registration;

11 (6) make available information regarding the  
12 Federal election system to the public and media;

13 (7) assemble and make available bipartisan  
14 panels of election professionals to assist any State  
15 election official, upon request, in review of election  
16 or vote counting procedures in Federal, State, and  
17 local elections; and

18 (8) compile and make available to the public the  
19 official certified results of Federal elections and sta-  
20 tistics regarding national voter registration and  
21 turnout.

22 (b) STUDY OF ELECTION ADMINISTRATION.—Begin-  
23 ning on the date that is 1 day after the date on which  
24 all the members are initially appointed to the Commission,  
25 the Commission shall make periodic studies, which shall

1 be made available to the public, of issues related to the  
2 administration of elections, such as procedures which rep-  
3 resent the best practices in election administration,  
4 including—

5 (1) election technology and systems and ballot  
6 design;

7 (2) voter registration, and verification and  
8 maintenance of voter rolls;

9 (3) access to polling places;

10 (4) alternative voting methods; and

11 (5) the accuracy and security of election proce-  
12 dures and vote counts.

13 (c) GRANT PROGRAM.—

14 (1) GRANT AUTHORITY.—

15 (A) IN GENERAL.—Not less often than  
16 once each calendar year, the Commission shall  
17 solicit and review applications from State and  
18 local governments for grants to improve and  
19 modernize the administration of elections using  
20 procedures consistent with voluntary rec-  
21 ommendations adopted by the Commission.

22 (B) AWARD.—

23 (i) IN GENERAL.—Subject to clause

24 (ii), the Commission shall, by vote, award

1 grants to State and local governments that  
2 submit applications.

3 (ii) FIRST 4 YEARS.—During the first  
4 4 years in which the Commission awards  
5 grants under this subsection, the Commis-  
6 sion shall, if possible, award 51 percent of  
7 the amounts available for each year under  
8 this subsection to local governments that  
9 serve a population whose average per cap-  
10 ita income is among the lowest  $\frac{1}{4}$  in the  
11 State (as determined by the Commission).

12 (2) STATE AND LOCAL APPLICATIONS.—State  
13 and local governments shall submit applications to  
14 the Commission for grants under paragraph (1) at  
15 such time, in such manner, and containing such in-  
16 formation as the Commission shall by regulation re-  
17 quire.

18 (3) USE OF FUNDS.—

19 (A) MATCHING FUNDS.—The Commission  
20 shall ensure that any State or local government  
21 receiving a grant under this subsection shall ex-  
22 pend State or local funds in an amount equal  
23 to not less than 25 percent of the amount of  
24 the grant awarded.

1 (B) AUDIT.—A State or local government  
2 receiving a grant under this subsection shall  
3 agree that any funds under the grant are sub-  
4 ject to audit whenever the Commission, by vote,  
5 requests an audit.

6 (C) WAIVER.—The Commission shall waive  
7 the requirement of subparagraph (A) if the  
8 Commission determines that the local govern-  
9 ment submitting an application under para-  
10 graph (2) serves a population whose average  
11 per capita income is among the lowest  $\frac{1}{4}$  in the  
12 State.

13 (4) AMOUNT OF GRANT; TIME.—

14 (A) AMOUNT OF GRANT.—The Commission  
15 shall award grants under this subsection—

16 (i) for the first fiscal year, in an ag-  
17 gregate amount not to exceed  
18 \$500,000,000; and

19 (ii) for each subsequent fiscal year,  
20 \$100,000,000 or such greater amount as  
21 may be appropriated for such fiscal year.

22 (B) TIME TO ALLOCATE.—The Commis-  
23 sion shall begin review of applications for  
24 grants under this subsection on the date which

1 is 1 year and 45 days after the date of enact-  
2 ment of this Act.

3 (5) APPROPRIATIONS.—Funds appropriated for  
4 a fiscal year to the Commission to award grants  
5 under this subsection that are not used for such pur-  
6 pose shall be returned to the Treasury by the end  
7 of such year.

8 (d) REPORT.—The Commission shall annually submit  
9 to the Committee on Rules and Administration of the Sen-  
10 ate and the Committee on House Administration of the  
11 House of Representatives a report regarding the activities  
12 of the Commission.

13 **SEC. 103. MEMBERSHIP.**

14 (a) MEMBERSHIP.—

15 (1) COMPOSITION.—The Commission shall be  
16 composed of 4 members appointed by the President,  
17 by and with the advice and consent of the Senate.

18 (2) PARTY AFFILIATION.—Not more than 2 of  
19 the 4 members appointed under paragraph (1) may  
20 be members of the same party.

21 (3) QUALIFICATIONS.—Members appointed  
22 under paragraph (1) shall be chosen on the basis of  
23 experience with and knowledge of State and local  
24 election administration, integrity, impartiality, and  
25 good judgment, and members shall be individuals

1 who, at the time appointed to the Commission, are  
2 not elected or appointed officers or employees in the  
3 executive or legislative branch of the Federal Gov-  
4 ernment. Such individuals shall not engage in any  
5 other business, vocation, or employment.

6 (4) PERIOD OF APPOINTMENT; VACANCIES.—

7 (A) PERIOD OF APPOINTMENT.—Members  
8 shall be appointed for a term of 4 years, except  
9 that of the members first appointed—

10 (i) 2 of the members, not affiliated  
11 with the same party, shall be appointed for  
12 5 years; and

13 (ii) 2 of the members, not affiliated  
14 with the same party, shall be appointed for  
15 4 years.

16 (B) VACANCIES.—

17 (i) IN GENERAL.—A vacancy on the  
18 Commission shall be filled in the manner  
19 in which the original appointment was  
20 made and shall be subject to any condi-  
21 tions which applied with respect to the  
22 original appointment.

23 (ii) EXPIRED TERMS.—A member of  
24 the Commission may serve on the Commis-  
25 sion after the expiration of the member's

1 term until the successor of such member  
2 has taken office as a member of the Com-  
3 mission.

4 (iii) UNEXPIRED TERMS.—An indi-  
5 vidual chosen to fill a vacancy shall be ap-  
6 pointed for the unexpired term of the  
7 member replaced.

8 (5) COMPENSATION OF MEMBERS.—Each mem-  
9 ber of the Commission shall receive compensation  
10 equivalent to the annual rate of basic pay prescribed  
11 for level IV of the Executive Schedule, under section  
12 5315 of title 5, United States Code.

13 (6) CHAIRPERSON; VICE CHAIRPERSON.—

14 (A) IN GENERAL.—The Commission shall  
15 elect a chairperson and vice chairperson from  
16 among its members for a term of 1 year.

17 (B) NUMBER OF TERMS.—A member may  
18 serve as a chairperson only once during any  
19 term of office to which such member is ap-  
20 pointed.

21 (C) POLITICAL AFFILIATION.—The chair-  
22 person and vice chairperson shall not be affili-  
23 ated with the same political party.

1 (b) DATE OF APPOINTMENT.—The appointments of  
2 the members of the Commission shall be made not later  
3 than 45 days after the date of enactment of this Act.

4 (c) VOTING.—

5 (1) IN GENERAL.—Each action of the Commis-  
6 sion shall be approved by a majority vote of the  
7 members of the Commission. Each member of the  
8 Commission shall have 1 vote.

9 (2) CHAIRPERSON OF THE BOARD.—After the  
10 members of the Election Administration Advisory  
11 Board have elected a chairperson of that Board  
12 under section 201(e), that chairperson may vote on  
13 an action of the Commission if the votes of the  
14 members of the Commission are equally divided with  
15 respect to that action, and the result of such vote  
16 shall be deemed to be approved by a majority vote  
17 of the members of the Commission for purposes of  
18 paragraph (1).

19 (d) MEETINGS.—The Commission shall meet at the  
20 call of any member of the Commission, but may not meet  
21 less often than monthly.

22 (e) JURISDICTION OF COMMISSION.—The Commis-  
23 sion shall formulate and administer policy with respect to  
24 the matters and duties in the jurisdiction of the Commis-  
25 sion under this title.

1 **SEC. 104. POWERS OF THE COMMISSION.**

2 (a) HEARINGS AND SESSIONS.—The Commission  
3 may hold such hearings for the purpose of carrying out  
4 this title, sit and act at such times and places, take such  
5 testimony, and receive such evidence as the Commission  
6 considers advisable to carry out this title. The Commission  
7 may administer oaths and affirmations to witnesses ap-  
8 pearing before the Commission.

9 (b) INFORMATION FROM FEDERAL AGENCIES.—The  
10 Commission may secure directly from any Federal depart-  
11 ment or agency such information as the Commission con-  
12 siders necessary to carry out this title. Upon request of  
13 the chairperson of the Commission, the head of such de-  
14 partment or agency shall furnish such information to the  
15 Commission.

16 (c) POSTAL SERVICES.—The Commission may use  
17 the United States mails in the same manner and under  
18 the same conditions as other departments and agencies of  
19 the Federal Government.

20 (d) ADMINISTRATIVE SUPPORT SERVICES.—Upon  
21 the request of the chairperson of the Commission, the Ad-  
22 ministrator of the General Services Administration shall  
23 provide to the Commission, on a reimbursable basis, the  
24 administrative support services that are necessary to en-  
25 able the Commission to carry out its duties under this  
26 title.

1 **SEC. 105. COMMISSION PERSONNEL MATTERS.**

2 (a) STAFF.—

3 (1) IN GENERAL.—The chairperson of the Com-  
4 mission may, without regard to the civil service laws  
5 and regulations, appoint and terminate an executive  
6 director and such other additional personnel as may  
7 be necessary to enable the Commission to perform  
8 its duties. The employment of an executive director  
9 shall be subject to confirmation by the Commission.

10 (2) COMPENSATION.—The chairperson of the  
11 Commission may fix the compensation of the execu-  
12 tive director and other personnel without regard to  
13 chapter 51 and subchapter III of chapter 53 of title  
14 5, United States Code, relating to classification of  
15 positions and General Schedule pay rates, except  
16 that the rate of pay for the executive director and  
17 other personnel may not exceed the rate payable for  
18 level V of the Executive Schedule under section 5316  
19 of such title.

20 (b) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
21 Federal Government employee may be detailed to the  
22 Commission without reimbursement, and such detail shall  
23 be without interruption or loss of civil service status or  
24 privilege.

25 (c) PROCUREMENT OF TEMPORARY AND INTERMIT-  
26 TENT SERVICES.—The chairperson of the Commission

1 may procure temporary and intermittent services under  
2 section 3109(b) of title 5, United States Code, at rates  
3 for individuals which do not exceed the daily equivalent  
4 of the annual rate of basic pay prescribed for level V of  
5 the Executive Schedule under section 5316 of such title.

6 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Com-  
8 mission such sums as may be necessary to carry out this  
9 title.

10 **SEC. 107. OFFICE OF ELECTION ADMINISTRATION OF THE**  
11 **FEDERAL ELECTION COMMISSION.**

12 There are transferred to the Commission all functions  
13 that the Office of Election Administration, established  
14 within the Federal Election Commission, exercised before  
15 the date of enactment of this Act.

16 **SEC. 108. UNIFORMED AND OVERSEAS CITIZENS ABSENTEE**  
17 **VOTING ACT.**

18 (a) TRANSFER OF FUNCTIONS.—There are trans-  
19 ferred to the Commission established under section 101  
20 all functions that the Presidential designee under title 1  
21 of the Uniformed and Overseas Citizens Absentee Voting  
22 Act (42 U.S.C. 1973ff et seq.) exercised before the date  
23 of enactment of this Act.

24 (b) TRANSITION.—With the consent of the appro-  
25 priate department or agency concerned, the Commission

1 is authorized to utilize the services of such officers, em-  
2 ployees, and other personnel of the departments and agen-  
3 cies from which functions have been transferred to the  
4 Commission for such period of time as may reasonably be  
5 needed to facilitate the orderly transfer of functions under  
6 this section.

7 (c) TECHNICAL AMENDMENT.—Section 101 of the  
8 Uniformed and Overseas Citizens Absentee Voting Act (42  
9 U.S.C. 1973ff) is amended by striking subsection (a) and  
10 inserting the following:

11 “(a) PRESIDENTIAL DESIGNEE.—The Election Ad-  
12 ministration Commission shall have primary responsibility  
13 for Federal functions under this title as the Presidential  
14 designee.”.

15 **SEC. 109. TECHNICAL AMENDMENTS.**

16 (a) FEDERAL ELECTION CAMPAIGN ACT.—Section  
17 311(a) of the Federal Election Campaign Act of 1971 (2  
18 U.S.C. 438(a)) is amended—

19 (1) in paragraph (8), by inserting “and” at the  
20 end;

21 (2) in paragraph (9), by striking “; and” and  
22 inserting a period; and

23 (3) by striking paragraph (10) and the second  
24 and third sentences.

1 (b) NATIONAL VOTER REGISTRATION ACT OF  
 2 1993.—Section 9(a) of the National Voter Registration  
 3 Act of 1993 (42 U.S.C. 1973gg–7) is amended by striking  
 4 “Federal Election Commission” and inserting “Election  
 5 Administration Commission”.

6 **TITLE II—ELECTION ADMINIS-**  
 7 **TRATION ADVISORY BOARD**

8 **SEC. 201. ESTABLISHMENT OF ELECTION ADMINISTRATION**  
 9 **ADVISORY BOARD.**

10 (a) ESTABLISHMENT.—There is established the Elec-  
 11 tion Administration Advisory Board (in this Act referred  
 12 to as the “Board”).

13 (b) MEMBERSHIP.—

14 (1) COMPOSITION.—The Board shall be com-  
 15 posed of 25 members appointed by the Executive Di-  
 16 rector of the Election Administration Commission  
 17 established under section 101 (in this title referred  
 18 to as the “Commission”), by and with the advice  
 19 and consent of the Commission, from among individ-  
 20 uals who—

21 (A) have experience administering State  
 22 and local elections; and

23 (B) are not officers or employees of the  
 24 Federal Government.

1           (2) PROHIBITION.—A member of the Board ap-  
2           pointed under paragraph (1) may not be a candidate  
3           (as defined in section 301 of the Federal Election  
4           Campaign Act of 1971 (2 U.S.C. 431)), or hold a  
5           Federal office (as defined in such section) while  
6           serving as a member of the Board.

7           (3) DATE.—The appointments of the members  
8           of the Board under paragraph (1) shall be made not  
9           later than 45 days after the date on which all the  
10          members of the Commission have been appointed  
11          under section 103.

12          (c) PERIOD OF APPOINTMENT; VACANCIES.—

13           (1) PERIOD OF APPOINTMENT.—Members shall  
14           be appointed for a period of 2 years.

15           (2) VACANCIES.—

16           (A) IN GENERAL.—A vacancy on the  
17           Board shall be filled in the manner in which the  
18           original appointment was made and shall be  
19           subject to any conditions which applied with re-  
20           spect to the original appointment.

21           (B) FILLING UNEXPIRED TERM.—An indi-  
22           vidual chosen to fill a vacancy shall be ap-  
23           pointed for the unexpired term of the member  
24           replaced.

1           (3) EXPIRATION OF TERMS.—The term of any  
2 member shall not expire before the date on which  
3 the member’s successor takes office.

4           (d) MEETINGS.—

5           (1) IN GENERAL.—The Board shall meet at the  
6 call of the Chairperson.

7           (2) ANNUAL MEETING REQUIRED.—The Board  
8 shall meet not less often than annually.

9           (3) INITIAL MEETING.—Not later than 30 days  
10 after the date on which all members of the Board  
11 have been appointed, the Board shall hold its first  
12 meeting.

13           (4) QUORUM.—A majority of the members of  
14 the Board shall constitute a quorum, but a lesser  
15 number of members may hold hearings.

16           (e) CHAIRPERSON.—

17           (1) IN GENERAL.—Subject to paragraph (2),  
18 the Board shall elect a Chairperson from among its  
19 members to serve a term of 1 year.

20           (2) POLITICAL AFFILIATION.—No members of  
21 the same political party may hold the position of  
22 Chairperson for 2 consecutive terms.

23           (f) VOTING.—Each action of the Board shall be ap-  
24 proved by a majority vote of members. Each member shall  
25 have 1 vote.

1 **SEC. 202. DUTY OF THE BOARD.**

2 It shall be the duty of the Board to advise the Com-  
3 mission on the best practices in the administration of elec-  
4 tions.

5 **SEC. 203. BOARD PERSONNEL MATTERS.**

6 (a) COMPENSATION OF MEMBERS.—Each member of  
7 the Board shall serve without compensation.

8 (b) TRAVEL EXPENSES.—Each member of the Board  
9 shall be allowed travel expenses, including per diem in lieu  
10 of subsistence, at rates authorized for employees of agen-  
11 cies under subchapter I of chapter 57 of title 5, United  
12 States Code, while away from their homes or regular  
13 places of business in the performance of services for the  
14 Board.

15 **SEC. 204. TERMINATION OF THE BOARD.**

16 Section 14(b) of the Federal Advisory Committee Act  
17 (5 U.S.C. App.) shall not apply to the Board.

18 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There are authorized to be appro-  
20 priated to the Board such sums as may be necessary to  
21 carry out this title.

22 (b) AVAILABILITY.—Any sums appropriated under  
23 the authorization contained in this section shall remain  
24 available, without fiscal year limitation, until expended.

1 **TITLE III—ABSENT UNIFORMED**  
 2 **SERVICES VOTERS**

3 **SEC. 301. MAXIMIZING ACCESS TO THE POLLS BY ABSENT**  
 4 **UNIFORMED SERVICES VOTERS.**

5 (a) IN GENERAL.—Section 104 of the Uniformed and  
 6 Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–  
 7 3) is amended—

8 (1) in the matter preceding paragraph (1), by  
 9 striking “it is recommended that the States” and in-  
 10 serting “each State shall”; and

11 (2) by striking the heading and inserting the  
 12 following:

13 **“SEC. 104. MAXIMIZING ACCESS TO THE POLLS BY ABSENT**  
 14 **UNIFORMED SERVICES VOTERS.”.**

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 101(b) of the Uniformed and Over-  
 17 seas Citizens Absentee Voting Act (42 U.S.C.  
 18 1973ff(b)) is amended—

19 (A) in paragraph (2), by striking “as rec-  
 20 ommended in” and inserting “as required by”;  
 21 and

22 (B) in paragraph (4), by striking “as rec-  
 23 ommended in” and inserting “as required by”.

24 (2) Section 104 of such Act (42 U.S.C. 1973ff–  
 25 3) is amended—

1 (A) by striking paragraph (4);

2 (B) by redesignating paragraphs (5)  
3 through (9) as paragraphs (4) through (8), re-  
4 spectively; and

5 (C) in paragraph (5) (as so redesignated),  
6 by striking “the State or other place where the  
7 oath is administered” and inserting “a State”.

## 8 **TITLE IV—MISCELLANEOUS**

### 9 **SEC. 401. RELATIONSHIP TO OTHER LAWS.**

10 (a) IN GENERAL.—Any right or remedy established  
11 by this Act is in addition to each other right and remedy  
12 established by law.

13 (b) SPECIFIC LAWS.—Except as provided in section  
14 102(a)(5), nothing in this title may be construed to au-  
15 thorize or to require conduct prohibited under the fol-  
16 lowing laws, or to supersede, to restrict, or to limit such  
17 laws:

18 (1) The National Voter Registration Act of  
19 1993 (42 U.S.C. 1973gg et seq.).

20 (2) The Voting Rights Act of 1965 (42 U.S.C.  
21 1971 et seq.).

22 (3) The Rehabilitation Act of 1973 (42 U.S.C.  
23 791 et seq.).

1           (4) The Americans with Disabilities Act of  
2           1990 (42 U.S.C. 12101 et seq.).

○