

Union Calendar No. 55

112TH CONGRESS
1ST SESSION

H. R. 672

[Report No. 112-100, Part 1]

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

JUNE 2, 2011

Additional sponsors: Mr. MILLER of Florida, Mr. POSEY, Mr. SULLIVAN, Mr. GOHMERT, Mr. FLEMING, Mr. FINCHER, Mr. BENISHEK, Mr. BISHOP of Utah, Mr. BARTLETT, Mr. RIGELL, Mr. CAMPBELL, Mr. HERGER, Mr. BROOKS, Mr. HARRIS, Mr. THOMPSON of Pennsylvania, Mr. MARCHANT, Mr. NUGENT, Mr. WESTMORELAND, and Mr. COFFMAN of Colorado

JUNE 2, 2011

Reported from the Committee on House Administration with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 2, 2011

Committee on Science, Space, and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 11, 2011]

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. SHORT TITLE.**

4 *This Act may be cited as the “Election Support Con-*
5 *solidation and Efficiency Act”.*

6 **SEC. 2. TERMINATION OF ELECTION ASSISTANCE COMMIS-**
7 **SION.**

8 *(a) TERMINATION.—The Help America Vote Act of*
9 *2002 (42 U.S.C. 15301 et seq.) is amended by adding at*
10 *the end the following new title:*

11 **“TITLE X—TERMINATION OF**
12 **COMMISSION**

13 **“Subtitle A—Termination**

14 **“SEC. 1001. TERMINATION.**

15 *“Effective on the Commission termination date, the*
16 *Commission (including the Election Assistance Commission*
17 *Standards Board and the Election Assistance Commission*
18 *Board of Advisors under part 2 of subtitle A of title II)*
19 *is terminated and may not carry out any programs or ac-*
20 *tivities.*

21 **“SEC. 1002. TRANSFER OF OPERATIONS TO OFFICE OF MAN-**
22 **AGEMENT AND BUDGET DURING TRANSITION.**

23 *“(a) IN GENERAL.—The Director of the Office of Man-*
24 *agement and Budget shall, effective upon the Commission*
25 *termination date—*

1 “(1) *perform the functions of the Commission*
2 *with respect to contracts and agreements described in*
3 *subsection 1003(a) until the expiration of such con-*
4 *tracts and agreements, but shall not renew any such*
5 *contract or agreement; and*

6 “(2) *shall take the necessary steps to wind up the*
7 *affairs of the Commission.*

8 “(b) *EXCEPTION FOR FUNCTIONS TRANSFERRED TO*
9 *OTHER AGENCIES.—Subsection (a) does not apply with re-*
10 *spect to any functions of the Commission that are trans-*
11 *ferred under subtitle B.*

12 **“SEC. 1003. SAVINGS PROVISIONS.**

13 “(a) *PRIOR CONTRACTS.—The termination of the*
14 *Commission under this subtitle shall not affect any contract*
15 *that has been entered into by the Commission before the*
16 *Commission termination date. All such contracts shall con-*
17 *tinue in effect until modified, superseded, terminated, set*
18 *aside, or revoked in accordance with law by an authorized*
19 *Federal official, a court of competent jurisdiction, or oper-*
20 *ation of law.*

21 “(b) *OBLIGATIONS OF RECIPIENTS OF PAYMENTS.—*

22 “(1) *IN GENERAL.—The termination of the Com-*
23 *mission under this subtitle shall not affect the author-*
24 *ity of any recipient of a payment made by the Com-*
25 *mission under this Act prior to the Commission ter-*

1 *mination date to use any portion of the payment that*
2 *remains unobligated as of the Commission termi-*
3 *nation date, and the terms and conditions that ap-*
4 *plied to the use of the payment at the time the pay-*
5 *ment was made shall continue to apply.*

6 *“(2) SPECIAL RULE FOR STATES RECEIVING RE-*
7 *QUIREMENTS PAYMENTS.—In the case of a require-*
8 *ments payment made to a State under part 1 of sub-*
9 *title D of title II, the terms and conditions applicable*
10 *to the use of the payment for purposes of the State’s*
11 *obligations under this subsection (as well as any obli-*
12 *gations in effect prior to the termination of the Com-*
13 *mission under this subtitle), and for purposes of any*
14 *applicable requirements imposed by regulations pro-*
15 *mulgated by the Director of the Office of Management*
16 *and Budget, shall be the general terms and conditions*
17 *applicable under Federal law, rules, and regulations*
18 *to payments made by the Federal government to a*
19 *State, except that to the extent that such general*
20 *terms and conditions are inconsistent with the terms*
21 *and conditions that are specified under part 1 of sub-*
22 *title D of title II or section 902, the terms and condi-*
23 *tions specified under such part and such section shall*
24 *apply.*

25 *“(c) PENDING PROCEEDINGS.—*

1 “(1) *NO EFFECT ON PENDING PROCEEDINGS.*—
2 *The termination of the Commission under this sub-*
3 *title shall not affect any proceeding to which the Com-*
4 *mission is a party that is pending on such date, in-*
5 *cluding any suit to which the Commission is a party*
6 *that is commenced prior to such date, and the appli-*
7 *cable official shall be substituted or added as a party*
8 *to the proceeding.*

9 “(2) *TREATMENT OF ORDERS.*—*In the case of a*
10 *proceeding described in paragraph (1), an order may*
11 *be issued, an appeal may be taken, judgments may be*
12 *rendered, and payments may be made as if the Com-*
13 *mission had not been terminated. Any such order*
14 *shall continue in effect until modified, terminated, su-*
15 *perseded, or revoked by an authorized Federal official,*
16 *a court of competent jurisdiction, or operation of law.*

17 “(3) *CONSTRUCTION RELATING TO DISCONTINU-*
18 *ANCE OR MODIFICATION.*—*Nothing in this subsection*
19 *shall be deemed to prohibit the discontinuance or*
20 *modification of any proceeding described in para-*
21 *graph (1) under the same terms and conditions and*
22 *to the same extent that such proceeding could have*
23 *been discontinued or modified if the Commission had*
24 *not been terminated.*

1 “(4) *REGULATIONS FOR TRANSFER OF PRO-*
2 *CEEDINGS.—The Director of the Office of Management*
3 *and Budget may issue regulations providing for the*
4 *orderly transfer of proceedings described in para-*
5 *graph (1).*

6 “(d) *JUDICIAL REVIEW.—Orders and actions of the*
7 *applicable official in the exercise of functions of the Com-*
8 *mission shall be subject to judicial review to the same extent*
9 *and in the same manner as if such orders and actions had*
10 *been issued or taken by the Commission. Any requirements*
11 *relating to notice, hearings, action upon the record, or ad-*
12 *ministrative review that apply to any function of the Com-*
13 *mission shall apply to the exercise of such function by the*
14 *applicable official.*

15 “(e) *APPLICABLE OFFICIAL DEFINED.—In this section,*
16 *the ‘applicable official’ means, with respect to any pro-*
17 *ceeding, order, or action—*

18 “(1) *the Director of the Office of Management*
19 *and Budget, to the extent that the proceeding, order,*
20 *or action relates to functions performed by the Direc-*
21 *tor of the Office of Management and Budget under*
22 *section 1002; or*

23 “(2) *the Federal Election Commission, to the ex-*
24 *tent that the proceeding, order, or action relates to a*
25 *function transferred under subtitle B.*

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. TRANSFER OF ELECTION ADMINISTRATION**
8 **FUNCTIONS TO FEDERAL ELECTION COMMIS-**
9 **SION.**

10 *“There are transferred to the Federal Election Com-*
11 *mission (hereafter in this section referred to as the ‘FEC’)*
12 *the following functions of the Commission:*

13 *“(1) The adoption of voluntary voting system*
14 *guidelines, in accordance with part 3 of subtitle A of*
15 *title II.*

16 *“(2) The testing, certification, decertification,*
17 *and recertification of voting system hardware and*
18 *software by accredited laboratories, in accordance*
19 *with subtitle B of title II.*

20 *“(3) The maintenance of a clearinghouse of in-*
21 *formation on the experiences of State and local gov-*
22 *ernments in implementing voluntary voting system*
23 *guidelines and in operating voting systems in general.*

24 *“(4) The development of a standardized format*
25 *for reports submitted by States under section 102(c)*
26 *of the Uniformed and Overseas Citizens Absentee Vot-*

1 *ing Act, and the making of such format available to*
2 *States and units of local government submitting such*
3 *reports, in accordance with section 703(b).*

4 *“(5) Any functions transferred to the Commis-*
5 *sion under section 801 (relating to functions of the*
6 *former Office of Election Administration of the FEC).*

7 *“(6) Any functions transferred to the Commis-*
8 *sion under section 802 (relating to functions described*
9 *in section 9(a) of the National Voter Registration Act*
10 *of 1993).*

11 *“(7) Any functions of the Commission under sec-*
12 *tion 1604(a) of the National Defense Authorization*
13 *Act for Fiscal Year 2002 (Public Law 107–107; 115*
14 *Stat. 1277; 42 U.S.C. 1977ff note) (relating to estab-*
15 *lishing guidelines and providing technical assistance*
16 *with respect to electronic voting demonstration*
17 *projects of the Secretary of Defense).*

18 *“(8) Any functions of the Commission under sec-*
19 *tion 589(e)(1) of the Military and Overseas Voter*
20 *Empowerment Act (42 U.S.C. 1973ff–7(e)(1)) (relat-*
21 *ing to providing technical assistance with respect to*
22 *technology pilot programs for the benefit of absent*
23 *uniformed services voters and overseas voters).*

1 **“SEC. 1012. EFFECTIVE DATE.**

2 *“The transfers under this subtitle shall take effect on*
 3 *the Commission termination date described in section*
 4 *1004.”.*

5 **(b) CLERICAL AMENDMENT.**—*The table of contents of*
 6 *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 during transition.

“Sec. 1003. Savings provisions.

“Sec. 1004. Commission termination date.

“Subtitle B—Transfer of Certain Authorities

“Sec. 1011. Transfer of election administration functions to Federal Election Commission.

“Sec. 1012. Effective date.”.

7 **SEC. 3. REPLACEMENT OF STANDARDS BOARD AND BOARD**
 8 **OF ADVISORS WITH GUIDELINES REVIEW**
 9 **BOARD.**

10 **(a) REPLACEMENT.**—*Part 2 of subtitle A of title II of*
 11 *the Help America Vote Act of 2002 (42 U.S.C. 15341 et*
 12 *seq.) is amended to read as follows:*

13 **“PART 2—GUIDELINES REVIEW BOARD**

14 **“SEC. 211. ESTABLISHMENT.**

15 *“There is established the Guidelines Review Board*
 16 *(hereafter in this part referred to as the ‘Board’).*

1 **“SEC. 212. DUTIES.**

2 *“The Board shall, in accordance with the procedures*
3 *described in part 3, review the voluntary voting system*
4 *guidelines under such part.*

5 **“SEC. 213. MEMBERSHIP.**

6 *“(a) IN GENERAL.—The Board shall be composed of*
7 *82 members appointed as follows:*

8 *“(1) One State or local election official from each*
9 *State, to be selected by the chief State election official*
10 *of the State, who shall take into account the needs of*
11 *both State and local election officials in making the*
12 *selection.*

13 *“(2) 2 members appointed by the National Con-*
14 *ference of State Legislatures.*

15 *“(3) 2 members appointed by the National Asso-*
16 *ciation of Secretaries of State.*

17 *“(4) 2 members appointed by the National Asso-*
18 *ciation of State Election Directors.*

19 *“(5) 2 members appointed by the National Asso-*
20 *ciation of County Recorders, Election Administrators,*
21 *and Clerks.*

22 *“(6) 2 members appointed by the Election Cen-*
23 *ter.*

24 *“(7) 2 members appointed by the International*
25 *Association of County Recorders, Election Officials,*
26 *and Treasurers.*

1 “(8) 2 members appointed by the United States
2 Commission on Civil Rights.

3 “(9) 2 members appointed by the Architectural
4 and Transportation Barrier Compliance Board under
5 section 502 of the Rehabilitation Act of 1973 (29
6 U.S.C. 792).

7 “(10) The chief of the Voting Section of the Civil
8 Rights Division of the Department of Justice or the
9 chief’s designee.

10 “(11) The director of the Federal Voting Assist-
11 ance Program of the Department of Defense.

12 “(12) The Director of the National Institute of
13 Standards and Technology or the Director’s designee.

14 “(13) 4 members representing professionals in
15 the field of science and technology, of whom—

16 “(A) one each shall be appointed by the
17 Speaker and the Minority Leader of the House
18 of Representatives; and

19 “(B) one each shall be appointed by the Ma-
20 jority Leader and the Minority Leader of the
21 Senate.

22 “(14) 4 members representing voter interests, of
23 whom—

24 “(A) one each shall be appointed by the
25 chair and ranking minority member of the Com-

1 *mittee on House Administration of the House of*
2 *Representatives; and*

3 “(B) *one each shall be appointed by the*
4 *chair and ranking minority member of the Com-*
5 *mittee on Rules and Administration of the Sen-*
6 *ate.*

7 “(b) *MANNER OF APPOINTMENTS.—*

8 “(1) *IN GENERAL.—Appointments shall be made*
9 *to the Board under subsection (a) in a manner which*
10 *ensures that the Board will be bipartisan in nature*
11 *and will reflect the various geographic regions of the*
12 *United States.*

13 “(2) *SPECIAL RULE FOR CERTAIN APPOINT-*
14 *MENTS.—The 2 individuals who are appointed as*
15 *members of the Board under each of the paragraphs*
16 *(2) through (9) of subsection (a) may not be members*
17 *of the same political party.*

18 “(c) *TERM OF SERVICE; VACANCY.—Members of the*
19 *Board shall serve for a term of 2 years, and may be re-*
20 *appointed. Any vacancy in the Board shall be filled in the*
21 *manner in which the original appointment was made.*

22 “(d) *EXECUTIVE BOARD.—*

23 “(1) *IN GENERAL.—Not later than 60 days after*
24 *the day on which the appointment of its members is*
25 *completed, the Board shall select 9 of its members to*

1 *serve as the Executive Board of the Guidelines Review*
2 *Board, of whom—*

3 “(A) *not more than 5 may be State election*
4 *officials;*

5 “(B) *not more than 5 may be local election*
6 *officials; and*

7 “(C) *not more than 5 may be members of*
8 *the same political party.*

9 “(2) *TERMS.—Except as provided in paragraph*
10 *(3), members of the Executive Board of the Board*
11 *shall serve for a term of 2 years and may not serve*
12 *for more than 3 consecutive terms.*

13 “(3) *STAGGERING OF INITIAL TERMS.—Of the*
14 *members first selected to serve on the Executive Board*
15 *of the Board—*

16 “(A) *3 shall serve for 1 term;*

17 “(B) *3 shall serve for 2 consecutive terms;*
18 *and*

19 “(C) *3 shall serve for 3 consecutive terms,*
20 *as determined by lot at the time the members are first*
21 *appointed.*

22 “(4) *DUTIES.—The Executive Board of the*
23 *Board shall carry out such duties of the Board as the*
24 *Board may delegate.*

1 “(e) *BYLAWS; DELEGATION OF AUTHORITY.*—The
2 *Board may promulgate such bylaws as it considers appro-*
3 *priate to provide for the operation of the Board, including*
4 *bylaws that permit the Executive Board to grant to any*
5 *of its members the authority to act on behalf of the Execu-*
6 *tive Board.*

7 “**SEC. 214. POWERS; NO COMPENSATION FOR SERVICE.**

8 “(a) *HEARINGS AND SESSIONS.*—

9 “(1) *IN GENERAL.*—To the extent that funds are
10 *made available by the Federal Election Commission,*
11 *the Board may hold such hearings for the purpose of*
12 *carrying out this Act, sit and act at such times and*
13 *places, take such testimony, and receive such evidence*
14 *as the Board considers advisable to carry out this*
15 *title, except that the Board may not issue subpoenas*
16 *requiring the attendance and testimony of witnesses*
17 *or the production of any evidence.*

18 “(2) *MEETINGS.*—The Board shall hold a meet-
19 *ing of its members—*

20 “(A) *not less frequently than once every 2*
21 *years for purposes selecting the Executive Board*
22 *and voting on the voluntary voting system guide-*
23 *lines referred to it under section 222; and*

24 “(B) *at such other times as it considers ap-*
25 *propriate for purposes of conducting such other*

1 *business as it considers appropriate consistent*
2 *with this title.*

3 “(b) *INFORMATION FROM FEDERAL AGENCIES.*—*The*
4 *Board may secure directly from any Federal department*
5 *or agency such information as the Board considers nec-*
6 *essary to carry out this Act. Upon request of the Executive*
7 *Board, the head of such department or agency shall furnish*
8 *such information to the Board.*

9 “(c) *POSTAL SERVICES.*—*The Board may use the*
10 *United States mails in the same manner and under the*
11 *same conditions as a department or agency of the Federal*
12 *Government.*

13 “(d) *ADMINISTRATIVE SUPPORT SERVICES.*—*Upon the*
14 *request of the Executive Board, the Administrator of the*
15 *General Services Administration shall provide to the Board,*
16 *on a reimbursable basis, the administrative support services*
17 *that are necessary to enable the Board to carry out its du-*
18 *ties under this title.*

19 “(e) *NO COMPENSATION FOR SERVICE.*—*Members of*
20 *the Board shall not receive any compensation for their serv-*
21 *ice, but shall be paid travel expenses, including per diem*
22 *in lieu of subsistence, at rates authorized for employees of*
23 *agencies under subchapter I of chapter 57 of title 5, United*
24 *States Code, while away from their homes or regular places*
25 *of business in the performance of services for the Board.*

1 **“SEC. 215. STATUS OF BOARD AND MEMBERS FOR PUR-**
2 **POSES OF CLAIMS AGAINST BOARD.**

3 *“(a) IN GENERAL.—The provisions of chapters 161*
4 *and 171 of title 28, United States Code, shall apply with*
5 *respect to the liability of the Board and its members for*
6 *acts or omissions performed pursuant to and in the course*
7 *of the duties and responsibilities of the Board.*

8 *“(b) EXCEPTION FOR CRIMINAL ACTS AND OTHER*
9 *WILLFUL CONDUCT.—Subsection (a) may not be construed*
10 *to limit personal liability for criminal acts or omissions,*
11 *willful or malicious misconduct, acts or omissions for pri-*
12 *vate gain, or any other act or omission outside the scope*
13 *of the service of a member of the Board.”.*

14 *(b) CONFORMING AMENDMENTS.—*

15 *(1) MEMBERSHIP ON TECHNICAL GUIDELINES*
16 *DEVELOPMENT COMMITTEE.—Section 221(c)(1) of*
17 *such Act (42 U.S.C. 15361(c)(1)) is amended—*

18 *(A) in subparagraph (A), by striking*
19 *clauses (i) and (ii) and inserting the following:*

20 *“(i) Members of the Guidelines Review*
21 *Board.”;*

22 *(B) by redesignating clause (iii) of subpara-*
23 *graph (A) as clause (ii); and*

24 *(C) in subparagraph (D), by striking*
25 *“Standards Board or Board of Advisors” and*
26 *inserting “Guidelines Review Board”.*

1 (2) *CONSIDERATION OF PROPOSED GUIDE-*
2 *LINES.—Section 222(b) of such Act (42 U.S.C.*
3 *15362(b)) is amended—*

4 (A) *in the heading, by striking “BOARD OF*
5 *ADVISORS AND STANDARDS BOARD” and insert-*
6 *ing “GUIDELINES REVIEW BOARD”; and*

7 (B) *by striking paragraphs (2) and (3) and*
8 *inserting the following:*

9 “(2) *GUIDELINES REVIEW BOARD.—The Execu-*
10 *tive Director of the Commission shall submit the*
11 *guidelines proposed to be adopted under this part (or*
12 *any modifications to such guidelines) to the Guide-*
13 *lines Review Board.”.*

14 (3) *REVIEW OF PROPOSED GUIDELINES.—Sec-*
15 *tion 222(c) of such Act (42 U.S.C. 15362(c)) is*
16 *amended by striking “the Board of Advisors and the*
17 *Standards Board shall each review” and inserting*
18 *“the Guidelines Review Board shall review”.*

19 (4) *FINAL ADOPTION OF PROPOSED GUIDE-*
20 *LINES.—Section 222(d) of such Act (42 U.S.C.*
21 *15362(d)) is amended by striking “the Board of Advi-*
22 *sors and the Standards Board” each place it appears*
23 *in paragraphs (1) and (2) and inserting “the Guide-*
24 *lines Review Board”.*

1 (5) *ASSISTANCE WITH NIST REVIEW OF TESTING*
 2 *LABORATORIES.*—Section 231(c)(1) of such Act (42
 3 U.S.C. 15371(c)(1)) is amended by striking “the
 4 Standards Board and the Board of Advisors” and in-
 5 serting “the Guidelines Review Board”.

6 (6) *ASSISTING FEC WITH DEVELOPMENT OF*
 7 *STANDARDIZED FORMAT FOR REPORTS ON ABSENTEE*
 8 *BALLOTS OF ABSENT UNIFORMED SERVICES AND*
 9 *OVERSEAS VOTERS.*—Section 703(b) of such Act (42
 10 U.S.C. 1973ff–1 note) is amended by striking “the
 11 Election Assistance Commission Board of Advisors
 12 and the Election Assistance Commission Standards
 13 Board” and inserting “the Guidelines Review Board”.

14 (c) *CLERICAL AMENDMENT.*—The table of contents of
 15 such Act is amended by amending the item relating to part
 16 2 of subtitle A of title II to read as follows:

“PART 2—GUIDELINES REVIEW BOARD

“Sec. 211. Establishment.

“Sec. 212. Duties.

“Sec. 213. Membership.

“Sec. 214. Powers; no compensation for service.

“Sec. 215. Status of Board and members for purposes of claims against Board.”.

17 (d) *EFFECTIVE DATE.*—The amendments made by this
 18 section shall take effect on the Commission termination date
 19 described in section 1004 of the Help America Vote Act of
 20 2002 (as added by section 1(a)).

1 **SEC. 4. SPECIAL REQUIREMENTS RELATING TO TRANSFER**
2 **OF CERTAIN AUTHORITIES TO FEDERAL**
3 **ELECTION COMMISSION.**

4 (a) *DEVELOPMENT AND ADOPTION OF VOLUNTARY*
5 *VOTING SYSTEM GUIDELINES.*—

6 (1) *IN GENERAL.*—*Part 3 of subtitle A of title II*
7 *of the Help America Vote Act of 2002 (42 U.S.C.*
8 *15361 et seq.) is amended by adding at the end the*
9 *following new section:*

10 **“SEC. 223. TRANSFER OF AUTHORITY TO FEDERAL ELEC-**
11 **TION COMMISSION.**

12 “(a) *TRANSFER.*—*Effective on the Commission termi-*
13 *nation date described in section 1004, the Federal Election*
14 *Commission (hereafter in this section referred to as the*
15 *‘FEC’)* shall be responsible for carrying out the duties and
16 *functions of the Commission under this part.*

17 “(b) *ROLE OF EXECUTIVE DIRECTOR.*—*The FEC shall*
18 *carry out the operation and management of its duties and*
19 *functions under this part through the Office of the Executive*
20 *Director of the FEC.”.*

21 (2) *CLERICAL AMENDMENT.*—*The table of con-*
22 *tents of such Act is amended by adding at the end of*
23 *the item relating to part 3 of subtitle A of title II the*
24 *following:*

“Sec. 223. Transfer of authority to Federal Election Commission.”.

1 (b) *TESTING, CERTIFICATION, DECERTIFICATION, AND*
 2 *RECERTIFICATION OF VOTING SYSTEM HARDWARE AND*
 3 *SOFTWARE.—*

4 (1) *IN GENERAL.—*Subtitle B of title II of such
 5 *Act (42 U.S.C. 15371 et seq.) is amended by adding*
 6 *at the end the following new section:*

7 **“SEC. 232. TRANSFER OF AUTHORITY TO FEDERAL ELEC-**
 8 **TION COMMISSION.**

9 “(a) *TRANSFER.—*

10 “(1) *IN GENERAL.—*Effective on the Commission
 11 *termination date described in section 1004, the Fed-*
 12 *eral Election Commission (hereafter in this section re-*
 13 *ferred to as the ‘FEC’) shall be responsible for car-*
 14 *rying out the duties and functions of the Commission*
 15 *under this subtitle.*

16 “(2) *ROLE OF EXECUTIVE DIRECTOR.—*The FEC
 17 *shall carry out the operation and management of its*
 18 *duties and functions under this subtitle through the*
 19 *Office of the Executive Director of the FEC.*

20 “(b) *TRANSFER OF OFFICE OF VOTING SYSTEM TEST-*
 21 *ING AND CERTIFICATION.—*

22 “(1) *IN GENERAL.—*There are transferred to the
 23 *FEC all functions that the Office of Voting System*
 24 *Testing and Certification of the Commission (here-*
 25 *after in this section referred to as the ‘Office’) exer-*

1 *cised under this subtitle before the Commission termi-*
2 *nation date.*

3 “(2) *TRANSFER OF PROPERTY, RECORDS, AND*
4 *PERSONNEL.—*

5 “(A) *PROPERTY AND RECORDS.—The con-*
6 *tracts, liabilities, records, property, appropri-*
7 *tions, and other assets and interests of the Office,*
8 *together with the unexpended balances of any ap-*
9 *propriations or other funds available to the Of-*
10 *fice, are transferred and made available to the*
11 *FEC.*

12 “(B) *PERSONNEL.—*

13 “(i) *IN GENERAL.—The personnel of*
14 *the Office are transferred to the FEC, except*
15 *that the number of full-time equivalent per-*
16 *sonnel so transferred may not exceed the*
17 *number of full-time equivalent personnel of*
18 *the Office as of January 1, 2011.*

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

1 (2) *CLERICAL AMENDMENT.*—*The table of con-*
 2 *tents of such Act is amended by adding at the end of*
 3 *the items relating to subtitle B of title II the fol-*
 4 *lowing:*

“*Sec. 232. Transfer of authority to Federal Election Commission.*”.

5 (c) *DEVELOPMENT OF STANDARDIZED FORMAT FOR*
 6 *REPORTS ON ABSENTEE BALLOTING BY ABSENT UNI-*
 7 *FORMED SERVICES VOTERS AND OVERSEAS VOTERS.*—*Sec-*
 8 *tion 703(b) of such Act (42 U.S.C. 1973ff–1 note) is amend-*
 9 *ed by adding at the end the following: “Effective on the*
 10 *Commission termination date described in section 1004, the*
 11 *Federal Election Commission shall be responsible for car-*
 12 *rying out the duties and functions of the Commission under*
 13 *this subsection.”.*

14 **SEC. 5. CONFORMING AMENDMENTS TO OTHER LAWS.**

15 (a) *FEDERAL ELECTION CAMPAIGN ACT OF 1971.*—

16 (1) *DUTIES OF FEC.*—*Section 311(a) of the Fed-*
 17 *eral Election Campaign Act of 1971 (2 U.S.C.*
 18 *438(a)) is amended—*

19 (A) *by striking “and” at the end of para-*
 20 *graph (8);*

21 (B) *by striking the period at the end of*
 22 *paragraph (9) and inserting a semicolon; and*

23 (C) *by adding at the end the following new*
 24 *paragraphs:*

1 “(10) provide for the adoption of voluntary vot-
2 ing system guidelines, in accordance with part 3 of
3 subtitle A of title II of the Help America Vote Act of
4 2002 (42 U.S.C. 15361 et seq.);

5 “(11) provide for the testing, certification, decer-
6 tification, and recertification of voting system hard-
7 ware and software by accredited laboratories, in ac-
8 cordance with subtitle B of title II of the Help Amer-
9 ica Vote Act of 2002 (42 U.S.C. 15371 et seq.);

10 “(12) maintain a clearinghouse of information
11 on the experiences of State and local governments in
12 implementing voluntary voting system guidelines and
13 in operating voting systems in general;

14 “(13) carry out the duties described in section
15 9(a) of the National Voter Registration Act of 1993;

16 “(14) develop a standardized format for reports
17 submitted by States under section 102(c) of the Uni-
18 formed and Overseas Citizens Absentee Voting Act,
19 make such format available to States and units of
20 local government submitting such reports, and receive
21 such reports in accordance with section 102(c) of such
22 Act, in accordance with section 703(b) of the Help
23 America Vote Act of 2002;

24 “(15) carry out the duties described in section
25 1604(a)(2) of the National Defense Authorization Act

1 *for Fiscal Year 2002 (Public Law 107–107; 115 Stat.*
2 *1277; 42 U.S.C. 1977ff note); and*

3 *“(16) carry out the duties described in section*
4 *589(e)(1) of the Military and Overseas Voter Em-*
5 *powerment Act (42 U.S.C. 1973ff–7(e)(1)).”.*

6 (2) *AUTHORIZATION TO ENTER INTO PRIVATE*
7 *CONTRACTS TO CARRY OUT FUNCTIONS.—Section 311*
8 *of such Act (2 U.S.C. 438) is amended by adding at*
9 *the end the following new subsection:*

10 *“(g) Subject to applicable laws, the Commission may*
11 *enter into contracts with private entities to carry out any*
12 *of the authorities that are the responsibility of the Commis-*
13 *sion under paragraphs (10) through (16) of subsection (a).”.*

14 (3) *LIMITATION ON AUTHORITY TO IMPOSE RE-*
15 *QUIREMENTS ON STATES AND UNITS OF LOCAL GOV-*
16 *ERNMENT.—Section 311 of such Act (2 U.S.C. 438),*
17 *as amended by paragraph (2), is further amended by*
18 *adding at the end the following new subsection:*

19 *“(h) Nothing in paragraphs (10) through (16) of sub-*
20 *section (a) or any other provision of this Act shall be con-*
21 *strued to grant the Commission the authority to issue any*
22 *rule, promulgate any regulation, or take any other actions*
23 *that imposes any requirement on any State or unit of local*
24 *government, except to the extent that the Commission had*
25 *such authority prior to the enactment of this subsection or*

1 *to the extent permitted under section 9(a) of the National*
2 *Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)).”.*

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

8 (c) *UNIFORMED AND OVERSEAS CITIZENS ABSENTEE*
9 *VOTING ACT.—*

10 (1) *DEVELOPMENT OF STANDARDS FOR STATE*
11 *REPORTS.—Section 101(b)(11) of the Uniformed and*
12 *Overseas Citizens Absentee Voting Act (42 U.S.C.*
13 *1973ff(b)(11)) is amended by striking “the Election*
14 *Assistance Commission” and inserting “the Federal*
15 *Election Commission”.*

16 (2) *RECEIPT OF REPORTS ON NUMBER OF AB-*
17 *SENTEE BALLOTS TRANSMITTED AND RECEIVED.—*
18 *Section 102(c) of such Act (42 U.S.C. 1973ff-1(c)) is*
19 *amended by striking “the Election Assistance Com-*
20 *mission (established under the Help America Vote Act*
21 *of 2002)” and inserting “the Federal Election Com-*
22 *mission”.*

23 (d) *ELECTRONIC VOTING DEMONSTRATION PROJECTS*
24 *FOR SECRETARY OF DEFENSE.—Section 1604(a)(2) of the*
25 *National Defense Authorization Act for Fiscal Year 2002*

1 *(Public Law 107–107; 115 Stat. 1277; 42 U.S.C. 1977ff*
 2 *note) is amended by striking “the Election Assistance Com-*
 3 *mission” and inserting “the Federal Election Commission”.*

4 *(e) TECHNOLOGY PILOT PROGRAM FOR ABSENT MILI-*
 5 *TARY AND OVERSEAS VOTERS.—Section 589(e)(1) of the*
 6 *Military and Overseas Voter Empowerment Act (42 U.S.C.*
 7 *1973ff–7(e)(1)) is amended by striking “Election Assistance*
 8 *Commission” and inserting “Federal Election Commis-*
 9 *sion”.*

10 *(f) EFFECTIVE DATE.—The amendments made by this*
 11 *section shall take effect on the Commission termination date*
 12 *described in section 1004 of the Help America Vote Act of*
 13 *2002 (as added by section 1(a)).*

14 **SEC. 6. OTHER CONFORMING AMENDMENTS RELATING TO**
 15 **TERMINATION.**

16 *(a) HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title*
 17 *5, United States Code, is amended by striking “or the Elec-*
 18 *tion Assistance Commission”.*

19 *(b) SENIOR EXECUTIVE SERVICE.—Section*
 20 *3132(a)(1)(C) of title 5, United States Code, is amended*
 21 *by striking “or the Election Assistance Commission”.*

22 *(c) INSPECTOR GENERAL ACT OF 1978.—Section*
 23 *8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C.*
 24 *App.) is amended by striking “the Election Assistance Com-*
 25 *mission,”.*

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect on the Commission termination date*
3 *described in section 1004 of the Help America Vote Act of*
4 *2002 (as added by section 1(a)).*

5 **SEC. 7. STUDIES.**

6 (a) *PROCEDURES FOR ADOPTION AND MODIFICATION*
7 *OF VOLUNTARY VOTING SYSTEM GUIDELINES.*—

8 (1) *STUDY.*—*The Comptroller General shall con-*
9 *duct a study of the procedures used to adopt and*
10 *modify the voluntary voting system guidelines appli-*
11 *cable to the administration of elections for Federal of-*
12 *fice, and shall develop recommendations on methods*
13 *to improve such procedures, taking into account the*
14 *needs of persons affected by such guidelines, including*
15 *State and local election officials, voters with disabil-*
16 *ities, absent military and overseas voters, and the*
17 *manufacturers of voting systems.*

18 (2) *REPORT.*—*Not later than 2 years after the*
19 *date of the enactment of this Act, the Comptroller*
20 *General shall submit a report to Congress on the*
21 *study conducted under paragraph (1), and shall in-*
22 *clude in the report the recommendations developed*
23 *under such paragraph.*

24 (b) *PROCEDURES FOR VOTING SYSTEM TESTING AND*
25 *CERTIFICATION.*—

1 (1) *STUDY.*—*The Federal Election Commission*
2 *shall conduct a study of the procedures for the testing,*
3 *certification, decertification, and recertification of*
4 *voting system hardware and software used in elec-*
5 *tions for Federal office, and shall develop a rec-*
6 *ommendation on the entity that is best suited to over-*
7 *see and carry out such procedures, taking into consid-*
8 *eration the needs of persons affected by such proce-*
9 *dures, including State and local election officials, vot-*
10 *ers with disabilities, absent military and overseas vot-*
11 *ers, and the manufacturers of voting systems.*

12 (2) *REPORT.*—*Not later than 2 years after the*
13 *date of the enactment of this Act, the Federal Election*
14 *Commission shall submit a report to Congress on the*
15 *study conducted under paragraph (1), and shall in-*
16 *clude in the report the recommendation developed*
17 *under such paragraph.*

Union Calendar No. 55

112TH CONGRESS
1ST Session

H. R. 672

[Report No. 112-100, Part 1]

A BILL

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

JUNE 2, 2011

Reported from the Committee on House Administration
with an amendment

JUNE 2, 2011

Committee on Science, Space, and Technology dis-
charged; committed to the Committee of the Whole
House on the State of the Union and ordered to be
printed