

(4) Voting age population proportion defined

The term “voting age population proportion” means, with respect to a State, the amount equal to the quotient of—

(A) the voting age population of the State (as reported in the most recent decennial census); and

(B) the total voting age population of all States (as reported in the most recent decennial census).

(Pub. L. 107-252, title I, §101, Oct. 29, 2002, 116 Stat. 1668.)

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in subsecs. (b)(1)(A) and (c)(2), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which enacted subchapter III of this chapter and amended section 405 of this title. For complete classification of title III to the Code, see Tables.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 107-252, §1(a), Oct. 29, 2002, 116 Stat. 1666, provided that: “This Act [enacting this chapter and chapter 1526 of Title 36, Patriotic And National Observances, Ceremonies, and Organizations, amending sections 405, 1973ff, 1973ff-1, 1973ff-3, 1973gg-6, and 1973gg-7 of this title, section 438 of Title 2, The Congress, sections 3132 and 7323 of Title 5, Government Organization and Employees, section 8G of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, and section 1566 of Title 10, Armed Forces, and enacting provisions set out as notes under sections 1973ff-1 and 1973ff-3 of this title and section 8G of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5] may be cited as the ‘Help America Vote Act of 2002’.”

§ 15302. Replacement of punch card or lever voting machines**(a) Establishment of program****(1) In general**

Not later than 45 days after October 29, 2002, the Administrator shall establish a program under which the Administrator shall make a payment to each State eligible under subsection (b) of this section in which a precinct within that State used a punch card voting system or a lever voting system to administer the regularly scheduled general election for Federal office held in November 2000 (in this section referred to as a “qualifying precinct”).

(2) Use of funds

A State shall use the funds provided under a payment under this section (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in qualifying precincts within that State with a voting system (by purchase, lease, or such other arrangement as may be appropriate) that—

(A) does not use punch cards or levers;

(B) is not inconsistent with the requirements of the laws described in section 15545 of this title; and

(C) meets the requirements of section 15481 of this title.

(3) Deadline**(A) In general**

Except as provided in subparagraph (B), a State receiving a payment under the program under this section shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(B) Waiver

If a State certifies to the Administrator not later than January 1, 2004, that the State will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, the State shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State will be replaced in time for the first election for Federal office held after November 1, 2010.

(b) Eligibility**(1) In general**

A State is eligible to receive a payment under the program under this section if it submits to the Administrator a notice not later than the date that is 6 months after October 29, 2002 (in such form as the Administrator may require) that contains—

(A) certifications that the State will use the payment (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in the qualifying precincts within the State by the deadline described in subsection (a)(3) of this section;

(B) certifications that the State will continue to comply with the laws described in section 15545 of this title;

(C) certifications that the replacement voting systems will meet the requirements of section 15481 of this title; and

(D) such other information and certifications as the Administrator may require which are necessary for the administration of the program.

(2) Compliance of states that require changes to State law

In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this subsection, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.

(c) Amount of payment**(1) In general**

Subject to paragraph (2) and section 15303(b) of this title, the amount of payment made to

a State under the program under this section shall be equal to the product of—

- (A) the number of the qualifying precincts within the State; and
- (B) \$4,000.

(2) Reduction

If the amount of funds appropriated pursuant to the authority of section 15304(a)(2) of this title is insufficient to ensure that each State receives the amount of payment calculated under paragraph (1), the Administrator shall reduce the amount specified in paragraph (1)(B) to ensure that the entire amount appropriated under such section is distributed to the States.

(d) Repayment of funds for failure to meet deadlines

(1) In general

If a State receiving funds under the program under this section fails to meet the deadline applicable to the State under subsection (a)(3) of this section, the State shall pay to the Administrator an amount equal to the non-compliant precinct percentage of the amount of the funds provided to the State under the program.

(2) Noncompliant precinct percentage defined

In this subsection, the term “noncompliant precinct percentage” means, with respect to a State, the amount (expressed as a percentage) equal to the quotient of—

- (A) the number of qualifying precincts within the State for which the State failed to meet the applicable deadline; and
- (B) the total number of qualifying precincts in the State.

(e) Punch card voting system defined

For purposes of this section, a “punch card voting system” includes any of the following voting systems:

- (1) C.E.S.
- (2) Datavote.
- (3) PBC Counter.
- (4) Pollstar.
- (5) Punch Card.
- (6) Vote Recorder.
- (7) Votomatic.

(Pub. L. 107-252, title I, §102, Oct. 29, 2002, 116 Stat. 1670; Pub. L. 110-28, title VI, §6301(a), May 25, 2007, 121 Stat. 171; Pub. L. 111-8, div. D, title VI, §625(a), Mar. 11, 2009, 123 Stat. 678.)

AMENDMENTS

2009—Subsec. (a)(3)(B). Pub. L. 111-8 substituted “November 1, 2010” for “March 1, 2008”.

2007—Subsec. (a)(3)(B). Pub. L. 110-28 substituted “March 1, 2008” for “January 1, 2006”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-8, div. D, title VI, §625(b), Mar. 11, 2009, 123 Stat. 678, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the enactment of the Help America Vote Act of 2002 [Pub. L. 107-252].”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-28, title VI, §6301(b), May 25, 2007, 121 Stat. 171, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as

if included in the enactment of the Help America Vote Act of 2002 [Pub. L. 107-252].”

§ 15303. Guaranteed minimum payment amount

(a) In general

In addition to any other payments made under this subchapter, the Administrator shall make a payment to each State to which a payment is made under either section 15301 or 15302 of this title and with respect to which the aggregate amount paid under such sections is less than \$5,000,000 in an amount equal to the difference between the aggregate amount paid to the State under sections 15301 and 15302 of this title and \$5,000,000. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands, the previous sentence shall be applied as if each reference to “\$5,000,000” were a reference to “\$1,000,000”.

(b) Pro rata reductions

The Administrator shall make such pro rata reductions to the amounts described in sections 15301(d) and 15302(c) of this title as are necessary to comply with the requirements of subsection (a) of this section.

(Pub. L. 107-252, title I, §103, Oct. 29, 2002, 116 Stat. 1672.)

§ 15304. Authorization of appropriations

(a) In general

There are authorized to be appropriated for payments under this subchapter \$650,000,000, of which—

- (1) 50 percent shall be for payments under section 15301 of this title; and
- (2) 50 percent shall be for payments under section 15302 of this title.

(b) Continuing availability of funds after appropriation

Any payment made to a State under this subchapter shall be available to the State without fiscal year limitation (subject to subsection (c)(2)(B) of this section).

(c) Use of returned funds and funds remaining unexpended for requirements payments

(1) In general

The amounts described in paragraph (2) shall be transferred to the Election Assistance Commission (established under subchapter II of this chapter) and used by the Commission to make requirements payments under subpart 1 of part D of subchapter II of this chapter.

(2) Amounts described

The amounts referred to in this paragraph are as follows:

(A) Any amounts paid to the Administrator by a State under section 15302(d)(1) of this title.

(B) Any amounts appropriated for payments under this subchapter which remain unobligated as of September 1, 2003.

(d) Deposit of amounts in State election fund

When a State has established an election fund described in section 15404(b) of this title, the State shall ensure that any funds provided to the State under this subchapter are deposited and maintained in such fund.