

112TH CONGRESS
1ST SESSION

H. R. 672

To terminate the Election Assistance Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2011

Mr. HARPER (for himself, Mr. DANIEL E. LUNGREN of California, Mr. GINGREY of Georgia, and Mr. ROKITA) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To terminate the Election Assistance Commission, 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. TERMINATION OF ELECTION ASSISTANCE COM-**
4 **MISSION.**

5 (a) TERMINATION.—The Help America Vote Act of
6 2002 (42 U.S.C. 15301 et seq.) is amended by adding at
7 the end the following new title:

1 **“TITLE X—TERMINATION OF**
2 **COMMISSION**

3 **“Subtitle A—Termination**

4 **“SEC. 1001. TERMINATION.**

5 “Effective on the Commission termination date, the
6 Commission (including the Election Assistance Commis-
7 sion Standards Board and the Election Assistance Com-
8 mission Board of Advisors under part 2 of subtitle A of
9 title II) is terminated and may not carry out any programs
10 or activities.

11 **“SEC. 1002. TRANSFER OF OPERATIONS TO OFFICE OF MAN-**
12 **AGEMENT AND BUDGET DURING TRANSI-**
13 **TION.**

14 “(a) IN GENERAL.—The Director of the Office of
15 Management and Budget shall, effective upon the Com-
16 mission termination date—

17 “(1) perform the functions of the Commission
18 with respect to contracts and agreements described
19 in subsection 1003(a) until the expiration of such
20 contracts and agreements, but shall not renew any
21 such contract or agreement; and

22 “(2) shall take the necessary steps to wind up
23 the affairs of the Commission.

24 “(b) EXCEPTION FOR FUNCTIONS TRANSFERRED TO
25 OTHER AGENCIES.—Subsection (a) does not apply with

1 respect to any functions of the Commission that are trans-
2 ferred under subtitle B.

3 **“SEC. 1003. SAVINGS PROVISIONS.**

4 “(a) PRIOR CONTRACTS.—The termination of the
5 Commission under this subtitle shall not affect any con-
6 tract that has been entered into by the Commission before
7 the Commission termination date. All such contracts shall
8 continue in effect until modified, superseded, terminated,
9 set aside, or revoked in accordance with law by an author-
10 ized Federal official, a court of competent jurisdiction, or
11 operation of law.

12 “(b) OBLIGATIONS OF RECIPIENTS OF PAYMENTS.—
13 The termination of the Commission under this subtitle
14 shall not affect the authority of any recipient of a payment
15 made by the Commission under this Act prior to the Com-
16 mission termination date to use any portion of the grant
17 or payment that remains unobligated as of the Commis-
18 sion termination date, and the terms and conditions that
19 applied to the use of the payment at the time the payment
20 was made shall continue to apply.

21 “(c) PENDING PROCEEDINGS.—

22 “(1) NO EFFECT ON PENDING PROCEEDINGS.—
23 The termination of the Commission under this sub-
24 title shall not affect any proceeding to which the
25 Commission is a party that is pending on such date,

1 including any suit to which the Commission is a
2 party that is commenced prior to such date, and the
3 applicable official shall be substituted or added as a
4 party to the proceeding.

5 “(2) TREATMENT OF ORDERS.—In the case of
6 a proceeding described in paragraph (1), an order
7 may be issued, an appeal may be taken, judgments
8 may be rendered, and payments may be made as if
9 the Commission had not been terminated. Any such
10 order shall continue in effect until modified, termi-
11 nated, superseded, or revoked by an authorized Fed-
12 eral official, a court of competent jurisdiction, or op-
13 eration of law.

14 “(3) CONSTRUCTION RELATING TO DIS-
15 CONTINUANCE OR MODIFICATION.—Nothing in this
16 subsection shall be deemed to prohibit the dis-
17 continuance or modification of any proceeding de-
18 scribed in paragraph (1) under the same terms and
19 conditions and to the same extent that such pro-
20 ceeding could have been discontinued or modified if
21 the Commission had not been terminated.

22 “(4) REGULATIONS FOR TRANSFER OF PRO-
23 CEEDINGS.—The Director of the Office of Manage-
24 ment and Budget may issue regulations providing

1 for the orderly transfer of proceedings described in
2 paragraph (1).

3 “(d) JUDICIAL REVIEW.—Orders and actions of the
4 applicable official in the exercise of functions of the Com-
5 mission shall be subject to judicial review to the same ex-
6 tent and in the same manner as if such orders and actions
7 had been issued or taken by the Commission. Any require-
8 ments relating to notice, hearings, action upon the record,
9 or administrative review that apply to any function of the
10 Commission shall apply to the exercise of such function
11 by the applicable official.

12 “(e) APPLICABLE OFFICIAL DEFINED.—In this sec-
13 tion, the ‘applicable official’ means, with respect to any
14 proceeding, order, or action—

15 “(1) the Director of the Office of Management
16 and Budget, to the extent that the proceeding,
17 order, or action relates to functions performed by
18 the Director of the Office of Management and Budg-
19 et under section 1002; or

20 “(2) the head of the office to which a function
21 is transferred under subtitle B, to the extent that
22 the proceeding, order, or action relates to such a
23 function.

1 **“SEC. 1004. COMMISSION TERMINATION DATE.**

2 “The ‘Commission termination date’ is the first date
3 following the expiration of the 60-day period that begins
4 on the date of the enactment of this subtitle.

5 **“Subtitle B—Transfer of Certain**
6 **Authorities**

7 **“SEC. 1011. TESTING AND CERTIFICATION OF VOTING SYS-**
8 **TEM HARDWARE AND SOFTWARE.**

9 “(a) TRANSFER TO NATIONAL INSTITUTE OF STAND-
10 ARDS AND TECHNOLOGY.—There are transferred to the
11 National Institute of Standards and Technology all func-
12 tions that the Office of Voting System Testing and Certifi-
13 cation of the Commission (hereafter in this section re-
14 ferred to as the ‘Office’) exercised under subtitle B of title
15 II before the date of enactment of this title.

16 “(b) TRANSFER OF PROPERTY, RECORDS, AND PER-
17 SONNEL.—

18 “(1) PROPERTY AND RECORDS.—The contracts,
19 liabilities, records, property, appropriations, and
20 other assets and interests of the Office, together
21 with the unexpended balances of any appropriations
22 or other funds available to the Office, are trans-
23 ferred and made available to the National Institute
24 of Standards and Technology.

25 “(2) PERSONNEL.—

“(A) IN GENERAL.—The personnel of the Office are transferred to the National Institute of Standards and Technology, except that the number of full-time equivalent personnel so transferred may not exceed the number of full-time equivalent personnel of the Office as of January 1, 2011.

“(B) TREATMENT OF EMPLOYEES AT TIME OF TRANSFER.—An individual who is an employee of the Office who is transferred under this section shall not be separated or reduced in grade or compensation because of the transfer during the 1-year period that begins on the date of the transfer.

“SEC. 1012. TRANSFER OF ELECTION ADMINISTRATION FUNCTIONS TO FEDERAL ELECTION COMMISSION.

“There are transferred to the Federal Election Commission (hereafter in this section referred to as the ‘FEC’) the following functions of the Commission:

“(1) The adoption of voluntary voting system guidelines, in accordance with the requirements for notice and comment described in section 222(a) (but without regard to any requirements of section 222 that relate to the Technical Guidelines Development

1 Committee, the Board of Advisors, or the Standards
2 Board).

3 “(2) The maintenance of a clearinghouse of in-
4 formation on the experiences of State and local gov-
5 ernments in implementing voluntary voting system
6 guidelines and in operating voting systems in gen-
7 eral.

8 “(3) The development of a standardized format
9 for reports submitted by States under section 102(c)
10 of the Uniformed and Overseas Citizens Absentee
11 Voting Act, and the making of such format available
12 to States and units of local government submitting
13 such reports.

14 “(4) Any functions transferred to the Commis-
15 sion under section 801 (relating to functions of the
16 former Office of Election Administration of the
17 FEC).

18 “(5) Any functions transferred to the Commis-
19 sion under section 802 (relating to functions de-
20 scribed in section 9(a) of the National Voter Reg-
21 istration Act of 1993).

22 “(6) Any functions of the Commission under
23 section 1604(a) of the National Defense Authoriza-
24 tion Act for Fiscal Year 2002 (Public Law 107–107;
25 115 Stat. 1277; 42 U.S.C. 1977ff note) (relating to

1 establishing guidelines and providing technical as-
 2 sistance with respect to electronic voting demonstra-
 3 tion projects of the Secretary of Defense).

4 “(7) Any functions of the Commission under
 5 section 589(e)(1) of the Military and Overseas Voter
 6 Empowerment Act (42 U.S.C. 1973ff–7(e)(1)) (re-
 7 lating to providing technical assistance with respect
 8 to technology pilot programs for the benefit of ab-
 9 sent uniformed services voters and overseas voters).

10 **“SEC. 1013. EFFECTIVE DATE.**

11 “The transfers under this subtitle shall take effect
 12 on the Commission termination date described in section
 13 1004.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
 15 of such Act is amended by adding at the end the following:

 “TITLE X—TERMINATION OF COMMISSION

 “Subtitle A—Termination

 “Sec. 1001. Termination.

 “Sec. 1002. Transfer of operations to Office of Management and Budget dur-
 ing transition.

 “Sec. 1003. Savings provisions.

 “Sec. 1004. Commission termination date.

 “Subtitle B—Transfer of Certain Authorities

 “Sec. 1011. Testing and certification of voting system hardware and software.

 “Sec. 1012. Transfer of election administration functions to Federal Election
 Commission.

 “Sec. 1013. Effective date.”.

1 **SEC. 2. CONFORMING AMENDMENTS RELATING TO FUNC-**
2 **TIONS TRANSFERRED TO NATIONAL INSTI-**
3 **TUTE OF STANDARDS AND TECHNOLOGY.**

4 (a) IN GENERAL.—Section 231 of the Help America
5 Vote Act of 2002 (42 U.S.C. 15371) is amended by adding
6 at the end the following new subsection:

7 “(e) TRANSFER OF AUTHORITY TO NATIONAL INSTI-
8 TUTE OF STANDARDS AND TECHNOLOGY.—

9 “(1) TRANSFER.—Effective on the Commission
10 termination date described in section 1004, the Di-
11 rector of the National Institute of Standards and
12 Technology shall be responsible for—

13 “(A) providing for the testing, certifi-
14 cation, decertification, and recertification of
15 voting system hardware and software by accred-
16 ited laboratories;

17 “(B) the accreditation of laboratories for
18 purposes of the activities described in subpara-
19 graph (A); and

20 “(C) carrying out any other authorities
21 that were the responsibility of the Commission
22 under this subtitle prior to such date.

23 “(2) AUTHORIZATION TO ENTER INTO PRIVATE
24 CONTRACTS TO CARRY OUT FUNCTIONS.—Subject to
25 applicable laws, the Director may enter into con-
26 tracts with private entities to carry out any of the

1 authorities that are the responsibility of the Director
2 under paragraph (1).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the Commission termi-
5 nation date described in section 1004 of the Help America
6 Vote Act of 2002 (as added by section 1(a)).

7 **SEC. 3. CONFORMING AMENDMENTS RELATING TO FUNC-**
8 **TIONS TRANSFERRED TO FEDERAL ELEC-**
9 **TION COMMISSION.**

10 (a) INCLUSION IN DUTIES OF COMMISSION.—

11 (1) IN GENERAL.—Section 311(a) of the Fed-
12 eral Election Campaign Act of 1971 (2 U.S.C.
13 438(a)) is amended—

14 (A) by striking “and” at the end of para-
15 graph (8);

16 (B) by striking the period at the end of
17 paragraph (9) and inserting a semicolon; and

18 (C) by adding at the end the following new
19 paragraphs:

20 “(10) provide for the adoption of voluntary vot-
21 ing system guidelines;

22 “(11) maintain a clearinghouse of information
23 on the experiences of State and local governments in
24 implementing voluntary voting system guidelines and
25 in operating voting systems in general;

1 “(12) carry out the duties described in section
2 9(a) of the National Voter Registration Act of 1993;

3 “(13) develop a standardized format for reports
4 submitted by States under section 102(c) of the Uni-
5 formed and Overseas Citizens Absentee Voting Act,
6 make such format available to States and units of
7 local government submitting such reports, and re-
8 ceive such reports in accordance with section 102(c)
9 of such Act;

10 “(14) carry out the duties described in section
11 1604(a)(2) of the National Defense Authorization
12 Act for Fiscal Year 2002 (Public Law 107–107; 115
13 Stat. 1277; 42 U.S.C. 1977ff note); and

14 “(15) carry out the duties described in section
15 589(e)(1) of the Military and Overseas Voter Em-
16 powerment Act (42 U.S.C. 1973ff–7(e)(1)).”.

17 (2) AUTHORIZATION TO ENTER INTO PRIVATE
18 CONTRACTS TO CARRY OUT FUNCTIONS.—Section
19 311 of such Act (2 U.S.C. 438) is amended by add-
20 ing at the end the following new subsection:

21 “(g) Subject to applicable laws, the Commission may
22 enter into contracts with private entities to carry out any
23 of the authorities that are the responsibility of the Com-
24 mission under paragraphs (10) through (15) of subsection
25 (a).”.

1 (b) TERMINATION OF TECHNICAL GUIDELINES DE-
 2 VELOPMENT COMMITTEE.—Section 221 of the Help
 3 America Vote Act of 2002 (42 U.S.C. 15361) is amended
 4 by adding at the end the following new subsection:

5 “(g) TERMINATION.—Effective on the Commission
 6 termination date described in section 1004, the Develop-
 7 ment Committee is terminated.”.

8 (c) CONFORMING AMENDMENT TO NATIONAL VOTER
 9 REGISTRATION ACT OF 1993.—Section 9(a) of the Na-
 10 tional Voter Registration Act of 1993 (42 U.S.C. 1973gg–
 11 7(a)) is amended by striking “Election Assistance Com-
 12 mission” and inserting “Federal Election Commission”.

13 (d) UNIFORMED AND OVERSEAS CITIZENS ABSEN-
 14 TEE VOTING ACT.—

15 (1) DEVELOPMENT OF STANDARDS FOR STATE
 16 REPORTS.—Section 101(b)(11) of the Uniformed
 17 and Overseas Citizens Absentee Voting Act (42
 18 U.S.C. 1973ff(b)(11)) is amended by striking “the
 19 Election Assistance Commission” and inserting “the
 20 Federal Election Commission”.

21 (2) RECEIPT OF REPORTS ON NUMBER OF AB-
 22 SENTEE BALLOTS TRANSMITTED AND RECEIVED.—
 23 Section 102(c) of such Act (42 U.S.C. 1973ff–1(c))
 24 is amended by striking “the Election Assistance
 25 Commission (established under the Help America

1 Vote Act of 2002)” and inserting “the Federal Elec-
2 tion Commission”.

3 (e) ELECTRONIC VOTING DEMONSTRATION
4 PROJECTS FOR SECRETARY OF DEFENSE.—Section
5 1604(a)(2) of the National Defense Authorization Act for
6 Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1277;
7 42 U.S.C. 1977ff note) is amended by striking “the Elec-
8 tion Assistance Commission” and inserting “the Federal
9 Election Commission”.

10 (f) TECHNOLOGY PILOT PROGRAM FOR ABSENT
11 MILITARY AND OVERSEAS VOTERS.—Section 589(e)(1) of
12 the Military and Overseas Voter Empowerment Act (42
13 U.S.C. 1973ff–7(e)(1)) is amended by striking “Election
14 Assistance Commission” and inserting “Federal Election
15 Commission”.

16 (g) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the Commission termi-
18 nation date described in section 1004 of the Help America
19 Vote Act of 2002 (as added by section 1(a)).

20 **SEC. 4. CONFORMING AMENDMENTS RELATING TO TERMI-**
21 **NATION.**

22 (a) HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title
23 5, United States Code, is amended by striking “or the
24 Election Assistance Commission”.

1 (b) SENIOR EXECUTIVE SERVICE.—Section
2 3132(a)(1)(C) of title 5, United States Code, is amended
3 by striking “or the Election Assistance Commission”.

4 (c) INSPECTOR GENERAL ACT OF 1978.—Section
5 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C.
6 App.) is amended by striking “the Election Assistance
7 Commission,”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the Commission termi-
10 nation date described in section 1004 of the Help America
11 Vote Act of 2002 (as added by section 1(a)).

