

**MARKUP OF H.R. 672, TO TERMINATE THE ELEC-
TION ASSISTANCE COMMISSION; H.R. 1934, TO
IMPROVE CERTAIN ADMINISTRATIVE OPER-
ATIONS OF THE LIBRARY OF CONGRESS; AND
A COMMITTEE RESOLUTION ON SUBCOMMITTEE
MEMBERSHIP**

MEETING
BEFORE THE
**COMMITTEE ON HOUSE
ADMINISTRATION**
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

Held in Washington, DC, May 25, 2011

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**MARKUP OF H.R. 672, TO TERMINATE THE
ELECTION ASSISTANCE COMMISSION; H.R.
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TION ON SUBCOMMITTEE MEMBERSHIP**

WEDNESDAY, MAY 25, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 10:40 a.m., in room 1310, Longworth House Office Building, Hon. Daniel E. Lungren (chairman of the committee) presiding.

Present: Representatives Lungren, Harper, Gingrey, Schock, Nugent, Brady, Lofgren, and Gonzalez.

Staff Present: Phil Kiko, Staff Director and General Counsel; Peter Schalestock, Deputy General Counsel; Kimani Little, Parliamentarian; Joe Wallace, Legislative Clerk; Yael Barash, Assistant Legislative Clerk; Salley Wood, Communications Director; Bob Sensenbrenner, Elections Counsel; Karin Moore, Elections Counsel; Jamie Fleet, Minority Staff Director; Kyle Anderson, Minority Press Secretary; Khalil Abboud, Minority Elections Staff; and Thomas Hicks, Minority Elections Counsel.

The CHAIRMAN. I now call to order the Committee on House Administration for today's committee markup. A quorum is now present. We will proceed.

In today's markup, we will consider a bill to terminate the Election Assistance Commission. Our Subcommittee on Elections has held two hearings and heard from numerous witnesses on the agency's remaining operations and its diminished value to those who it was created to serve. We have heard and found a compelling case, I believe, as to why the EAC has outlived its usefulness and should be dissolved. Since 2005, the National Association of Secretaries of State have passed two resolutions calling for the EAC's dissolution.

We have also heard extensively from election administrators from around the country; we have heard their views, their ideas, and their suggestions. The feedback we received included where to relocate the few valuable functions currently performed by the EAC. I think these suggestions have improved H.R. 672 and will be offered, I believe, in a manager's amendment by my colleague, Mr. Harper.

H.R. 1934, a bill to improve operations at the Library of Congress, allows the Library to retain the proceeds from the sale or disposal of surplus property for the purpose of purchasing similar or like property in that current or subsequent fiscal year. This is an authority that has been granted to both the U.S. Capitol Police and the Architect of the Capitol in recent years and has been an asset to both entities. This is a sensible authorization. I hope my colleagues will support H.R. 1934.

And, finally, we will consider a controversial resolution to designate Mr. Gonzalez as the ranking member on the Subcommittee on Elections. Mr. Gonzalez is a hardworking—

Mr. BRADY. Could we do that first before we—

The Chairman [continuing]. Member of this committee. And I look forward to passing it, even on a tough, close vote.

I would like to thank each of my colleagues for being here today. I would like to recognize the ranking member, Mr. Brady, for his cooperation on many things and working, I think, to help us make this place a more efficient place so that Members might do their job for their constituents.

Mr. Brady.

[The statement of the chairman follows:]



Chairman Lungren:

I now call to order the Committee on House Administration for today's committee markup. A quorum is present so we may proceed.

In today's markup we will consider three items. First, we will take up H.R. 672, a bill to terminate the Election Assistance Commission. Our Subcommittee on Elections has held *two* hearings and heard from *numerous* witnesses on the agency's remaining operations and its diminished value to those it was created to serve.

We have heard and found a compelling case as to why the EAC has outlived its usefulness and should be dissolved. Since 2005, the National Association of Secretaries of State has passed *two* resolutions



calling for the EAC's dissolution. We have also heard extensively from election administrators from around the country. We heard their views, their ideas, and their suggestions. The feedback we received included where to relocate the few valuable functions currently performed by the EAC. These suggestions have improved H.R. 672 and will be offered in a Manager's Amendment by my colleague, Mr. Harper.

H.R. 1934, a bill to improve operations at the Library of Congress, allows the Library to retain the proceeds from the sale or disposal of surplus property for the purpose of purchasing similar or like property in that current or subsequent fiscal year. This is authority that has been granted to both the United States Capitol Police and the Architect of the Capitol in recent years, and it has been an asset to both



COMMITTEE ON
HOUSE ADMINISTRATION
REPUBLICAN OFFICE

Committee on House Administration Markup
H.R. 672, H.R. 1934, and Subcommittee Reorganization
Chairman Daniel E. Lungren - Opening Statement
Wednesday, May 25th, 2011

entities. This is a sensible authorization and I hope my colleagues will support H.R. 1934.

Finally, we will consider a resolution to designate Mr. Gonzalez the Ranking Member of the Subcommittee on Elections. Mr. Gonzalez is a hard-working and valued member of this committee and I look forward to passing this resolution.

I want to thank each of my colleagues for being here today. I would now like to recognize the Ranking Member, Mr. Brady, for the purpose of providing an opening statement. Ranking Member Brady . .

Mr. BRADY. Thank you, Mr. Chairman. I will be brief.

I think the Election Assistance Commission has performed an important role in supporting the American election system. The EAC was designed to be primarily a clearinghouse for information and best practices to support our local election officials who serve on the front line in our voting and registration systems.

It continues to serve an invaluable support role for State and local election officials, as well as for civil rights organizations, who use it as a resource. While I agree that the agency has fallen short of its full potential, I join with the voter advocacy community, disability advocates, and many local elected officials in calling for reform at the agency, but not to terminate it.

The EAC Testing and Certification Program holds voting systems manufacturers accountable both in testing and performance in the field through the EAC Quality Monitoring Program. The EAC continues to work with the Department of Defense and local election officials to improve the voting process for our men and women fighting in our military and living and working overseas. These and other functions should not be transferred to the FEC, as this bill would do, since the FEC has consistently deadlocked on even the most basic issues.

This legislation appears to offer more occasions for paralysis instead of support to the American electoral system. The American people deserve to know, even at times of financial and economic difficulty, that their ability to have their voices heard remains a priority. And I urge my colleagues to oppose this bill.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman for his comments.

I would now call up and lay before the committee H.R. 672, a bill to terminate the Election Assistance Commission.

Without objection, the bill will be considered as read and open to amendment at any point.

[The bill follows:]

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 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.—

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

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

15 **“SEC. 1012. TRANSFER OF ELECTION ADMINISTRATION**
16 **FUNCTIONS TO FEDERAL ELECTION COMMIS-**
17 **SION.**

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

21 “(1) The adoption of voluntary voting system
22 guidelines, in accordance with the requirements for
23 notice and comment described in section 222(a) (but
24 without regard to any requirements of section 222
25 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(e) 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(e)
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)).

The CHAIRMAN. But I understand that Mr. Harper, the chairman of the Subcommittee on Elections that sponsored the bill, plans to offer an amendment in the nature of a substitute.

Mr. Harper.

Mr. HARPER. Thank you, Mr. Chairman.

I would like to offer a manager's amendment to H.R. 672.

As the chairman noted in his opening remarks, this committee has listened extensively to the elections community—

The CHAIRMAN. Without objection, the amendment in the nature of a substitute will be considered as read.

[The amendment in the nature of a substitute follows:]

1 **“SEC. 1002. TRANSFER OF OPERATIONS TO OFFICE OF MAN-**
2 **AGEMENT AND BUDGET DURING TRANSI-**
3 **TION.**

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

7 “(1) perform the functions of the Commission
8 with respect to contracts and agreements described
9 in subsection 1003(a) until the expiration of such
10 contracts and agreements, but shall not renew any
11 such contract or agreement; and

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

14 “(b) EXCEPTION FOR FUNCTIONS TRANSFERRED TO
15 OTHER AGENCIES.—Subsection (a) does not apply with
16 respect to any functions of the Commission that are trans-
17 ferred under subtitle B.

18 **“SEC. 1003. SAVINGS PROVISIONS.**

19 “(a) PRIOR CONTRACTS.—The termination of the
20 Commission under this subtitle shall not affect any con-
21 tract that has been entered into by the Commission before
22 the Commission termination date. All such contracts shall
23 continue in effect until modified, superseded, terminated,
24 set aside, or revoked in accordance with law by an author-
25 ized Federal official, a court of competent jurisdiction, or
26 operation of law.

1 “(b) OBLIGATIONS OF RECIPIENTS OF PAYMENTS.—

2 “(1) IN GENERAL.—The termination of the
3 Commission under this subtitle shall not affect the
4 authority of any recipient of a payment made by the
5 Commission under this Act prior to the Commission
6 termination date to use any portion of the payment
7 that remains unobligated as of the Commission ter-
8 mination date, and the terms and conditions that
9 applied to the use of the payment at the time the
10 payment was made shall continue to apply.

11 “(2) SPECIAL RULE FOR STATES RECEIVING
12 REQUIREMENTS PAYMENTS.—In the case of a re-
13 quirements payment made to a State under part 1
14 of subtitle D of title II, the terms and conditions ap-
15 plicable to the use of the payment for purposes of
16 the State’s obligations under this subsection (as well
17 as any obligations in effect prior to the termination
18 of the Commission under this subtitle), and for pur-
19 poses of any applicable requirements imposed by
20 regulations promulgated by the Director of the Of-
21 fice of Management and Budget, shall be the general
22 terms and conditions applicable under Federal law,
23 rules, and regulations to payments made by the Fed-
24 eral government to a State, except that to the extent
25 that such general terms and conditions are incon-

1 sistent with the terms and conditions that are speci-
2 fied under part 1 of subtitle D of title II or section
3 902, the terms and conditions specified under such
4 part and such section shall apply.

5 “(c) PENDING PROCEEDINGS.—

6 “(1) NO EFFECT ON PENDING PROCEEDINGS.—
7 The termination of the Commission under this sub-
8 title shall not affect any proceeding to which the
9 Commission is a party that is pending on such date,
10 including any suit to which the Commission is a
11 party that is commenced prior to such date, and the
12 applicable official shall be substituted or added as a
13 party to the proceeding.

14 “(2) TREATMENT OF ORDERS.—In the case of
15 a proceeding described in paragraph (1), an order
16 may be issued, an appeal may be taken, judgments
17 may be rendered, and payments may be made as if
18 the Commission had not been terminated. Any such
19 order shall continue in effect until modified, termi-
20 nated, superseded, or revoked by an authorized Fed-
21 eral official, a court of competent jurisdiction, or op-
22 eration of law.

23 “(3) CONSTRUCTION RELATING TO DIS-
24 CONTINUANCE OR MODIFICATION.—Nothing in this
25 subsection shall be deemed to prohibit the dis-

1 continuance or modification of any proceeding de-
2 scribed in paragraph (1) under the same terms and
3 conditions and to the same extent that such pro-
4 ceeding could have been discontinued or modified if
5 the Commission had not been terminated.

6 “(4) REGULATIONS FOR TRANSFER OF PRO-
7 CEEDINGS.—The Director of the Office of Manage-
8 ment and Budget may issue regulations providing
9 for the orderly transfer of proceedings described in
10 paragraph (1).

11 “(d) JUDICIAL REVIEW.—Orders and actions of the
12 applicable official in the exercise of functions of the Com-
13 mission shall be subject to judicial review to the same ex-
14 tent and in the same manner as if such orders and actions
15 had been issued or taken by the Commission. Any require-
16 ments relating to notice, hearings, action upon the record,
17 or administrative review that apply to any function of the
18 Commission shall apply to the exercise of such function
19 by the applicable official.

20 “(e) APPLICABLE OFFICIAL DEFINED.—In this see-
21 tion, the ‘applicable official’ means, with respect to any
22 proceeding, order, or action—

23 “(1) the Director of the Office of Management
24 and Budget, to the extent that the proceeding,
25 order, or action relates to functions performed by

1 the Director of the Office of Management and Budg-
2 et under section 1002; or

3 “(2) the Federal Election Commission, to the
4 extent that the proceeding, order, or action relates
5 to a function transferred under subtitle B.

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

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

10 **“Subtitle B—Transfer of Certain**
11 **Authorities**

12 **“SEC. 1011. TRANSFER OF ELECTION ADMINISTRATION**
13 **FUNCTIONS TO FEDERAL ELECTION COMMIS-**
14 **SION.**

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

18 “(1) The adoption of voluntary voting system
19 guidelines, in accordance with part 3 of subtitle A
20 of title II.

21 “(2) The testing, certification, decertification,
22 and recertification of voting system hardware and
23 software by accredited laboratories, in accordance
24 with subtitle B of title II.

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

6 “(4) The development of a standardized format
7 for reports submitted by States under section 102(c)
8 of the Uniformed and Overseas Citizens Absentee
9 Voting Act, and the making of such format available
10 to States and units of local government submitting
11 such reports; in accordance with section 703(b).

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

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

20 “(7) Any functions of the Commission under
21 section 1604(a) of the National Defense Authoriza-
22 tion Act for Fiscal Year 2002 (Public Law 107—
23 107; 115 Stat. 1277; 42 U.S.C. 1977ff note) (relat-
24 ing to establishing guidelines and providing technical

1 assistance with respect to electronic voting dem-
2 onstration projects of the Secretary of Defense).

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

9 **“SEC. 1012. EFFECTIVE DATE.**

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

13 (b) **CLERICAL AMENDMENT.**—The table of contents
14 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. Transfer of election administration functions to Federal Election
Commission.

“Sec. 1012. Effective date.”.

1 **SEC. 3. REPLACEMENT OF STANDARDS BOARD AND BOARD**
2 **OF ADVISORS WITH GUIDELINES REVIEW**
3 **BOARD.**

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

7 **“PART 2—GUIDELINES REVIEW BOARD**

8 **“SEC. 211. ESTABLISHMENT.**

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

11 **“SEC. 212. DUTIES.**

12 “The Board shall, in accordance with the procedures
13 described in part 3, review the voluntary voting system
14 guidelines under such part.

15 **“SEC. 213. MEMBERSHIP.**

16 “(a) IN GENERAL.—The Board shall be composed of
17 82 members appointed as follows:

18 “(1) One State or local election official from
19 each State, to be selected by the chief State election
20 official of the State, who shall take into account the
21 needs of both State and local election officials in
22 making the selection.

23 “(2) 2 members appointed by the National Con-
24 ference of State Legislatures.

25 “(3) 2 members appointed by the National As-
26 sociation of Secretaries of State.

1 “(4) 2 members appointed by the National As-
2 sociation of State Election Directors.

3 “(5) 2 members appointed by the National As-
4 sociation of County Recorders, Election Administra-
5 tors, and Clerks.

6 “(6) 2 members appointed by the Election Cen-
7 ter.

8 “(7) 2 members appointed by the International
9 Association of County Recorders, Election Officials,
10 and Treasurers.

11 “(8) 2 members appointed by the United States
12 Commission on Civil Rights.

13 “(9) 2 members appointed by the Architectural
14 and Transportation Barrier Compliance Board
15 under section 502 of the Rehabilitation Act of 1973
16 (29 U.S.C. 792).

17 “(10) The chief of the Voting Section of the
18 Civil Rights Division of the Department of Justice
19 or the chief’s designee.

20 “(11) The director of the Federal Voting As-
21 sistance Program of the Department of Defense.

22 “(12) The Director of the National Institute of
23 Standards and Technology or the Director’s des-
24 ignee.

1 “(13) 4 members representing professionals in
2 the field of science and technology, of whom—

3 “(A) one each shall be appointed by the
4 Speaker and the Minority Leader of the House
5 of Representatives; and

6 “(B) one each shall be appointed by the
7 Majority Leader and the Minority Leader of the
8 Senate.

9 “(14) 4 members representing voter interests,
10 of whom—

11 “(A) one each shall be appointed by the
12 chair and ranking minority member of the
13 Committee on House Administration of the
14 House of Representatives; and

15 “(B) one each shall be appointed by the
16 chair and ranking minority member of the
17 Committee on Rules and Administration of the
18 Senate.

19 “(b) MANNER OF APPOINTMENTS.—

20 “(1) IN GENERAL.—Appointments shall be
21 made to the Board under subsection (a) in a manner
22 which ensures that the Board will be bipartisan in
23 nature and will reflect the various geographic re-
24 gions of the United States.

1 “(2) SPECIAL RULE FOR CERTAIN APPOINT-
2 MENTS.—The 2 individuals who are appointed as
3 members of the Board under each of the paragraphs
4 (2) through (9) of subsection (a) may not be mem-
5 bers of the same political party.

6 “(e) TERM OF SERVICE; VACANCY.—Members of the
7 Board shall serve for a term of 2 years, and may be re-
8 appointed. Any vacancy in the Board shall be filled in the
9 manner in which the original appointment was made.

10 “(d) EXECUTIVE BOARD.—

11 “(1) IN GENERAL.—Not later than 60 days
12 after the day on which the appointment of its mem-
13 bers is completed, the Board shall select 9 of its
14 members to serve as the Executive Board of the
15 Guidelines Review Board, of whom—

16 “(A) not more than 5 may be State elec-
17 tion officials;

18 “(B) not more than 5 may be local election
19 officials; and

20 “(C) not more than 5 may be members of
21 the same political party.

22 “(2) TERMS.—Except as provided in paragraph
23 (3), members of the Executive Board of the Board
24 shall serve for a term of 2 years and may not serve
25 for more than 3 consecutive terms.

1 “(3) STAGGERING OF INITIAL TERMS.—Of the
2 members first selected to serve on the Executive
3 Board of the Board—

4 “(A) 3 shall serve for 1 term;

5 “(B) 3 shall serve for 2 consecutive terms;

6 and

7 “(C) 3 shall serve for 3 consecutive terms,
8 as determined by lot at the time the members are
9 first appointed.

10 “(4) DUTIES.—The Executive Board of the
11 Board shall carry out such duties of the Board as
12 the Board may delegate.

13 “(e) BYLAWS; DELEGATION OF AUTHORITY.—The
14 Board may promulgate such bylaws as it considers appro-
15 priate to provide for the operation of the Board, including
16 bylaws that permit the Executive Board to grant to any
17 of its members the authority to act on behalf of the Execu-
18 tive Board.

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

20 “(a) HEARINGS AND SESSIONS.—

21 “(1) IN GENERAL.—To the extent that funds
22 are made available by the Federal Election Commis-
23 sion, the Board may hold such hearings for the pur-
24 pose of carrying out this Act, sit and act at such
25 times and places, take such testimony, and receive

1 such evidence as the Board considers advisable to
2 carry out this title, except that the Board may not
3 issue subpoenas requiring the attendance and testi-
4 mony of witnesses or the production of any evidence.

5 “(2) MEETINGS.—The Board shall hold a meet-
6 ing of its members—

7 “(A) not less frequently than once every 2
8 years for purposes selecting the Executive
9 Board and voting on the voluntary voting sys-
10 tem guidelines referred to it under section 222;
11 and

12 “(B) at such other times as it considers
13 appropriate for purposes of conducting such
14 other business as it considers appropriate con-
15 sistent with this title.

16 “(b) INFORMATION FROM FEDERAL AGENCIES.—
17 The Board may secure directly from any Federal depart-
18 ment or agency such information as the Board considers
19 necessary to carry out this Act. Upon request of the Exec-
20 utive Board, the head of such department or agency shall
21 furnish such information to the Board.

22 “(c) POSTAL SERVICES.—The Board may use the
23 United States mails in the same manner and under the
24 same conditions as a department or agency of the Federal
25 Government.

1 for private gain, or any other act or omission outside the
2 scope of the service of a member of the Board.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) MEMBERSHIP ON TECHNICAL GUIDELINES
5 DEVELOPMENT COMMITTEE.—Section 221(e)(1) of
6 such Act (42 U.S.C. 15361(e)(1)) is amended—

7 (A) in subparagraph (A), by striking
8 clauses (i) and (ii) and inserting the following:

9 “(i) Members of the Guidelines Re-
10 view Board.”;

11 (B) by redesignating clause (iii) of sub-
12 paragraph (A) as clause (ii); and

13 (C) in subparagraph (D), by striking
14 “Standards Board or Board of Advisors” and
15 inserting “Guidelines Review Board”.

16 (2) CONSIDERATION OF PROPOSED GUIDE-
17 LINES.—Section 222(b) of such Act (42 U.S.C.
18 15362(b)) is amended—

19 (A) in the heading, by striking “BOARD OF
20 ADVISORS AND STANDARDS BOARD” and in-
21 serting “GUIDELINES REVIEW BOARD”; and

22 (B) by striking paragraphs (2) and (3) and
23 inserting the following:

24 “(2) GUIDELINES REVIEW BOARD.—The Execu-
25 tive Director of the Commission shall submit the

1 guidelines proposed to be adopted under this part
2 (or any modifications to such guidelines) to the
3 Guidelines Review Board.”.

4 (3) REVIEW OF PROPOSED GUIDELINES.—Sec-
5 tion 222(e) of such Act (42 U.S.C. 15362(e)) is
6 amended by striking “the Board of Advisors and the
7 Standards Board shall each review” and inserting
8 “the Guidelines Review Board shall review”.

9 (4) FINAL ADOPTION OF PROPOSED GUIDE-
10 LINES.—Section 222(d) of such Act (42 U.S.C.
11 15362(d)) is amended by striking “the Board of Ad-
12 visors and the Standards Board” each place it ap-
13 pears in paragraphs (1) and (2) and inserting “the
14 Guidelines Review Board”.

15 (5) ASSISTANCE WITH NIST REVIEW OF TEST-
16 ING LABORATORIES.—Section 231(e)(1) of such Act
17 (42 U.S.C. 15371(e)(1)) is amended by striking “the
18 Standards Board and the Board of Advisors” and
19 inserting “the Guidelines Review Board”.

20 (6) ASSISTING FEC WITH DEVELOPMENT OF
21 STANDARDIZED FORMAT FOR REPORTS ON ABSEN-
22 TEE BALLOTS OF ABSENT UNIFORMED SERVICES
23 AND OVERSEAS VOTERS.—Section 703(b) of such
24 Act (42 U.S.C. 1973ff—1 note) is amended by strik-
25 ing “the Election Assistance Commission Board of

1 Advisors and the Election Assistance Commission
2 Standards Board” and inserting “the Guidelines Re-
3 view Board”.

4 (c) CLERICAL AMENDMENT.—The table of contents
5 of such Act is amended by amending the item relating to
6 part 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.”.

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

11 **SEC. 4. SPECIAL REQUIREMENTS RELATING TO TRANSFER**
12 **OF CERTAIN AUTHORITIES TO FEDERAL**
13 **ELECTION COMMISSION.**

14 (a) DEVELOPMENT AND ADOPTION OF VOLUNTARY
15 VOTING SYSTEM GUIDELINES.—

16 (1) IN GENERAL.—Part 3 of subtitle A of title
17 II of the Help America Vote Act of 2002 (42 U.S.C.
18 15361 et seq.) is amended by adding at the end the
19 following new section:

1 **“SEC. 223. TRANSFER OF AUTHORITY TO FEDERAL ELEC-**
2 **TION COMMISSION.**

3 “(a) TRANSFER.—Effective on the Commission ter-
4 mination date described in section 1004, the Federal Elec-
5 tion Commission (hereafter in this section referred to as
6 the ‘FEC’) shall be responsible for carrying out the duties
7 and functions of the Commission under this part.

8 “(b) ROLE OF EXECUTIVE DIRECTOR.—The FEC
9 shall carry out the operation and management of its duties
10 and functions under this part through the Office of the
11 Executive Director of the FEC.”.

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents of such Act is amended by adding at the end
14 of the item relating to part 3 of subtitle A of title
15 II the following:

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

16 (b) TESTING, CERTIFICATION, DECERTIFICATION,
17 AND RECERTIFICATION OF VOTING SYSTEM HARDWARE
18 AND SOFTWARE.—

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

22 **“SEC. 232. TRANSFER OF AUTHORITY TO FEDERAL ELEC-**
23 **TION COMMISSION.**

24 “(a) TRANSFER.—

1 “(1) IN GENERAL.—Effective on the Commis-
2 sion termination date described in section 1004, the
3 Federal Election Commission (hereafter in this sec-
4 tion referred to as the ‘FEC’) shall be responsible
5 for carrying out the duties and functions of the
6 Commission under this subtitle.

7 “(2) ROLE OF EXECUTIVE DIRECTOR.—The
8 FEC shall carry out the operation and management
9 of its duties and functions under this subtitle
10 through the Office of the Executive Director of the
11 FEC.

12 “(b) TRANSFER OF OFFICE OF VOTING SYSTEM
13 TESTING AND CERTIFICATION.—

14 “(1) IN GENERAL.—There are transferred to
15 the FEC all functions that the Office of Voting Sys-
16 tem Testing and Certification of the Commission
17 (hereafter in this section referred to as the ‘Office’)
18 exercised under this subtitle before the Commission
19 termination date.

20 “(2) TRANSFER OF PROPERTY, RECORDS, AND
21 PERSONNEL.—

22 “(A) PROPERTY AND RECORDS.—The con-
23 tracts, liabilities, records, property, appropria-
24 tions, and other assets and interests of the Of-
25 fice, together with the unexpended balances of

1 any appropriations or other funds available to
2 the Office, are transferred and made available
3 to the FEC.

4 “(B) PERSONNEL.—

5 “(i) IN GENERAL.—The personnel of
6 the Office are transferred to the FEC, ex-
7 cept that the number of full-time equiva-
8 lent personnel so transferred may not ex-
9 ceed the number of full-time equivalent
10 personnel of the Office as of January 1,
11 2011.

12 “(ii) TREATMENT OF EMPLOYEES AT
13 TIME OF TRANSFER.—An individual who is
14 an employee of the Office who is trans-
15 ferred under this section shall not be sepa-
16 rated or reduced in grade or compensation
17 because of the transfer during the 1-year
18 period that begins on the date of the trans-
19 fer.”.

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

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

24 (c) DEVELOPMENT OF STANDARDIZED FORMAT FOR
25 REPORTS ON ABSENTEE BALLOTING BY ABSENT UNI-

1 FORMED SERVICES VOTERS AND OVERSEAS VOTERS.—
2 Section 703(b) of such Act (42 U.S.C. 1973ff—1 note)
3 is amended by adding at the end the following: “Effective
4 on the Commission termination date described in section
5 1004, the Federal Election Commission shall be respon-
6 sible for carrying out the duties and functions of the Com-
7 mission under this subsection.”.

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

9 (a) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—

10 (1) DUTIES OF FEC.—Section 311(a) of the
11 Federal Election Campaign Act of 1971 (2 U.S.C.
12 438(a)) is amended—

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

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

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

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

23 “(11) provide for the testing, certification, de-
24 certification, and recertification of voting system
25 hardware and software by accredited laboratories, in

1 accordance with subtitle B of title II of the Help
2 America Vote Act of 2002 (42 U.S.C. 15371 et
3 seq.);

4 “(12) maintain a clearinghouse of information
5 on the experiences of State and local governments in
6 implementing voluntary voting system guidelines and
7 in operating voting systems in general;

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

10 “(14) develop a standardized format for reports
11 submitted by States under section 102(e) of the Uni-
12 formed and Overseas Citizens Absentee Voting Act,
13 make such format available to States and units of
14 local government submitting such reports, and re-
15 ceive such reports in accordance with section 102(e)
16 of such Act, in accordance with section 703(b) of the
17 Help America Vote Act of 2002;

18 “(15) carry out the duties described in section
19 1604(a)(2) of the National Defense Authorization
20 Act for Fiscal Year 2002 (Public Law 107—107;
21 115 Stat. 1277; 42 U.S.C. 1977ff note); and

22 “(16) carry out the duties described in section
23 589(e)(1) of the Military and Overseas Voter Em-
24 powerment Act (42 U.S.C. 1973ff—7(e)(1)).”.

1 (2) AUTHORIZATION TO ENTER INTO PRIVATE
2 CONTRACTS TO CARRY OUT FUNCTIONS.—Section
3 311 of such Act (2 U.S.C. 438) is amended by add-
4 ing at the end the following new subsection:

5 “(g) Subject to applicable laws, the Commission may
6 enter into contracts with private entities to carry out any
7 of the authorities that are the responsibility of the Com-
8 mission under paragraphs (10) through (16) of subsection
9 (a).”.

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

16 “(h) Nothing in paragraphs (10) through (16) of sub-
17 section (a) or any other provision of this Act shall be con-
18 strued to grant the Commission the authority to issue any
19 rule, promulgate any regulation, or take any other actions
20 that imposes any requirement on any State or unit of local
21 government, except to the extent that the Commission had
22 such authority prior to the enactment of this subsection
23 or to the extent permitted under section 9(a) of the Na-
24 tional Voter Registration Act of 1993 (42 U.S.C.
25 1973gg—7(a)).”.

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(a)) is amended by
4 striking “Election Assistance Commission” and inserting
5 “Federal Election Commission”.

6 (c) UNIFORMED AND OVERSEAS CITIZENS ABSEN-
7 TEE VOTING ACT.—

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

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

21 (d) ELECTRONIC VOTING DEMONSTRATION
22 PROJECTS FOR SECRETARY OF DEFENSE.—Section
23 1604(a)(2) of the National Defense Authorization Act for
24 Fiscal Year 2002 (Public Law 107—107; 115 Stat. 1277;
25 42 U.S.C. 1977ff note) is amended by striking “the Elec-

1 tion Assistance Commission” and inserting “the Federal
2 Election Commission”.

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

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

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

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

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

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the Commission termi-
3 nation date described in section 1004 of the Help America
4 Vote Act of 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
9 conduct 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
12 office, and shall develop recommendations on meth-
13 ods to improve such procedures, taking into account
14 the needs of persons affected by such guidelines, in-
15 cluding State and local election officials, voters with
16 disabilities, absent military and overseas voters, and
17 the 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 test-
3 ing, certification, decertification, and recertification
4 of 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
7 oversee and carry out such procedures, taking into
8 consideration the needs of persons affected by such
9 procedures, including State and local election offi-
10 cials, voters with disabilities, absent military and
11 overseas voters, and the manufacturers of voting
12 systems.

13 (2) REPORT.—Not later than 2 years after the
14 date of the enactment of this Act, the Federal Elec-
15 tion Commission shall submit a report to Congress
16 on the study conducted under paragraph (1), and
17 shall include in the report the recommendation de-
18 veloped under such paragraph.



Mr. HARPER. Thank you again, Mr. Chairman.

The CHAIRMAN. And I would now recognize the gentleman for 5 minutes to speak in favor of the amendment.

Mr. HARPER. Thank you. I just was in such a hurry, Mr. Chairman.

The CHAIRMAN. I know that.

Mr. HARPER. As the chairman noted in his opening remarks, this is something that we have sought input on in a great way. We have consulted with officials from across this country in an effort to do what we can to support the integrity of our elections more efficiently, recognizing the long-term budget limits we are also facing.

The EAC initially had a 3-year mandate, but, as with most government programs, it found a way to maintain its existence. Unfortunately, it became a bloated bureaucracy that mismanaged taxpayer dollars and has been the subject of two discriminatory hiring lawsuits. Meanwhile, two of the EAC's four functions are essentially complete, and the others can be performed more efficiently without an entire agency supporting them.

The best course we can take, as the EAC's committee of jurisdiction, is to dissolve the agency, end its wasteful spending, and transfer its remaining beneficial functions to another location. This manager's amendment terminates the EAC and transfers the EAC's Office of Voting System Testing and Certification to the Federal Election Commission.

It also creates formal mechanisms for input into the development of the Voluntary Voting Systems Guidelines by adding a guidelines review board composed of State and local election officials and other important stakeholders. It maintains the existing Technical Guidelines Development Committee in its current form.

These changes to the bill came after listening to officials and administrators throughout the country who were very familiar with the voting and elections process. And I am very thankful and appreciative for their input.

The manager's amendment includes other changes based on suggestions we received. It transfers the testing and certification functions to the Federal Election Commission rather than to NIST. And it calls for two studies to look at the best way to provide a national voting machine testing and certification system that will be effective and beneficial.

Mr. Chairman, I will close by saying that, as we sit here today, the Treasury Department is, in effect, using accounting gimmicks to delay facing the fact that we cannot cut our spending addiction. To sustain an agency that has done its assigned studies, dispersed its assigned grants, and fulfilled its mandate is the definition of irresponsibility.

We haven't rushed through this process. We have held hearings. We can go back to hearings that we held in the previous Congress. We have listened to numerous experts. We have kept and re-signed programs that provide true value for election administrators.

And now is simply the time to end the EAC and save American taxpayers \$14 million a year. It doesn't get any easier to find an example of wasteful spending. If we can't do this, we might as well

pack up and go home, because this is as obvious and clear as it gets.

Mr. Chairman, thank you for the time, and I yield back.

The CHAIRMAN. The gentleman yields back his time.

Are there Members on the majority side who wish to be heard?

Mr. Gonzalez.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

And I guess I need to start off by making an observation. And I understand that we have had witnesses and we have had the National Association, of course, of Secretaries of State. Their position that was taken way back in 2005, it is not a new position. I will say they have been very consistent, maybe incorrectly, but, nevertheless, very, very consistent.

The other thing that I have pointed out was, to me, there was an obvious disconnect between the Secretaries of State, for some reason, in some States with the election officials on the ground. And I failed to make the right analogy. I kept saying the Secretaries of State, in many ways, were like the generals and the election officials were the troops on the ground. But then, on closer observation and reflection, Mr. Chairman, I actually came to the conclusion that that is not a good characterization.

If you look at the election officials—and some of them have testified, and some of their comments have been made a part of the record—in their praise of what the Election Assistance Commission has done for them specifically, you will note that even the election official in Sacramento County in California probably takes care of the voting needs of a population greater than the Secretary of State of New Hampshire. I know that Jackie Callanen, the elections administrator in my county, has about 1.5 million to 1.7 million people, far in excess of some of the testimony from the Secretary of State from, let's say, New Hampshire.

So I think what is happening and the value of what the Election Assistance Commission brings to the election processes somehow has been reduced, diminished, and such by the Secretaries of State for whatever reason. But the real testimony, in my opinion, comes from those individuals that really carry out the functions of holding elections and have and see value in what the EAC does.

I will say, it is addressing the point of cost. I remember reviewing letters from the Federal Elections Commission that said, "Yeah, maybe we will be able to do this"—in essence, this is the way I interpreted the letter, and my colleague, the author of the bill, may have read it a little differently. But what they said is, We need more personnel, and we need more money. They put us on notice, You are going to have to give us more money. And, yeah, We think we can do it. But, again, what agency or department, you know, wouldn't make a representation that they can handle just about anything you are going to throw at them as long as you plus-up personnel and funding?

The only thing—I will conclude in my statement, as far as my opposition to my dear colleague's—I guess it is well-intentioned, it is just not the best thing. You know, "off with the heads" has never been a good process. And I think what we will be discussing later in the way of amendments may address some of the concerns that

you rightfully have. Because we agree with you; things can always be done more efficiently and economically.

But at this time, though, I would like to be introducing into the record, if I have unanimous consent—what I have, Mr. Chairman, is a letter from the Federation of American Women's Clubs Overseas, Incorporated. And they have written a letter in opposition.

The problem that we have is that the letter has not arrived, which is kind of an irony in itself. We passed the MOVE Act to begin to eliminate some of the problems when it comes to voting, and I would hate for this same delay to prevent voices of thousands of overseas citizens represented by the Federation of American Women's Clubs Overseas not to be heard.

So I will be asking unanimous consent to introduce that letter into the record when I am able to do that. I know this is prospective, but I am just saying that we know it is there—

The CHAIRMAN. The gentleman has asked permission to into the record a letter we don't have when we get it—

Mr. GONZALEZ. Yes.

The CHAIRMAN [continuing]. And purports to say what the gentleman said it says.

Mr. GONZALEZ. Absolutely. You can trust me. You can take that to the bank.

The CHAIRMAN. I see. Well—

Mr. GONZALEZ. But I do have other letters that I—

The CHAIRMAN. No. Without objection, the gentleman is allowed to introduce those into the record which he has and those which he thinks he has.

[The letter follows:]



serving overseas Americans and the international community since 1931

May 9, 2011

The Honorable Dan Lungren, Chair
 The Honorable Robert A. Brady, Ranking Member
 Committee on House Administration
 1309 Longworth House Office Building
 Washington, DC 20515

Ref: H.R. 672

Dear Chairman Lungren and Ranking Member Brady:

On behalf of the Federation of American Women's Clubs Overseas, Inc., an international network of independent American and international volunteer organizations representing private-sector American citizens overseas, with over 15,000 members, I write to express our concerns about H.R. 672, Elections Subcommittee Chairman Gregg Harper's bill to eliminate the Election Assistance Commission.

Over the 80 years FAWCO has existed, we have worked to address a number of challenges American citizens face while living abroad, from taxation to citizenship issues. There is nothing as important nor more fundamental, however, than our democratic right to vote. Our country has always been built upon the idea that voting is an essential privilege and duty of citizenship. Americans abroad face special hurdles, however, with the voting process. The mere act of accessing and casting absentee ballots can be extremely challenging when a voter is overseas or serving abroad.

In recent years, the EAC has provided a number of resources to help in identifying and addressing the challenges faced by overseas Americans. The data it collects in its Election Day and UOCAVA Surveys includes information on Americans covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). While we wish this information were available from every state, it is invaluable in studying how different states tackle the shared challenges faced by their UOCAVA voters.

The ongoing work the EAC has done with the Department of Defense to examine and carefully consider use of digital communications technology to improve the process of delivering absentee ballots is crucial. Improvements in the UOCAVA voting process bring with them an excellent opportunity to enfranchise millions of Americans who are proud of their citizenship and want to contribute to their country, wherever they live.

To my knowledge, since the passage of HAVA, no other agency has ever shown the kind of focus on voter protection and election assistance that the EAC has provided, and we are very troubled at the idea of it being eliminated in spite of the advancements it has made. We encourage you to reconsider H.R. 672.

Congress should be working to improve access to the polls for American citizens, not eliminating the sole agency for which this is the top priority.

Thank you for your consideration.

Sincerely,

Lucy Stensland Laederich, FAWCO U.S. Liaison

FAWCO U.S. Liaison: 21 Boulevard Lefebvre, F-75015 Paris, France – **Email:** USLiaison@fawco.org
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Mr. GONZALEZ. All right. I will tell you this. I am willing to place a wager that we have it.

But, at this point, I do have a couple of other letters that I would like to place in the record, asking unanimous consent. But I do want to point out that this comes from the National Association of Latino Elected and Appointed Officials describing their opposition to the elimination of EAC under Mr. Harper's bill.

The letter points out something which has not received sufficient discussion, which is EAC's extensive language services. For communities across the country, it would be ruinously expensive to try to produce election materials in the many languages spoken in the American melting pot, but the Federal nature of EAC makes translation much more efficient and cost-effective.

[The letter follows:]



NALEO Educational Fund
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 Hon. Edward R. Roybal (Ret.) †

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- Hon. Fernando M. Treviño
School Board President, Evan Chicago, IN
- Hon. Don Francisco Treppe II
Former Deputy Secretary of State, NM
- Hon. Luz Urbiza Westberg
Commissioner, City of Avondale, FL

Executive Director

Arturo Vargas
 † Deceased
 02/11

May 24, 2011

The Honorable Greg Harper
 Chairman, Subcommittee on Elections
 1309 Longworth HOB
 Washington, DC 20515

Dear Chairman Harper:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, I am writing to express our opposition to *H.R. 672*, a bill which would terminate the Election Assistance Commission (EAC) and transfer its responsibilities to the Federal Election Commission (FEC). The NALEO Educational Fund is the nation's leading non-profit organization that facilitates the full participation of Latinos in the American political process, from citizenship to public service. Our constituency includes more than 6,000 Latino elected and appointed officials nationwide, and our Board is comprised of Republicans, Democrats, and Independents.

The NALEO Educational Fund has been at the forefront of efforts to shape the implementation of Help America Vote Act of 2002 (HAVA) at the state level and in jurisdictions with large populations of Latino voters. Our constituency includes Latino election officials who have been at the "front lines" of HAVA implementation. In 2002, we supported the creation of EAC, which was established after Congress acknowledged that the federal government had a responsibility to develop standards, guidelines and research to provide support for states and localities in implementing federal election reform.

The proposal to move the current responsibilities of the EAC to the FEC is flawed. The duties of the FEC are to administer and enforce campaign finance laws. The FEC does not currently possess the expertise needed to carry out the EAC's work, which addresses the policies involved in conducting well-administered and accessible elections. In light of its institutional history and mission, it is unlikely that the FEC would be able to effectively make the development of such policies an agency priority.

The EAC has played an important role in ensuring that our country's elections, from local to federal, evolve with the needs of our nation. The EAC has worked toward improvements by making available materials on best practices, including manuals for successful elections and guides on terms used in elections, both in common English and translations. We have worked with EAC to address concerns regarding access to the electoral process, including the training and recruitment of pollworkers and a study of best practices for providing voters with basic registration and voting information. These kinds of activities are critical if we are to achieve increased voter turnout for all communities and accessible elections for all that are eligible.

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5930 Lakeside Drive, Suite 169
 Orlando, FL 32819
 Tel: (321) 795-7373

Oppose HR 672 –page 2
May 25, 2011

As this country prepares for the 2012 elections, we must ensure that all levels of government conduct elections fairly and effectively. Furthermore, we must commit to increasing voter turnout for these elections. In 2012, there will also be several jurisdictions that will be required to comply with the language assistance mandates of the Voting Rights Act for the first time. Providing jurisdictions with guidance on the best practices for complying with these requirements will be one of the priorities for EAC; if the agency is terminated, there is a serious risk that local jurisdictions will not receive the training and assistance needed to implement sound language assistance programs. We urge you to safeguard the quality of our nation's future elections and the strength of our democratic process by opposing HR 672.

Thank you for your attention to this matter. Should you have any questions about the NALEO Educational Fund's work, please contact Mrs. Gloria Montafio Greene, Director of our Washington Office at 202-546-2536 or gmontanogreene@naleo.org.

Sincerely,



Arturo Vargas
Executive Director

cc: Members of House Committee on House Administration
Latino Members of Congress

Mr. GONZALEZ. In addition, I would like to submit for the record letters of opposition to H.R. 672 from the Leadership Conference on Civil and Human Rights as well as from Demos, a nonpartisan public policy research and advocacy organization.

The CHAIRMAN. Without objection, they will be entered into the record.

[The letters follow:]

The Leadership Conference
on Civil and Human Rights

1629 K Street, NW 202.466.3311 voice
10th Floor 202.466.3435 fax
Washington, DC www.civilrights.org
20006



May 24, 2011

Oppose H.R. 672

Dear Representative:

On behalf of the Voting Rights Task Force of The Leadership Conference on Civil and Human Rights, we urge you to oppose H.R. 672, which would terminate the Election Assistance Commission ("EAC" or "Commission"). As organizations that are committed to supporting and expanding the civil and voting rights of all Americans, we have devoted substantial resources to the passage of both the National Voter Registration Act and the Help America Vote Act. Terminating the EAC puts our work at jeopardy and risks reducing the voting and civil rights of our citizens—rights for which many have given their lives.

The EAC does valuable work to ensure the reliability and trustworthiness of our nation's election systems. The Commission plays a major role in collecting accurate and comparable election data. With our nation's complex and diversified election administration system, central data collection is essential if we are going to improve our citizens' trust and confidence in election results. The Commission develops and fosters the training and organization of our nation's more than 8,000 election administrators. Through its many working committees and the work it does to foster robust dialogue among advocates, manufacturers and administrators, the Commission is improving the administration of elections. The EAC's award-winning web page has become the "go to" site for election administrators, advocates, and academics.

The Commission is charged with developing standards for voting systems, and this precedent-setting work has been recognized by nations around the world. Several countries are so impressed with our system that they have signed agreements with the EAC for technical assistance as they develop their own voting system standards and certification procedures. The EAC's certification program uses its oversight role to coordinate with manufacturers and local election officials to ensure that existing voting equipment meets durability and longevity standards. This saves state and local governments from the unnecessary expense of new voting equipment.

The EAC has also played a central role in improving the accessibility of voting for the country's more than 37 million voters with disabilities. We still have a long way to go to achieve the Help America Vote Act's mandate to make voting accessible. The EAC's leadership is essential to continuing the effort to offer all Americans the right to vote "privately and independently."

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NAACP Legal Defense and Educational Fund, Inc.
Dennis Van Rensel
National Education Association
Anthony Romero
American Civil Liberties Union
Thomas A. Saenz
Mexican American Legal Defense & Educational Fund
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Shanna L. Smith
National Fair Housing Alliance
Joe Solomonese
Human Rights Campaign
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Wade J. Henderson
Executive Vice President & COO
Karen McGill Lawson

May 24, 2011
Page 2 of 2



As we approach the 2012 elections, the EAC must continue to do its important work. Rather than abolishing the agency just before the 2012 elections, we believe Congress should strengthen the Commission by broadening its data collection responsibilities and by giving it regulatory authority to ensure that persons with disabilities have full access to the polls.

Thank you for your consideration of our position. If you have any questions about this letter, please contact Leadership Conference Senior Counsel Lisa Bornstein, at (202) 263-2856 or Bornstein@civilrights.org.

Sincerely,

Handwritten signature of Wade Henderson in black ink.

Wade Henderson
President & CEO

Handwritten signature of Nancy Zilkin in black ink.

Nancy Zilkin
Executive Vice President



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info@demos.org

Committee on House Administration
Subcommittee on Elections
United States House of Representatives
Longworth House Office Building, LHOB-1309
Washington, DC 20515

Re: HR 672 Terminating the Election Assistance Commission

May 24, 2011

Dear Representative:

Dēmos respectfully urges the members of the Subcommittee on Elections to oppose H.R. 672, legislation that would terminate the Elections Assistance Commission (EAC). Without the EAC there would be no federal agency focused on improving the quality of elections – a vital function in ensuring the success of our democratic institutions.

Dēmos is a non-partisan public policy research and advocacy organization committed to building an America which achieves its highest democratic ideals – a nation where democracy is robust and inclusive, with high levels of electoral participation and civic engagement; an economy where prosperity and opportunity are broadly shared and disparity is reduced; and a strong and effective government with the capacity to plan for the future.

The EAC does valuable work to ensure the efficacy, reliability, and trustworthiness of our nation's election systems. For example, the Commission plays a major role in collecting accurate and comparable election data. With our nation's complex and diversified election administration system, central data collection is essential to accurately assess its state and therefore to improve our citizens' trust and confidence in election results. The Commission also develops and fosters the training and organization of our nation's more than 8,000 election administrators. The EAC's award-winning web page has become the "go to" site for election administrators, advocates, and academics.

Moreover, the Commission is charged with developing standards for voting systems, and this precedent-setting work has been recognized by nations around the world. Several countries are so impressed with our system that they have signed agreements with the EAC for technical assistance as they developed their own voting system standards and certification procedures. The EAC's certification program is helping state and local governments to save money by using its oversight role to coordinate with manufacturers and local election officials to ensure that the existing equipment meets its durability and longevity potential. This saves state and local governments from the unnecessary expense of new voting equipment.

Importantly, the EAC has played a central role in improving the accessibility of voting for the country's more than 37 million voters with disabilities. Although we still have a way to go to achieve the Help America Vote Act's mandate to make voting accessible, the EAC's leadership is essential to continuing the effort to offer all Americans the right to vote "privately and independently."

We recognize that H.R. 672 would transfer many of the EAC's functions to the FEC but this would not be wise. The FEC is dysfunctional. It is overwhelmed by its current responsibilities, as evidenced by repeated court orders to correct its regulations to bring them in line with the laws of the United States. The FEC is starkly divided on partisan lines, making it particularly inappropriate for election administration responsibilities. And the FEC is increasingly unable to make decisions or even to agree on staff-negotiated recommendations.

Rather than abolishing the EAC, Congress should provide the EAC with resources and a renewed commitment to sponsoring and encouraging information sharing among state and local officials, EAC committees, the non-partisan voting rights community, technical experts and others.

Elections are the life blood of a democracy. We strongly urge the committee to strengthen the Election Assistance Commission instead of terminating it.

Sincerely,



Miles Rapoport
President



WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
1156 15TH STREET, NW SUITE 915 · WASHINGTON, DC 20005 · P (202) 463-2940 · F (202) 463-2953
E-MAIL: WASHINGTONBUREAU@NAACPNET.ORG · WEB ADDRESS WWW.NAACP.ORG

June 2, 2011

Members
U.S. House of Representatives
Washington, D.C. 20515

via fax

**RE: SUPPORT FOR THE ELECTION ASSISTANCE COMMISSION /
STRONGLY OPPOSE H.R. 672**

Dear Representative:

On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I strongly urge you to do all you can to support the Election Assistance Commission and to oppose and vote against efforts to terminate this crucial tool in our arsenal to strengthen our democracy. The right to vote is a cornerstone of our democracy and we as a Nation should do all we can to ensure that every eligible American can cast an unfettered vote of their own free will and that their vote is counted.

As established by the 2002 *Help America Vote Act*, the Election Assistance Commission provides research and data, guidance and grants to states and local governments so they can employ the best practices and the most up-to-date methods of registering and voting. The Election Assistance Commission has provided crucial help to many localities in the efforts to identify and reach groups which had heretofore been disenfranchised, including racial and ethnic minorities, members of the Armed Services (especially those serving overseas), disabled Americans and senior citizens.

We should be supporting and enhancing groups like the Election Assistance Commission, whose mission is to engage more Americans in the democratic process so that their voices may be heard. I therefore must again strongly urge you to oppose and work against bills such as H.R. 672, which would terminate the Election Assistance Commission within 60 days of enactment. Sadly, this shortsighted legislation which is, in fact, a direct attack on one of the most fundamental components of our form of government, the right to vote and have that vote count, was passed out of the House Administration Committee and may come before you on the House floor in the very near future.

Thank you in advance for your attention to the NAACP position. I look forward to working with you to see that we work toward a more inclusive democracy and to protect the integrity of our Nation and our government. Should you have any questions or comments, please do not hesitate to contact me at my office at (202) 463-2940.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hilary O. Shelton', with a stylized flourish at the end.

Hilary O. Shelton
Director, NAACP Washington Bureau &
Senior Vice President for Advocacy and Policy

Mr. GONZALEZ. I appreciate it.

And I would yield back at this time.

The CHAIRMAN. The gentleman yields back.

Are there other Members who wish to be heard?

Is there anybody who has an amendment?

Mr. GONZALEZ. I think Mr. Gingrey may want to be heard.

The CHAIRMAN. Mr. Gingrey for 5 minutes.

Mr. GINGREY. Yeah, thank you. And, really, in support of the manager's amendment.

I know my colleague from Texas, when he used the phrase, "off with the head" is never a good policy," I am sure he was referring to a long time ago in 1789 in Paris, but, certainly, in recent news, off with the head of the snake, I am sure a squadron of SEALS, United States SEALS, would say that was a very good policy in regard to one Osama bin Laden.

Obviously, this is cutting off the head here. There is a big snake behind the head, and maybe this is a small head. But I really think that this is a step in the right direction in regard to reducing unnecessary spending. As the subcommittee chair and the author of the manager's amendment and author of the bill has pointed out, you know, a \$14 million savings a year. It doesn't seem like much, but I think it is significant. And we need to take this approach step by step by step, and pretty soon we get the whole snake.

And to retain \$4 million worth of spending for the parts of the EAC and transfer it to the Federal Election Commission where that good work, the work that my friend from Texas is talking about, that many of the local election supervisors in areas of large States that are even larger population that they serve than maybe the Secretary of State of a small State. I think he makes a good point. But I believe that the retention of that part of the EAC and putting it in the right place under the Federal Election Commission is the right thing to do.

So I do support the manager's amendment, and I yield back.

The CHAIRMAN. The gentleman yields back.

Other Members to be heard?

Anybody have an amendment?

The gentleman from Texas is recognized.

Mr. GONZALEZ. Thank you very much.

And I will offer a substitute to the Harper amendment in the nature of a substitute, which is in the Members' packets.

The CHAIRMAN. Without objection, the amendment to the amendment in the nature of a substitute will be considered as read.

[The amendment follows:]

**SUBSTITUTE OFFERED BY MR. GONZALEZ
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 672**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “EAC Improvements
3 Act of 2011”.

4 **SEC. 2. REAUTHORIZATION OF COMMISSION.**

5 Section 210 of the Help America Vote Act of 2002
6 (42 U.S.C. 15330) is amended by striking “for each of
7 the fiscal years 2003 through 2005” and inserting “for
8 each of the fiscal years 2012 through 2016”.

9 **SEC. 3. REQUIRING STATES TO PARTICIPATE IN POST-GEN-
10 ERAL ELECTION SURVEYS.**

11 (a) REQUIREMENT.—Title III of the Help America
12 Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended
13 by inserting after section 303 the following new section:

14 **“SEC. 303A. REQUIRING PARTICIPATION IN POST-GENERAL
15 ELECTION SURVEYS.**

16 “(a) REQUIREMENT.—Each State shall furnish to the
17 Commission such information as the Commission may re-
18 quest for purposes of conducting any post-election survey

1 of the States with respect to the administration of a regu-
2 larly scheduled general election for Federal office.

3 “(b) EFFECTIVE DATE.—This section shall apply
4 with respect to the regularly scheduled general election for
5 Federal office held in November 2012 and any succeeding
6 election.”.

7 (b) CONFORMING AMENDMENT RELATING TO EN-
8 FORCEMENT.—Section 401 of such Act (42 U.S.C. 15511)
9 is amended by striking “and 303” and inserting “303, and
10 303A”.

11 (c) CLERICAL AMENDMENT.—The table of contents
12 of such Act is amended by inserting after the item relating
13 to section 303 the following new item:

“Sec. 303A. Requiring participation in post-general election surveys.”.

14 **SEC. 4. DETERMINING EXTENT TO WHICH DISABLED INDI-**
15 **VIDUALS HAVE ACCESS TO POLLING PLACES.**

16 (a) ONGOING SURVEYS OF COMPLIANCE WITH
17 ADA.—In accordance with section 241 of the Help Amer-
18 ica Vote Act of 2002 (42 U.S.C. 15381), not later than
19 180 days after the date of the regularly scheduled general
20 election for Federal office held in November 2012 and
21 each succeeding regularly scheduled general election for
22 Federal office, the Election Assistance Commission, shall,
23 with the assistance of the Comptroller General, conduct
24 and publish a survey of each polling place used for the
25 election to determine the percentage of such polling places

1 that were in compliance with the standards applicable to
2 such locations under the Americans With Disabilities Act
3 of 1990.

4 (b) EVALUATION OF NEED TO CONTINUE SUR-
5 VEYS.—At the time the Election Assistance Commission
6 publishes the results of the survey conducted under sub-
7 section (a) with respect to the regularly scheduled general
8 election for Federal office held in November 2020, the
9 Commission shall evaluate and make a recommendation
10 to Congress regarding whether the percentage of polling
11 places in compliance with the standards applicable to such
12 locations under the Americans With Disabilities Act of
13 1990 has increased to such an extent that there is no
14 longer a need to conduct surveys under subsection (a) with
15 respect to subsequent elections.

16 **SEC. 5. ESTABLISHMENT OF PROCEDURES AND FEE**
17 **SCHEDULES FOR CONDUCTING TESTING OF**
18 **VOTING EQUIPMENT HARDWARE AND SOFT-**
19 **WARE; PAYMENT OF USER FEES FOR COM-**
20 **PENSATION OF ACCREDITED LABORATORIES.**

21 (a) IN GENERAL.—Section 231(b) of the Help Amer-
22 ica Vote Act of 2002 (42 U.S.C. 15371(b)) is amended
23 by adding at the end the following new paragraphs:

1 “(3) PROCEDURES FOR CONDUCTING TESTING;
2 PAYMENT OF USER FEES FOR COMPENSATION OF
3 ACCREDITED LABORATORIES.—

4 “(A) ESTABLISHMENT OF ESCROW AC-
5 COUNT.—The Commission shall establish an es-
6 crow account (to be known as the ‘Testing Es-
7 crow Account’) that will serve as the exclusive
8 source for making payments to accredited lab-
9 oratories for the costs of the testing carried out
10 in connection with the certification, decertifica-
11 tion, and recertification of voting system hard-
12 ware and software.

13 “(B) SCHEDULE OF FEES.—In consulta-
14 tion with the accredited laboratories, the Com-
15 mission shall establish and regularly update a
16 schedule of fees for the testing carried out in
17 connection with the certification, decertification,
18 and recertification of voting system hardware
19 and software, based on the reasonable costs ex-
20 pected to be incurred by the accredited labora-
21 tories in carrying out the testing for various
22 types of hardware and software.

23 “(C) REQUESTS AND PAYMENTS BY MANU-
24 FACTURERS.—A manufacturer of voting system
25 hardware and software may not have the hard-

1 ware or software tested by an accredited labora-
2 tory under this section unless—

3 “(i) the manufacturer submits a de-
4 tailed request for the testing to the Com-
5 mission;

6 “(ii) the request provides sufficient in-
7 formation for the Commission to determine
8 the applicable fee for the testing under the
9 schedule established and in effect under
10 subparagraph (B);

11 “(iii) the Commission approves the re-
12 quest; and

13 “(iv) the manufacturer pays to the
14 Commission, for deposit into the Testing
15 Escrow Account established under sub-
16 paragraph (A), the applicable fee for the
17 testing.

18 “(D) SELECTION OF LABORATORY.—Upon
19 approving a request for testing and receiving
20 the payment from a manufacturer required
21 under subparagraph (C), the Commission shall
22 select at random (to the greatest extent prac-
23 ticable), from all laboratories which are accred-
24 ited under this section to carry out the specific

1 testing requested by the manufacturer, an ac-
2 credited laboratory to carry out the testing.

3 “(E) PAYMENTS TO LABORATORIES.—
4 Upon determining that a laboratory selected to
5 carry out testing pursuant to subparagraph (D)
6 has completed the testing in accordance with
7 the approved request, the Commission shall
8 make a payment to the laboratory from the
9 Testing Escrow Account established under sub-
10 paragraph (A) in an amount equal to the appli-
11 cable fee paid by the manufacturer under sub-
12 paragraph (C)(iv).

13 “(4) DISSEMINATION OF ADDITIONAL INFORMA-
14 TION ON ACCREDITED LABORATORIES.—

15 “(A) LIST OF ACCREDITED LABORA-
16 TORIES.—The Commission shall maintain and
17 publish an updated list of all accredited labora-
18 tories under this section.

19 “(B) INFORMATION ON STATUS OF LAB-
20 ORATORIES.—In addition to updating the list
21 maintained and published under subparagraph
22 (A), the Commission shall promptly notify Con-
23 gress, the chief State election official of each
24 State, and the public whenever—

1 “(i) the Commission revokes, termi-
2 nates, or suspends the accreditation of a
3 laboratory under this section;

4 “(ii) the Commission restores the ac-
5 creditation of a laboratory under this sec-
6 tion which has been revoked, terminated,
7 or suspended; or

8 “(iii) the Commission has credible evi-
9 dence of a significant security failure at an
10 accredited laboratory.

11 “(C) INFORMATION ON TESTING.—Upon
12 completion of the testing of a voting system
13 under this section, the Commission shall
14 promptly disseminate to the public the identi-
15 fication of the laboratory which carried out the
16 testing.”.

17 (b) CONFORMING AMENDMENTS.—Section 231 of
18 such Act (42 U.S.C. 15371) is further amended—

19 (1) in subsection (a)(1), by striking “testing,
20 certification,” and all that follows and inserting the
21 following: “testing of voting system hardware and
22 software by accredited laboratories in connection
23 with the certification, decertification, and recertifi-
24 cation of the hardware and software for purposes of
25 this Act.”;

1 ernment of administering elections for Federal office, in-
2 cluding the following specific factors:

3 (1) The durability of the equipment used in vot-
4 ing systems.

5 (2) The extent to which States and units of
6 local government must replace existing systems be-
7 cause such systems are not capable of using en-
8 hanced software or are not capable of being up-
9 graded in a cost-effective manner.

10 (3) The lack of competition among vendors and
11 manufacturers of the equipment used in voting sys-
12 tems because of consolidation in the voting system
13 industry.

14 (b) RECOMMENDATIONS FOR STEPS TO REDUCE
15 COSTS.—The Commission shall include in the study con-
16 ducted under this section such recommendations as the
17 Commission shall consider appropriate to reduce the costs
18 incurred by States and units of local government in ad-
19 ministering elections for Federal office, including rec-
20 ommendations for legislative action by Congress or the
21 States.

22 (c) DEADLINE.—Not later than 180 days after the
23 date of the enactment of this Act, the Commission shall
24 submit the study conducted under this section to Con-
25 gress.

1 **SEC. 7. STUDY OF METHODS FOR INCREASING EFFICIENCY**
2 **AND COST-EFFECTIVENESS OF ELECTION AS-**
3 **SISTANCE COMMISSION.**

4 (a) **STUDY.**—The Comptroller General shall conduct
5 a study of the administrative operations of the Election
6 Assistance Commission, and shall include in the study an
7 analysis of various methods for increasing the efficiency
8 and cost-effectiveness of such operations.

9 (b) **DEADLINE; REPORT.**—Not later than 90 days
10 after the date of the enactment of this Act, the Comp-
11 troller General shall submit to Congress a report on the
12 study conducted under subsection (a), and shall include
13 in the report such recommendations as the Comptroller
14 General considers appropriate.

15 (c) **PARTICIPATION OF ELECTION ASSISTANCE COM-**
16 **MISSION.**—The Election Assistance Commission shall pro-
17 vide the Comptroller General with such assistance as the
18 Comptroller General may require to carry out this section.

Amend the title so as to read: “A bill to amend the
Help America Vote Act of 2002 to improve the opera-
tions of the Election Assistance Commission, and for
other purposes.”.



The CHAIRMAN. And I now recognize the gentleman for 5 minutes to speak in favor of the amendment.

Mr. GONZALEZ. Thank you, Mr. Chairman.

Over the past 5 years, during my time on this committee, we have spent a great deal of time looking into the EAC. When she was chair of the Elections Subcommittee, Ms. Lofgren worked very hard to improve how EAC was run and to highlight areas where they needed to improve.

The result has been a series of changes and improvements, including the hiring of a chief financial officer who could help bring EAC's accounts into better shape, instituting monthly reviews of their funds and improving auditing procedures. At a hearing earlier this year, Mr. Harper criticized expenditures that we trust Ms. Lafferty would have caught but which, of course, predated and, indeed, inspired those changes. That kind of progress is welcome, but no one would deny that EAC needs to do more.

Of course, the Commission has been hampered for much of the past 2 years by its shortage of commissioners, though I hope that we will see the two vacancies filled very soon. The fully staffed Commission can better exercise its authority to improve its operations and to fulfill its mandate.

But some of the problems aren't EAC's fault at all. We can improve their operations through legislation, and that is what my substitute would do.

First, it reauthorizes EAC, an action long overdue. One of the great ironies of the Help America Vote Act was that it had a 3-year authorization while allowing commissioners to serve up to 8 years, two 4-year terms.

More fundamentally, my substitute would create an entirely new process for paying for and conducting testing of voting equipment. This certification is too vital to do without, as Mr. Harper has recognized by trying to ensure that the process would continue under his bill. Unfortunately, we have seen how hard it is for FEC to meet even its current responsibilities, let alone new ones, whereas EAC certification has done wonders for districts across the country.

Mr. Harper has spoken to the sizable amount of its budget EAC spends on personnel costs. I won't go back over how those fixed costs are faced by every agency and how rapidly they would fall as a proportion of the whole were EAC's budget larger, but this is a real problem. It is also one that EAC has long recognized. They tried using GAO staff to perform some of those roles and are currently working with other small agencies on ways to reduce their administrative costs. But EAC is staffed primarily and appropriately with election experts.

My substitute would call on the GAO to provide a proper analysis of how EAC can reduce its administrative costs, allowing the agency to focus on its true mission: election assistance.

My substitute includes several other provisions focusing on ways that government can save money at all levels—Federal, State, and local—and ensuring that the rights of disabled Americans are truly protected. That is what helping America vote means, and that is what EAC can and should be doing.

I would like to end with a brief summary of what a troubled election can look like: Phony absentee ballots were mailed out to con-

fuse voters. Robocalls spread misinformation about how, when, and where to vote. Judicial orders prohibiting voter intimidation at the polls were willfully ignored. Charges of suppression and intimidation were leveled by and at both parties. Voting rights groups received 15,000 calls at their hotline describing problems. That election was last year.

We need EAC in this country. States are slashing their election divisions' already-slender budgets, making EAC's resources even more valuable to our local election officials.

Mr. Chairman, none of my colleagues on the Republican side of the aisle were here in 2002, as I recall, to vote for the Help America Vote Act. I actually voted against this act, not because I didn't believe that the Commission was necessary and its role would be vital, but I had a fundamental difference of opinion, even on the Democratic side, with a certain provision, and I voted against the Commission. But I was gratified it still passed, it was created, and I think has, under the circumstances and with the hand its been dealt, has actually been very, very effective if you talk to local officials.

I am hoping that my substitute is, I think, the more measured and deliberative way of trying to improve an entity that can't be substituted by simply folding or being subsumed by the Federal Election Commission. Every Member in this committee deals with the Federal Election Commission, and you know what that means. There is no way that I believe that you think wholeheartedly in good faith that we can simply transfer the tremendous responsibilities of the EAC, which are different from the FEC, and assume that FEC is going to be able to do the job. So I would ask for your consideration and for your vote on my substitute.

And I would yield back. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

And does the gentleman, Mr. Harper, wish to respond?

Mr. HARPER. Thank you, Mr. Chairman.

The CHAIRMAN. You are recognized for 5 minutes.

Mr. HARPER. And I certainly appreciate the attempt to reform EAC. I think it is just too little and too late of where we are.

If you look at what we have right now, continuing the agency until 2016 without any real structural change is just enabling, in effect, the inefficiency we have seen and bad behavior that we have also seen and experienced.

You know, even if we were to give the Federal Election Commission all of the money that EAC uses to run testing and certification, that is still less than 15 percent of the EAC operating budget. You know, of that \$4 million—\$18 million now, \$4 million of that that would go, \$1 million to FEC, \$3 million would go to NIST; six employees would be transferred to FEC to handle those responsibilities. But we have had this agency grow, double in size in 3 years, with no new assigned responsibilities. We could go through a number of the issues that we have dealt with.

The fact is that elections are going to be primarily dealt by the local officials using the Secretaries of State in those respective States. The resources we have here, many of them certainly have not been utilized, when it has been seen here, too, that when EAC

has had responsibilities for studies, they haven't always fulfilled those responsibilities.

So this still doesn't address—your amendment doesn't address the fact that more than 50 percent of this agency's budget goes basically for overhead. And they have outlived their usefulness, their responsibilities. They had a 3-year mandate. We are now in the 9th year.

And when you look at where we are, I think this is not an agency that needs to be reformed. I think we are in a situation where—the late President Reagan said, there is nothing closer on Earth to eternal life than a temporary government program. Well, that is where we are. If we can't eliminate the EAC, then we really can't eliminate anything here in Washington.

Yield back.

The CHAIRMAN. The gentleman yield's back.

The gentlelady from California is recognized for 5 minutes to speak on the amendment.

Ms. LOFGREN. Thank you, Mr. Chairman. I won't consume 5 minutes. I just wanted to thank my colleague from Texas for this amendment.

As he mentioned, we had a series of hearings when I chaired the Elections Subcommittee on the EAC. And we all know that there were some deficiencies in its operation. I think we have made solid progress with the Commission. Mr. Gonzalez has mentioned some of the improvements, and I think the measure he has put forward would enhance those improvements.

Why does this matter? We have said often here that it is fundamental, it is a fundamental part of our democracy that we have free and fair elections, that every vote be counted, that every American be permitted to vote. And that is what this commission is about. It is an important element of that fundamental principle. So I think it would be a mistake just to throw this effort out.

I commend Mr. Gonzalez for his very useful amendment and congratulate him on his new position as ranking member on the subcommittee.

And yield back.

Mr. GONZALEZ. Did that already pass, by the way?

The CHAIRMAN. No, we haven't voted on that yet.

The gentlelady yields back.

I recognize myself for 5 minutes.

Look, we are in unprecedented times in terms of what the budget concerns issue. If people think this is a difficult decision, you haven't seen anything yet to what we are going to have to consider in this committee with respect to legislative appropriations going down the line.

If consolidation is not appropriate here, I don't know what is. The good parts of consolidation are that you take already-existing programs, you ferret out those which don't work, and you put that together with lower-overhead, effective, functioning elements. I am unaware of any other agency, temporary or permanent, that has as high an overhead percentage of their overall budget as this. I mean, it is staggering when you realize what their overhead costs, administrative costs, in the EAC is.

So this is one of the simpler things to do, I would think. You take and you identify those functions that actually still have a reason to exist, and you try and find a place where they could fit in without expanding overhead. So you are saving overhead, you have tried to determine what the essential functions are, you try to put them in a legitimate place, and you try to eliminate excessive cost.

It is not a lot of money, but it is one of things that we have to do, I think, in this committee with respect to our jurisdiction. So I would hope that we would look at it that way. We are not attempting in any way whatsoever, as far as I can see, by the gentleman from Mississippi's amendment in the nature of a substitute, his own amendment, trying to disregard the importance of the vote. But we are trying to also not disregard the taxpayer, and try and give them some evidence that when we see something outlive its usefulness we are willing at least to admit to that and attempt to see if there is anything that is still useful and fit it in somewhere else where we save money and still allow it to be done.

So I yield back the balance of my time. And if there are no more comments, we will vote on the gentleman from Texas's amendment to the amendment in the nature of a substitute.

Mr. GONZALEZ. And, Mr. Chairman, I would ask for a recorded vote on my amendment.

The CHAIRMAN. A recorded vote is requested, and the clerk will call the roll.

Those who are in favor of the amendment will signify by saying, "Aye," and those who are opposed will signify by saying, "Nay."

And the clerk will call the roll.

The CLERK. Mr. Harper.

Mr. HARPER. No.

The CLERK. Mr. Gingrey.

Mr. GINGREY. No.

The CLERK. Mr. Schock.

Mr. SCHOCK. No.

The CLERK. Mr. Rokita.

[No response.]

The CLERK. Mr. Nugent.

Mr. NUGENT. No.

The CLERK. Mr. Brady.

Mr. BRADY. Aye.

The CLERK. Ms. Lofgren.

Ms. LOFGREN. Aye.

The CLERK. Mr. Gonzalez.

Mr. GONZALEZ. Aye.

The CLERK. Mr. Chairman.

The CHAIRMAN. No.

The ayes are three, the nays are five. The gentleman's amendment fails.

DANIEL E. LUNGREN, CALIFORNIA
CHAIRMAN

GREGG HARPER, MISSISSIPPI
PHIL GINGREY, GEORGIA
AARON SCHOCK, ILLINOIS
TODD ROKITA, INDIANA
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ZOE LOFGREN, CALIFORNIA
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ONE HUNDRED TWELFTH
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

WEDNESDAY, MAY 25, 2011
COMMITTEE MARKUP

ROLL CALL VOTE 112-1
Gonzalez Amendment # 1 to H.R. 672

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYES	NAYS	ANSWERED PRESENT	
Mr. Harper		X		55031
Mr. Gingrey		X		52931
Mr. Schock		X		56201
Mr. Rokita				55037
Mr. Nugent		X		51002
Mr. Brady	X			54731
Ms. Lofgren	X			53072
Mr. Gonzalez	X			53236
Mr. Lungren		X		55716

The amendment failed by a vote of five nays to three ayes.

The CHAIRMAN. Are there any other amendments?

Mr. GONZALEZ. Yes, Mr. Chairman. I have a perfecting amendment.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. GONZALEZ. Thank you very much. I appreciate it. And though I regret that my substitute, which was perfect in its own nature, I am offering a perfecting amendment.

The CHAIRMAN. Without objection, the amendment to the amendment in the nature of a substitute will be considered as read—or the perfecting amendment will be considered as read.

[The amendment follows:]

**AMENDMENT OFFERED BY MR. GONZALEZ
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 672**

Page 6, strike lines 6 through 9 and insert the following:

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

2 “(a) DATE DESCRIBED.—The ‘Commission termi-
3 nation date’ is the first date following the expiration of
4 the 120-day period that begins on the date of the enact-
5 ment of this subtitle.

6 “(b) GAO STUDY OF EFFECTS OF TERMINATION.—

7 “(1) STUDY.—The Comptroller General shall
8 conduct a study of the effects of the termination of
9 the Commission as provided under this title, and
10 shall include in the study an analysis of—

11 “(A) the ability of other offices of the Fed-
12 eral government to complete the mission of the
13 Commission as set forth in this Act;

14 “(B) whether the termination of the Com-
15 mission will adversely affect the ability of voters
16 to participate in elections; and

17 “(C) the budgetary impact of the termi-
18 nation on the Federal government, and, to the

1 extent that the termination will result in sav-
2 ings to the Federal government, the extent to
3 which the savings will be attributable to a shift
4 in costs to States and units of local govern-
5 ments.

6 “(2) REPORT TO CONGRESS.—Not later than
7 90 days after the date of the enactment of this sub-
8 title, the Comptroller General shall submit a report
9 to Congress on the study conducted under para-
10 graph (1), and shall include in the report such rec-
11 ommendations regarding the termination of the
12 Commission as the Comptroller General considers
13 appropriate.”.



The CHAIRMAN. And I recognize Mr. Gonzalez for 5 minutes to speak in favor of this amendment.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

I do not think that Mr. Harper's bill will do what he and those that will be supporting it hope that it will do. I fear that the result will be the disenfranchisement of many thousands of voters. I worry that its cost savings won't materialize, as FEC has to staff up to handle the new duties you would assign them. Other costs, I fear, would simply be pushed onto our already-strapped States. But I haven't succeeded in convincing you of this, but maybe the GAO would.

My amendment, then, would call on the GAO to study the potential impact of the Harper bill and report to Congress on whether it would do what it is supposed to be doing. Can FEC fulfill these functions? Would voters be disenfranchised? Would there really be savings of money?

GAO would report back on this Congress. And, if they confirm Mr. Harper's analysis, the EAC would be eliminated as he desires. But, if not, GAO, if they confirm my theories, we would have a chance to change our minds.

That is what my amendment does. It wouldn't stop the elimination of EAC; it just gives us a second opinion, a chance to reconsider before we take the drastic step of eliminating an agency which I believe remains the most viable entity to meet the demands and challenges of conducting modern-day elections.

And I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

Does the gentleman from Mississippi wish to be heard?

Mr. HARPER. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. HARPER. Thank you.

The EAC was first established with four program areas: grants management, voting systems testing and certification, communications clearinghouse, and research. Those were the four areas.

Well, the idea of a 3-year mandate was to fulfill those responsibilities that we had. And I think it is really a far stretch to say that eliminating an inept government agency is going to disenfranchise voters. Everybody on this panel, in this committee, have the desire to make sure that everybody that should vote, wants to vote, has the opportunity to vote. And I think that that is quite a stretch.

And I don't know, if we do another study—after we have had reports on the condition of the EAC in the last Congress when I first came in and now in this Congress, it is clear that they cannot manage themselves, in the things that have taken place. If we look at—we can go back to a little over 2 years ago, and we find out that they have spent almost \$7,000 for employee shirts for morale and messed that order up and there were 200-plus shirts over-ordered. And you look at their conditions on the audit. They couldn't even complete the audit process. They have had years to work out the differences with a study with the Social Security Administration that hasn't been completed, that they keep punting on.

So I think it is really a stretch to say that this is going to disenfranchise voters. I mean, this is supposed to be a nonpartisan

agency, the EAC. And so what happens is they get sued for political discrimination, and we pay out a substantial settlement as a result of that. And, again, there is another issue, another incident of discrimination that is ongoing in this agency.

So let's take what we need to take out of EAC, the best part, the essential part of EAC, and let's transfer—let's show that we can do something in this place that is truly trying to reduce the size of government and the cost of government. You know, we would have a hard time saying that more than 10 percent of what this agency does would be essential. So let's transfer it on over. Let's move those things there. Let's do things to make sure that people do have the opportunity to vote, and let's not reward an agency that has been sued for political discrimination.

With that, I yield back.

The CHAIRMAN. The gentleman yields back.

The gentlelady from California is recognized for 5 minutes.

Ms. LOFGREN. Mr. Chairman, I just don't think that, number one, everything that has been said is accurate, but, number two, this is not about rewarding an agency. This is about having a system in place that will make sure that all the Americans who want to vote have a chance to do that.

And I would yield time to my colleague from Texas, Mr. Gonzalez.

Mr. GONZALEZ. I thank you very much, Ms. Lofgren.

I guess in response to Mr. Harper's comments, the nature of the complaints and issues relative to the EAC, can anyone tell me if the FEC has had any similar issues? Lawsuits? How much of the FEC, the Federal Election Commission, as far as their budget, in comparison to the EAC, is there a disproportionate amount of money on personnel? I don't know if they spent \$7,000 on T-shirts or not. I really doubt it. Who would want to go around with an FEC T-shirt?

But it really is the question. And I mean this in good faith. I think we are rushing to judgment. And so, all my perfecting amendment does is simply say, get the GAO, which is the gold standard. We have got to admit. Whenever we have a problem, we look to GAO. Even this committee, in the contested election of Florida 13, it really is GAO that determined that those machines did not malfunction. And Mr. Lungren was here for that; Ms. Lofgren was part of that task force. And I just don't see, if we had that kind of faith in GAO, to determine whether this Congress was going to sit a Member from Florida 13, that we wouldn't have the same degree of faith to affirm what we are trying to do here today, and that is get rid of an agency.

And, as the chairman pointed out, there is nothing wrong with consolidation and saving money. I think we are all for that. But everything is not a simple math problem. And I think that was brought out by certain individuals that were testifying in Congress recently on the budget. There are consequences to the cuts. So I think we have to be very wise where we cut, where we consolidate. What is the consequence to us? What is the consequence to elections? To the rights of citizens in this country?

When I say that individuals are going to be disenfranchised, I know you may doubt me, but I am very sincere about that. Because

I know how efficient elections have been held with the assistance of the EAC in my own jurisdiction, in District 20. I know what it means there. Now, maybe that doesn't translate to everyone's districts, but I would venture to guess a majority of the districts are better today for the work of the EAC.

All I am asking is—it will be eliminated. If GAO comes back and says, "Mr. Harper, you and everybody that is on your side, you are absolutely right; FEC can do it, they can do it cheaper, they can be just as effective, and there is no need to have it"—and I always believed that the 3 years really was. We were going to revisit it, which is what we are doing now, sort of a sunset provision. But I never anticipated that you just would basically do away with the agency without conducting something that would be in-depth. I don't think that we have conducted that.

And it is not that we have provided you with a lot of information either, to be honest with you. We don't have the resources. Now, Members of Congress may spend 60 percent or more on personnel, and we still don't have enough to meet all the needs of our constituents. So sometimes you can look at budgets and draw certain conclusions. But we have to see, what is the value for that dollar? Can they do a better job? We are saying yes. All I am saying is, can we slow down the process?

If you are right, it will be eliminated. And if GAO comes and tells us, "Hey, guys, you got it wrong," guess what? We are going to have to look at it. That is all that my perfecting amendment does.

And I would yield the time back to Ms. Lofgren.

Ms. LOFGREN. And I would yield back.

The CHAIRMAN. The gentlelady yields back.

So the question will be on the gentleman's amendment to ask the GAO to give the A-okay to the FEC or the EAC.

All those in favor, say, "Aye."

Those opposed, "No."

The chair believes that the noes have it. The noes have it.

Does the gentleman ask for a recorded vote?

Mr. GONZALEZ. A recorded vote is requested.

The CHAIRMAN. A recorded vote is requested. Those in favor will reply by saying, "Aye"; those opposed, "Nay."

And the clerk will call the roll.

The CLERK. Mr. Harper.

Mr. HARPER. Nay.

The CLERK. Mr. Gingrey.

Mr. GINGREY. Nay.

The CLERK. Mr. Schock.

Mr. SCHOCK. No.

The CLERK. Mr. Rokita.

[No response.]

The CLERK. Mr. Nugent.

Mr. NUGENT. No.

The CLERK. Mr. Brady.

Mr. BRADY. Aye.

The CLERK. Ms. Lofgren.

Ms. LOFGREN. Aye.

The CLERK. Mr. Gonzalez.

Mr. GONZALEZ. Aye.

The CLERK. Mr. Chairman.

The CHAIRMAN. Nay.

According to the clerk's roll, there are three ayes and five nays,
and the amendment fails.

DANIEL E. LUNGREN, CALIFORNIA
CHAIRMAN

GREGG HARPER, MISSISSIPPI
PHIL GINGREY, GEORGIA
AARON SCHOCK, ILLINOIS
TODD ROKITA, INDIANA
RICH NUGENT, FLORIDA

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House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
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RANKING MINORITY MEMBER

ZOE LOFGREN, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS
ONE HUNDRED TWELFTH
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

WEDNESDAY, MAY 25, 2011
COMMITTEE MARKUP

ROLL CALL VOTE 112-2
Gonzalez Amendment # 2 to H.R. 672

NAME	RESPONSE TO CALL OF THE ROLL			OFFICE EXTENSION
	AYES	NAYS	ANSWERED PRESENT	
Mr. Harper		X		55031
Mr. Gingrey		X		52931
Mr. Schock		X		56201
Mr. Rokita				55037
Mr. Nugent		X		51002
Mr. Brady	X			54731
Ms. Lofgren	X			53072
Mr. Gonzalez	X			53236
Mr. Lungren		X		55716

The amendment failed by a vote of five nays to three ayes.

The CHAIRMAN. Are there any other amendments?

If not, without objection, the previous question is ordered on the amendment in the nature of a substitute.

All those in favor, signify by saying, "Aye."

All opposed, signify by saying, "Nay."

In the opinion of the chair, the ayes have it. The ayes have it, and the amendment in the nature of a substitute is agreed to.

Now I move that the—

Mr. BRADY. Mr. Chairman.

The CHAIRMAN. Yes?

Mr. BRADY. Mr. Chairman, I would like to announce that the minority will request 2 additional days to provide by clause 2, rule XI of House rules to file additional views.

The CHAIRMAN. Without objection.

Mr. BRADY. Thank you.

The CHAIRMAN. Now I move the committee report H.R. 672 favorably to the House with an amendment.

The question is on the motion.

All those in favor of the motion, signify by saying, "Aye."

All those opposed, "Nay."

In the opinion of the chair, the ayes have it, and the motion is agreed to.

Without objection, the motion to reconsider is laid upon the table.

Pursuant to clause 2 of rule XI, Members are entitled to 2 additional calendar days to file such views in writing and as signed by the Member with the clerk of the committee, if any Member indicates an intention to file such views.

I ask unanimous consent that committee staff be authorized to make any necessary technical or conforming changes to the measure the committee has just considered. And, without objection, it is ordered.

Now we will move to this one, H.R. 1934. I would like to call up and lay before the committee H.R. 1934, to improve certain administrative operations at the Library of Congress. The bill will be considered as read and open for amendment at any point.

[The bill follows:]

112TH CONGRESS
1ST SESSION

H. R. 1934

AN ACT

To improve certain administrative operations of the Library
of Congress, 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,*

1 **SECTION 1. PERMITTING USE OF PROCEEDS FROM DIS-**
2 **POSITION OF SURPLUS OR OBSOLETE PER-**
3 **SONAL PROPERTY.**

4 (a) **DISPOSITION OF PROPERTY.**—Within the limits
5 of available appropriations, the Librarian of Congress may
6 dispose of surplus or obsolete personal property of the Li-
7 brary of Congress by interagency transfer, donation, sale,
8 trade-in, or other appropriate method.

9 (b) **USE OF PROCEEDS.**—Any amounts received by
10 the Librarian of Congress from the disposition of property
11 under subsection (a) shall be credited to the funds avail-
12 able for the operations of the Library of Congress, and
13 shall be available to acquire the same or similar property
14 during the fiscal year in which the amounts are received
15 and the following fiscal year.

16 (c) **EFFECTIVE DATE.**—This section shall apply with
17 respect to fiscal year 2012 and each succeeding fiscal year.

Passed the House of Representatives June 16, 2011.

Attest:

Clerk.

112TH CONGRESS
1ST Session

H. R. 1934

AN ACT

To improve certain administrative operations of the
Library of Congress, and for other purposes.

The CHAIRMAN. All Members have copies of this. Does any Member wish to be heard on this bill?

Mr. BRADY. Mr. Chairman.

The CHAIRMAN. The ranking member is recognized.

Mr. BRADY. Mr. Chairman, this bill would authorize the Library of Congress to dispose of surplus or obsolete properties of the Library through interagency transfers, trades, sales, and other appropriate methods.

In the 111th Congress, our committee marked up H.R. 5681, which provided for this authority and others. That bill passed the House but unfortunately stalled in the Senate in the final days of the session and did not become law.

This new, simplified bill omits two of these provisions that were passed last year and retains bipartisan support. It would provide a useful funding tool for the Library of Congress, and I urge an "aye" vote.

The CHAIRMAN. The gentleman yields back.

Anybody else wish to be heard?

If not, I will move that the committee report H.R. 1934 favorably to the House.

The question is on the motion.

All those in favor of the motion, signify by saying, "Aye."

All those opposed, signify by saying, "No."

In the opinion of the chair, the ayes have it, and the motion is agreed to.

Without objection, the motion to reconsider is laid upon the table.

Does any Member wish to file supplemental minority additional views for inclusion in the committee report?

All right.

I ask unanimous consent the committee staff be authorized to make any necessary technical or conforming changes to the measure that the committee has just considered. Without objection, so ordered.

Now for the controversial item on the agenda, consideration of a committee resolution to adjust the Democratic membership on the Subcommittee of Elections.

I now recognize the ranking member to offer the resolution.

Mr. BRADY. Mr. Chairman, I call up the committee resolution, which is in the Members' packet, and ask unanimous consent that the committee resolution be considered as read.

The CHAIRMAN. Without objection, the resolution will be considered as read and open to amendment at any point.

[The resolution follows:]

COMMITTEE RESOLUTION 112-8

May 25, 2011

Resolved, that for the duration of the 112th Congress, the Democratic members of the Subcommittee on Elections shall be as follows:

Charles A. Gonzalez, Texas

Robert A. Brady, Pennsylvania

The CHAIRMAN. Does any Member wish to be heard on the resolution?

Mr. GONZALEZ. I seek recognition.

The CHAIRMAN. The gentleman is recognized.

Mr. GONZALEZ. The only request is that we have a secret vote.

The CHAIRMAN. The gentleman's request is denied.

All those in favor of agreeing to the committee resolution, say, "Aye."

All opposed, say, "No."

In the opinion of the chair, the ayes have it. The ayes have it, and Committee Resolution 112-8 is agreed to.

Without objection, the motion to reconsider is laid upon the table.

And we have concluded our markup today. Thank you.

[Whereupon, at 11:26 a.m., the committee was adjourned.]