

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3094

To amend the Help America Vote Act of 2002 to improve the fairness and accuracy of voter registration in elections for Federal office, establish a uniform standard for the treatment of provisional ballots cast at an incorrect polling place, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2005

Mr. HOYER introduced the following bill; which was referred to the Committee on House Administration

---

## A BILL

To amend the Help America Vote Act of 2002 to improve the fairness and accuracy of voter registration in elections for Federal office, establish a uniform standard for the treatment of provisional ballots cast at an incorrect polling place, 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 “Secure America’s Vote  
5       Act of 2005”.

1 **SEC. 2. IMPROVING FAIRNESS AND ACCURACY OF VOTER**  
2 **REGISTRATION.**

3 (a) **EMPHASIZING CITIZENSHIP REQUIREMENT ON**  
4 **VOTER REGISTRATION FORMS.**—Paragraph (4) of section  
5 303(b) of the Help America Vote Act of 2002 (42 U.S.C.  
6 15483(b)(4)) is amended to read as follows:

7 “(4) **EMPHASIZING CITIZENSHIP REQUIREMENT**  
8 **ON VOTER REGISTRATION FORMS.**—The Commission  
9 shall revise the mail voter registration form devel-  
10 oped under section 9(a)(2) of the National Voter  
11 Registration Act of 1993 (42 U.S.C. 1973gg–(a)(2))  
12 so that the form provides a more prominent empha-  
13 sis of the requirement that an individual must be a  
14 citizen of the United States to register to vote in  
15 elections for Federal office.”.

16 (b) **PROHIBITING REJECTION OF APPLICATION FOR**  
17 **ERRORS CORRECTABLE BY STATE.**—Section  
18 303(a)(5)(A)(iii) of such Act (42 U.S.C.  
19 15483(a)(5)(A)(iii)) is amended to read as follows:

20 “(iii) **PROHIBITING REJECTION OF AP-**  
21 **PLICATION FOR ERRORS CORRECTABLE BY**  
22 **STATE.**—A State shall not reject an appli-  
23 cation for voter registration for Federal of-  
24 fice solely on the grounds that the indi-  
25 vidual failed to provide the information re-  
26 quired under clause (i) or made an error in

1 providing such information, if with reason-  
2 able effort the State would be able to pro-  
3 vide the correct information.”.

4 (c) PREVENTING INCORRECT REMOVAL OF ELIGIBLE  
5 VOTERS FROM VOTER REGISTRATION LIST.—

6 (1) REQUIRING DATABASES TO MEET ACCURACY  
7 STANDARDS.—

8 (A) IN GENERAL.—Section 303(a) of such  
9 Act (42 U.S.C. 15483(a)) is amended by add-  
10 ing at the end the following new paragraph:

11 “(6) REQUIRING DATABASES USED TO REMOVE  
12 VOTERS TO MEET ACCURACY STANDARDS.—

13 “(A) IN GENERAL.—Notwithstanding any  
14 other provision of this subsection or any provi-  
15 sion of the National Voter Registration Act of  
16 1993, a State may not remove an individual  
17 from the official list of eligible voters for elec-  
18 tions for Federal office in the State by reason  
19 of felony status or by reason of the death of the  
20 registrant unless the applicable database meets  
21 accuracy standards established by the Director  
22 of the National Institute of Standards and  
23 Technology in consultation with the Commis-  
24 sion.

1           “(B) APPLICABLE DATABASE DEFINED.—

2           In this paragraph, the term ‘applicable data-  
3           base’ means—

4                   “(i) in the case of an individual re-  
5                   movable from the official list of eligible  
6                   voters by reason of felony status, the data-  
7                   base used by the State to determine the in-  
8                   dividual’s felony status; or

9                   “(ii) in the case of an individual re-  
10                  movable from the official list of eligible  
11                  voters by reason of death, the database  
12                  used by the State to determine which indi-  
13                  viduals have died.”.

14           (B) CONFORMING AMENDMENT.—Section  
15           303(a)(2)(A) of such Act (42 U.S.C.  
16           15483(a)(2)(A)) is amended by striking “The  
17           appropriate” and inserting “Except as provided  
18           in paragraph (6), the appropriate”.

19           (C) DEADLINE FOR ESTABLISHMENT OF  
20           STANDARDS.—The Director of the National In-  
21           stitute of Standards and Technology shall es-  
22           tablish the accuracy standards described in sec-  
23           tion 303(a)(6) of the Help America Vote Act of  
24           2002 (as added by subparagraph (A)) not later  
25           than January 1, 2006.

1           (2) PUBLICATION OF LIST OF INDIVIDUALS RE-  
2           MOVED FROM COMPUTERIZED LIST.—Section 303(a)  
3           of such Act (42 U.S.C. 15483(a)), as amended by  
4           paragraph (1), is further amended by adding at the  
5           end the following new paragraph:

6           “(7) PUBLIC NOTICE OF INDIVIDUALS RE-  
7           MOVED FROM COMPUTERIZED LIST.—Not later than  
8           45 days before the date of any Federal election held  
9           in the State, each State shall notify the public, by  
10          posting on the Internet on the public web site of the  
11          chief State election official and through such other  
12          methods as the State considers appropriate, of—

13                 “(A) all names which have been removed  
14                 from the computerized list established and  
15                 maintained under this section since the later of  
16                 the most recent election for Federal office held  
17                 in the State or the day of the most recent pre-  
18                 vious public notice provided under this section;

19                 “(B) the criteria, processes, and proce-  
20                 dures used to determine which names were re-  
21                 moved; and

22                 “(C) information on the steps an individual  
23                 may take to appeal the removal of the individ-  
24                 ual’s name from the list and reinstate the indi-  
25                 vidual to the list prior to the election.”.

1           (3) CONFORMING AMENDMENT RELATING TO  
2           APPLICABILITY OF DEFINITION OF CHIEF STATE  
3           ELECTION OFFICIAL.—Section 253(e) of such Act  
4           (42 U.S.C. 15403(e)) is amended by striking “this  
5           subtitle” and inserting “this Act”.

6           (4) EFFECTIVE DATE.—Section 303(d)(1) of  
7           such Act (42 U.S.C. 15483(d)(1)) is amended—

8                   (A) in subparagraph (A), by striking “sub-  
9                   paragraph (B)” and inserting “subparagraphs  
10                   (B) and (C)”; and

11                   (B) by adding at the end the following new  
12                   subparagraph:

13                           “(C) EXCEPTION FOR CERTAIN REQUIRE-  
14                           MENTS.—Each State shall be required to com-  
15                           ply with the requirements of paragraph (6) of  
16                           subsection (a) (relating to accuracy standards  
17                           for databases used for voter removal) and para-  
18                           graph (7) of subsection (a) (relating to public  
19                           notice of individuals removed from the comput-  
20                           erized list) not later than January 1, 2006.”.

1 **SEC. 3. UNIFORM STANDARD FOR TREATMENT OF PROVI-**  
2 **SIONAL BALLOTS CAST AT INCORRECT POLL-**  
3 **ING PLACES.**

4 Section 302(a)(4) of the Help America Vote Act of  
5 2002 (42 U.S.C. 15482(a)(4)) is amended to read as fol-  
6 lows:

7 “(4)(A) An individual’s provisional ballot shall  
8 be counted as a vote in an election for Federal office  
9 if the appropriate State or local election official to  
10 whom the ballot or voter information is transmitted  
11 under paragraph (3) determines that the individual  
12 is eligible under State law to vote in that election—

13 “(i) at the polling place at which the indi-  
14 vidual cast the provisional ballot; or

15 “(ii) at any other polling place at which  
16 votes are cast, in the same election for the same  
17 Federal office, which is located—

18 “(I) in the case of elections held prior  
19 to 2008, in the registrar’s jurisdiction (or,  
20 at the option of the State, in the State), or

21 “(II) in the case of elections held dur-  
22 ing 2008 or any subsequent year, in the  
23 State.

24 “(B) The appropriate State or local election of-  
25 ficial shall ensure that, at each polling place for an

1 election for Federal office, a list is available which  
2 shows—

3 “(i) all individuals registered to vote in  
4 that election at all polling places located in the  
5 registrar’s jurisdiction; and

6 “(ii) for each such individual, the polling  
7 place at which the individual is registered.

8 “(C) In this paragraph, the term ‘registrar’s ju-  
9 risdiction’ has the meaning given such term in sec-  
10 tion 8(j) of the National Voter Registration Act of  
11 1993 (42 U.S.C. 1973gg-6(j)).”.

12 **SEC. 4. ADDITIONAL SECURITY REQUIREMENTS FOR VOT-**  
13 **ING SYSTEMS.**

14 Section 301(a) of the Help America Vote Act of 2002  
15 (42 U.S.C. 15481(a)) is amended by adding at the end  
16 the following new paragraphs:

17 “(7) SECURITY STANDARDS FOR VOTING SYS-  
18 TEMS USED IN FEDERAL ELECTIONS.—

19 “(A) IN GENERAL.—No voting system may  
20 be used in an election for Federal office in a  
21 State unless the manufacturer of the system,  
22 the manufacturer of the software used in con-  
23 nection with the system for the election (here-  
24 after in this paragraph referred to as the ‘elec-  
25 tion software’), and the chief State election offi-

1           cial of the State meet the applicable require-  
2           ments described in subparagraph (B).

3           “(B) REQUIREMENTS DESCRIBED.—The  
4           requirements described in this subparagraph  
5           with respect to a voting system used in a State  
6           are as follows:

7                   “(i) The chief State election official  
8                   shall ensure that all custodians of the elec-  
9                   tion software digitally sign the software (in  
10                  accordance with standards established by  
11                  the National Institute of Standards and  
12                  Technology), shall provide the Commission  
13                  with information on the steps taken to en-  
14                  sure that these custodians meet this re-  
15                  quirement, and shall make the information  
16                  provided to the Commission available to  
17                  the public by posting the information on  
18                  the Internet on the public web site of the  
19                  chief State election official.

20                  “(ii) The manufacturer of the system  
21                  and the manufacturer of the election soft-  
22                  ware shall each provide the Commission  
23                  and the chief State election official with  
24                  updated information regarding the identi-  
25                  fication of each individual who participated

1 in the writing of the software, including  
2 specific information regarding whether the  
3 individual has ever been convicted of a fel-  
4 ony or of any crime involving election  
5 fraud.

6 “(iii) The manufacturer of the system  
7 and the manufacturer of the election soft-  
8 ware (as the case may be) shall provide the  
9 source code, object code, and executable  
10 representation of the software to the Com-  
11 mission and the chief State election offi-  
12 cial, and shall notify the chief State elec-  
13 tion official immediately if the manufac-  
14 turer alters such codes.

15 “(iv) The manufacturer of the system  
16 and the manufacturer of the election soft-  
17 ware shall meet standards established by  
18 the Commission to prevent the existence or  
19 appearance of any conflict of interest with  
20 respect to candidates for public office and  
21 political parties, including standards to en-  
22 sure that each such manufacturer and its  
23 officers and directors do not hold positions  
24 of authority in any political party or in any  
25 partisan political campaign.

1           “(C) PUBLIC AVAILABILITY OF CERTAIN  
2 INFORMATION.—Upon request by any member  
3 of the public, the Commission or each chief  
4 State election official shall make available on a  
5 timely basis any information provided to or  
6 maintained by the Commission or the official  
7 under subparagraph (B)(iii).

8           “(8) PROHIBITION OF USE OF WIRELESS COM-  
9 MUNICATIONS DEVICES IN VOTING SYSTEMS.—No  
10 voting system shall contain, use, or be accessible by  
11 any wireless, power-line, or concealed communication  
12 device.

13           “(9) PROHIBITING CONNECTION OF SYSTEM OR  
14 TRANSMISSION OF SYSTEM INFORMATION OVER THE  
15 INTERNET.—No component of any voting system  
16 upon which votes are cast shall be connected to the  
17 Internet.”.

18 **SEC. 5. PUBLICATION OF STATE ELECTION LAWS.**

19           (a) REQUIRING STATES TO MAKE ELECTION LAWS  
20 AVAILABLE TO PUBLIC.—Section 302(b) of the Help  
21 America Vote Act of 2002 (42 U.S.C. 15482) is amend-  
22 ed—

23           (1) by redesignating paragraph (2) as para-  
24 graph (3); and

1           (2) by inserting after paragraph (1) the fol-  
2           lowing new paragraph:

3           “(2) PUBLICATION OF STATE ELECTION  
4           LAWS.—

5                   “(A) REGULAR REPUBLICATION DURING  
6           ELECTION YEARS.—The chief State election of-  
7           ficial of each State shall publish all State laws,  
8           regulations, procedures, and practices relating  
9           to Federal elections on January 1 of each year  
10          in which there is a regularly scheduled election  
11          for a Federal office (beginning with 2006).

12                   “(B) MAINTENANCE ON THE INTERNET.—  
13          Each State shall be required to post on the  
14          Internet on the public web site of the chief  
15          State election official all of the material re-  
16          ferred to in paragraph (1), and to update the  
17          contents of such site to reflect revisions to such  
18          material not later than 24 hours after a revi-  
19          sion is made.”.

20          (b) CONFORMING AMENDMENTS.—Section 302 of  
21          such Act (42 U.S.C. 15482) is amended—

22                   (1) in subsection (b)(3) (as redesignated by  
23                  subsection (a)(1)), by striking “this section” and in-  
24                  serting “paragraph (1)”; and

1           (2) in subsection (d), by striking “Each State”  
2           and inserting “Except as provided in subsection  
3           (b)(2), each State”.

4 **SEC. 6. CRIMINAL PENALTIES FOR VOTER SUPPRESSION.**

5           Section 905 of the Help America Vote Act of 2002  
6 (42 U.S.C. 15544) is amended by adding at the end the  
7 following new subsection:

8           “(c) VOTER SUPPRESSION.—

9                 “(1) IN GENERAL.—It is unlawful for any per-  
10           son—

11                         “(A) to assert to any State election official  
12                         that an individual is not eligible to vote in an  
13                         election for Federal office, unless the assertion  
14                         is made in good faith on the basis of facts  
15                         known to the person making the assertion; or

16                         “(B) to knowingly provide any person with  
17                         false information regarding an individual’s eligi-  
18                         bility to vote in an election for Federal office or  
19                         regarding the time, place, or manner of voting  
20                         in such an election.

21                 “(2) PENALTY.—A person who violates para-  
22           graph (1) shall be fined in accordance with title 18,  
23           United States Code, or imprisoned for not more  
24           than 1 year, or both, for each such violation.”.

1 **SEC. 7. ESTABLISHMENT OF BEST PRACTICES FOR TREAT-**  
2 **MENT OF BALLOTS OF ABSENT UNIFORMED**  
3 **SERVICES VOTERS AND OVERSEAS VOTERS.**

4 (a) IN GENERAL.—Not later than January 1, 2006,  
5 the Election Assistance Commission, working in coopera-  
6 tion with the Secretary of Defense, the Secretary of State,  
7 and the Attorney General, shall establish best practice  
8 guidelines for the treatment of absentee ballots of absent  
9 uniformed services voters and overseas voters to ensure  
10 the timely delivery of ballots to such voters and the timely  
11 return of ballots from such voters.

12 (b) DEFINITIONS.—In this section, the terms “absent  
13 uniformed services voter” and “overseas voter” have the  
14 meaning given such terms in section 107 of the Uniformed  
15 and Overseas Citizens Absentee Voting Act (42 U.S.C.  
16 1973ff–6).

17 **SEC. 8. SIMULTANEOUS TRANSMISSION OF BUDGET RE-**  
18 **QUESTS OF ELECTION ASSISTANCE COMMIS-**  
19 **SION TO PRESIDENT AND CONGRESS.**

20 (a) IN GENERAL.—Part 1 of subtitle A of title II of  
21 the Help America Vote Act of 2002 (42 U.S.C. 15321 et  
22 seq.) is amended by inserting after section 209 the fol-  
23 lowing new section:

24 **“SEC. 209A. SUBMISSION OF BUDGET REQUESTS.**

25 “Whenever the Commission submits any budget esti-  
26 mate or request to the President or the Director of the

1 Office of Management and Budget, it shall concurrently  
2 transmit a copy of such estimate or request to the Con-  
3 gress.”.

4 (b) CLERICAL AMENDMENT.—The table of contents  
5 for part 1 of subtitle A of title II of such Act is amended  
6 by inserting after the item relating to section 209 the fol-  
7 lowing new item:

“Sec. 209A. Submission of budget requests.”.

8 **SEC. 9. EFFECTIVE DATE.**

9 Except as otherwise provided, the amendments made  
10 by this Act shall apply with respect to elections for Federal  
11 office held in 2006 and each year thereafter.

○