

19:61-1

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2004 **CHAPTER:** 88

NJSA: 19:61-1 (Implements portions of Federal "Help America Vote Act of 2002")

BILL NO: S701 (Substituted for A2477)

SPONSOR(S): Coniglio and others

DATE INTRODUCED: January 26, 2004

COMMITTEE: **ASSEMBLY:** Appropriations; Federal Relations
SENATE: Budget and Appropriations; State Government

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 17, 2004
SENATE: March 22, 2004

DATE OF APPROVAL: July 7, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

S701

[SPONSOR'S STATEMENT](#): (Begins on page 32 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [5/13/04 \(Fed Relations\)](#)
[6/14/04 \(Approp\)](#)

SENATE: Yes [2/5/04 \(State Govt\)](#)
[3/8/04 \(Budget\)](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE](#): [Yes](#)

A2477

[SPONSOR'S STATEMENT](#): (Begins on page 32 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [5/13/04 \(Fed Relations\)](#)
[6/14/04 \(Approp\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE](#): [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

Yes

974.90 New Jersey. Legislature. Assembly. Federal Relations Committee.
E38 Committee meeting...: testimony concerning the implementation
2004a of the Federal mandates imposed by the "Help America Vote Act of 2002",
held February 9, 2004. Trenton, 2004

NEWSPAPER ARTICLES:

No

Title 19.
Chapter 61. (New)
Voter Opportunity
and Technology
Enhancement
§§1-8 -
C.19:61-1
to 19:61-8
§31 - Note

P.L. 2004, CHAPTER 88, *approved July 9, 2004*
Senate, No. 701 (*First Reprint*)

1 **AN ACT** concerning elections and amending and supplementing various
2 parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) The Legislature finds and declares:

8 a. The "Help America Vote Act of 2002," Pub.L.107-252, was
9 enacted by Congress and signed into law by President Bush on
10 October 29, 2002.

11 b. The new federal law, based upon recommendations by several
12 national study commissions including the National Commission on
13 Federal Election Reform, resulted from a consensus that the nation's
14 electoral system needs improvements to ensure that every eligible
15 voter has the opportunity to vote, that every vote will be counted that
16 should be counted, and that no legal vote will be canceled by a
17 fraudulent vote.

18 c. Accordingly, the "Help America Vote Act of 2002" authorizes
19 substantial amounts of federal aid to the states to fund the purchase of
20 more reliable voting systems, and mandates changes in the conduct of
21 federal elections in all states to ensure greater access to the polls by
22 individuals with disabilities, to provide more information for
23 individuals who wish to vote and better training of poll workers, and
24 to reduce the possibility of fraud.

25 d. The "Help America Vote Act of 2002" also clearly defines the
26 rights and privileges of those eligible individuals who seek to vote,
27 including all overseas and military service voters, and seeks to prevent
28 disenfranchisement due to mistaken determinations of ineligibility to
29 vote, the use of outdated voting systems that are unreliable or
30 insufficiently accessible for disabled voters, or unnecessary
31 administrative obstacles.

32 e. The purpose of P.L. , c. (C.)(now pending before the
33 Legislature as this bill) is to begin the process of implementing the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted February 5, 2004.

1 changes in New Jersey's election law required by the "Help America
2 Vote Act of 2002" to accomplish the purposes described above,
3 providing a fair, deliberative and consensus-oriented process for
4 enacting election reform required by the federal law, and ensure the
5 timely fulfillment by this State of all requirements for eligibility to
6 receive appropriated federal funds.

7
8 2. (New section) This act shall be known and may be cited as "The
9 Voting Opportunity and Technology Enhancement Act."

10
11 3. (New section) There is hereby established in the Department of
12 the Treasury a special, nonlapsing fund to be known as the Federal
13 Elections Assistance Fund.

14 The fund is established in accordance with paragraph (b) of section
15 254 of Pub.L.107-252, (42 U.S.C.15404) for the purpose of receiving:

16 a. all moneys appropriated or otherwise made available by the State
17 for the purpose of carrying out the activities required by Pub.L.107-
18 252;

19 b. all payments which will be received from the federal government
20 pursuant to Pub.L.107-252;

21 c. interest earned on deposits made in the fund; and

22 d. such other additional amounts as may be appropriated under
23 federal or State law.

24 The State Treasurer is authorized to transfer into the fund in a
25 timely manner such State moneys as will be necessary to insure that
26 the State qualifies for the maximum amount of federal funds
27 appropriated to implement Pub.L.107-252.

28
29 4. (New section) The Attorney General shall establish a free-
30 access system, such as a toll-free telephone number, an Internet
31 website or any combination thereof, that any individual who casts a
32 provisional ballot may access to ascertain whether the ballot of that
33 individual was accepted for counting and, if the vote was not counted,
34 the reason for the rejection of the ballot. The system shall at all times
35 preserve the confidentiality of each voter, and shall ensure that no
36 person, other than the individual who cast the ballot, may discover
37 whether or not that individual's ballot was accepted, unless so
38 informed by the voter.

39
40 5. (New section) The Attorney General shall establish a free-
41 access system, such as a toll-free telephone number, an Internet
42 website or any combination thereof, that any individual who casts an
43 absentee ballot may access to ascertain whether the ballot of that
44 individual was accepted for counting and, if the ballot was not
45 counted, the reason for the rejection of the ballot. The system shall at
46 all times preserve the confidentiality of each voter, and shall ensure

1 that no person, other than the individual who cast the ballot, may
2 discover whether or not that individual's ballot was accepted for
3 counting, unless so informed by the voter. This system may be the
4 same one used for provisional ballots, established pursuant to section
5 4 of P.L. , c. (C.) (now pending before the Legislature as
6 this bill).

7
8 6. (New section) a. After January 1, 2004, any individual who
9 believes that there is, has been, or will be a violation of any provision
10 of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, pursuant
11 to the procedures set forth in this section established in compliance
12 with the provisions of section 402 of P.L.107-252 (42 U.S.C. 15512),
13 file a complaint with the Division of Elections in the Department of
14 Law and Public Safety seeking appropriate relief with respect to the
15 violation.

16 b. Each such complaint shall be in writing, and shall be notarized,
17 signed, and sworn by the individual filing the complaint. The Attorney
18 General may consolidate all such complaints if the Attorney General
19 deems it appropriate.

20 c. (1) If, upon administrative inquiry, the Attorney General
21 determines that there is, has been, or will be a violation of any
22 provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the
23 Attorney General shall order appropriate relief. The complainant may
24 request a hearing on the record, to be conducted in the manner
25 provided for contested cases pursuant to the 'Administrative Procedure
26 Act,' P.L.1968, c.410 (C.52:14B-1 et seq.); otherwise, the order of the
27 Attorney General shall constitute final agency action on the matter and
28 shall be subject to judicial review as provided in the Rules of Court.

29 (2) If, upon administrative inquiry, the Attorney General
30 determines that there has been, is or will be no violation of any
31 provision of Title III of Pub.L.107-252 (42 U.S.C.15481 et seq.), the
32 Attorney General shall reject the claim of the violation and shall so
33 notify the complainant. In that case, the complainant shall be afforded
34 the opportunity for a hearing on the record in the manner provided for
35 contested cases pursuant to the 'Administrative Procedure Act,'
36 P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention in this hearing by
37 any other person shall be as provided in the 'Administrative Procedure
38 Act.' After review of the record of the hearing and the
39 recommendation of the administrative law judge, the Attorney General
40 shall affirm, reject or modify the decision. If, after a hearing, the
41 Attorney General determines that there has been, is or will be a
42 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
43 15481 et seq.), the Attorney General shall order appropriate relief. If
44 the complainant does not request a hearing following a determination
45 of no violation based upon administrative inquiry or if the Attorney
46 General determines after a hearing that there has been, is or will be no

1 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
2 15481 et seq.), the Attorney General shall dismiss the complaint and
3 publish the results of the procedures. The decision of the Attorney
4 General shall constitute final agency action on the matter, and shall be
5 subject to judicial review as provided in the Rules of Court.

6 d. All complaints filed under this section shall be resolved finally
7 by the Attorney General prior to the 90th day after the date that the
8 complaint was filed, unless the complainant consents to a longer
9 period for making such a determination.

10 e. If the Attorney General fails to meet the 90-day deadline
11 provided in subsection d. of this section, the complaint shall be
12 resolved within 60 days of that deadline under alternative dispute
13 resolution procedures established by the Attorney General for the
14 purpose of this section. The record and other materials from any
15 proceedings conducted under the complaint procedures established
16 under this section shall be made available for use under the alternative
17 dispute resolution procedures.

18 f. All of the procedures provided for by this section shall be applied
19 uniformly and not in a manner that discriminates in any way against an
20 individual based on that individual's gender, race, religion, ethnicity or
21 sexual orientation.

22 g. An individual who believes that there is, or has been, or will be
23 a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
24 15481 et seq.) may, as an alternative to the procedures prescribed in
25 subsections a. through f. of this section, file a complaint in the
26 appropriate Superior Court seeking appropriate relief with respect to
27 the violation. The complaint shall be resolved in an expedited manner.

28
29 7. (New section) No later than the 90th day following the day of
30 each regularly scheduled general election of candidates for federal
31 office occurring after January 1, 2004, each county board of elections
32 shall submit to the Attorney General for transmittal to the Election
33 Assistance Commission, established pursuant to section 201 of
34 Pub.L.107-252 (42 U.S.C. 15321), a report on the combined number
35 of absentee ballots transmitted to military service voters and overseas
36 Federal election voters and the combined number of such ballots which
37 were returned by such voters, judged to be valid, cast and canvassed.
38 The report shall be in the format developed by the commission. The
39 Attorney General shall make copies of each such report available to
40 the general public.

41
42 18. (New section) The Attorney General shall issue a report on the
43 progress of the implementation of the federal "Help America Vote Act
44 of 2002," Pub.L.107-252 (116 Stat 1666) in the State to the
45 Governor, the Senate President, Senate Minority Leader, Speaker of
46 the General Assembly, and Assembly Minority Leader. The report

1 shall be issued quarterly in the first year, with the first report due on
2 July 1, 2004, and shall be issued biennially thereafter.¹

3
4 ¹[8.] 9.¹ R.S.19:15-17 is amended to read as follows:

5 19:15-17. a. The comparison of signatures of a voter made upon
6 registration and upon election day, and if the voter alleges his inability
7 to write, the comparison of the answers made by such voter upon
8 registration and upon election day, shall be had in full view of the
9 challengers.

10 b. If a voter has registered by mail after January 1, 2003 to vote for
11 the first time in his or her current county of residence and did not
12 provide personal identification when registering pursuant to section 16
13 of P.L.1974, c.30 (C.19:31-6.4), the voter shall be permitted to vote
14 starting at the first election held after January 1, 2004 at which
15 candidates are seeking federal office after displaying one of the
16 following items: (1) a current and valid photo identification card; (2)
17 a current utility bill, bank statement, government check or pay check;
18 (3) any other government document that shows the voter's name and
19 current address; or (4) any other identifying document that the
20 Attorney General has determined to be acceptable for this purpose. If
21 the voter does not display one of these documents, the voter shall not
22 be permitted to vote by machine but shall instead be provided with a
23 provisional ballot, pursuant to the provisions of P.L.1999, c.232
24 (C.19:53C-1 et seq.). This subsection shall not apply to any voter
25 entitled to vote by absentee ballot under the 'Uniformed and Overseas
26 Citizens Absentee Voting Act' (42 U.S.C. 1973ff-1 et seq.) or to any
27 voter who is provided the right to vote other than in person under
28 section 3 of Pub.L.98-435, the 'Voting Accessibility for the Elderly
29 and Handicapped Act,' or any other voter entitled to vote otherwise
30 than in person under any other federal law. This subsection shall also
31 not apply to any person who registers to vote by appearing in person
32 at any voter registration agency or to any person whose voter
33 registration form is delivered to the county commissioner of
34 registration or to the Attorney General, as the case may be, through a
35 third party by means other than by mail delivery.

36 c. Each county commissioner of registration shall collect and
37 maintain, in the manner prescribed by the Attorney General, the
38 information provided pursuant to subsection b. of this section and
39 section 16 of P.L.1974, c.30 (C.19:31-6.4). Access to the ¹[driver's
40 license number and Social Security] personal identification¹
41 information provided pursuant to subsection b. of this section and
42 section 16 of P.L.1974, c.30 (C.19:31-6.4). shall be prohibited, in
43 accordance with subsection a. of section 6 of P.L.2001, c.404
44 (C.47:1A-5).

45 (cf: R.S.19:15-17)

1 ¹[9.] 10.¹ R.S.19:31-5 is amended to read as follows:

2 19:31-5. Each person, who at the time he or she applies for
3 registration resides in the district in which he or she expects to vote,
4 who will be of the age of 18 years or more at the next ensuing
5 election, who is a citizen of the United States, and who, if he or she
6 continues to reside in the district until the next election, will at the
7 time have fulfilled all the requirements as to length of residence to
8 qualify him or her as a legal voter, shall, unless otherwise disqualified,
9 be entitled to be registered in such district[; and when once].

10 Whenever an individual registers by mail after January 1, 2003 to
11 vote for the first time in his or her current county of residence, that
12 individual shall provide either the individual's New Jersey driver's
13 license number or the last four digits of the individual's Social Security
14 Number, or shall submit with the voter registration form a copy of: (1)
15 a current and valid photo identification card; (2) a current utility bill,
16 bank statement, government check or pay check; (3) any other
17 government document that shows the individual's name and current
18 address; or (4) any other identifying document that the Attorney
19 General has determined to be acceptable for this purpose. If the
20 individual does not provide his or her New Jersey driver's license
21 number or Social Security Number information or submit a copy of
22 any one of these documents, either at the time of registration or at any
23 time thereafter prior to attempting to vote, the individual shall be
24 asked for identification when voting for the first time starting at the
25 first election held after January 1, 2004 at which candidates are
26 seeking federal office or thereafter. This requirement shall not apply
27 to any individual entitled to vote by absentee ballot under the
28 'Uniformed and Overseas Citizens Absentee Voting Act' (42 U.S.C.
29 1973ff-1 et seq.) or to any individual who is provided the right to vote
30 other than in person under section 3 of Pub.L.98-435, the 'Voting
31 Accessibility for the Elderly and Handicapped Act,' or any other voter
32 entitled to vote otherwise than in person under any other federal law.
33 This requirement shall also not apply to any individual who registers
34 to vote by appearing in person at any voter registration agency or to
35 any individual whose voter registration form is delivered to the county
36 commissioner of registration or to the Attorney General, as the case
37 may be, through a third party by means other than by mail delivery.

38 Once registered, the registrant shall not be required to register
39 again in such district as long as he or she resides therein, except when
40 required to do so by the commissioner, because of the loss of or some
41 defect in his or her registration record.

42 The registrant, when registered as provided in this Title, shall be
43 eligible to vote at any election to be held subsequent to such
44 registration, if he or she shall be a citizen of the United States of the
45 age of 18 years and shall have been a resident of the State for at least
46 30 days and of the county at least 30 days, when the same is held,

1 subject to any change in his qualifications which may later disqualify
2 him. No registrant shall lose the right to vote, and no registrant's
3 name shall be removed from the registry list of the county in which the
4 person is registered, solely on grounds of the person's failure to vote
5 in one or more elections.

6 (cf: P.L.1994, c.182, s.4)

7

8 ¹[10.] 11. ¹ Section 25 of P.L.1994, c.182 (C.19:31-6a) is
9 amended to read as follows:

10 25. The [Secretary of State] Attorney General is designated the
11 chief State election official and shall be responsible for the
12 coordination of this State's responsibilities pursuant to the provisions
13 of the "National Voter Registration Act of 1993," Pub.L.103-31 (42
14 U.S.C. s.1973gg et seq.) and the "Help America Vote Act of 2002,"
15 Pub.L.107-252 (42 U.S.C. 15301 et seq).

16 (cf: P.L.1994, c.182, s.25)

17

18 ¹[11.] 12. ¹ Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended
19 to read as follows:

20 16. a. The [Secretary of State] Attorney General shall cause to be
21 prepared and shall provide to each county commissioner of registration
22 forms of size and weight suitable for mailing, which shall require the
23 information required by R.S.19:31-3 in substantially the following
24 form:

25

26 VOTER REGISTRATION APPLICATION

27

28 Print clearly in ink. Use ballpoint pen or marker.

29

30 (1) This form is being used as (check one):

31

32 New registration

33

34 Address change

35

36 Name change

37

38 (2) Name:.....

39

40 Last First Middle

41

42 (3) Are you a citizen of the United States of America? Yes No

43

43 (4) Will you be 18 years of age on or before election day? Yes No

44

44 If you checked 'No' in response to either of these questions, do not
45 complete this form.

1 ([3] 5) Street Address where you live:

2
3

4
5 Street Address Apt. No.

6
7

8
9 ([4] 6) City or Town County Zip Code

10
11 ([5] 7) Address Where You Receive Your Mail (if different from
12 above):

13
14

15
16 ([6] 8) Date of Birth:

17
18

19
20 Month Day Year

21
22 ([7] 9) Telephone Number (optional)

23
24 ([8] 10) Name and address of Your Last Voter Registration

25
26

27
28

29
30

31
32 (11) If you are registering by mail to vote and will be voting for the
33 first time in your current county of residence, please provide one of
34 the following:

- 35 (a) your New Jersey driver's license number:.....
- 36 (b) the last four digits of your Social Security
- 37 Number.....

38 OR submit with this form a copy of any one of the following
39 documents: a current and valid photo identification card; a current
40 utility bill, bank statement, government check, pay check or any other
41 government or other identifying document that shows your name and
42 current address. If you do not provide either your New Jersey driver's
43 license number or the last four digits of your Social Security Number,
44 or enclose a copy of one of the documents listed above, you will be
45 asked for identification when voting for the first time, unless you are
46 exempt from doing so under federal or State law.

1 ([9] 12) Declaration - I swear or affirm that:

2

3 I am a U.S. citizen.

4

5 I live at the above address.

6

7 I will be at least 18 years old on or before the day of the next
8 election.

9

10 I am not on parole, probation or serving a sentence due to a
11 conviction for an indictable offense under any federal or State laws.

12

13 I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
14 REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO
15 \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
16 PURSUANT TO R.S.19:34-1.

17

18

19

20 Signature or mark of the registrant Date

21

22 ([10] 13) If applicant is unable to complete this form, print the
23 name and address of individual who completed this form.

24

25

26

27 Name

28

29

30

31 Address

32

33 In addition, the form may include notice to the applicant of
34 information and options relating to the registration and voting process,
35 including but not limited to notice of qualifications required of a
36 registered voter; notice of the final day by which a person must be
37 registered to be eligible to vote in an election; notice of the effect of
38 a failure to provide required identification information; a place at
39 which the applicant may indicate availability for service as a member
40 of the district board of elections; a place at which the applicant may
41 indicate whether he or she requires a polling place which is accessible
42 to elderly and physically disabled voters or whether he or she is legally
43 blind; and a place at which the applicant may indicate a desire to
44 receive information concerning absentee voting. The form may also
45 include a space for the voter registration agency to record whether the
46 applicant registered in person, by mail or by other means.

1 b. The reverse side of the registration form shall bear the address
2 of the [Secretary of State] Attorney General or the commissioner of
3 registration to whom such form is supplied, and a United States postal
4 permit the charges upon which shall be paid by the State.

5 c. The [Secretary of State] Attorney General shall cause to be
6 prepared registration forms of the size, weight and form described in
7 subsection a. of this section in both the English and Spanish language
8 and shall provide such forms to each commissioner of registration of
9 any county in which there is at least one election district in which
10 bilingual sample ballots must be provided pursuant to R.S.19:14-21,
11 R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

12 d. The commissioner of registration shall furnish such registration
13 forms upon request in person to any person or organization in such
14 reasonable quantities as such person or organization shall request.
15 The commissioner shall furnish no fewer than two such forms to any
16 person upon request by mail or by telephone.

17 e. Each such registration form shall have annexed thereto
18 instructions specifying the manner and method of registration and
19 stating the qualifications for an eligible voter.

20 f. The [Secretary of State] Attorney General shall also furnish
21 such registration forms and such instructions to the Director of the
22 Division of Worker's Compensation, the Director of the Division of
23 Employment Services, and the Director of the Division of
24 Unemployment and Temporary Disability Insurance in the Department
25 of Labor; to the Director of the Division of Taxation in the
26 Department of the Treasury; to the Executive Director of the New
27 Jersey Transit Corporation; to the appropriate administrative officer
28 of any other public agency, as defined by subsection a. of section 15
29 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the
30 Department of Military and Veterans' Affairs; and to the chief
31 administrative officer of any voter registration agency, as defined in
32 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

33 g. All registration forms received by the [Secretary of State]
34 Attorney General in the mail or forwarded to the [Secretary of State]
35 Attorney General shall be forwarded to the commissioner of
36 registration in the county of the registrant.

37 h. An application to register to vote received from the Division of
38 Motor Vehicles or a voter registration agency, as defined in subsection
39 a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to
40 have been timely made for the purpose of qualifying an eligible
41 applicant as registered to vote in an election if the date on which the
42 division or agency shall have received that document in completed
43 form, as indicated in the lower right hand corner of the form, was not
44 later than the 29th day preceding that election.

45 i. Each commissioner of registration shall make note in the
46 permanent registration file of each voter who is required to provide the

1 personal identification information required pursuant to this section,
2 as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42
3 U.S.C. 15301 et seq.), to indicate the type of identification provided
4 by the voter and the date on which it is provided. Prior to the June
5 2004 primary election, when such a newly registered voter seeks to
6 vote for the first time following his or her registration, the voter will
7 be required to provide such personal identification information.
8 Beginning with the June 2004 primary election, when such a newly
9 registered voter seeks to vote for the first time following his or her
10 registration, the voter will not be required to provide such information
11 if he or she had previously provided the personal identification
12 information required pursuant to this section. The required
13 information shall be collected and stored for the time and in the
14 manner required pursuant to regulations promulgated by the Attorney
15 General.

16 j. The Attorney General shall amend the voter registration
17 application form if necessary to conform to the requirements of
18 applicable federal or state law.

19 (cf: P.L.1994, c.182, s.7)

20

21 ¹[12.] 13.¹ R.S.19:47-1 is amended to read as follows:

22 19:47-1. As used in this subtitle:

23 "Ballot" , except when reference is made to irregular ballots, means
24 that portion of the [cardboard or paper within the] ballot [frames]
25 containing the name of the candidate and the designation of the party
26 by which he was nominated, or a statement of a proposed
27 constitutional amendment, or other question or proposition with the
28 word "yes" for voting for any question or proposition, and the word
29 "no" for voting against any question.

30 "Question" includes any constitutional amendment, proposition or
31 other question submitted to the voters at any election.

32 "Official ballot" means the [printed strips of cardboard or paper
33 containing] material displaying the names of the candidates nominated
34 and a statement of the questions submitted.

35 "Irregular ballot" means a vote cast, by or on a special device, for
36 a person whose name does not appear on the ballots.

37 "Voting machine custodian" means the person who shall have
38 charge of preparing and arranging the voting machine for elections.

39 "Protective counter" means a separate counter built into the voting
40 machine which cannot be reset, which records the total number of
41 [movements of the operating lever] votes cast.

42 The list of candidates used or to be used on the front of the voting
43 machine for an election district in which the voting machine is used
44 pursuant to law shall be deemed official ballots under this subtitle.

45 (cf: R.S.19:47-1)

1 ¹[13.] 14.¹ R.S.19:48-1 is amended to read as follows:

2 19:48-1. Any thoroughly tested and reliable voting machines may
3 be adopted, rented, purchased or used, which shall be so constructed
4 as to fulfill the following requirements:

5 (a) It shall secure to the voter secrecy in the act of voting;

6 (b) It shall provide facilities for such number of office columns, not
7 less than 40 and not exceeding 60, as the purchasing authorities may
8 specify and of as many political parties or organizations, not exceeding
9 nine, as may make nominations, and for or against as many questions,
10 not exceeding 30, as submitted;

11 (c) It shall, except at primary elections, permit the voter to vote for
12 all the candidates of one party or in part for the candidates of one
13 party or one or more parties;

14 (d) It shall permit the voter to vote for as many persons for an
15 office as he is lawfully entitled to vote for, but no more;

16 (e) It shall prevent the voter from voting for the same person more
17 than once for the same office;

18 (f) It shall permit the voter to vote for or against any question he
19 may have the right to vote on, but no other;

20 (g) It shall for use in primary elections be so equipped that the
21 election officials can [lock out all rows] stop a voter from voting for
22 all candidates except those of the voter's party [by a single adjustment
23 on the outside of the machine];

24 (h) It shall correctly register or record and accurately count all
25 votes cast for any and all persons, and for or against any and all
26 questions;

27 (i) It shall be provided with a "protective counter" or "protective
28 device" whereby any operation of the machine before or after the
29 election will be detected;

30 (j) It shall be so equipped with such [locks] protective devices as
31 shall prevent the operation of the machine after the polls are closed;

32 (k) It shall be provided with a counter which shall show at all times
33 during an election how many persons have voted;

34 (l) It shall be provided with a [mechanical] model, illustrating the
35 manner of voting on the machine, suitable for the instruction of voters;

36 (m) It must permit a voter to vote for any person for any office,
37 except delegates and alternates to national party conventions, whether
38 or not nominated as a candidate by any party or organization by
39 providing [space for writing in] an opportunity to indicate such names
40 or name;

41 (n) It shall be equipped with a permanently affixed box or container
42 of sufficient strength, size and security to hold all emergency ballots
43 and pre-punched single-hole envelopes and with a clipboard and a
44 table-top privacy screen;

45 (o) It shall not use mechanical lever machines or punch cards to
46 record votes.

1 All voting machines used in any election shall be provided with a
2 screen, hood or curtain, which shall be so made and adjusted as to
3 conceal the voter and his action while voting.

4 It shall also be provided with one device for each party for voting
5 for all the presidential electors of that party by one operation, and a
6 ballot therefor containing only the words "presidential electors for,"
7 preceded by the name of that party and followed by the names of the
8 candidates thereof for the offices of President and Vice-President and
9 a registering device therefor which shall register the vote cast for such
10 electors when thus voted collectively.

11 (cf: P.L.1992, c.3, s.3)

12
13 ¹[14.] 15.¹ R.S.19:48-7 is amended to read as follows:

14 19:48-7. If any voting machine being used in any election district
15 shall, during the time the polls are open, become damaged so as to
16 render it inoperative in whole or in part, the election officers shall
17 immediately give notice thereof to the county board of elections or the
18 superintendent of elections or the municipal clerk, as the case may be,
19 having custody of voting machines, and such county board of elections
20 or such superintendent of elections or such municipal clerk, as the case
21 may be, shall cause any person or persons employed or appointed
22 pursuant to section 19:48-6 of this Title to substitute a machine in
23 perfect [mechanical] working order for the damaged machine. At the
24 close of the polls the records of both machines shall be taken and the
25 votes shown on their counters shall be added together in ascertaining
26 and determining the results of the election. During any period when
27 a voting machine is inoperative, emergency ballots made as nearly as
28 possible in the form of the official ballot shall be used in accordance
29 with the provisions of this amendatory and supplementary act,
30 P.L.1992, c.3 (C.19:53B-1 et al.), received by the election officers and
31 placed by them in an emergency ballot box as provided in this
32 amendatory and supplementary act, P.L.1992, c.3 (C.19:53B-1 et al.),
33 and shall be counted with the votes registered on the voting machines.
34 The result shall be declared the same as though there had been no
35 accident to the voting machine. The emergency ballots thus voted
36 shall be preserved and returned with a statement setting forth how and
37 why the same were voted. The original statement shall be filed with
38 the county or municipal clerk, as the case may be; a copy of the
39 statement shall be filed with the commissioner of registration; and an
40 additional copy shall be placed in the emergency ballot box. The
41 statement for use in all elections except primary elections shall be in
42 the following form:

43
44 ELECTION STATEMENT FOR EMERGENCY PAPER BALLOTS
45 VOTED

1 This statement must be completed by all election district board
2 workers present when a voting machine malfunctions and emergency
3 paper ballots are issued and voted. R.S.19:48-7.

4 This is to certify that voting machine no. became inoperative at
5AM, PM. We further certify that emergency paper
6 ballots were issued and voted during the time the voting machine
7 assigned to Election District No. in (municipality)
8 was inoperative. The last voting authority given out before the voting
9 machine became inoperative was no. This day of
10 [19] 2

11 TO BE COMPLETED ONLY IF VOTING MACHINE IS
12 REPLACED

13 Voting machine no. was replaced by voting machine no..... at
14 AM,PM.

15 The next voting authority given out after the voting machine was
16 replaced was no.

17 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
18 REPAIRED AND IS READY TO RECEIVE VOTES

19 Voting machine no. was repaired at AM,PM.

20 The next voting authority given out after the voting machine was
21 repaired was no.

22

23 Signature of Judge Signature of Clerk

24

25 Signature of Inspector Signature of Clerk

26

27 Municipality Signature of Voting
28 Machine Technician

29

30 Ward

31

32 District

33 The statement for use in the primary election shall be in the
34 following form:

35

36 PRIMARY ELECTION

37

38 STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

39

40 This statement must be completed by all election district board
41 workers present when a voting machine malfunctions and emergency
42 paper ballots are issued and voted. R.S.19:48-7.

43 This is to certify that voting machine no. became inoperative at
44AM, PM. We further certify that emergency paper
45 ballots were issued and voted during the time the voting machine
46 assigned to Election District No. in (municipality)

1 was inoperative. The last voting authorities given out before the
2 voting machine became inoperative were REPUBLICAN NO.,
3 DEMOCRATIC NO.
4 this day of [19] 2

5
6 TO BE COMPLETED ONLY IF VOTING MACHINE IS
7 REPLACED

8
9 Voting machine no. was replaced by voting machine no..... at
10 AM,PM.

11 The next voting authorities given out after the voting machine was
12 replaced were REPUBLICAN NO....., DEMOCRATIC NO.....

13 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
14 REPAIRED AND IS READY TO RECEIVE VOTES

15 Voting machine no. was repaired at AM,PM.

16
17 The next voting authorities given out after the voting machine was
18 repaired were REPUBLICAN NO., DEMOCRATIC NO.

19

20 Signature of Judge Signature of Clerk

21

22 Signature of Inspector Signature of Clerk

23

24 Municipality Signature of Voting
25 Machine Technician

26

27 Ward

28

29 District

30 If a voting machine fails to operate on multiple occasions during a
31 single election, a STATEMENT FOR EMERGENCY PAPER
32 BALLOTS VOTED shall be completed on each occasion when the
33 machine fails to operate.

34 (cf: P.L.1992, c.3, s.7)

35

36 ¹[15.] 16.¹ R.S.19:49-2 is amended to read as follows:

37 19:49-2. All official ballots shall be [printed on clear white paper
38 or cardboard of such form and size as will fit the ballot frames of the
39 machines, printed] in black ink in type as large as [the] space will
40 reasonably permit; provided, however, that any public question which
41 shall be placed on the ballot shall be [printed] in red [ink] and above
42 any public question to be voted upon by the voters of the entire State
43 there shall be [printed], also in red [ink], a description of the public
44 question, which description shall not exceed six words and shall be
45 [printed] in type as large as is practicable. Party nominations shall be
46 arranged on each voting machine, either in columns or horizontal

1 rows; the caption of the various ballots on the machines shall be so
2 placed on the machines as to indicate to the voter what [push knob,
3 pointer, lever or other] device is to be used or operated in order to
4 vote for the candidates or candidate of his or her choice. The
5 providing of the official ballots and the order of the precedence and
6 arrangement of parties and of candidates shall be as now required by
7 law; provided, however, that in those counties where voting machines
8 are used, the specifications for the [printing of the] official ballots
9 shall be drawn by the county clerk.

10 For the primary election for the general election in all counties
11 where voting machines are or shall be used, all candidates who shall
12 file a joint petition with the county clerk of their respective county and
13 who shall choose the same designation or slogan shall be drawn for
14 position on the ballot as a unit and shall have their names placed on the
15 same line of the voting machine; and provided further, that all
16 candidates for municipal or party office in municipalities in counties
17 where voting machines are or shall be used who shall file a petition
18 with the clerk of their municipality bearing the same designation or
19 slogan as that of the candidates filing a joint petition with the county
20 clerk as aforesaid, may request that his or her name be placed on the
21 same line of the voting machine with the candidates who have filed a
22 joint petition with the county clerk as aforesaid by so notifying the
23 county clerk of said county in writing within two days after the last
24 day for filing nominating petitions and thereupon the county clerk shall
25 forthwith notify the campaign manager of such candidates filing a
26 joint petition as aforesaid of said request, and if the said campaign
27 manager shall file his consent in writing with the said county clerk
28 within two days after the receipt of said notification from said county
29 clerk, the clerk of said county shall place the name of such candidate
30 on the same line of the voting machine on which appears the names of
31 the candidates who have filed the joint petition as aforesaid; provided,
32 also, that any candidate filing a petition with the [Secretary of State]
33 Attorney General may request that his or her name be placed on the
34 same line of the voting machine with the candidates who have filed a
35 joint petition with the county clerk as aforesaid by so notifying the
36 county clerk of said county in writing within two days after the last
37 day for filing nominating petitions, and thereupon the county clerk
38 shall forthwith notify the campaign manager of such candidates filing
39 a joint petition as aforesaid of said request, and if the said campaign
40 manager shall file his consent in writing with the said county clerk
41 within two days after the receipt of said notification from said county
42 clerk, the clerk of said county shall place the name of such candidate
43 on the same line of the voting machine on which appears the names of
44 the candidates who have filed the joint petition as aforesaid.

45 (cf: P.L.1948, c.240, s.1)

1 ¹[16.] 17.¹ Section 2 of P.L.1973, c.82 (C.19:53A-2) is amended
2 to read as follows:

3 2. a. The board of chosen freeholders of any county may adopt,
4 acquire by purchase, lease, or otherwise, or abandon any electronic
5 voting system or mechanical system authorized herein which has been
6 approved for use in the State, in any election or primary or
7 combination thereof, and may use such system in all or a part of the
8 districts within its boundaries[, or in combination with paper ballots].
9 The county authorities, on the adoption and acquisition of an
10 electronic voting system, shall provide for the payment therefor in
11 such manner as they deem for the best interest of the locality, in such
12 manner as may be provided by law.

13 b. The provisions of this act shall be controlling with respect to
14 elections where electronic voting systems are used, and shall be
15 liberally construed so as to carry out the purpose and intent of this act.
16 Any provisions of law relating to the conduct of elections which
17 conflict with this act shall not apply to the conduct of elections with
18 an approved electronic voting system.

19 c. Following the effective date of P.L. , c. (C.) (now
20 pending before the Legislature as this bill), an electronic voting system
21 that uses a voting device requiring the voter to punch out a hole in a
22 ballot card or pull a mechanical lever as a means of recording the
23 voter's vote shall not be used in any election in any district within this
24 State.

25 (cf: P.L.1973, c.82, s.2)

26

27 ¹[17.] 18.¹ Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended
28 to read as follows:

29 3. Every electronic voting system, consisting of a voting device in
30 combination with automatic tabulating equipment, acquired or used
31 in accordance with this act, shall:

32 a. Provide for voting in secrecy, except in the case of voters who
33 have received assistance as provided by law;

34 b. Permit each voter to vote at any election for all persons and
35 offices for whom and for which he is lawfully entitled to vote; to vote
36 for or against any question upon which he is entitled to vote; and the
37 automatic tabulating equipment shall reject choices recorded on his
38 ballot [card] if the number of choices exceeds the number which he
39 is entitled to vote for the office or on the measure;

40 c. Permit each voter, at presidential elections, by one mark [or
41 punch] to vote for the candidates of that party for president, vice
42 president, and their presidential electors;

43 d. Permit each voter, at other than primary elections, to vote for
44 the nominees of one or more parties and for independent candidates;
45 and personal choice or write-in candidates;

46 e. Permit each voter in primary elections to vote for candidates in

1 the party primary in which he is qualified to vote, and the automatic
2 tabulating equipment shall reject any votes cast for candidates of
3 another party;

4 f. Prevent the voter from voting for the same person more than
5 once for the same office;

6 g. Be suitably designed for the purpose used, of durable
7 construction, and may be used safely, efficiently, and accurately in the
8 conduct of elections and counting ballots;

9 h. When properly operated, record correctly and count accurately
10 every vote cast, including all overvotes or undervotes and all
11 affirmative votes or negative votes on all public questions or
12 referenda.

13 (cf: P.L.1973, c.82, s.3)

14

15 ¹[18.] 19.¹ Section 5 of P.L.1973, c.82 (C.19:53A-5) is amended
16 to read as follows:

17 5. a. Ballot labels shall be [printed] in plain clear type in black
18 [ink], of such size and arrangement as to fit the construction of the
19 voting device; they shall be [printed] on clear white material or on
20 material of different colors to identify different ballots or parts of the
21 ballot, and in primary elections to identify each political party.

22 b. The titles of offices and the names of candidates may be
23 arranged in vertical columns or in a series of separate pages. The
24 office title with a statement of the number of candidates to be voted
25 for shall be printed above or at the side of the names of the candidates
26 for that office. The names of candidates shall be [printed] in the order
27 provided by law, and in general elections the party designation of each
28 candidate, which may be abbreviated, and a slogan not to exceed six
29 words may [be printed following] follow his or her name. In case
30 there are more candidates for an office than can be [printed] arranged
31 in one column or on one ballot page, the ballot label shall be clearly
32 marked that the list of candidates is continued on the following column
33 or page, and so far as possible, the same number of names shall be
34 [printed] arranged on each column or page. Arrows may be used to
35 indicate the place to vote for each candidate and on each measure.

36 c. The different parts of the ballot, such as partisan, nonpartisan,
37 and measures, shall be prominently indicated on the ballot labels, and,
38 if practicable, each part shall be placed on a separate page or pages.
39 In the event that two or more elections are held on the same day, the
40 ballot labels shall be clearly marked to indicate the ballot for each
41 election, and, if practical, the ballot labels for each election shall be
42 placed upon separate pages, and labels of a different color or tint may
43 be used for each election.

44 d. Sample ballots, which shall be facsimile copies of the official
45 ballot or ballot labels, shall be provided as required by law. At least
46 three copies shall be posted in each polling place on election day.

1 Sample ballots may be printed on a single sheet or on a number of
2 pages stapled together.

3 e. In elections in which voters are authorized to vote for persons
4 whose names do not appear on the ballot, at the discretion of the
5 county board of elections either (1) a separate write-in ballot, which
6 may be in the form of a paper ballot, card or envelope in which the
7 voter places his or her ballot card after voting, shall be provided to
8 permit voters to write in the title of the office and the name of the
9 person or persons for whom he or she wishes to vote, or to attach a
10 sticker of suitable size on which is printed the title of the office and the
11 name of the person or persons for whom he or she wishes to vote; or
12 (2) provisions shall be made for the voter to write the name of the
13 person or persons for whom he or she wishes to vote on the ballot
14 card in the location designated and to **[punch]** mark the ballot card in
15 the location provided.

16 (cf: P.L.1975, c.316, s.4)

17

18 ¹[19.] 20.¹ Section 9 of P.L.1973, c.82 (C.19:53A-9) is amended
19 to read as follows:

20 9. Absentee votes may be cast on paper ballots or ballot cards, or
21 both methods may be used, provided that, following the effective date
22 of P.L. , c. (C.) (now pending before the Legislature as this
23 bill), absentee votes shall not be cast in any election in this State by
24 means of ballot cards that require the voter to punch out a hole in the
25 card as a means of recording the voter's vote.

26 Such ballots may be counted by automatic tabulating equipment or
27 by special canvassing boards appointed by and under the direction of
28 the county board of elections. A true copy of absentee paper ballots
29 may be made on ballot cards, which after being duly verified, shall
30 forthwith be counted in the same manner as other ballot cards, except
31 that, following the effective date of P.L. , c. (C.) (now
32 pending before the Legislature as this bill), ballot cards that require a
33 hole to be punched out in the card to record a vote shall not be used
34 in any election in this State. Such paper ballots and ballot cards shall
35 be forthwith marked with corresponding numbers, which numbering
36 shall be done in such manner as not to identify any voter and such
37 marking shall not be considered to be a marked ballot. Such paper
38 ballots and corresponding ballot cards shall both be preserved in the
39 same manner as other ballot cards are required to be preserved
40 hereunder.

41 (cf: P.L.1973, c.82, s.9)

42

43 ¹[20.] 21.¹ Section 21 of P.L.1992, c.3 (C.19:53B-12) is amended
44 to read as follows:

45 21. The right to challenge a voter who uses the emergency ballot
46 shall exist until the emergency ballot is deposited in the emergency

1 ballot box. If the right of a person to vote is challenged, the same
2 procedures shall be used as prescribed when the right of a person to
3 cast a vote on an electronic [or mechanical] voting machine is
4 challenged.

5 (cf: P.L.1992, c.3, s.21)

6

7 ¹[21.] 22.¹ Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended
8 to read as follows:

9 7. a. (1) The county clerk or the municipal clerk, in the case of a
10 municipal election, shall arrange for the preparation of a provisional
11 ballot packet for each election district. It shall include the appropriate
12 number of provisional ballots, the appropriate number of envelopes
13 with an affirmation statement, the appropriate number of written
14 notices to be distributed to voters who vote by provisional ballot and
15 one provisional ballot inventory form affixed to the provisional ballot
16 bag. The clerk shall arrange for the preparation of and placement in
17 each provisional ballot bag of a provisional ballot packet and an
18 envelope containing a numbered seal. The envelope shall contain, on
19 its face, the instructions for the use of the seal, the number and the
20 election district location of the provisional ballot bag, and the
21 identification numbers of the seal placed in the envelope. Each
22 provisional ballot bag shall be sealed with a numbered security seal
23 before being forwarded to the appropriate election district.

24 (2) Each provisional ballot bag and the inventory of the contents
25 of each such bag shall be delivered to the designated polling place no
26 later than the opening of the polls on the day of an election.

27 b. The county clerk or the municipal clerk, in the case of a
28 municipal election, shall arrange for the preparation of the envelope
29 [and], affirmation statement, and written notice that is to accompany
30 each provisional ballot. The envelope shall be of sufficient size to
31 accommodate the provisional ballot, and the affirmation statement
32 shall be affixed thereto in a manner that enables it to be detached once
33 completed and verified by the county commissioner of registration.
34 The statement shall require the voter to provide the voter's name, and
35 to indicate whether the voter is registered to vote in a county but has
36 moved within that county since registering to vote; or is registered to
37 vote in the election district in which that polling place is located but
38 the voter's registration information is missing or otherwise deficient.
39 The statement shall further require the voter to provide the voter's
40 most recent prior voter registration address and address on the day of
41 the election and date of birth. The statement shall include the
42 statement: "I swear or affirm, that the foregoing statements made by
43 me are true and correct and that I understand that any fraudulent
44 voting may subject me to a fine of up to \$1,000, imprisonment up to
45 five years or both, pursuant to R.S.19:34-11." It shall be followed
46 immediately by spaces for the voter's signature and printed name, and

1 in the case of a name change, the voter's printed old and new name and
2 a signature for each name, the date the statement was completed,
3 political party affiliation, if used in a primary election, and the name of
4 the person providing assistance to the voter, if applicable. Each
5 statement shall also note the number of the election district, or ward,
6 and name of the municipality at which the statement will be used.

7 The written notice shall contain information to be distributed to
8 each voter who votes by provisional ballot. The notice shall state that,
9 if the voter is a mail-in registrant voting for the first time in his or her
10 current county of residence following registration and was given a
11 provisional ballot because he or she did not provide required personal
12 identification information, the voter shall be ¹[to] given until¹ the
13 close of business on the second day after the election to provide
14 identification to the applicable county commissioner of registration,
15 and the notice shall contain a telephone number at which the
16 commissioner may be contacted. The notice shall further state that
17 failure to provide the required personal identification information
18 within that time period shall result in the rejection of the ballot. The
19 notice shall state that pursuant to section 4 of P.L. , c. (C.
20)(now pending before the Legislature as this bill), any individual who
21 casts a provisional ballot will be able to ascertain under a system
22 established by the State whether the ballot was accepted for counting,
23 and if the vote was not counted, the reason for the rejection of the
24 ballot. The notice shall include instructions on how to access such
25 information.

26 c. For the primary for the general election, the provisional ballots
27 shall be printed in ink on paper of a color that matches the color of the
28 voting authority, which shall indicate the party primary of the voter.
29 The provisional ballots shall be uniform in size, quality and type and
30 of a thickness that the printing thereon cannot be distinguished from
31 the back of the paper, and without any mark, device or figure on the
32 front or back other than as provided in P.L.1999, c.232 (C.19:53C-1
33 et [al.] seq.). Each such ballot shall include near the top thereof and
34 in large type the designation PROVISIONAL BALLOT. In all other
35 respects, the provisional ballots shall conform generally to the other
36 ballots to be used in the election district for the primary election.

37 The clerk of the county or municipality shall arrange for the
38 preparation of each provisional ballot package with an appropriate
39 number of provisional ballots for each political party [and], a
40 corresponding number of envelopes with affirmation statements, and
41 a corresponding number of written notices. Additional provisional
42 ballots [and], envelopes, and notices shall be available for delivery to
43 that election district on the day of the election, if necessary.

44 d. For the general election the provisional ballots shall be printed
45 in ink. The provisional ballots shall be uniform in size, quality and
46 type and of a thickness that the printing thereon cannot be

1 distinguished from the back of the paper, and without any mark,
2 device or figure on the front or back other than as provided in this act.
3 Each such ballot shall include near the top thereof and in large type the
4 designation PROVISIONAL BALLOT. In all other respects, the
5 provisional ballots shall conform generally to the other ballots to be
6 used in the election district for the general election.

7 The clerk of the county or municipality shall arrange for the
8 preparation of each provisional ballot package with an appropriate
9 number of provisional ballots ~~[and]~~, a corresponding number of
10 envelopes with affirmation statements, and a corresponding number of
11 written notices. Additional provisional ballots ~~[and]~~, envelopes, and
12 notices shall be available for delivery to that election district on the
13 day of the election, if necessary.

14 e. For a school election the provisional ballots shall be printed in
15 ink. The provisional ballots shall be uniform in size, quality and type
16 and of a thickness that the printing thereon cannot be distinguished
17 from the back of the paper, and without any mark, device or figure on
18 the front or back other than as provided in this act. Each such ballot
19 shall include near the top thereof and in large type the designation
20 PROVISIONAL BALLOT. In all other respects, the provisional
21 ballots shall conform generally to the other ballots to be used in the
22 election district for the school election.

23 The clerk of the county shall arrange for the preparation of each
24 provisional ballot package with an appropriate number of provisional
25 ballots ~~[and]~~, a corresponding number of envelopes with affirmation
26 statements, and a corresponding number of written notices. Additional
27 provisional ballots ~~[and]~~, envelopes, and notices shall be available for
28 delivery to that election district on the day of the election, if necessary.

29 f. Following on the effective date of P.L. , c. (C.) (now
30 pending before the Legislature as this bill), a provisional ballot that
31 requires the voter to punch out a hole in the ballot as a means of
32 recording the voter's vote shall not be used in any election in this
33 State.

34 (cf: P.L.1999, c.232, s.7)

35

36 ¹[22.] 23.¹ Section 9 of P.L.1999, c.232 (C.19:53C-3) is amended
37 to read as follows:

38 9. Whenever a voter enters a polling place to vote on the day of an
39 election and the circumstance of that voter matches the circumstance
40 of a voter described in subsection b. of R.S.19:31-11, the district
41 board shall query the voter and follow the appropriate procedure
42 herein described.

43 a. If, at any time, the voter has moved from one residence to
44 another in the same election district, the board shall permit the voter
45 to vote at that polling place in the same manner as other voters at the
46 polling place upon written affirmation by the voter to the district

1 board.

2 b. If the voter has moved within a municipality but currently
3 resides in an election district different from that listed for the voter by
4 the commissioner of registration, the district board shall direct the
5 voter to the appropriate election district and polling place for the voter
6 and inform that person that: (1) the person must go to that polling
7 place to vote; and (2) the person will be permitted to vote thereat by
8 provisional ballot after completing an affirmation statement.

9 c. If the voter has moved within the county but currently resides in
10 a municipality different from that listed for the voter by the
11 commissioner of registration, the district board shall determine the
12 appropriate election district and polling place for the voter and inform
13 that person that: (1) the person must go to that polling place to vote;
14 and (2) the person will be permitted to vote thereat by provisional
15 ballot after completing an affirmation statement.

16 d. If, on or before the 29th day prior to the day of the election, the
17 voter has moved into the county from another county or state and has
18 not registered to vote in that county, the board shall inform the voter
19 that he is not eligible to vote in that county at that election.

20 e. If, after the 29th day prior to the day of an election, the voter
21 has moved into the county from another county in this State, the board
22 shall inform the voter that: (1) the voter is not eligible to vote in the
23 county where he resides currently at that election; and (2) the voter
24 may be eligible to vote in the election district where the voter resided
25 prior to moving to the voter's current residence.

26 f. If the voter's registration information has been marked by the
27 county commissioner of registration to indicate a problem therewith,
28 or if the voter's sample ballot has been returned as undeliverable to the
29 county or municipal clerk, as the case may be, but the voter states that
30 the voter has not moved prior to the day of an election, but instead
31 continues to reside at the same address the voter resided at when
32 voting previously, the voter shall be permitted to vote in such election
33 district in the same manner as other voters at the polling place upon
34 written affirmation to the district board of that election district.

35 g. If the voter's registration information is missing, the voter shall
36 be permitted to vote by provisional ballot after completing the
37 affirmation statement attached to the envelope provided with the
38 provisional ballot.

39 h. In accordance with the requirements of subsection (c) of section
40 302 of Pub.L.107-252 (42 U.S.C. 15482), whenever a voter is voting
41 as a result of a federal or State court order or any other order
42 extending the time established for closing the polls in effect 10 days
43 before the date of an election, the voter may vote only by provisional
44 ballot. Any such ballot shall be separated by the county board from
45 other provisional ballots cast at the election and the results shall be
46 canvassed and recorded separately in the official canvas for the

1 election.

2 i. Any person who, pursuant to subsection b. of R.S.19:15-17,
3 votes by provisional ballot at the polling place because of his or her
4 failure to provide required personal identification information shall be
5 given ¹[to] until¹ the close of business on the second day after the
6 election to provide the applicable county commissioner of registration
7 with the identification information. Failure to provide the required
8 personal identification information within that time period shall result
9 in the rejection of the ballot.

10 (cf: P.L.1999, c.232, s.9)

11

12 ¹[23.] 24.¹ Section 13 of P.L.1999, c.232 (C.19:53C-7) is
13 amended to read as follows:

14 13. To vote for a candidate whose name is printed in any column,
15 or to vote in favor of or against any public question printed on the
16 provisional ballot, the voter shall:

17 a. Mark a cross x, plus + or check in the square provided for the
18 name of each candidate in any column for whom the voter chooses to
19 vote, or for a public question, make the same marking in the square
20 provided for either the word "Yes" or "No" of each public question,
21 if the ballot requires such designation to be considered valid;

22 b. [Punch out completely the hole adjacent to the name of each
23 candidate in any column for whom the voter chooses to vote, or for a
24 public question, punch out completely the hole adjacent to either the
25 word "Yes" or "No" of each public question, if the ballot requires such
26 an action to be considered valid] ~~Deleted by amendment, P.L. , c.~~
27 ~~(C.) (now pending before the Legislature as this bill);~~

28 c. Complete the connecting line adjacent to the name of each
29 candidate in any column for whom the voter chooses to vote, or for a
30 public question, complete the connecting line adjacent to either the
31 word "Yes" or "No" of each public question, if the ballot requires such
32 designation to be considered valid; or

33 d. Fill in the designated space adjacent to the name of the candidate
34 for whom the voter chooses to vote, or for a public question, fill in the
35 designated space adjacent to either the word "Yes" or "No" of each
36 public question, if the ballot requires such a designation to be
37 considered valid.

38 (cf: P.L.1999, c.232, s.13)

39

40 ¹[24.] 25.¹ Section 16 of P.L.1999, c.232 (C.19:53C-10) is
41 amended to read as follows:

42 16. a. After voting the provisional ballot and completing the
43 affirmation statement, and before leaving the polling booth or the
44 designated voting area, as the case may be, the voter shall place the
45 voted provisional ballot in the envelope. The voter shall seal the
46 envelope and shall retain custody of the envelope until a member of

1 the board is ready to accept the envelope.

2 b. The voter shall hand the sealed envelope to the member of the
3 district board. The member shall keep the sealed envelope in full view
4 of the voter, the other district board members and all other persons
5 present until it is placed in the provisional ballot bag. The voter may
6 also take hold of the envelope, with that member of the board, until
7 the envelope is placed in the provisional ballot bag. The security of
8 the provisional ballot bag and its contents while any election occurs
9 shall be the responsibility of the members of the district board. After
10 placing the envelope in the provisional ballot bag, the member of the
11 district board shall hand to the voter the written notice of instructions
12 on how the voter may access information regarding whether the ballot
13 of the individual is accepted for counting, and if the vote is not
14 counted, the reason for the rejection of the ballot, pursuant to section
15 1[5] 4¹ of P.L. , c. (C.) (now pending before the Legislature
16 as this bill).

17 (cf: P.L.1999, c.232, s.16)

18

19 ¹[25.] 26.¹ Section 4 of P.L.1953, c.211 (C.19:57-4) is amended
20 to read as follows:

21 4. At any time not less than seven days prior to an election in
22 which he desires to vote by mail, a civilian absentee voter may apply
23 to the person designated in section 6 of [this act] P.L.1953, c.211
24 (C.19:57-6), for a civilian absentee ballot. Such application or request
25 shall be made in writing, shall be signed by the applicant and shall state
26 his or her place of voting residence and the address to which said
27 ballot shall be sent, and the reason for which the ballot is requested.

28 Any military service voter desiring to vote in any election or any
29 relative or friend of a military service voter who believes that such
30 voter will desire to vote in any election, may apply to the person
31 designated in section 6 of [this act] P.L.1953, c.211 (C.19:57-6) for
32 a military service ballot to be sent to such voter. A military service
33 voter may use a federal postcard application form to apply for a
34 military service ballot. On any application made by a military service
35 voter the voter may request a military service ballot for all subsequent
36 elections [held during] through and including the [calendar year in
37 which] next two regularly scheduled general elections for federal
38 office which take place after the request is made; if such a request is
39 made, a military service ballot shall be sent in a timely manner to the
40 voter for all such elections.

41 Any civilian absentee voter who fails to apply within the seven-day
42 time prescribed above may apply in person to the county clerk for an
43 absentee ballot on any day up to 3 p.m. of the day before the election.

44 In the event of sickness or confinement, the qualified voter may
45 apply in writing for and obtain an absentee ballot by authorized
46 messenger, who shall be so designated over the signature of the voter

1 and whose printed name and address shall appear on the application in
2 the space provided. The authorized messenger shall be a family
3 member or a registered voter of the county in which the application is
4 made and shall place his signature on the application in the space so
5 provided in the presence of the county clerk or his designee. The
6 county clerk or his designee shall authenticate the signature of the
7 authorized messenger, in the event such a messenger is other than a
8 family member, by comparing it with the signature of the said person
9 appearing on a State of New Jersey driver's license, or other
10 identification issued or recognized as official by the federal
11 government, the State, or any of its political subdivisions, which
12 identification carries the full address and signature of said person.
13 After the signature of the application and, when appropriate,
14 authentication, the county clerk or his designee is authorized to deliver
15 to the authorized messenger a ballot to be delivered to the qualified
16 voter. The Attorney General shall cause to be prepared a standard
17 authorized messenger application form, which may be included with
18 the standard civilian absentee ballot application forms.

19 A voter who is permanently and totally disabled, and who states the
20 reason for such disability in a request for an absentee ballot, shall be
21 furnished an application for an absentee ballot by the county clerk for
22 all future elections in which the voter shall be eligible to vote, without
23 further request on the part of the voter. A voter who is permanently
24 and totally disabled shall have the option to indicate on an application
25 for an absentee ballot that the voter would like to receive an absentee
26 ballot for each election that takes place during the remainder of the
27 calendar year in which the application is completed and submitted. A
28 voter who exercises this option shall be furnished with an absentee
29 ballot for each election that takes place during the remainder of the
30 calendar year without further request by the voter. A person voting
31 by absentee ballot who registered by mail after January 1, 2003, who
32 did not provide personal identification information when registering
33 pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting
34 for the first time in his or her current county of residence following
35 registration shall include the required identification information with
36 the absentee ballot. Failure to include such information with the
37 absentee ballot shall result in the rejection of the ballot.

38 (cf: P.L.2000, c.86, s.1)

39

40 ¹[26.] 27.¹ Section 6 of P.L.1953, c.211 (C.19:57-6) is amended
41 to read as follows:

42 6. In the case of any election, the application or request shall be
43 made to the county clerk of the county.

44 In the case of applications for civilian absentee ballots, the county
45 clerk shall stamp thereon the date on which said application was
46 received in his office. In the case of applications for military service

1 ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2) and
2 overseas Federal election voter ballots, as provided for in P.L.1976,
3 c.23 (C.19:59-1 et seq.), no application shall be refused on the
4 grounds that it was submitted too early.

5 (cf: P.L.1977, c.47, s.5)

6
7 ¹[27.] 28.¹ Section 7 of P.L.1953, c.211 (C.19:57-7) is amended
8 to read as follows:

9 7. a. The [county clerk of the county, in the case of any Statewide
10 election, countywide election, or school election in a regional or other
11 school district comprising more than one municipality; the clerk of the
12 municipality, in the case of any municipal election or school election
13 in a school district comprising a single municipality; and the
14 commissioners or other governing or administrative body of the
15 district, in the case of any election to be held in any fire district, road
16 district, sewerage district, street lighting district, water supply district
17 or other special district, other than a municipality, created for specified
18 public purposes within one or more municipalities,] Attorney General,
19 through the Division of Elections in the Department of Law and Public
20 Safety shall be responsible for providing all information regarding
21 military service ballots, as defined in section 2 of P.L.1953, c.211
22 (C.19:57-2), and overseas Federal election voter ballots, as provided
23 for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make
24 available valid military service voter registration applications, military
25 service ballot applications and overseas Federal election voter
26 registration and ballot applications to any military service or overseas
27 Federal election voter who wishes to register to vote or to vote in any
28 jurisdiction in this State. The division shall publish or cause to be
29 published the following [notices] notice in substantially the following
30 [forms] form:

31
32 NOTICE TO MILITARY SERVICE VOTERS AND
33 TO THEIR RELATIVES AND FRIENDS
34

35 If you are in the military service, or the spouse or dependent of a
36 person in military service or are a patient in a veterans' hospital or a
37 civilian attached to or serving with the Armed Forces of the United
38 States without the State of New Jersey, or the spouse or dependent of
39 and accompanying or residing with a civilian attached to or serving
40 with the Armed Forces of the United States, and desire to vote, or if
41 you are a relative or friend of any such person who, you believe, will
42 desire to vote in the (school, municipal,
43 primary, general or other) election to be held on
44 (date of election) kindly write to the undersigned at once making
45 application for a military service ballot to be voted in said election to
46 be forwarded to you, stating your name, age, serial number if you are

1 in military service, home address and the address at which you are
2 stationed or can be found, or if you desire the military service ballot
3 for a relative or friend then make application under oath for a military
4 service ballot to be forwarded to him, stating in your application that
5 he is over the age of 18 years and stating his name, serial number if he
6 is in military service, home address and the address at which he is
7 stationed or can be found.

8 Military service voters may also apply for a military service ballot
9 by sending a federal postcard application form to the undersigned.

10 On the application for a military service ballot, military service
11 voters may request that a military service ballot be sent for all
12 subsequent elections [held during] through and including [this
13 calendar year] the next two regularly scheduled general elections for
14 federal office which take place after the request is made.

15

16 (NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY
17 STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY
18 NOT USE MILITARY ABSENTEE BALLOT UNLESS
19 REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH
20 STATION IS LOCATED.)

21 Forms of application other than federal postcard application forms
22 can be obtained from the undersigned. Dated
23

24 (signature and title of [county clerk] Director of Division of
25 Elections)

26

27 (address of [county clerk] Division of Elections)

28 b. The county clerk of the county, in the case of any Statewide
29 election, countywide election, or school election in a regional or other
30 school district comprising more than one municipality; the clerk of the
31 municipality, in the case of any municipal election or school election
32 in a school district comprising a single municipality; and the
33 commissioners or other governing or administrative body of the
34 district, in the case of any election to be held in any fire district, road
35 district, sewerage district, street lighting district, water supply district
36 or other special district, other than a municipality, created for specified
37 public purposes within one or more municipalities, shall publish or
38 cause to be published the following notice in substantially the
39 following form:

40

41 NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE
42 BALLOTS

43

44 If you are a qualified and registered voter of the State who expects
45 to be absent outside the State on(date of election) or a
46 qualified and registered voter who will be within the State on

1 (date of election) but because of permanent and
 2 total disability, or because of illness or temporary physical disability,
 3 or because of the observance of a religious holiday pursuant to the
 4 tenets of your religion, or because of resident attendance at a school,
 5 college, or university, or because of the nature and hours of
 6 employment, will be unable to cast your ballot at the polling place in
 7 your district on said date, and you desire to vote in the
 8 (school, municipal, primary, general, or other)
 9 election to be held on (date of election) kindly complete
 10 the application form below and send to the undersigned, or write or
 11 apply in person to the undersigned at once requesting that a civilian
 12 absentee ballot be forwarded to you. Such request must state your
 13 home address, and the address to which said ballot should be sent, and
 14 must be signed with your signature, and state the reason why you will
 15 not be able to vote at your usual polling place. No civilian absentee
 16 ballot will be furnished or forwarded to any applicant unless request
 17 therefor is received not less than seven days prior to the election, and
 18 contains the foregoing information.

19 Voters who are permanently and totally disabled shall, after their
 20 initial request and without further action on their part, be forwarded
 21 an absentee ballot application by the county clerk for all future
 22 elections in which they are eligible to vote. Permanently and totally
 23 disabled voters also have the option of indicating on their absentee
 24 ballot applications that they would prefer to receive absentee ballots
 25 for each election that takes place during the remainder of this calendar
 26 year. Permanently and totally disabled voters who exercise this option
 27 will be furnished with absentee ballots for each election that takes
 28 place during the remainder of this calendar year, without further action
 29 on their part. Application forms may be obtained by applying to the
 30 undersigned either in writing or by telephone, or the application form
 31 provided below may be completed and forwarded to the undersigned.

32 Dated

33 (signature and title of county clerk)

34

35 (address of county clerk)

36

37 (Telephone No. of county clerk)

38 APPLICATION FORM FOR CIVILIAN

39 ABSENTEE BALLOT

40 (Form to be prepared by the Attorney General pursuant to section
 41 17 of P.L.1977, c.47 (C.19:57-4.1)).

42 c. The absentee ballot materials shall contain a notice that any
 43 person voting by absentee ballot who registers by mail after January
 44 1, 2003, who did not provide personal identification information when
 45 registering and is voting for the first time in his or her current county
 46 of residence following registration shall include the required

1 identification information with the absentee ballot, and that failure to
2 include such information shall result in the rejection of the ballot.

3 d. Such notices as described in subsections a. and b. of this section
4 shall be separately published prior to the 50th day immediately
5 preceding the holding of any election.

6 Notices relating to any Statewide or countywide election shall be
7 published [by the county clerk] in at least two newspapers published
8 in the county. All [other] officials charged with the duty of publishing
9 such notices shall publish the same in at least one newspaper published
10 in each municipality or district in which the election is to be held or if
11 no newspaper be published in said municipality or district, then in a
12 newspaper published in the county and circulating in such municipality,
13 municipalities or district. All such notices shall be display
14 advertisements.

15 (cf: P.L.2000, c.86, s.2)

16
17 ¹[28.] 29.¹ Section 8 of P.L.1953, c.211 (C.19:57-8) is amended
18 to read as follows:

19 8. Each county clerk shall cause to be printed sufficient military
20 service ballots and civilian absentee ballots for each primary election
21 for the general election, and for the general election, and there shall be
22 furnished to the said county clerk of the county, as expeditiously as
23 possible before the day fixed for holding any other election within the
24 county, by the officer whose duty it shall be to provide the official
25 ballots for such election, sufficient military service ballots and civilian
26 absentee ballots. Along with all such ballots for all elections there
27 shall also be furnished by such county clerk or other official, inner and
28 outer envelopes and printed directions for the preparation and
29 transmitting of such ballots, for use in such election within the county
30 and all expenses of mailing such ballots shall be paid in the same
31 manner as other expenses of said election are paid.

32 The absentee ballots [used in counties which do not use any type
33 of computer punch cards as absentee ballots] shall be printed on paper
34 different in color from that used for the primary or general election
35 ballot, but in all other respects, shall be as nearly as possible facsimiles
36 of the election ballot to be voted at such election, as prescribed by the
37 county clerk and in conformity with the provisions of this act.

38 (cf: P.L.1994, c.77, s.12)

39
40 ¹[29.] 30.¹ Section 1 of P.L.1972, c.87 (C.19:57-15.1) is amended
41 to read as follows:

42 1. Notwithstanding any provision of law to the contrary, any
43 county may adopt a system of electronic scanning, [punch cards or]
44 other mechanical or electronic device, which system has been
45 previously approved by the Secretary of State, to be used in counting
46 or canvassing absentee ballots. The county clerk in any county

1 adopting such a system may prepare and use absentee ballots that do
2 not conform generally to the ballot to be used at said election to the
3 extent that such nonconformance is necessary in the operation of the
4 electronic or mechanical canvassing system.

5 In preparing the absentee ballot, the county clerk shall insert the
6 names of the candidates on the appropriate ballot[, punch card] or
7 other device in the same order in which they appear on the official
8 ballot with full instructions to the voter as to how to mark [or
9 puncture] the ballot.

10 (cf: P.L.1972, c.87, s.1)

11

12 ¹[30.] 31.¹ This act shall take effect immediately, except that
13 sections 12 through 20, subsection f. of section 21 and sections 23, 28
14 and 29 of this act shall remain inoperative until January 1, 2004 or, if
15 the State receives a waiver in accordance with subparagraph (d.) of
16 paragraph (b) of subsection (1) of section 303 of Pub.L.107-252 (42
17 U.S.C. 15483), January 1, 2006.

18

19

20

21

22 Implements portions of federal "Help America Vote Act of 2002."

SENATE, No. 701

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 26, 2004

Sponsored by:
Senator JOSEPH CONIGLIO
District 38 (Bergen)

SYNOPSIS

Implements portions of federal "Help America Vote Act of 2002."

CURRENT VERSION OF TEXT

As introduced.



S701 CONIGLIO

2

1 AN ACT concerning elections and amending and supplementing various
2 parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) The Legislature finds and declares:

8 a. The "Help America Vote Act of 2002," Pub.L.107-252, was
9 enacted by Congress and signed into law by President Bush on
10 October 29, 2002.

11 b. The new federal law, based upon recommendations by several
12 national study commissions including the National Commission on
13 Federal Election Reform, resulted from a consensus that the nation's
14 electoral system needs improvements to ensure that every eligible
15 voter has the opportunity to vote, that every vote will be counted that
16 should be counted, and that no legal vote will be canceled by a
17 fraudulent vote.

18 c. Accordingly, the "Help America Vote Act of 2002" authorizes
19 substantial amounts of federal aid to the states to fund the purchase of
20 more reliable voting systems, and mandates changes in the conduct of
21 federal elections in all states to ensure greater access to the polls by
22 individuals with disabilities, to provide more information for
23 individuals who wish to vote and better training of poll workers, and
24 to reduce the possibility of fraud.

25 d. The "Help America Vote Act of 2002" also clearly defines the
26 rights and privileges of those eligible individuals who seek to vote,
27 including all overseas and military service voters, and seeks to prevent
28 disenfranchisement due to mistaken determinations of ineligibility to
29 vote, the use of outdated voting systems that are unreliable or
30 insufficiently accessible for disabled voters, or unnecessary
31 administrative obstacles.

32 e. The purpose of P.L. , c. (C.)(now pending before the
33 Legislature as this bill) is to begin the process of implementing the
34 changes in New Jersey's election law required by the "Help America
35 Vote Act of 2002" to accomplish the purposes described above,
36 providing a fair, deliberative and consensus-oriented process for
37 enacting election reform required by the federal law, and ensure the
38 timely fulfillment by this State of all requirements for eligibility to
39 receive appropriated federal funds.

40

41 2. (New section) This act shall be known and may be cited as "The
42 Voting Opportunity and Technology Enhancement Act."

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

S701 CONIGLIO

1 3. (New section) There is hereby established in the Department of
2 the Treasury a special, nonlapsing fund to be known as the Federal
3 Elections Assistance Fund.

4 The fund is established in accordance with paragraph (b) of section
5 254 of Pub.L.107-252, (42 U.S.C.15404) for the purpose of receiving:

6 a. all moneys appropriated or otherwise made available by the State
7 for the purpose of carrying out the activities required by Pub.L.107-
8 252;

9 b. all payments which will be received from the federal government
10 pursuant to Pub.L.107-252;

11 c. interest earned on deposits made in the fund; and

12 d. such other additional amounts as may be appropriated under
13 federal or State law.

14 The State Treasurer is authorized to transfer into the fund in a
15 timely manner such State moneys as will be necessary to insure that
16 the State qualifies for the maximum amount of federal funds
17 appropriated to implement Pub.L.107-252.

18
19 4. (New section) The Attorney General shall establish a free-
20 access system, such as a toll-free telephone number, an Internet
21 website or any combination thereof, that any individual who casts a
22 provisional ballot may access to ascertain whether the ballot of that
23 individual was accepted for counting and, if the vote was not counted,
24 the reason for the rejection of the ballot. The system shall at all times
25 preserve the confidentiality of each voter, and shall ensure that no
26 person, other than the individual who cast the ballot, may discover
27 whether or not that individual's ballot was accepted, unless so
28 informed by the voter.

29
30 5. (New section) The Attorney General shall establish a free-
31 access system, such as a toll-free telephone number, an Internet
32 website or any combination thereof, that any individual who casts an
33 absentee ballot may access to ascertain whether the ballot of that
34 individual was accepted for counting and, if the ballot was not
35 counted, the reason for the rejection of the ballot. The system shall at
36 all times preserve the confidentiality of each voter, and shall ensure
37 that no person, other than the individual who cast the ballot, may
38 discover whether or not that individual's ballot was accepted for
39 counting, unless so informed by the voter. This system may be the
40 same one used for provisional ballots, established pursuant to section
41 4 of P.L. , c. (C.) (now pending before the Legislature as
42 this bill).

43
44 6. (New section) a. After January 1, 2004, any individual who
45 believes that there is, has been, or will be a violation of any provision
46 of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, pursuant

S701 CONIGLIO

1 to the procedures set forth in this section established in compliance
2 with the provisions of section 402 of P.L.107-252 (42 U.S.C. 15512),
3 file a complaint with the Division of Elections in the Department of
4 Law and Public Safety seeking appropriate relief with respect to the
5 violation.

6 b. Each such complaint shall be in writing, and shall be notarized,
7 signed, and sworn by the individual filing the complaint. The Attorney
8 General may consolidate all such complaints if the Attorney General
9 deems it appropriate.

10 c. (1) If, upon administrative inquiry, the Attorney General
11 determines that there is, has been, or will be a violation of any
12 provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the
13 Attorney General shall order appropriate relief. The complainant may
14 request a hearing on the record, to be conducted in the manner
15 provided for contested cases pursuant to the 'Administrative Procedure
16 Act,' P.L.1968, c.410 (C.52:14B-1 et seq.); otherwise, the order of the
17 Attorney General shall constitute final agency action on the matter and
18 shall be subject to judicial review as provided in the Rules of Court.

19 (2) If, upon administrative inquiry, the Attorney General
20 determines that there has been, is or will be no violation of any
21 provision of Title III of Pub.L.107-252 (42 U.S.C.15481 et seq.), the
22 Attorney General shall reject the claim of the violation and shall so
23 notify the complainant. In that case, the complainant shall be afforded
24 the opportunity for a hearing on the record in the manner provided for
25 contested cases pursuant to the 'Administrative Procedure Act,'
26 P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention in this hearing by
27 any other person shall be as provided in the 'Administrative Procedure
28 Act.' After review of the record of the hearing and the
29 recommendation of the administrative law judge, the Attorney General
30 shall affirm, reject or modify the decision. If, after a hearing, the
31 Attorney General determines that there has been, is or will be a
32 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
33 15481 et seq.), the Attorney General shall order appropriate relief. If
34 the complainant does not request a hearing following a determination
35 of no violation based upon administrative inquiry or if the Attorney
36 General determines after a hearing that there has been, is or will be no
37 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
38 15481 et seq.), the Attorney General shall dismiss the complaint and
39 publish the results of the procedures. The decision of the Attorney
40 General shall constitute final agency action on the matter, and shall be
41 subject to judicial review as provided in the Rules of Court.

42 d. All complaints filed under this section shall be resolved finally
43 by the Attorney General prior to the 90th day after the date that the
44 complaint was filed, unless the complainant consents to a longer
45 period for making such a determination.

46 e. If the Attorney General fails to meet the 90-day deadline

S701 CONIGLIO

1 provided in subsection d. of this section, the complaint shall be
2 resolved within 60 days of that deadline under alternative dispute
3 resolution procedures established by the Attorney General for the
4 purpose of this section. The record and other materials from any
5 proceedings conducted under the complaint procedures established
6 under this section shall be made available for use under the alternative
7 dispute resolution procedures.

8 f. All of the procedures provided for by this section shall be applied
9 uniformly and not in a manner that discriminates in any way against an
10 individual based on that individual's gender, race, religion, ethnicity or
11 sexual orientation.

12 g. An individual who believes that there is, or has been, or will be
13 a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
14 15481 et seq.) may, as an alternative to the procedures prescribed in
15 subsections a. through f. of this section, file a complaint in the
16 appropriate Superior Court seeking appropriate relief with respect to
17 the violation. The complaint shall be resolved in an expedited manner.

18

19 7. (New section) No later than the 90th day following the day of
20 each regularly scheduled general election of candidates for federal
21 office occurring after January 1, 2004, each county board of elections
22 shall submit to the Attorney General for transmittal to the Election
23 Assistance Commission, established pursuant to section 201 of
24 Pub.L.107-252 (42 U.S.C. 15321), a report on the combined number
25 of absentee ballots transmitted to military service voters and overseas
26 Federal election voters and the combined number of such ballots which
27 were returned by such voters, judged to be valid, cast and canvassed.
28 The report shall be in the format developed by the commission. The
29 Attorney General shall make copies of each such report available to
30 the general public.

31

32 8. R.S.19:15-17 is amended to read as follows:

33 19:15-17. a. The comparison of signatures of a voter made upon
34 registration and upon election day, and if the voter alleges his inability
35 to write, the comparison of the answers made by such voter upon
36 registration and upon election day, shall be had in full view of the
37 challengers.

38 b. If a voter has registered by mail after January 1, 2003 to vote for
39 the first time in his or her current county of residence and did not
40 provide personal identification when registering pursuant to section 16
41 of P.L.1974, c.30 (C.19:31-6.4), the voter shall be permitted to vote
42 starting at the first election held after January 1, 2004 at which
43 candidates are seeking federal office after displaying one of the
44 following items: (1) a current and valid photo identification card; (2)
45 a current utility bill, bank statement, government check or pay check;
46 (3) any other government document that shows the voter's name and

S701 CONIGLIO

1 current address; or (4) any other identifying document that the
2 Attorney General has determined to be acceptable for this purpose. If
3 the voter does not display one of these documents, the voter shall not
4 be permitted to vote by machine but shall instead be provided with a
5 provisional ballot, pursuant to the provisions of P.L.1999, c.232
6 (C.19:53C-1 et seq.). This subsection shall not apply to any voter
7 entitled to vote by absentee ballot under the 'Uniformed and Overseas
8 Citizens Absentee Voting Act' (42 U.S.C. 1973ff-1 et seq.) or to any
9 voter who is provided the right to vote other than in person under
10 section 3 of Pub.L.98-435, the 'Voting Accessibility for the Elderly
11 and Handicapped Act,' or any other voter entitled to vote otherwise
12 than in person under any other federal law. This subsection shall also
13 not apply to any person who registers to vote by appearing in person
14 at any voter registration agency or to any person whose voter
15 registration form is delivered to the county commissioner of
16 registration or to the Attorney General, as the case may be, through a
17 third party by means other than by mail delivery.

18 c. Each county commissioner of registration shall collect and
19 maintain, in the manner prescribed by the Attorney General, the
20 information provided pursuant to subsection b. of this section and
21 section 16 of P.L.1974, c.30 (C.19:31-6.4). Access to the driver's
22 license number and Social Security information provided pursuant to
23 subsection b. of this section and section 16 of P.L.1974, c.30
24 (C.19:31-6.4), shall be prohibited, in accordance with subsection a. of
25 section 6 of P.L.2001, c.404 (C.47:1A-5).

26 (cf: R.S.19:15-17)

27

28 9. R.S.19:31-5 is amended to read as follows:

29 19:31-5. Each person, who at the time he or she applies for
30 registration resides in the district in which he or she expects to vote,
31 who will be of the age of 18 years or more at the next ensuing
32 election, who is a citizen of the United States, and who, if he or she
33 continues to reside in the district until the next election, will at the
34 time have fulfilled all the requirements as to length of residence to
35 qualify him or her as a legal voter, shall, unless otherwise disqualified,
36 be entitled to be registered in such district[; and when once].

37 Whenever an individual registers by mail after January 1, 2003 to
38 vote for the first time in his or her current county of residence, that
39 individual shall provide either the individual's New Jersey driver's
40 license number or the last four digits of the individual's Social Security
41 Number, or shall submit with the voter registration form a copy of: (1)
42 a current and valid photo identification card; (2) a current utility bill,
43 bank statement, government check or pay check; (3) any other
44 government document that shows the individual's name and current
45 address; or (4) any other identifying document that the Attorney
46 General has determined to be acceptable for this purpose. If the

S701 CONIGLIO

1 individual does not provide his or her New Jersey driver's license
2 number or Social Security Number information or submit a copy of
3 any one of these documents, either at the time of registration or at any
4 time thereafter prior to attempting to vote, the individual shall be
5 asked for identification when voting for the first time starting at the
6 first election held after January 1, 2004 at which candidates are
7 seeking federal office or thereafter. This requirement shall not apply
8 to any individual entitled to vote by absentee ballot under the
9 'Uniformed and Overseas Citizens Absentee Voting Act' (42 U.S.C.
10 1973ff-1 et seq.) or to any individual who is provided the right to vote
11 other than in person under section 3 of Pub.L.98-435, the 'Voting
12 Accessibility for the Elderly and Handicapped Act,' or any other voter
13 entitled to vote otherwise than in person under any other federal law.
14 This requirement shall also not apply to any individual who registers
15 to vote by appearing in person at any voter registration agency or to
16 any individual whose voter registration form is delivered to the county
17 commissioner of registration or to the Attorney General, as the case
18 may be, through a third party by means other than by mail delivery.

19 Once registered, the registrant shall not be required to register
20 again in such district as long as he or she resides therein, except when
21 required to do so by the commissioner, because of the loss of or some
22 defect in his or her registration record.

23 The registrant, when registered as provided in this Title, shall be
24 eligible to vote at any election to be held subsequent to such
25 registration, if he or she shall be a citizen of the United States of the
26 age of 18 years and shall have been a resident of the State for at least
27 30 days and of the county at least 30 days, when the same is held,
28 subject to any change in his qualifications which may later disqualify
29 him. No registrant shall lose the right to vote, and no registrant's
30 name shall be removed from the registry list of the county in which the
31 person is registered, solely on grounds of the person's failure to vote
32 in one or more elections.

33 (cf: P.L.1994, c.182, s.4)

34

35 10. Section 25 of P.L.1994, c.182 (C.19:31-6a) is amended to read
36 as follows:

37 25. The **[Secretary of State]** Attorney General is designated the
38 chief State election official and shall be responsible for the
39 coordination of this State's responsibilities pursuant to the provisions
40 of the "National Voter Registration Act of 1993," Pub.L.103-31 (42
41 U.S.C. s.1973gg et seq.) and the "Help America Vote Act of 2002,"
42 Pub.L.107-252 (42 U.S.C. 15301 et seq).

43 (cf: P.L.1994, c.182, s.25)

44

45 11. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read
46 as follows:

1 16. a. The [Secretary of State] Attorney General shall cause to be
2 prepared and shall provide to each county commissioner of registration
3 forms of size and weight suitable for mailing, which shall require the
4 information required by R.S.19:31-3 in substantially the following
5 form:

6
7 VOTER REGISTRATION APPLICATION

8
9 Print clearly in ink. Use ballpoint pen or marker.

10
11 (1) This form is being used as (check one):

12
13 New registration

14
15 Address change

16
17 Name change

18
19 (2) Name:.....

20
21 Last First Middle

22
23 (3) Are you a citizen of the United States of America? Yes No

24 (4) Will you be 18 years of age on or before election day? Yes No

25 If you checked 'No' in response to either of these questions, do not
26 complete this form.

27
28 ([3] 5) Street Address where you live:

29
30

31
32 Street Address Apt. No.

33
34

35
36 ([4] 6) City or Town County Zip Code

37
38 ([5] 7) Address Where You Receive Your Mail (if different from
39 above):

40
41

S701 CONIGLIO

1 ([6] 8) Date of Birth:
2
3

4
5 Month Day Year
6

7 ([7] 9) Telephone Number (optional)

8
9 ([8] 10) Name and address of Your Last Voter Registration

10
11

12
13

14
15

16
17 (11) If you are registering by mail to vote and will be voting for the
18 first time in your current county of residence, please provide one of
19 the following:

20 (a) your New Jersey driver's license number:.....

21 (b) the last four digits of your Social Security
22 Number.....

23 OR submit with this form a copy of any one of the following
24 documents: a current and valid photo identification card; a current
25 utility bill, bank statement, government check, pay check or any other
26 government or other identifying document that shows your name and
27 current address. If you do not provide either your New Jersey driver's
28 license number or the last four digits of your Social Security Number,
29 or enclose a copy of one of the documents listed above, you will be
30 asked for identification when voting for the first time, unless you are
31 exempt from doing so under federal or State law.

32
33 ([9] 12) Declaration - I swear or affirm that:

34
35 I am a U.S. citizen,

36
37 I live at the above address,

38
39 I will be at least 18 years old on or before the day of the next
40 election,

41
42 I am not on parole, probation or serving a sentence due to a
43 conviction for an indictable offense under any federal or State laws,

44
45 I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
46 REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO

S701 CONIGLIO

1 \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
2 PURSUANT TO R.S.19:34-1.

3
4

5
6 Signature or mark of the registrant Date

7
8 ([10] 13) If applicant is unable to complete this form, print the
9 name and address of individual who completed this form.

10
11

12
13 Name

14
15

16
17 Address

18
19 In addition, the form may include notice to the applicant of
20 information and options relating to the registration and voting process,
21 including but not limited to notice of qualifications required of a
22 registered voter; notice of the final day by which a person must be
23 registered to be eligible to vote in an election; notice of the effect of
24 a failure to provide required identification information; a place at
25 which the applicant may indicate availability for service as a member
26 of the district board of elections; a place at which the applicant may
27 indicate whether he or she requires a polling place which is accessible
28 to elderly and physically disabled voters or whether he or she is legally
29 blind; and a place at which the applicant may indicate a desire to
30 receive information concerning absentee voting. The form may also
31 include a space for the voter registration agency to record whether the
32 applicant registered in person, by mail or by other means.

33 b. The reverse side of the registration form shall bear the address
34 of the [Secretary of State] Attorney General or the commissioner of
35 registration to whom such form is supplied, and a United States postal
36 permit the charges upon which shall be paid by the State.

37 c. The [Secretary of State] Attorney General shall cause to be
38 prepared registration forms of the size, weight and form described in
39 subsection a. of this section in both the English and Spanish language
40 and shall provide such forms to each commissioner of registration of
41 any county in which there is at least one election district in which
42 bilingual sample ballots must be provided pursuant to R.S.19:14-21,
43 R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

44 d. The commissioner of registration shall furnish such registration
45 forms upon request in person to any person or organization in such
46 reasonable quantities as such person or organization shall request.

1 The commissioner shall furnish no fewer than two such forms to any
2 person upon request by mail or by telephone.

3 e. Each such registration form shall have annexed thereto
4 instructions specifying the manner and method of registration and
5 stating the qualifications for an eligible voter.

6 f. The [Secretary of State] Attorney General shall also furnish
7 such registration forms and such instructions to the Director of the
8 Division of Worker's Compensation, the Director of the Division of
9 Employment Services, and the Director of the Division of
10 Unemployment and Temporary Disability Insurance in the Department
11 of Labor; to the Director of the Division of Taxation in the
12 Department of the Treasury; to the Executive Director of the New
13 Jersey Transit Corporation; to the appropriate administrative officer
14 of any other public agency, as defined by subsection a. of section 15
15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the
16 Department of Military and Veterans' Affairs; and to the chief
17 administrative officer of any voter registration agency, as defined in
18 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

19 g. All registration forms received by the [Secretary of State]
20 Attorney General in the mail or forwarded to the [Secretary of State]
21 Attorney General shall be forwarded to the commissioner of
22 registration in the county of the registrant.

23 h. An application to register to vote received from the Division of
24 Motor Vehicles or a voter registration agency, as defined in subsection
25 a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to
26 have been timely made for the purpose of qualifying an eligible
27 applicant as registered to vote in an election if the date on which the
28 division or agency shall have received that document in completed
29 form, as indicated in the lower right hand corner of the form, was not
30 later than the 29th day preceding that election.

31 i. Each commissioner of registration shall make note in the
32 permanent registration file of each voter who is required to provide the
33 personal identification information required pursuant to this section,
34 as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42
35 U.S.C. 15301 et seq.), to indicate the type of identification provided
36 by the voter and the date on which it is provided. Prior to the June
37 2004 primary election, when such a newly registered voter seeks to
38 vote for the first time following his or her registration, the voter will
39 be required to provide such personal identification information.
40 Beginning with the June 2004 primary election, when such a newly
41 registered voter seeks to vote for the first time following his or her
42 registration, the voter will not be required to provide such information
43 if he or she had previously provided the personal identification
44 information required pursuant to this section. The required
45 information shall be collected and stored for the time and in the
46 manner required pursuant to regulations promulgated by the Attorney

1 General.

2 j. The Attorney General shall amend the voter registration
3 application form if necessary to conform to the requirements of
4 applicable federal or state law.

5 (cf: P.L.1994, c.182, s.7)

6

7 12. R.S.19:47-1 is amended to read as follows:

8 19:47-1. As used in this subtitle:

9 "Ballot" , except when reference is made to irregular ballots, means
10 that portion of the [cardboard or paper within the] ballot [frames]
11 containing the name of the candidate and the designation of the party
12 by which he was nominated, or a statement of a proposed
13 constitutional amendment, or other question or proposition with the
14 word "yes" for voting for any question or proposition, and the word
15 "no" for voting against any question.

16 "Question" includes any constitutional amendment, proposition or
17 other question submitted to the voters at any election.

18 "Official ballot" means the [printed strips of cardboard or paper
19 containing] material displaying the names of the candidates nominated
20 and a statement of the questions submitted.

21 "Irregular ballot" means a vote cast, by or on a special device, for
22 a person whose name does not appear on the ballots.

23 "Voting machine custodian" means the person who shall have
24 charge of preparing and arranging the voting machine for elections.

25 "Protective counter" means a separate counter built into the voting
26 machine which cannot be reset, which records the total number of
27 [movements of the operating lever] votes cast.

28 The list of candidates used or to be used on the front of the voting
29 machine for an election district in which the voting machine is used
30 pursuant to law shall be deemed official ballots under this subtitle.

31 (cf: R.S.19:47-1)

32

33 13. R.S.19:48-1 is amended to read as follows:

34 19:48-1. Any thoroughly tested and reliable voting machines may
35 be adopted, rented, purchased or used, which shall be so constructed
36 as to fulfill the following requirements:

37 (a) It shall secure to the voter secrecy in the act of voting;

38 (b) It shall provide facilities for such number of office columns, not
39 less than 40 and not exceeding 60, as the purchasing authorities may
40 specify and of as many political parties or organizations, not exceeding
41 nine, as may make nominations, and for or against as many questions,
42 not exceeding 30, as submitted;

43 (c) It shall, except at primary elections, permit the voter to vote for
44 all the candidates of one party or in part for the candidates of one
45 party or one or more parties;

46 (d) It shall permit the voter to vote for as many persons for an

S701 CONIGLIO

13

1 office as he is lawfully entitled to vote for, but no more;

2 (e) It shall prevent the voter from voting for the same person more
3 than once for the same office;

4 (f) It shall permit the voter to vote for or against any question he
5 may have the right to vote on, but no other;

6 (g) It shall for use in primary elections be so equipped that the
7 election officials can [lock out all rows] stop a voter from voting for
8 all candidates except those of the voter's party [by a single adjustment
9 on the outside of the machine];

10 (h) It shall correctly register or record and accurately count all
11 votes cast for any and all persons, and for or against any and all
12 questions;

13 (i) It shall be provided with a "protective counter" or "protective
14 device" whereby any operation of the machine before or after the
15 election will be detected;

16 (j) It shall be so equipped with such [locks] protective devices as
17 shall prevent the operation of the machine after the polls are closed;

18 (k) It shall be provided with a counter which shall show at all times
19 during an election how many persons have voted;

20 (l) It shall be provided with a [mechanical] model, illustrating the
21 manner of voting on the machine, suitable for the instruction of voters;

22 (m) It must permit a voter to vote for any person for any office,
23 except delegates and alternates to national party conventions, whether
24 or not nominated as a candidate by any party or organization by
25 providing [space for writing in] an opportunity to indicate such names
26 or name;

27 (n) It shall be equipped with a permanently affixed box or container
28 of sufficient strength, size and security to hold all emergency ballots
29 and pre-punched single-hole envelopes and with a clipboard and a
30 table-top privacy screen;

31 (o) It shall not use mechanical lever machines or punch cards to
32 record votes.

33 All voting machines used in any election shall be provided with a
34 screen, hood or curtain, which shall be so made and adjusted as to
35 conceal the voter and his action while voting.

36 It shall also be provided with one device for each party for voting
37 for all the presidential electors of that party by one operation, and a
38 ballot therefor containing only the words "presidential electors for,"
39 preceded by the name of that party and followed by the names of the
40 candidates thereof for the offices of President and Vice-President and
41 a registering device therefor which shall register the vote cast for such
42 electors when thus voted collectively.

43 (cf: P.L.1992, c.3, s.3)

44

45 14. R.S.19:48-7 is amended to read as follows:

46 19:48-7. If any voting machine being used in any election district

S701 CONIGLIO

1 shall, during the time the polls are open, become damaged so as to
2 render it inoperative in whole or in part, the election officers shall
3 immediately give notice thereof to the county board of elections or the
4 superintendent of elections or the municipal clerk, as the case may be,
5 having custody of voting machines, and such county board of elections
6 or such superintendent of elections or such municipal clerk, as the case
7 may be, shall cause any person or persons employed or appointed
8 pursuant to section 19:48-6 of this Title to substitute a machine in
9 perfect [mechanical] working order for the damaged machine. At the
10 close of the polls the records of both machines shall be taken and the
11 votes shown on their counters shall be added together in ascertaining
12 and determining the results of the election. During any period when
13 a voting machine is inoperative, emergency ballots made as nearly as
14 possible in the form of the official ballot shall be used in accordance
15 with the provisions of this amendatory and supplementary act,
16 P.L.1992, c.3 (C.19:53B-1 et al.), received by the election officers and
17 placed by them in an emergency ballot box as provided in this
18 amendatory and supplementary act, P.L.1992, c.3 (C.19:53B-1 et al.),
19 and shall be counted with the votes registered on the voting machines.
20 The result shall be declared the same as though there had been no
21 accident to the voting machine. The emergency ballots thus voted
22 shall be preserved and returned with a statement setting forth how and
23 why the same were voted. The original statement shall be filed with
24 the county or municipal clerk, as the case may be; a copy of the
25 statement shall be filed with the commissioner of registration; and an
26 additional copy shall be placed in the emergency ballot box. The
27 statement for use in all elections except primary elections shall be in
28 the following form:

29

30 ELECTION STATEMENT FOR EMERGENCY PAPER BALLOTS
31 VOTED

32

33 This statement must be completed by all election district board
34 workers present when a voting machine malfunctions and emergency
35 paper ballots are issued and voted. R.S.19:48-7.

36 This is to certify that voting machine no. became inoperative at
37AM, PM. We further certify that emergency paper
38 ballots were issued and voted during the time the voting machine
39 assigned to Election District No. in (municipality)
40 was inoperative. The last voting authority given out before the voting
41 machine became inoperative was no. This day of
42 [19] 2

43 TO BE COMPLETED ONLY IF VOTING MACHINE IS
44 REPLACED

S701 CONIGLIO

1 Voting machine no. was replaced by voting machine no..... at
2 AM,PM.

3 The next voting authority given out after the voting machine was
4 replaced was no.

5 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
6 REPAIRED AND IS READY TO RECEIVE VOTES

7 Voting machine no. was repaired at AM,PM.

8 The next voting authority given out after the voting machine was
9 repaired was no.

10
11 Signature of Judge Signature of Clerk

12
13 Signature of Inspector Signature of Clerk

14
15 Municipality Signature of Voting

16 Machine Technician

17

18 Ward

19

20 District

21 The statement for use in the primary election shall be in the

22 following form:

23

24 PRIMARY ELECTION

25

26 STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

27

28 This statement must be completed by all election district board

29 workers present when a voting machine malfunctions and emergency

30 paper ballots are issued and voted. R.S.19:48-7.

31 This is to certify that voting machine no. became inoperative at

32AM, PM. We further certify that emergency paper

33 ballots were issued and voted during the time the voting machine

34 assigned to Election District No. in (municipality)

35 was inoperative. The last voting authorities given out before the

36 voting machine became inoperative were REPUBLICAN NO.,

37 DEMOCRATIC NO.

38 this day of [19] 2

39

40 TO BE COMPLETED ONLY IF VOTING MACHINE IS

41 REPLACED

42

43 Voting machine no. was replaced by voting machine no..... at

44 AM,PM.

45 The next voting authorities given out after the voting machine was

46 replaced were REPUBLICAN NO....., DEMOCRATIC NO.....

S701 CONIGLIO

1 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
2 REPAIRED AND IS READY TO RECEIVE VOTES

3 Voting machine no. was repaired at AM,PM.

4

5 The next voting authorities given out after the voting machine was
6 repaired were REPUBLICAN NO., DEMOCRATIC NO.

7

8 Signature of Judge Signature of Clerk

9

10 Signature of Inspector Signature of Clerk

11

12 Municipality Signature of Voting
13 Machine Technician

14

15 Ward

16

17 District

18 If a voting machine fails to operate on multiple occasions during a
19 single election, a STATEMENT FOR EMERGENCY PAPER
20 BALLOTS VOTED shall be completed on each occasion when the
21 machine fails to operate.

22 (cf: P.L.1992, c.3, s.7)

23

24 15. R.S.19:49-2 is amended to read as follows:

25 19:49-2. All official ballots shall be [printed on clear white paper
26 or cardboard of such form and size as will fit the ballot frames of the
27 machines, printed] in black ink in type as large as [the] space will
28 reasonably permit; provided, however, that any public question which
29 shall be placed on the ballot shall be [printed] in red [ink] and above
30 any public question to be voted upon by the voters of the entire State
31 there shall be [printed], also in red [ink], a description of the public
32 question, which description shall not exceed six words and shall be
33 [printed] in type as large as is practicable. Party nominations shall be
34 arranged on each voting machine, either in columns or horizontal
35 rows; the caption of the various ballots on the machines shall be so
36 placed on the machines as to indicate to the voter what [push knob,
37 pointer, lever or other] device is to be used or operated in order to
38 vote for the candidates or candidate of his or her choice. The
39 providing of the official ballots and the order of the precedence and
40 arrangement of parties and of candidates shall be as now required by
41 law; provided, however, that in those counties where voting machines
42 are used, the specifications for the [printing of the] official ballots
43 shall be drawn by the county clerk.

44 For the primary election for the general election in all counties
45 where voting machines are or shall be used, all candidates who shall
46 file a joint petition with the county clerk of their respective county and

S701 CONIGLIO

17

1 who shall choose the same designation or slogan shall be drawn for
2 position on the ballot as a unit and shall have their names placed on the
3 same line of the voting machine; and provided further, that all
4 candidates for municipal or party office in municipalities in counties
5 where voting machines are or shall be used who shall file a petition
6 with the clerk of their municipality bearing the same designation or
7 slogan as that of the candidates filing a joint petition with the county
8 clerk as aforesaid, may request that his or her name be placed on the
9 same line of the voting machine with the candidates who have filed a
10 joint petition with the county clerk as aforesaid by so notifying the
11 county clerk of said county in writing within two days after the last
12 day for filing nominating petitions and thereupon the county clerk shall
13 forthwith notify the campaign manager of such candidates filing a
14 joint petition as aforesaid of said request, and if the said campaign
15 manager shall file his consent in writing with the said county clerk
16 within two days after the receipt of said notification from said county
17 clerk, the clerk of said county shall place the name of such candidate
18 on the same line of the voting machine on which appears the names of
19 the candidates who have filed the joint petition as aforesaid; provided,
20 also, that any candidate filing a petition with the [Secretary of State]
21 Attorney General may request that his or her name be placed on the
22 same line of the voting machine with the candidates who have filed a
23 joint petition with the county clerk as aforesaid by so notifying the
24 county clerk of said county in writing within two days after the last
25 day for filing nominating petitions, and thereupon the county clerk
26 shall forthwith notify the campaign manager of such candidates filing
27 a joint petition as aforesaid of said request, and if the said campaign
28 manager shall file his consent in writing with the said county clerk
29 within two days after the receipt of said notification from said county
30 clerk, the clerk of said county shall place the name of such candidate
31 on the same line of the voting machine on which appears the names of
32 the candidates who have filed the joint petition as aforesaid.

33 (cf: P.L.1948, c.240, s.1)

34

35 16. Section 2 of P.L.1973, c.82 (C.19:53A-2) is amended to read
36 as follows:

37 2. a. The board of chosen freeholders of any county may adopt,
38 acquire by purchase, lease, or otherwise, or abandon any electronic
39 voting system or mechanical system authorized herein which has been
40 approved for use in the State, in any election or primary or
41 combination thereof, and may use such system in all or a part of the
42 districts within its boundaries[, or in combination with paper ballots].
43 The county authorities, on the adoption and acquisition of an
44 electronic voting system, shall provide for the payment therefor in
45 such manner as they deem for the best interest of the locality, in such
46 manner as may be provided by law.

1 b. The provisions of this act shall be controlling with respect to
2 elections where electronic voting systems are used, and shall be
3 liberally construed so as to carry out the purpose and intent of this act.
4 Any provisions of law relating to the conduct of elections which
5 conflict with this act shall not apply to the conduct of elections with
6 an approved electronic voting system.

7 c. Following the effective date of P.L. , c. (C.) (now
8 pending before the Legislature as this bill), an electronic voting system
9 that uses a voting device requiring the voter to punch out a hole in a
10 ballot card or pull a mechanical lever as a means of recording the
11 voter's vote shall not be used in any election in any district within this
12 State.

13 (cf: P.L.1973, c.82, s.2)

14

15 17. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read
16 as follows:

17 3. Every electronic voting system, consisting of a voting device in
18 combination with automatic tabulating equipment, acquired or used
19 in accordance with this act, shall:

20 a. Provide for voting in secrecy, except in the case of voters who
21 have received assistance as provided by law;

22 b. Permit each voter to vote at any election for all persons and
23 offices for whom and for which he is lawfully entitled to vote; to vote
24 for or against any question upon which he is entitled to vote; and the
25 automatic tabulating equipment shall reject choices recorded on his
26 ballot [card] if the number of choices exceeds the number which he
27 is entitled to vote for the office or on the measure;

28 c. Permit each voter, at presidential elections, by one mark [or
29 punch] to vote for the candidates of that party for president, vice
30 president, and their presidential electors;

31 d. Permit each voter, at other than primary elections, to vote for
32 the nominees of one or more parties and for independent candidates;
33 and personal choice or write-in candidates;

34 e. Permit each voter in primary elections to vote for candidates in
35 the party primary in which he is qualified to vote, and the automatic
36 tabulating equipment shall reject any votes cast for candidates of
37 another party;

38 f. Prevent the voter from voting for the same person more than
39 once for the same office;

40 g. Be suitably designed for the purpose used, of durable
41 construction, and may be used safely, efficiently, and accurately in the
42 conduct of elections and counting ballots;

43 h. When properly operated, record correctly and count accurately
44 every vote cast, including all overvotes or undervotes and all

S701 CONIGLIO

19

1 affirmative votes or negative votes on all public questions or
2 referenda.

3 (cf: P.L.1973, c.82, s.3)

4

5 18. Section 5 of P.L.1973, c.82 (C.19:53A-5) is amended to read
6 as follows:

7 5. a. Ballot labels shall be [printed] in plain clear type in black
8 [ink], of such size and arrangement as to fit the construction of the
9 voting device; they shall be [printed] on clear white material or on
10 material of different colors to identify different ballots or parts of the
11 ballot, and in primary elections to identify each political party.

12 b. The titles of offices and the names of candidates may be
13 arranged in vertical columns or in a series of separate pages. The
14 office title with a statement of the number of candidates to be voted
15 for shall be printed above or at the side of the names of the candidates
16 for that office. The names of candidates shall be [printed] in the order
17 provided by law, and in general elections the party designation of each
18 candidate, which may be abbreviated, and a slogan not to exceed six
19 words may [be printed following] follow his or her name. In case
20 there are more candidates for an office than can be [printed] arranged
21 in one column or on one ballot page, the ballot label shall be clearly
22 marked that the list of candidates is continued on the following column
23 or page, and so far as possible, the same number of names shall be
24 [printed] arranged on each column or page. Arrows may be used to
25 indicate the place to vote for each candidate and on each measure.

26 c. The different parts of the ballot, such as partisan, nonpartisan,
27 and measures, shall be prominently indicated on the ballot labels, and,
28 if practicable, each part shall be placed on a separate page or pages.
29 In the event that two or more elections are held on the same day, the
30 ballot labels shall be clearly marked to indicate the ballot for each
31 election, and, if practical, the ballot labels for each election shall be
32 placed upon separate pages, and labels of a different color or tint may
33 be used for each election.

34 d. Sample ballots, which shall be facsimile copies of the official
35 ballot or ballot labels, shall be provided as required by law. At least
36 three copies shall be posted in each polling place on election day.
37 Sample ballots may be printed on a single sheet or on a number of
38 pages stapled together.

39 e. In elections in which voters are authorized to vote for persons
40 whose names do not appear on the ballot, at the discretion of the
41 county board of elections either (1) a separate write-in ballot, which
42 may be in the form of a paper ballot, card or envelope in which the
43 voter places his or her ballot card after voting, shall be provided to
44 permit voters to write in the title of the office and the name of the
45 person or persons for whom he or she wishes to vote, or to attach a
46 sticker of suitable size on which is printed the title of the office and the

1 name of the person or persons for whom he or she wishes to vote; or
2 (2) provisions shall be made for the voter to write the name of the
3 person or persons for whom he or she wishes to vote on the ballot
4 card in the location designated and to [punch] mark the ballot card in
5 the location provided.

6 (cf: P.L.1975, c.316, s.4)

7

8 19. Section 9 of P.L.1973, c.82 (C.19:53A-9) is amended to read
9 as follows:

10 9. Absentee votes may be cast on paper ballots or ballot cards, or
11 both methods may be used, provided that, following the effective date
12 of P.L. , c. (C.) (now pending before the Legislature as this
13 bill), absentee votes shall not be cast in any election in this State by
14 means of ballot cards that require the voter to punch out a hole in the
15 card as a means of recording the voter's vote.

16 Such ballots may be counted by automatic tabulating equipment or
17 by special canvassing boards appointed by and under the direction of
18 the county board of elections. A true copy of absentee paper ballots
19 may be made on ballot cards, which after being duly verified, shall
20 forthwith be counted in the same manner as other ballot cards, except
21 that, following the effective date of P.L. , c. (C.) (now
22 pending before the Legislature as this bill), ballot cards that require a
23 hole to be punched out in the card to record a vote shall not be used
24 in any election in this State. Such paper ballots and ballot cards shall
25 be forthwith marked with corresponding numbers, which numbering
26 shall be done in such manner as not to identify any voter and such
27 marking shall not be considered to be a marked ballot. Such paper
28 ballots and corresponding ballot cards shall both be preserved in the
29 same manner as other ballot cards are required to be preserved
30 hereunder.

31 (cf: P.L.1973, c.82, s.9)

32

33 20. Section 21 of P.L.1992, c.3 (C.19:53B-12) is amended to read
34 as follows:

35 21. The right to challenge a voter who uses the emergency ballot
36 shall exist until the emergency ballot is deposited in the emergency
37 ballot box. If the right of a person to vote is challenged, the same
38 procedures shall be used as prescribed when the right of a person to
39 cast a vote on an electronic [or mechanical] voting machine is
40 challenged.

41 (cf: P.L.1992, c.3, s.21)

42

43 21. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read
44 as follows:

45 7. a. (1) The county clerk or the municipal clerk, in the case of a
46 municipal election, shall arrange for the preparation of a provisional

1 ballot packet for each election district. It shall include the appropriate
2 number of provisional ballots, the appropriate number of envelopes
3 with an affirmation statement, the appropriate number of written
4 notices to be distributed to voters who vote by provisional ballot and
5 one provisional ballot inventory form affixed to the provisional ballot
6 bag. The clerk shall arrange for the preparation of and placement in
7 each provisional ballot bag of a provisional ballot packet and an
8 envelope containing a numbered seal. The envelope shall contain, on
9 its face, the instructions for the use of the seal, the number and the
10 election district location of the provisional ballot bag, and the
11 identification numbers of the seal placed in the envelope. Each
12 provisional ballot bag shall be sealed with a numbered security seal
13 before being forwarded to the appropriate election district.

14 (2) Each provisional ballot bag and the inventory of the contents
15 of each such bag shall be delivered to the designated polling place no
16 later than the opening of the polls on the day of an election.

17 b. The county clerk or the municipal clerk, in the case of a
18 municipal election, shall arrange for the preparation of the envelope
19 **[and]**, affirmation statement, and written notice that is to accompany
20 each provisional ballot. The envelope shall be of sufficient size to
21 accommodate the provisional ballot, and the affirmation statement
22 shall be affixed thereto in a manner that enables it to be detached once
23 completed and verified by the county commissioner of registration.
24 The statement shall require the voter to provide the voter's name, and
25 to indicate whether the voter is registered to vote in a county but has
26 moved within that county since registering to vote; or is registered to
27 vote in the election district in which that polling place is located but
28 the voter's registration information is missing or otherwise deficient.
29 The statement shall further require the voter to provide the voter's
30 most recent prior voter registration address and address on the day of
31 the election and date of birth. The statement shall include the
32 statement: "I swear or affirm, that the foregoing statements made by
33 me are true and correct and that I understand that any fraudulent
34 voting may subject me to a fine of up to \$1,000, imprisonment up to
35 five years or both, pursuant to R.S.19:34-11." It shall be followed
36 immediately by spaces for the voter's signature and printed name, and
37 in the case of a name change, the voter's printed old and new name and
38 a signature for each name, the date the statement was completed,
39 political party affiliation, if used in a primary election, and the name of
40 the person providing assistance to the voter, if applicable. Each
41 statement shall also note the number of the election district, or ward,
42 and name of the municipality at which the statement will be used.

43 The written notice shall contain information to be distributed to
44 each voter who votes by provisional ballot. The notice shall state that,
45 if the voter is a mail-in registrant voting for the first time in his or her
46 current county of residence following registration and was given a

1 provisional ballot because he or she did not provide required personal
2 identification information, the voter shall be to the close of business on
3 the second day after the election to provide identification to the
4 applicable county commissioner of registration, and the notice shall
5 contain a telephone number at which the commissioner may be
6 contacted. The notice shall further state that failure to provide the
7 required personal identification information within that time period
8 shall result in the rejection of the ballot. The notice shall state that
9 pursuant to section 4 of P.L. , c. (C.)(now pending before the
10 Legislature as this bill), any individual who casts a provisional ballot
11 will be able to ascertain under a system established by the State
12 whether the ballot was accepted for counting, and if the vote was not
13 counted, the reason for the rejection of the ballot. The notice shall
14 include instructions on how to access such information.

15 c. For the primary for the general election, the provisional ballots
16 shall be printed in ink on paper of a color that matches the color of the
17 voting authority, which shall indicate the party primary of the voter.
18 The provisional ballots shall be uniform in size, quality and type and
19 of a thickness that the printing thereon cannot be distinguished from
20 the back of the paper, and without any mark, device or figure on the
21 front or back other than as provided in P.L.1999, c.232 (C.19:53C-1
22 et [al.] seq.). Each such ballot shall include near the top thereof and
23 in large type the designation PROVISIONAL BALLOT. In all other
24 respects, the provisional ballots shall conform generally to the other
25 ballots to be used in the election district for the primary election.

26 The clerk of the county or municipality shall arrange for the
27 preparation of each provisional ballot package with an appropriate
28 number of provisional ballots for each political party [and], a
29 corresponding number of envelopes with affirmation statements, and
30 a corresponding number of written notices. Additional provisional
31 ballots [and], envelopes, and notices shall be available for delivery to
32 that election district on the day of the election, if necessary.

33 d. For the general election the provisional ballots shall be printed
34 in ink. The provisional ballots shall be uniform in size, quality and
35 type and of a thickness that the printing thereon cannot be
36 distinguished from the back of the paper, and without any mark,
37 device or figure on the front or back other than as provided in this act.
38 Each such ballot shall include near the top thereof and in large type the
39 designation PROVISIONAL BALLOT. In all other respects, the
40 provisional ballots shall conform generally to the other ballots to be
41 used in the election district for the general election.

42 The clerk of the county or municipality shall arrange for the
43 preparation of each provisional ballot package with an appropriate
44 number of provisional ballots [and], a corresponding number of
45 envelopes with affirmation statements, and a corresponding number of
46 written notices. Additional provisional ballots [and], envelopes, and

1 notices shall be available for delivery to that election district on the
2 day of the election, if necessary.

3 e. For a school election the provisional ballots shall be printed in
4 ink. The provisional ballots shall be uniform in size, quality and type
5 and of a thickness that the printing thereon cannot be distinguished
6 from the back of the paper, and without any mark, device or figure on
7 the front or back other than as provided in this act. Each such ballot
8 shall include near the top thereof and in large type the designation
9 PROVISIONAL BALLOT. In all other respects, the provisional
10 ballots shall conform generally to the other ballots to be used in the
11 election district for the school election.

12 The clerk of the county shall arrange for the preparation of each
13 provisional ballot package with an appropriate number of provisional
14 ballots [and], a corresponding number of envelopes with affirmation
15 statements, and a corresponding number of written notices. Additional
16 provisional ballots [and], envelopes, and notices shall be available for
17 delivery to that election district on the day of the election, if necessary.

18 f. Following on the effective date of P.L. , c. (C.) (now
19 pending before the Legislature as this bill), a provisional ballot that
20 requires the voter to punch out a hole in the ballot as a means of
21 recording the voter's vote shall not be used in any election in this
22 State.

23 (cf: P.L.1999, c.232, s.7)

24

25 22. Section 9 of P.L.1999, c.232 (C.19:53C-3) is amended to read
26 as follows:

27 9. Whenever a voter enters a polling place to vote on the day of an
28 election and the circumstance of that voter matches the circumstance
29 of a voter described in subsection b. of R.S.19:31-11, the district
30 board shall query the voter and follow the appropriate procedure
31 herein described.

32 a. If, at any time, the voter has moved from one residence to
33 another in the same election district, the board shall permit the voter
34 to vote at that polling place in the same manner as other voters at the
35 polling place upon written affirmation by the voter to the district
36 board.

37 b. If the voter has moved within a municipality but currently
38 resides in an election district different from that listed for the voter by
39 the commissioner of registration, the district board shall direct the
40 voter to the appropriate election district and polling place for the voter
41 and inform that person that: (1) the person must go to that polling
42 place to vote; and (2) the person will be permitted to vote thereat by
43 provisional ballot after completing an affirmation statement.

44 c. If the voter has moved within the county but currently resides in
45 a municipality different from that listed for the voter by the
46 commissioner of registration, the district board shall determine the

S701 CONIGLIO

1 appropriate election district and polling place for the voter and inform
2 that person that: (1) the person must go to that polling place to vote;
3 and (2) the person will be permitted to vote thereat by provisional
4 ballot after completing an affirmation statement.

5 d. If, on or before the 29th day prior to the day of the election, the
6 voter has moved into the county from another county or state and has
7 not registered to vote in that county, the board shall inform the voter
8 that he is not eligible to vote in that county at that election.

9 e. If, after the 29th day prior to the day of an election, the voter
10 has moved into the county from another county in this State, the board
11 shall inform the voter that: (1) the voter is not eligible to vote in the
12 county where he resides currently at that election; and (2) the voter
13 may be eligible to vote in the election district where the voter resided
14 prior to moving to the voter's current residence.

15 f. If the voter's registration information has been marked by the
16 county commissioner of registration to indicate a problem therewith,
17 or if the voter's sample ballot has been returned as undeliverable to the
18 county or municipal clerk, as the case may be, but the voter states that
19 the voter has not moved prior to the day of an election, but instead
20 continues to reside at the same address the voter resided at when
21 voting previously, the voter shall be permitted to vote in such election
22 district in the same manner as other voters at the polling place upon
23 written affirmation to the district board of that election district.

24 g. If the voter's registration information is missing, the voter shall
25 be permitted to vote by provisional ballot after completing the
26 affirmation statement attached to the envelope provided with the
27 provisional ballot.

28 h. In accordance with the requirements of subsection (c) of section
29 302 of Pub.L.107-252 (42 U.S.C. 15482), whenever a voter is voting
30 as a result of a federal or State court order or any other order
31 extending the time established for closing the polls in effect 10 days
32 before the date of an election, the voter may vote only by provisional
33 ballot. Any such ballot shall be separated by the county board from
34 other provisional ballots cast at the election and the results shall be
35 canvassed and recorded separately in the official canvas for the
36 election.

37 i. Any person who, pursuant to subsection b. of R.S.19:15-17,
38 votes by provisional ballot at the polling place because of his or her
39 failure to provide required personal identification information shall be
40 given to the close of business on the second day after the election to
41 provide the applicable county commissioner of registration with the
42 identification information. Failure to provide the required personal
43 identification information within that time period shall result in the
44 rejection of the ballot.

45 (cf: P.L.1999, c.232, s.9)

S701 CONIGLIO

25

1 23. Section 13 of P.L.1999, c.232 (C.19:53C-7) is amended to
2 read as follows:

3 13. To vote for a candidate whose name is printed in any column,
4 or to vote in favor of or against any public question printed on the
5 provisional ballot, the voter shall:

6 a. Mark a cross x, plus + or check in the square provided for the
7 name of each candidate in any column for whom the voter chooses to
8 vote, or for a public question, make the same marking in the square
9 provided for either the word "Yes" or "No" of each public question,
10 if the ballot requires such designation to be considered valid;

11 b. [Punch out completely the hole adjacent to the name of each
12 candidate in any column for whom the voter chooses to vote, or for a
13 public question, punch out completely the hole adjacent to either the
14 word "Yes" or "No" of each public question, if the ballot requires such
15 an action to be considered valid] Deleted by amendment, P.L. , c.
16 (C.) (now pending before the Legislature as this bill);

17 c. Complete the connecting line adjacent to the name of each
18 candidate in any column for whom the voter chooses to vote, or for a
19 public question, complete the connecting line adjacent to either the
20 word "Yes" or "No" of each public question, if the ballot requires such
21 designation to be considered valid; or

22 d. Fill in the designated space adjacent to the name of the candidate
23 for whom the voter chooses to vote, or for a public question, fill in the
24 designated space adjacent to either the word "Yes" or "No" of each
25 public question, if the ballot requires such a designation to be
26 considered valid.

27 (cf: P.L.1999, c.232, s.13)

28

29 24. Section 16 of P.L.1999, c.232 (C.19:53C-10) is amended to
30 read as follows:

31 16. a. After voting the provisional ballot and completing the
32 affirmation statement, and before leaving the polling booth or the
33 designated voting area, as the case may be, the voter shall place the
34 voted provisional ballot in the envelope. The voter shall seal the
35 envelope and shall retain custody of the envelope until a member of
36 the board is ready to accept the envelope.

37 b. The voter shall hand the sealed envelope to the member of the
38 district board. The member shall keep the sealed envelope in full view
39 of the voter, the other district board members and all other persons
40 present until it is placed in the provisional ballot bag. The voter may
41 also take hold of the envelope, with that member of the board, until
42 the envelope is placed in the provisional ballot bag. The security of
43 the provisional ballot bag and its contents while any election occurs
44 shall be the responsibility of the members of the district board. After
45 placing the envelope in the provisional ballot bag, the member of the
46 district board shall hand to the voter the written notice of instructions

1 on how the voter may access information regarding whether the ballot
2 of the individual is accepted for counting, and if the vote is not
3 counted, the reason for the rejection of the ballot, pursuant to section
4 5 of P.L. , c. (C.)(now pending before the Legislature as this
5 bill).

6 (cf: P.L.1999, c.232, s.16)

7

8 25. Section 4 of P.L.1953, c.211 (C.19:57-4) is amended to read
9 as follows:

10 4. At any time not less than seven days prior to an election in
11 which he desires to vote by mail, a civilian absentee voter may apply
12 to the person designated in section 6 of [this act] P.L.1953, c.211
13 (C.19:57-6), for a civilian absentee ballot. Such application or request
14 shall be made in writing, shall be signed by the applicant and shall state
15 his or her place of voting residence and the address to which said
16 ballot shall be sent, and the reason for which the ballot is requested.

17 Any military service voter desiring to vote in any election or any
18 relative or friend of a military service voter who believes that such
19 voter will desire to vote in any election, may apply to the person
20 designated in section 6 of [this act] P.L.1953, c.211 (C.19:57-6) for
21 a military service ballot to be sent to such voter. A military service
22 voter may use a federal postcard application form to apply for a
23 military service ballot. On any application made by a military service
24 voter the voter may request a military service ballot for all subsequent
25 elections [held during] through and including the [calendar year in
26 which] next two regularly scheduled general elections for federal
27 office which take place after the request is made; if such a request is
28 made, a military service ballot shall be sent in a timely manner to the
29 voter for all such elections.

30 Any civilian absentee voter who fails to apply within the seven-day
31 time prescribed above may apply in person to the county clerk for an
32 absentee ballot on any day up to 3 p.m. of the day before the election.

33 In the event of sickness or confinement, the qualified voter may
34 apply in writing for and obtain an absentee ballot by authorized
35 messenger, who shall be so designated over the signature of the voter
36 and whose printed name and address shall appear on the application in
37 the space provided. The authorized messenger shall be a family
38 member or a registered voter of the county in which the application is
39 made and shall place his signature on the application in the space so
40 provided in the presence of the county clerk or his designee. The
41 county clerk or his designee shall authenticate the signature of the
42 authorized messenger, in the event such a messenger is other than a
43 family member, by comparing it with the signature of the said person
44 appearing on a State of New Jersey driver's license, or other
45 identification issued or recognized as official by the federal
46 government, the State, or any of its political subdivisions, which

1 identification carries the full address and signature of said person.
2 After the signature of the application and, when appropriate,
3 authentication, the county clerk or his designee is authorized to deliver
4 to the authorized messenger a ballot to be delivered to the qualified
5 voter. The Attorney General shall cause to be prepared a standard
6 authorized messenger application form, which may be included with
7 the standard civilian absentee ballot application forms.

8 A voter who is permanently and totally disabled, and who states the
9 reason for such disability in a request for an absentee ballot, shall be
10 furnished an application for an absentee ballot by the county clerk for
11 all future elections in which the voter shall be eligible to vote, without
12 further request on the part of the voter. A voter who is permanently
13 and totally disabled shall have the option to indicate on an application
14 for an absentee ballot that the voter would like to receive an absentee
15 ballot for each election that takes place during the remainder of the
16 calendar year in which the application is completed and submitted. A
17 voter who exercises this option shall be furnished with an absentee
18 ballot for each election that takes place during the remainder of the
19 calendar year without further request by the voter. A person voting
20 by absentee ballot who registered by mail after January 1, 2003, who
21 did not provide personal identification information when registering
22 pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting
23 for the first time in his or her current county of residence following
24 registration shall include the required identification information with
25 the absentee ballot. Failure to include such information with the
26 absentee ballot shall result in the rejection of the ballot.

27 (cf: P.L.2000, c.86, s.1)

28

29 26. Section 6 of P.L.1953, c.211 (C.19:57-6) is amended to read
30 as follows:

31 6. In the case of any election, the application or request shall be
32 made to the county clerk of the county.

33 In the case of applications for civilian absentee ballots, the county
34 clerk shall stamp thereon the date on which said application was
35 received in his office. In the case of applications for military service
36 ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2) and
37 overseas Federal election voter ballots, as provided for in P.L.1976,
38 c.23 (C.19:59-1 et seq.), no application shall be refused on the
39 grounds that it was submitted too early.

40 (cf: P.L.1977, c.47, s.5)

41

42 27. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read
43 as follows:

44 7. a. The [county clerk of the county, in the case of any Statewide
45 election, countywide election, or school election in a regional or other
46 school district comprising more than one municipality; the clerk of the

1 municipality, in the case of any municipal election or school election
2 in a school district comprising a single municipality; and the
3 commissioners or other governing or administrative body of the
4 district, in the case of any election to be held in any fire district, road
5 district, sewerage district, street lighting district, water supply district
6 or other special district, other than a municipality, created for specified
7 public purposes within one or more municipalities,] Attorney General,
8 through the Division of Elections in the Department of Law and Public
9 Safety shall be responsible for providing all information regarding
10 military service ballots, as defined in section 2 of P.L.1953, c.211
11 (C.19:57-2), and overseas Federal election voter ballots, as provided
12 for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make
13 available valid military service voter registration applications, military
14 service ballot applications and overseas Federal election voter
15 registration and ballot applications to any military service or overseas
16 Federal election voter who wishes to register to vote or to vote in any
17 jurisdiction in this State. The division shall publish or cause to be
18 published the following [notices] notice in substantially the following
19 [forms] form:

20

21 NOTICE TO MILITARY SERVICE VOTERS AND
22 TO THEIR RELATIVES AND FRIENDS

23

24 If you are in the military service, or the spouse or dependent of a
25 person in military service or are a patient in a veterans' hospital or a
26 civilian attached to or serving with the Armed Forces of the United
27 States without the State of New Jersey, or the spouse or dependent of
28 and accompanying or residing with a civilian attached to or serving
29 with the Armed Forces of the United States, and desire to vote, or if
30 you are a relative or friend of any such person who, you believe, will
31 desire to vote in the (school, municipal,
32 primary, general or other) election to be held on
33 (date of election) kindly write to the undersigned at once making
34 application for a military service ballot to be voted in said election to
35 be forwarded to you, stating your name, age, serial number if you are
36 in military service, home address and the address at which you are
37 stationed or can be found, or if you desire the military service ballot
38 for a relative or friend then make application under oath for a military
39 service ballot to be forwarded to him, stating in your application that
40 he is over the age of 18 years and stating his name, serial number if he
41 is in military service, home address and the address at which he is
42 stationed or can be found.

43 Military service voters may also apply for a military service ballot
44 by sending a federal postcard application form to the undersigned.

45 On the application for a military service ballot, military service
46 voters may request that a military service ballot be sent for all

1 subsequent elections [held during] through and including [this
2 calendar year] the next two regularly scheduled general elections for
3 federal office which take place after the request is made.

4
5 (NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY
6 STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY
7 NOT USE MILITARY ABSENTEE BALLOT UNLESS
8 REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH
9 STATION IS LOCATED.)

10 Forms of application other than federal postcard application forms
11 can be obtained from the undersigned. Dated
12

13 (signature and title of [county clerk] Director of Division of
14 Elections)

15

16 (address of [county clerk] Division of Elections)

17 b. The county clerk of the county, in the case of any Statewide
18 election, countywide election, or school election in a regional or other
19 school district comprising more than one municipality; the clerk of the
20 municipality, in the case of any municipal election or school election
21 in a school district comprising a single municipality; and the
22 commissioners or other governing or administrative body of the
23 district, in the case of any election to be held in any fire district, road
24 district, sewerage district, street lighting district, water supply district
25 or other special district, other than a municipality, created for specified
26 public purposes within one or more municipalities, shall publish or
27 cause to be published the following notice in substantially the
28 following form:

29
30
31 NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE
32 BALLOTS

33
34 If you are a qualified and registered voter of the State who expects
35 to be absent outside the State on(date of election) or a
36 qualified and registered voter who will be within the State on
37 (date of election) but because of permanent and
38 total disability, or because of illness or temporary physical disability,
39 or because of the observance of a religious holiday pursuant to the
40 tenets of your religion, or because of resident attendance at a school,
41 college, or university, or because of the nature and hours of
42 employment, will be unable to cast your ballot at the polling place in
43 your district on said date, and you desire to vote in the
44 (school, municipal, primary, general, or other)
45 election to be held on (date of election) kindly complete
46 the application form below and send to the undersigned, or write or

S701 CONIGLIO

1 apply in person to the undersigned at once requesting that a civilian
2 absentee ballot be forwarded to you. Such request must state your
3 home address, and the address to which said ballot should be sent, and
4 must be signed with your signature, and state the reason why you will
5 not be able to vote at your usual polling place. No civilian absentee
6 ballot will be furnished or forwarded to any applicant unless request
7 therefor is received not less than seven days prior to the election, and
8 contains the foregoing information.

9 Voters who are permanently and totally disabled shall, after their
10 initial request and without further action on their part, be forwarded
11 an absentee ballot application by the county clerk for all future
12 elections in which they are eligible to vote. Permanently and totally
13 disabled voters also have the option of indicating on their absentee
14 ballot applications that they would prefer to receive absentee ballots
15 for each election that takes place during the remainder of this calendar
16 year. Permanently and totally disabled voters who exercise this option
17 will be furnished with absentee ballots for each election that takes
18 place during the remainder of this calendar year, without further action
19 on their part. Application forms may be obtained by applying to the
20 undersigned either in writing or by telephone, or the application form
21 provided below may be completed and forwarded to the undersigned.

22 Dated

23 (signature and title of county clerk)

24

25 (address of county clerk)

26

27 (Telephone No. of county clerk)

28 APPLICATION FORM FOR CIVILIAN

29 ABSENTEE BALLOT

30 (Form to be prepared by the Attorney General pursuant to section
31 17 of P.L.1977, c.47 (C.19:57-4.1)).

32 c. The absentee ballot materials shall contain a notice that any
33 person voting by absentee ballot who registers by mail after January
34 1, 2003, who did not provide personal identification information when
35 registering and is voting for the first time in his or her current county
36 of residence following registration shall include the required
37 identification information with the absentee ballot, and that failure to
38 include such information shall result in the rejection of the ballot.

39 d. Such notices as described in subsections a. and b. of this section
40 shall be separately published prior to the 50th day immediately
41 preceding the holding of any election.

42 Notices relating to any Statewide or countywide election shall be
43 published [by the county clerk] in at least two newspapers published
44 in the county. All [other] officials charged with the duty of publishing
45 such notices shall publish the same in at least one newspaper published
46 in each municipality or district in which the election is to be held or if

S701 CONIGLIO

1 no newspaper be published in said municipality or district, then in a
2 newspaper published in the county and circulating in such municipality,
3 municipalities or district. All such notices shall be display
4 advertisements.

5 (cf: P.L.2000, c.86, s.23)

6

7 28. Section 8 of P.L.1953, c.211 (C.19:57-8) is amended to read
8 as follows:

9 8. Each county clerk shall cause to be printed sufficient military
10 service ballots and civilian absentee ballots for each primary election
11 for the general election, and for the general election, and there shall be
12 furnished to the said county clerk of the county, as expeditiously as
13 possible before the day fixed for holding any other election within the
14 county, by the officer whose duty it shall be to provide the official
15 ballots for such election, sufficient military service ballots and civilian
16 absentee ballots. Along with all such ballots for all elections there
17 shall also be furnished by such county clerk or other official, inner and
18 outer envelopes and printed directions for the preparation and
19 transmitting of such ballots, for use in such election within the county
20 and all expenses of mailing such ballots shall be paid in the same
21 manner as other expenses of said election are paid.

22 The absentee ballots [used in counties which do not use any type
23 of computer punch cards as absentee ballots] shall be printed on paper
24 different in color from that used for the primary or general election
25 ballot, but in all other respects, shall be as nearly as possible facsimiles
26 of the election ballot to be voted at such election, as prescribed by the
27 county clerk and in conformity with the provisions of this act.

28 (cf: P.L.1994, c.77, s.12)

29

30 29. Section 1 of P.L.1972, c.87 (C.19:57-15.1) is amended to read
31 as follows:

32 1. Notwithstanding any provision of law to the contrary, any
33 county may adopt a system of electronic scanning, [punch cards or]
34 other mechanical or electronic device, which system has been
35 previously approved by the Secretary of State, to be used in counting
36 or canvassing absentee ballots. The county clerk in any county
37 adopting such a system may prepare and use absentee ballots that do
38 not conform generally to the ballot to be used at said election to the
39 extent that such nonconformance is necessary in the operation of the
40 electronic or mechanical canvassing system.

41 In preparing the absentee ballot, the county clerk shall insert the
42 names of the candidates on the appropriate ballot[, punch card] or
43 other device in the same order in which they appear on the official
44 ballot with full instructions to the voter as to how to mark [or
45 puncture] the ballot.

46 (cf: P.L.1972, c.87, s.1)

1 30. This act shall take effect immediately, except that sections 12
2 through 20, subsection f. of section 21 and sections 23, 28 and 29 of
3 this act shall remain inoperative until January 1, 2004 or, if the State
4 receives a waiver in accordance with subparagraph (d.) of paragraph
5 (b) of subsection (1) of section 303 of Pub.L.107-252 (42 U.S.C.
6 15483), January 1, 2006.

7
8
9 STATEMENT

10
11 The purpose of this bill is to implement portions of the federal
12 "Help America Vote Act of 2002," Pub.L.107-252, signed into law in
13 October 2002.

14 The bill begins the process of implementing changes in New Jersey
15 election law required under the federal act by making those changes
16 having the earliest federal deadlines, as well as certain changes directly
17 affecting military service voters that have later deadlines. Further
18 legislation will be needed to implement other mandates with later
19 deadlines.

20 Specifically, the bill:

21 (1) establishes the Federal Elections Assistance Fund, for the
22 purpose of receiving all State allocated funds and federal funds
23 authorized pursuant to the federal law;

24 (2) establishes an administrative grievance procedure for voters
25 who believe their rights under Title III of the federal act or New
26 Jersey's Title 19 (Elections) are, have been, or will be violated;

27 (3) establishes additional voter identification requirements for
28 persons seeking to register to vote;

29 (4) amends current voter registration application forms to add
30 questions regarding the citizenship and voting age of applicants;

31 (5) changes the statutory designation of the chief state election
32 official from the Secretary of State to the Attorney General, consistent
33 with Governor Whitman's Reorganization Plan No.004-1998;

34 (6) designates the Division of Elections in the Department of Law
35 and Public Safety as the single State office to provide information to
36 military service absentee voters and requires it to make available
37 military service voter registration and absentee ballot applications and
38 overseas Federal election voter registration and ballot applications;

39 (7) allows applications for military service ballots to remain active
40 for two federal election cycles;

41 (8) provides that applications for military service ballots may not
42 be refused on the grounds that they were submitted too early;

43 (9) prohibits punch card and mechanical lever voting machines, and
44 removes references to such machines in existing law, provided the
45 funds to pay for the replacement of such machines, as authorized
46 under the "Help America Vote Act of 2002," have been received by

S701 CONIGLIO

33

1 the State Treasurer; and

2 (10) provides that a free-access system be established for
3 provisional voters and absentee ballot voter to ascertain whether or
4 not their votes were accepted for counting.

ASSEMBLY FEDERAL RELATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 701

STATE OF NEW JERSEY

DATED: MAY 13, 2004

The Assembly Federal Relations Committee reports favorably Senate Bill No. 701 (1R).

This bill implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252 ("HAVA"), which was signed into law on October 29, 2002. HAVA was based upon recommendations by several national study commissions including the National Commission on Federal Election Reform and resulted from a consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote will be counted that should be counted, and that no legal vote will be canceled by a fraudulent vote.

HAVA authorizes substantial amounts of federal aid to the states to fund the purchase of more reliable voting systems, and mandates changes in the conduct of federal elections in all states to ensure greater access to the polls by individuals with disabilities, to provide more information for individuals who wish to vote and better training of poll workers, and to reduce the possibility of fraud. It also clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement due to mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

This bill begins the process of implementing the changes in New Jersey's election law required by HAVA, ensuring the fulfillment by this State of all requirements for eligibility to receive appropriated federal funds. Specifically, this bill accomplishes the following:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) provides that a free-access system be established for provisional voters to ascertain whether or not their votes were accepted for counting.

(3) provides that a free-access system be established for absentee ballot voters to ascertain whether or not their votes were accepted for

counting;

(4) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(5) requires county boards of election to submit reports to the Attorney General on the number of ballots transmitted to and returned by military service and overseas voters;

(6) requires the Attorney General to issue reports on the progress of the implementation of HAVA in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(7) amends current law to require additional voter identification requirements and procedures;

(8) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(9) changes the statutory designation of the chief State election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(10) amends the voter registration application form and authorizes the Attorney General to amend the form if necessary to conform to the requirements of federal or State law;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of HAVA;

(12) permits a mail-in registrant who is voting for the first time following registration and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(13) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(14) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early; and

(15) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications.

As reported, this bill is identical to Assembly Bill No. 2477, as also reported by the committee.

FISCAL IMPACT

The Executive Branch estimates that in order for the State to implement HAVA, 3,200 voting machines must be replaced. It

estimates the cost per machine to range from about \$9,000 to about \$12,100. It estimates the cost to create the required, free-access provisional ballot system to be approximately \$1 million. It estimates the cost to the State of assuming responsibility for the preparation and distribution of military ballots to be \$5,500 annually. And, it estimates the cost to revise forms and notices to be \$500,000.

The Office of Legislative Services prepared a Fiscal Estimate for this bill, concluding that the Executive Branch's cost estimates are reasonable. However, OLS noted that the Executive Branch's estimate of the cost to replace voting machines may be overestimated.

Under HAVA, federal funds are to be budgeted and appropriated for states to use in implementing HAVA. New Jersey has already received \$16.8 million from the federal government in so-called "early money" as provided for by Title I of HAVA. (Of that amount, \$8.1 million is for administrative improvements, voter education and development of a State plan; and \$8.7 million is for upgrading voting machines.)

According to the Congressional Research Service, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money," is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

However, given the uncertainties of the federal budget and appropriations processes, it is difficult to forecast the amount and timing of funds the State may receive from the federal government to implement HAVA. Thus, it is difficult to forecast the amount of matching money the State will be required to provide.

MINORITY STATEMENT

(Submitted by Assemblymen Gregg and Pennacchio)

Although the Minority believes that this bill is well-intentioned, we are unable to support it in its current form due to questions regarding whether it sufficiently conforms to federal law and adequately protects against fraud, concerns about the disparate treatment of new voters, and objections to the ceding of legislative authority to the Executive Branch.

In the previous legislative session, the Legislature passed an earlier version of this bill with not a single vote cast in opposition in either house. However, Governor McGreevey conditionally vetoed the bill, and so much opposition developed as a result of the Governor's changes that the bill was ultimately voted down in the Legislature. Unfortunately, the bill before us today contains the controversial and questionable provisions that caused its demise in the previous session.

This bill is intended to implement certain portions of the federal

Help America Vote Act (HAVA), which passed with strong bipartisan support in Congress and was signed into law by President Bush in October 2002. That law is designed to improve the accuracy and integrity of the electoral system by, among other things, encouraging the use of updated voting technology and requiring first-time mail-in voter registration applicants to provide identification. We believe that certain provisions of the bill do not conform to the intent of HAVA, but given the large amount of federal aid contingent upon enactment of state implementing legislation we have more serious concerns regarding the lack of any authoritative determination by the federal government that this bill in its current form even meets the requirements set by HAVA.

Most significantly, compared to the version sent to the Governor last session, this bill fails to protect against fraudulent voter registrations by gutting provisions that are central to an effective implementation of the federal law. This bill creates a tremendous loophole by allowing people who do not register to vote in person to avoid federal requirements to provide identification. This loophole will cause new voters who have not registered in person to be treated differently depending on whether they had their registration applications delivered by mail or by some other courier; this disparate treatment is something that the Minority cannot accept. Making voting easy is desirable, but it is important to assure, as stated in the legislative findings section of the bill, that no legal vote will be canceled by a fraudulent vote. We are aware of no other state that has chosen to interpret HAVA as permitting the type of loophole to be created by this bill.

Further, testimony given before this committee by county election officials and a representative of a civil rights organization raise significant concerns in two areas. First, the testimony indicates with startling clarity that the identification and verification system currently dictated by the New Jersey Attorney General's Office is inadequate to the task of assuring that new registration applications will be properly processed in time for those new voters to cast their vote in the June 2004 primary without incident. The testimony indicated that a serious backlog of identification verifications exists which may result in thousands of new voters being required to provide identification at the polls despite having already provided it as requested upon application.

Second, the testimony strongly demonstrates that whatever public money may have been spent so far toward "educational" efforts has not been used effectively or even appropriately. Taxpayer money has been wasted on useless trinkets such as magnets displaying trite slogans, a pep rally at the New Jersey Performing Arts Center, and television advertisements saying absolutely nothing to voters about the new identification requirements or other aspects of HAVA. Meanwhile, election workers need new training right away and, as stated by the civil rights organization representative, all voters should be very strongly advised to bring acceptable identification with them

to the polls to assure that they will be able to cast their votes. This bill does nothing to address these concerns. Due to the problems with the identification verification system combined with the lack of voter education and poll worker training, there exists the very real potential for confusion and even chaos at the polls, which may result in voter disenfranchisement and embarrassment for the State of New Jersey perhaps on the scale of Florida's in the 2000 general election.

This bill concentrates too much power in the Office of the Attorney General. The bill inappropriately places the Attorney General in control of the grievance procedure for voters who believe their rights have been violated by the very election system which itself is run by the Attorney General; it would be more appropriate for the grievance procedure to be handled by the Office of Administrative Law, which is organizationally located in the Department of the Treasury but is independent of supervision or control by that department. This bill would also give the Attorney General the unprecedented authority to change the voter registration form unilaterally without legislative approval, which is an unwarranted surrender of legislative authority to the Executive Branch.

Worse, the bill gives the Attorney General the discretion to authorize the acceptance of forms of identification that are not specified in the federal HAVA nor in this bill. This grant of discretion is too broad and essentially endorses the Attorney General's current directive authorizing the acceptance of such flimsy forms of identification as a retail store purchasing club membership card. That directive is part of an unfortunate overall lack of seriousness about combating election fraud exhibited by the Attorney General's Office. During a recent investigation of election fraud allegations in Atlantic City and Pleasantville, the Atlantic County Board of Chosen Freeholders found that there has been a persistent and recurring problem with fraud involving the misuse of absentee and messenger ballots. The report issued following that investigation states that the rulings from the Attorney General on issues such as voter identification "created the perfect atmosphere for increased problems relating to voter fraud." The report also states, "The Attorney General's Office should have acknowledged that there is a genuine problem with voting irregularities in Atlantic City and Pleasantville... the Attorney General's Office's failure to act is inconceivable and inexcusable."

If New Jersey fails to implement the federal law properly, substantial amounts of federal aid could well be jeopardized. The U.S. Department of Justice has indicated that it cannot determine if New Jersey will be eligible for funding under the provisions of this bill. Time has already been wasted since the Governor's conditional veto was issued, and the State of New Jersey and its localities should not risk receiving their fair share of funding.

Assemblyman David Russo has reintroduced last session's version of HAVA compliance legislation which garnered full bipartisan

support in both houses of the Legislature. This committee erred today in failing to consider and report Assemblyman Russo's superior bill and possible changes to address the concerns raised before this committee, rather than reporting this inadequate and questionable bill without necessary changes.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 701

STATE OF NEW JERSEY

DATED: JUNE 14, 2004

The Assembly Appropriations Committee reports favorably Senate Bill No. 701 (1R).

Senate Bill No. 701 (1R) implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252 ("HAVA"), which was signed into law on October 29, 2002. HAVA was based upon recommendations by several national study commissions including the National Commission on Federal Election Reform and resulted from a consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote will be counted that should be counted, and that no legal vote will be canceled by a fraudulent vote.

HAVA authorizes substantial amounts of federal aid to the states to fund the purchase of more reliable voting systems, and mandates changes in the conduct of federal elections in all states to ensure greater access to the polls by individuals with disabilities, to provide more information for individuals who wish to vote and better training of poll workers, and to reduce the possibility of fraud. It also clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement due to mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

This bill begins the process of implementing the changes in New Jersey's election law required by HAVA, ensuring the fulfillment by this State of all requirements for eligibility to receive appropriated federal funds. Specifically, this bill accomplishes the following:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) provides that a free-access system be established for provisional voters to ascertain whether or not their votes were accepted for counting.

(3) provides that a free-access system be established for absentee ballot voters to ascertain whether or not their votes were accepted for

counting;

(4) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(5) requires county boards of election to submit reports to the Attorney General on the number of ballots transmitted to and returned by military service and overseas voters;

(6) requires the Attorney General to issue reports on the progress of the implementation of HAVA in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(7) amends current law to require additional voter identification requirements and procedures;

(8) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(9) changes the statutory designation of the chief State election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(10) amends the voter registration application form and authorizes the Attorney General to amend the form if necessary to conform to the requirements of federal or State law;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of HAVA;

(12) permits a mail-in registrant who is voting for the first time following registration and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(13) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(14) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early; and

(15) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications.

As reported, this bill is identical to Assembly Bill No. 2477, as also reported by the committee.

FISCAL IMPACT

The Executive Branch estimates that in order for the State to implement HAVA, 3,200 voting machines must be replaced. It

estimates the cost per machine to range from about \$9,000 to about \$12,100. It estimates the cost to create the required, free-access provisional ballot system to be approximately \$1 million. It estimates the cost to the State of assuming responsibility for the preparation and distribution of military ballots to be \$5,500 annually. And, it estimates the cost to revise forms and notices to be \$500,000.

The Office of Legislative Services prepared a Fiscal Estimate for this bill, concluding that the Executive Branch's cost estimates are reasonable. However, OLS noted that the Executive Branch's estimate of the cost to replace voting machines may be overestimated.

Under HAVA, federal funds are to be budgeted and appropriated for states to use in implementing HAVA. New Jersey has already received \$16.8 million from the federal government in so-called "early money" as provided for by Title I of HAVA. (Of that amount, \$8.1 million is for administrative improvements, voter education and development of a State plan; and \$8.7 million is for upgrading voting machines.)

According to the Congressional Research Service, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money," is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

However, given the uncertainties of the federal budget and appropriations processes, it is difficult to forecast the amount and timing of funds the State may receive from the federal government to implement HAVA. Thus, it is difficult to forecast the amount of matching money the State will be required to provide.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 701

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 2004

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 701.

The purpose of this bill is to implement portions of the federal "Help America Vote Act of 2002," Pub.L.107-252, signed into law in October 2002.

Specifically, the bill:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(3) requires the Attorney General to issue reports on the progress of the implementation of the "Help America Vote Act of 2002" in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(4) establishes additional voter identification requirements for persons who have registered to vote by mail after January 1, 2003 and seeking to vote for the first time after so registering;

(5) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(6) changes the statutory designation of the chief state election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(7) permits any voter who is a mail-in registrant voting for the first time following registration, and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(8) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available

military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications;

(9) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(10) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of the "Help America Vote Act of 2002;" and

(12) provides that a free-access system be established for provisional voters and absentee ballot voters to ascertain whether or not their votes were accepted for counting.

The committee adopted an amendment to the bill to require the Attorney General to issue a report on the progress of the implementation of the "Help America Vote Act of 2002" in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader. The report is to be issued quarterly in the first year, with the first report due on July 1, 2004, and issued biennially thereafter.

The committee also amended the bill to correct several technical errors, including ambiguous and missing wording in amendatory language and an incorrect internal reference to supplementary sections of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 701

STATE OF NEW JERSEY

DATED: MARCH 8, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 701 (1R).

This bill would implement portions of the federal "Help America Vote Act of 2002," Pub.L.107-252, signed into law in October 2002.

Specifically, the bill:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(3) requires the Attorney General to issue reports on the progress of the implementation of the "Help America Vote Act of 2002" in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(4) establishes additional voter identification requirements for persons who have registered to vote by mail after January 1, 2003 and seeking to vote for the first time after so registering;

(5) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(6) changes the statutory designation of the chief state election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(7) permits any voter who is a mail-in registrant voting for the first time following registration, and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(8) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available military service voter registration and absentee ballot applications and

overseas Federal election voter registration and ballot applications;

(9) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(10) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of the "Help America Vote Act of 2002;" and

(12) provides that a free-access system be established for provisional voters and absentee ballot voters to ascertain whether or not their votes were accepted for counting.

FISCAL IMPACT

The Executive Branch has offered unofficial estimates of the cost to implement, over the three fiscal years of anticipated federal support, those requirements of the federal "HAVA" statute embodied in this bill. The estimates are as follows:

(1) Replacement of lever and punchcard machines that, under the bill, may no longer be used to cast votes at the polls or through other balloting (secs. 14, 17, et al.) - \$37.7 million;

(2) Establishment of the "free-access" system that will enable voters casting provisional or absentee ballots to learn whether their votes were accepted for counting (secs. 4 and 5) - \$1 million;

(3) Establishment of the administrative grievance procedure to review voters' complaints of violations of their rights under Title III of HAVA (sec. 6) - \$250,000;

(4) Replacement of forms, required under the bill to be revised, for voter registration applications (sec. 12), absentee ballots (sec. 20) and provisional ballots (sec. 24) - \$500,000; and

(5) Provision for the reservation of the State monies required, at a 5 percent matching level, for New Jersey to qualify for federal funds for HAVA costs - \$2.7 million.

Total costs: \$43.15 million. While the replacement of voting machines and forms (items (1) and (4), respectively) are ordinarily the responsibility of the several counties, the State intends to assume the costs of those activities, provided sufficient federal funding is available.

With respect to the federal funding referred to, New Jersey has already received \$16.8 million in so-called Title I "early money", of which \$8.1 million will be spent for administrative improvements, voter education and the development of a State plan required by HAVA, and the remaining \$8.7 million will be used to fund voting machine replacement. The FY2004-05 Budget indicates that the Executive anticipates \$22.9 million of "requirements" funding under

HAVA's Title III in the current FY2003-04, and an additional \$13.6 million in FY2004-05. The actual level of federal may be different from these figures, however, as the federal budget outlook fluctuates.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 701

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: APRIL 8, 2004

SUMMARY

Synopsis: Implements portions of federal "Help America Vote Act of 2002."
Type of Impact: Increased Expenditure and Revenue. General Fund and County Funds.
Agencies Affected: Department of Law and Public Safety, Division of Elections and Counties.

Office of Legislative Services Estimate

Fiscal Impact	Years 1-3
State Cost	\$4.45 Million
State Revenue	\$4.45 Million (From Federal Aid)
Local Cost	\$28.8 million - \$38.7 Million
Local Revenue	\$28.8 million - \$38.7 Million (Federal Aid, via State)

- * This bill implements portions of the federal "Help America Vote Act of 2002" (HAVA).
- * The State has already received \$16.8 million in so-called "early money," as provided for by Title I of the federal act, including \$8.1 million for administrative improvements, voter education and development of a State plan, and \$8.7 million for upgrading voting machines.
- * The FY05 Budget anticipates an additional \$22.9 million in FY04 and 13.6 million in FY05 of additional federal aid to implement HAVA requirements for a three-year total of \$53.3 million that would be available to fund the costs of this bill. OLS notes that federal appropriation of FY04 and FY05 amounts has yet to occur.
- * The Executive Branch has informally estimated the cost to implement the relevant provisions this bill as follows: 3,200 replacement voting machines: \$28.8 million - \$38.7 million (county costs); a provisional ballot free-access system: \$1 million; the shift of printing and distributing military ballots from the counties to the State: \$5,500; a grievance procedure system: \$250,000; and updating forms: \$500,000. The OLS concurs with these estimates, and further notes that state matching funds of 5 percent, or about \$2.7 million, are also required to secure the anticipated level of federal aid.
- * The OLS estimate assumes that once sufficient federal funding is provided to the State for HAVA implementation, the State will in turn appropriate these funds to counties to fully

offset voting machine replacement cost. If sufficient federal funds are not received, counties will be required to fund these costs through other means.

BILL DESCRIPTION

Senate Bill No. 701 (1R) of 2004 entitled "The Voting Opportunity and Technology Enhancement Act," implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252, which was signed into law in October 2002.

The Help America Vote Act was intended to improve the administration of elections throughout the country and make elections easier to understand, easier to access and easier to audit, among other things. Specifically, the bill:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(3) requires the Attorney General to issue a report on the progress of the implementation of the "Help America Vote Act of 2002" in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader. The report is to be issued quarterly in the first year, with the first report due on July 1, 2004, and issued biennially thereafter;

(4) establishes additional voter identification requirements for persons who have registered to vote by mail after January 1, 2003 and seeking to vote for the first time after so registering;

(5) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(6) changes the statutory designation of the chief state election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(7) permits any voter who is a mail-in registrant voting for the first time following registration, and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(8) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available to military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications;

(9) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(10) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of the "Help America Vote Act of 2002;" and

(12) provides that a free-access system be established for provisional voters and absentee ballot voters to ascertain whether or not their votes were accepted for counting.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although no formal estimate was received, the Department of Law and Public Safety has estimated the cost of implementing the relevant provisions of the "Help America Vote Act of 2002" in New Jersey in the *HAVA State Plan, Improving the Shape of New Jerseys' Voting Experience*, prepared by the Office of the Attorney General, and has further provided information on an informal basis. The department has determined that five counties (Camden, Cape May, Cumberland, Essex, Monmouth) have lever machines which must be replaced, and another three counties (Atlantic, Passaic and Warren) that have machines that cannot be made HAVA compliant due to accessibility requirements. In total, it is estimated that 3,200 machines need to be replaced. The estimated cost per machine, depending on which model and features, such as audio components, are selected, ranges from about \$9,000 to about \$12,100. The provision to create a free-access Provisional Ballot system is estimated to cost approximately \$1 million. The cost to the State of assuming responsibility for preparation and distribution of military ballots from the counties is estimated to be \$5,500 annually. The cost to revise forms and notices is estimated at \$500,000.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) finds that the Executive cost estimates noted above are reasonable, but notes that the costs to replace voting machines may be overestimated. According to the National Conference of State Legislatures (NCSL), the cost to replace voting machines could vary according to the specific needs of State or local jurisdictions responsible for providing voting machines. For example, the estimated cost for a direct recording machine, which complies with HAVA disability requirements, ranges from \$3,500 to \$5,000 depending on service contracts, training and software. The optical scanner is another option which may be purchased for an estimated \$8,000. A precinct only needs one optical scanner compared to the number of direct recording equipment that may be needed. These costs are significantly lower than the per machine cost reflected in the Executive's informal estimates noted above.

With respect to federal aid to implement HAVA and thus to fund the costs of this bill, OLS notes that it is difficult to forecast the amount and timing of funds the State might receive (and consequently the amount of matching money the State will be required to provide), given the uncertainties of the federal budget and appropriations process. The State has already received \$16.8 million in so-called "early money" as provided for by Title I of the act, including \$8.1 million for administrative improvements, voter education and development of a State plan, and \$8.7 million for upgrading voting machines. According to a memorandum prepared by the Congressional Research Service soon after the "Help America Vote Act of 2002" was enacted, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money", is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2477

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 4, 2004

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

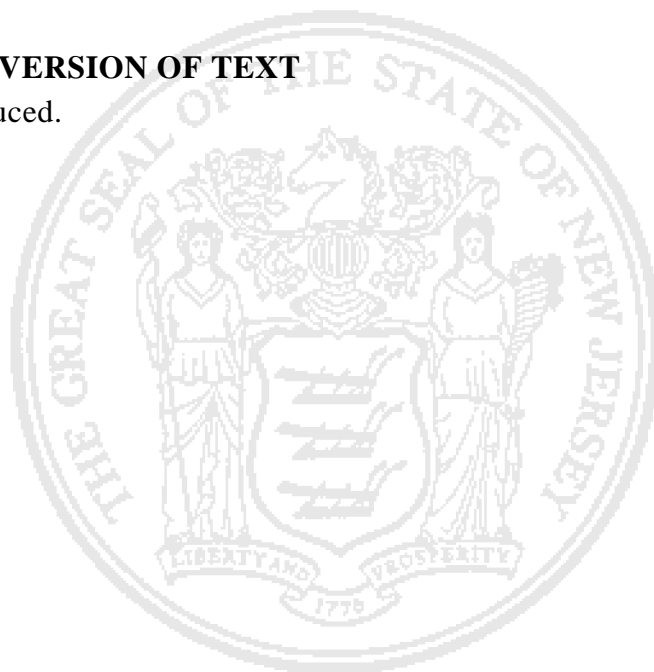
Assemblymen Eagler and Mayer

SYNOPSIS

Implements portions of federal "Help America Vote Act of 2002."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2004)

1 AN ACT concerning elections and amending and supplementing
2 various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) The Legislature finds and declares:

8 a. The "Help America Vote Act of 2002," Pub.L.107-252, was
9 enacted by Congress and signed into law by President Bush on
10 October 29, 2002.

11 b. The new federal law, based upon recommendations by several
12 national study commissions including the National Commission on
13 Federal Election Reform, resulted from a consensus that the nation's
14 electoral system needs improvements to ensure that every eligible
15 voter has the opportunity to vote, that every vote will be counted that
16 should be counted, and that no legal vote will be canceled by a
17 fraudulent vote.

18 c. Accordingly, the "Help America Vote Act of 2002" authorizes
19 substantial amounts of federal aid to the states to fund the purchase of
20 more reliable voting systems, and mandates changes in the conduct of
21 federal elections in all states to ensure greater access to the polls by
22 individuals with disabilities, to provide more information for
23 individuals who wish to vote and better training of poll workers, and
24 to reduce the possibility of fraud.

25 d. The "Help America Vote Act of 2002" also clearly defines the
26 rights and privileges of those eligible individuals who seek to vote,
27 including all overseas and military service voters, and seeks to prevent
28 disenfranchisement due to mistaken determinations of ineligibility to
29 vote, the use of outdated voting systems that are unreliable or
30 insufficiently accessible for disabled voters, or unnecessary
31 administrative obstacles.

32 e. The purpose of P.L. , c. (C.)(now pending before the
33 Legislature as this bill) is to begin the process of implementing the
34 changes in New Jersey's election law required by the "Help America
35 Vote Act of 2002" to accomplish the purposes described above,
36 providing a fair, deliberative and consensus-oriented process for
37 enacting election reform required by the federal law, and ensure the
38 timely fulfillment by this State of all requirements for eligibility to
39 receive appropriated federal funds.

40

41 2. (New section) This act shall be known and may be cited as "The
42 Voting Opportunity and Technology Enhancement Act."

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. (New section) There is hereby established in the Department of
2 the Treasury a special, nonlapsing fund to be known as the Federal
3 Elections Assistance Fund.

4 The fund is established in accordance with paragraph (b) of section
5 254 of Pub.L.107-252, (42 U.S.C. 15404) for the purpose of
6 receiving:

7 a. all moneys appropriated or otherwise made available by the State
8 for the purpose of carrying out the activities required by Pub.L.107-
9 252;

10 b. all payments which will be received from the federal government
11 pursuant to Pub.L.107-252;

12 c. interest earned on deposits made in the fund; and

13 d. such other additional amounts as may be appropriated under
14 federal or State law.

15 The State Treasurer is authorized to transfer into the fund in a
16 timely manner such State moneys as will be necessary to insure that
17 the State qualifies for the maximum amount of federal funds
18 appropriated to implement Pub.L.107-252.

19
20 4. (New section) The Attorney General shall establish a free-
21 access system, such as a toll-free telephone number, an Internet
22 website or any combination thereof, that any individual who casts a
23 provisional ballot may access to ascertain whether the ballot of that
24 individual was accepted for counting and, if the vote was not counted,
25 the reason for the rejection of the ballot. The system shall at all times
26 preserve the confidentiality of each voter, and shall ensure that no
27 person, other than the individual who cast the ballot, may discover
28 whether or not that individual's ballot was accepted, unless so
29 informed by the voter.

30
31 5. (New section) The Attorney General shall establish a free-
32 access system, such as a toll-free telephone number, an Internet
33 website or any combination thereof, that any individual who casts an
34 absentee ballot may access to ascertain whether the ballot of that
35 individual was accepted for counting and, if the ballot was not
36 counted, the reason for the rejection of the ballot. The system shall at
37 all times preserve the confidentiality of each voter, and shall ensure
38 that no person, other than the individual who cast the ballot, may
39 discover whether or not that individual's ballot was accepted for
40 counting, unless so informed by the voter. This system may be the
41 same one used for provisional ballots, established pursuant to section
42 4 of P.L. , c. (C.) (now pending before the Legislature as this
43 bill).

44
45 6. (New section) a. After January 1, 2004, any individual who
46 believes that there is, has been, or will be a violation of any provision

1 of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, pursuant
2 to the procedures set forth in this section established in compliance
3 with the provisions of section 402 of P.L.107-252 (42 U.S.C. 15512),
4 file a complaint with the Division of Elections in the Department of
5 Law and Public Safety seeking appropriate relief with respect to the
6 violation.

7 b. Each such complaint shall be in writing, and shall be notarized,
8 signed, and sworn by the individual filing the complaint. The Attorney
9 General may consolidate all such complaints if the Attorney General
10 deems it appropriate.

11 c. (1) If, upon administrative inquiry, the Attorney General
12 determines that there is, has been, or will be a violation of any
13 provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the
14 Attorney General shall order appropriate relief. The complainant may
15 request a hearing on the record, to be conducted in the manner
16 provided for contested cases pursuant to the 'Administrative Procedure
17 Act,' P.L.1968, c.410 (C.52:14B-1 et seq.); otherwise, the order of the
18 Attorney General shall constitute final agency action on the matter and
19 shall be subject to judicial review as provided in the Rules of Court.

20 (2) If, upon administrative inquiry, the Attorney General
21 determines that there has been, is or will be no violation of any
22 provision of Title III of Pub.L.107-252 (42 U.S.C.15481 et seq.), the
23 Attorney General shall reject the claim of the violation and shall so
24 notify the complainant. In that case, the complainant shall be afforded
25 the opportunity for a hearing on the record in the manner provided for
26 contested cases pursuant to the 'Administrative Procedure Act,'
27 P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention in this hearing by
28 any other person shall be as provided in the 'Administrative Procedure
29 Act.' After review of the record of the hearing and the
30 recommendation of the administrative law judge, the Attorney General
31 shall affirm, reject or modify the decision. If, after a hearing, the
32 Attorney General determines that there has been, is or will be a
33 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
34 15481 et seq.), the Attorney General shall order appropriate relief. If
35 the complainant does not request a hearing following a determination
36 of no violation based upon administrative inquiry or if the Attorney
37 General determines after a hearing that there has been, is or will be no
38 violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
39 15481 et seq.), the Attorney General shall dismiss the complaint and
40 publish the results of the procedures. The decision of the Attorney
41 General shall constitute final agency action on the matter, and shall be
42 subject to judicial review as provided in the Rules of Court.

43 d. All complaints filed under this section shall be resolved finally
44 by the Attorney General prior to the 90th day after the date that the
45 complaint was filed, unless the complainant consents to a longer
46 period for making such a determination.

1 e. If the Attorney General fails to meet the 90-day deadline
2 provided in subsection d. of this section, the complaint shall be
3 resolved within 60 days of that deadline under alternative dispute
4 resolution procedures established by the Attorney General for the
5 purpose of this section. The record and other materials from any
6 proceedings conducted under the complaint procedures established
7 under this section shall be made available for use under the alternative
8 dispute resolution procedures.

9 f. All of the procedures provided for by this section shall be applied
10 uniformly and not in a manner that discriminates in any way against an
11 individual based on that individual's gender, race, religion, ethnicity or
12 sexual orientation.

13 g. An individual who believes that there is, or has been, or will be
14 a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.
15 15481 et seq.) may, as an alternative to the procedures prescribed in
16 subsections a. through f. of this section, file a complaint in the
17 appropriate Superior Court seeking appropriate relief with respect to
18 the violation. The complaint shall be resolved in an expedited manner.

19
20 7. (New section) No later than the 90th day following the day of
21 each regularly scheduled general election of candidates for federal
22 office occurring after January 1, 2004, each county board of elections
23 shall submit to the Attorney General for transmittal to the Election
24 Assistance Commission, established pursuant to section 201 of
25 Pub.L.107-252 (42 U.S.C. 15321), a report on the combined number
26 of absentee ballots transmitted to military service voters and overseas
27 Federal election voters and the combined number of such ballots which
28 were returned by such voters, judged to be valid, cast and canvassed.
29 The report shall be in the format developed by the commission. The
30 Attorney General shall make copies of each such report available to
31 the general public.

32
33 8. (New section) The Attorney General shall issue a report on the
34 progress of the implementation of the federal "Help America Vote Act
35 of 2002," Pub.L.107-252 (116 Stat 1666) in the State to the
36 Governor, the Senate President, Senate Minority Leader, Speaker of
37 the General Assembly, and Assembly Minority Leader. The report
38 shall be issued quarterly in the first year, with the first report due on
39 July 1, 2004, and shall be issued biennially thereafter.

40
41 9. R.S.19:15-17 is amended to read as follows:

42 19:15-17. a. The comparison of signatures of a voter made upon
43 registration and upon election day, and if the voter alleges his inability
44 to write, the comparison of the answers made by such voter upon
45 registration and upon election day, shall be had in full view of the
46 challengers.

1 b. If a voter has registered by mail after January 1, 2003 to vote for
2 the first time in his or her current county of residence and did not
3 provide personal identification when registering pursuant to section 16
4 of P.L.1974, c.30 (C.19:31-6.4), the voter shall be permitted to vote
5 starting at the first election held after January 1, 2004 at which
6 candidates are seeking federal office after displaying one of the
7 following items: (1) a current and valid photo identification card; (2)
8 a current utility bill, bank statement, government check or pay check;
9 (3) any other government document that shows the voter's name and
10 current address; or (4) any other identifying document that the
11 Attorney General has determined to be acceptable for this purpose. If
12 the voter does not display one of these documents, the voter shall not
13 be permitted to vote by machine but shall instead be provided with a
14 provisional ballot, pursuant to the provisions of P.L.1999, c.232
15 (C.19:53C-1 et seq.). This subsection shall not apply to any voter
16 entitled to vote by absentee ballot under the 'Uniformed and Overseas
17 Citizens Absentee Voting Act' (42 U.S.C. 1973ff-1 et seq.) or to any
18 voter who is provided the right to vote other than in person under
19 section 3 of Pub.L.98-435, the 'Voting Accessibility for the Elderly
20 and Handicapped Act,' or any other voter entitled to vote otherwise
21 than in person under any other federal law. This subsection shall also
22 not apply to any person who registers to vote by appearing in person
23 at any voter registration agency or to any person whose voter
24 registration form is delivered to the county commissioner of
25 registration or to the Attorney General, as the case may be, through a
26 third party by means other than by mail delivery.

27 c. Each county commissioner of registration shall collect and
28 maintain, in the manner prescribed by the Attorney General, the
29 information provided pursuant to subsection b. of this section and
30 section 16 of P.L.1974, c.30 (C.19:31-6.4). Access to the personal
31 identification information provided pursuant to subsection b. of this
32 section and section 16 of P.L.1974, c.30 (C.19:31-6.4), shall be
33 prohibited, in accordance with subsection a. of section 6 of P.L.2001,
34 c.404 (C.47:1A-5).
35 (cf: R.S.19:15-17)

36

37 10. R.S.19:31-5 is amended to read as follows:

38 19:31-5. Each person, who at the time he or she applies for
39 registration resides in the district in which he or she expects to vote,
40 who will be of the age of 18 years or more at the next ensuing
41 election, who is a citizen of the United States, and who, if he or she
42 continues to reside in the district until the next election, will at the
43 time have fulfilled all the requirements as to length of residence to
44 qualify him or her as a legal voter, shall, unless otherwise disqualified,
45 be entitled to be registered in such district[; and when once].

46 Whenever an individual registers by mail after January 1, 2003 to

1 vote for the first time in his or her current county of residence, that
2 individual shall provide either the individual's New Jersey driver's
3 license number or the last four digits of the individual's Social Security
4 Number, or shall submit with the voter registration form a copy of: (1)
5 a current and valid photo identification card; (2) a current utility bill,
6 bank statement, government check or pay check; (3) any other
7 government document that shows the individual's name and current
8 address; or (4) any other identifying document that the Attorney
9 General has determined to be acceptable for this purpose. If the
10 individual does not provide his or her New Jersey driver's license
11 number or Social Security Number information or submit a copy of
12 any one of these documents, either at the time of registration or at any
13 time thereafter prior to attempting to vote, the individual shall be
14 asked for identification when voting for the first time starting at the
15 first election held after January 1, 2004 at which candidates are
16 seeking federal office or thereafter. This requirement shall not apply
17 to any individual entitled to vote by absentee ballot under the
18 'Uniformed and Overseas Citizens Absentee Voting Act' (42 U.S.C.
19 1973ff-1 et seq.) or to any individual who is provided the right to vote
20 other than in person under section 3 of Pub.L.98-435, the 'Voting
21 Accessibility for the Elderly and Handicapped Act,' or any other voter
22 entitled to vote otherwise than in person under any other federal law.
23 This requirement shall also not apply to any individual who registers
24 to vote by appearing in person at any voter registration agency or to
25 any individual whose voter registration form is delivered to the county
26 commissioner of registration or to the Attorney General, as the case
27 may be, through a third party by means other than by mail delivery.

28 Once registered, the registrant shall not be required to register
29 again in such district as long as he or she resides therein, except when
30 required to do so by the commissioner, because of the loss of or some
31 defect in his or her registration record.

32 The registrant, when registered as provided in this Title, shall be
33 eligible to vote at any election to be held subsequent to such
34 registration, if he or she shall be a citizen of the United States of the
35 age of 18 years and shall have been a resident of the State for at least
36 30 days and of the county at least 30 days, when the same is held,
37 subject to any change in his qualifications which may later disqualify
38 him. No registrant shall lose the right to vote, and no registrant's
39 name shall be removed from the registry list of the county in which the
40 person is registered, solely on grounds of the person's failure to vote
41 in one or more elections.

42 (cf: P.L.1994, c.182, s.4)

43

44 11. Section 25 of P.L.1994, c.182 (C.19:31-6a) is amended to read
45 as follows:

46 25. The [Secretary of State] Attorney General is designated the

1 chief State election official and shall be responsible for the
2 coordination of this State's responsibilities pursuant to the provisions
3 of the "National Voter Registration Act of 1993," Pub.L.103-31 (42
4 U.S.C. s.1973gg et seq.) and the "Help America Vote Act of 2002,"
5 Pub.L.107-252 (42 U.S.C. 15301 et seq).
6 (cf: P.L.1994, c.182, s.25)
7

8 12. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read
9 as follows:

10 16. a. The ~~Secretary of State~~ Attorney General shall cause to be
11 prepared and shall provide to each county commissioner of registration
12 forms of size and weight suitable for mailing, which shall require the
13 information required by R.S.19:31-3 in substantially the following
14 form:

15
16 VOTER REGISTRATION APPLICATION
17

18 Print clearly in ink. Use ballpoint pen or marker.

19
20 (1) This form is being used as (check one):

21
22 New registration

23
24 Address change

25
26 Name change
27

28 (2) Name:.....
29

30 Last First Middle
31

32 (3) Are you a citizen of the United States of America? Yes No

33 (4) Will you be 18 years of age on or before election day? Yes No

34 If you checked 'No' in response to either of these questions, do not
35 complete this form.
36

37 ~~(3)~~ 5) Street Address where you live:
38

39

40
41 Street Address Apt. No.
42

43

44
45 ~~(4)~~ 6) City or Town County Zip Code

1 ([5] 7) Address Where You Receive Your Mail (if different from
2 above):

3
4

5
6 ([6] 8) Date of Birth:

7
8

9
10 Month Day Year

11
12 ([7] 9) Telephone Number (optional)

13
14 ([8] 10) Name and address of Your Last Voter Registration

15
16
17
18
19
20

21
22 (11) If you are registering by mail to vote and will be voting for the
23 first time in your current county of residence, please provide one of
24 the following:

- 25 (a) your New Jersey driver's license number:.....
26 (b) the last four digits of your Social Security
27 Number.....

28 OR submit with this form a copy of any one of the following
29 documents: a current and valid photo identification card; a current
30 utility bill, bank statement, government check, pay check or any other
31 government or other identifying document that shows your name and
32 current address. If you do not provide either your New Jersey driver's
33 license number or the last four digits of your Social Security Number,
34 or enclose a copy of one of the documents listed above, you will be
35 asked for identification when voting for the first time, unless you are
36 exempt from doing so under federal or State law.

37
38 ([9] 12) Declaration - I swear or affirm that:

39
40 I am a U.S. citizen.

41
42 I live at the above address.

43
44 I will be at least 18 years old on or before the day of the next
45 election.

1 I am not on parole, probation or serving a sentence due to a
2 conviction for an indictable offense under any federal or State laws.

3
4 I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
5 REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO
6 \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
7 PURSUANT TO R.S.19:34-1.

8
9
10
11 Signature or mark of the registrant Date

12
13 ([10] 13) If applicant is unable to complete this form, print the
14 name and address of individual who completed this form.

15
16
17
18 Name

19
20
21
22 Address

23
24 In addition, the form may include notice to the applicant of
25 information and options relating to the registration and voting process,
26 including but not limited to notice of qualifications required of a
27 registered voter; notice of the final day by which a person must be
28 registered to be eligible to vote in an election; notice of the effect of
29 a failure to provide required identification information; a place at
30 which the applicant may indicate availability for service as a member
31 of the district board of elections; a place at which the applicant may
32 indicate whether he or she requires a polling place which is accessible
33 to elderly and physically disabled voters or whether he or she is legally
34 blind; and a place at which the applicant may indicate a desire to
35 receive information concerning absentee voting. The form may also
36 include a space for the voter registration agency to record whether the
37 applicant registered in person, by mail or by other means.

38 b. The reverse side of the registration form shall bear the address
39 of the [Secretary of State] Attorney General or the commissioner of
40 registration to whom such form is supplied, and a United States postal
41 permit the charges upon which shall be paid by the State.

42 c. The [Secretary of State] Attorney General shall cause to be
43 prepared registration forms of the size, weight and form described in
44 subsection a. of this section in both the English and Spanish language
45 and shall provide such forms to each commissioner of registration of
46 any county in which there is at least one election district in which

1 bilingual sample ballots must be provided pursuant to R.S.19:14-21,
2 R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

3 d. The commissioner of registration shall furnish such registration
4 forms upon request in person to any person or organization in such
5 reasonable quantities as such person or organization shall request.
6 The commissioner shall furnish no fewer than two such forms to any
7 person upon request by mail or by telephone.

8 e. Each such registration form shall have annexed thereto
9 instructions specifying the manner and method of registration and
10 stating the qualifications for an eligible voter.

11 f. The [Secretary of State] Attorney General shall also furnish
12 such registration forms and such instructions to the Director of the
13 Division of Worker's Compensation, the Director of the Division of
14 Employment Services, and the Director of the Division of
15 Unemployment and Temporary Disability Insurance in the Department
16 of Labor; to the Director of the Division of Taxation in the
17 Department of the Treasury; to the Executive Director of the New
18 Jersey Transit Corporation; to the appropriate administrative officer
19 of any other public agency, as defined by subsection a. of section 15
20 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the
21 Department of Military and Veterans' Affairs; and to the chief
22 administrative officer of any voter registration agency, as defined in
23 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

24 g. All registration forms received by the [Secretary of State]
25 Attorney General in the mail or forwarded to the [Secretary of State]
26 Attorney General shall be forwarded to the commissioner of
27 registration in the county of the registrant.

28 h. An application to register to vote received from the Division of
29 Motor Vehicles or a voter registration agency, as defined in subsection
30 a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to
31 have been timely made for the purpose of qualifying an eligible
32 applicant as registered to vote in an election if the date on which the
33 division or agency shall have received that document in completed
34 form, as indicated in the lower right hand corner of the form, was not
35 later than the 29th day preceding that election.

36 i. Each commissioner of registration shall make note in the
37 permanent registration file of each voter who is required to provide the
38 personal identification information required pursuant to this section,
39 as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42
40 U.S.C. 15301 et seq.), to indicate the type of identification provided
41 by the voter and the date on which it is provided. Prior to the June
42 2004 primary election, when such a newly registered voter seeks to
43 vote for the first time following his or her registration, the voter will
44 be required to provide such personal identification information.
45 Beginning with the June 2004 primary election, when such a newly
46 registered voter seeks to vote for the first time following his or her

1 registration, the voter will not be required to provide such information
2 if he or she had previously provided the personal identification
3 information required pursuant to this section. The required
4 information shall be collected and stored for the time and in the
5 manner required pursuant to regulations promulgated by the Attorney
6 General.

7 j. The Attorney General shall amend the voter registration
8 application form if necessary to conform to the requirements of
9 applicable federal or state law.

10 (cf: P.L.1994, c.182, s.7)

11

12 13. R.S.19:47-1 is amended to read as follows:

13 19:47-1. As used in this subtitle:

14 "Ballot" , except when reference is made to irregular ballots, means
15 that portion of the [cardboard or paper within the] ballot [frames]
16 containing the name of the candidate and the designation of the party
17 by which he was nominated, or a statement of a proposed
18 constitutional amendment, or other question or proposition with the
19 word "yes" for voting for any question or proposition, and the word
20 "no" for voting against any question.

21 "Question" includes any constitutional amendment, proposition or
22 other question submitted to the voters at any election.

23 "Official ballot" means the [printed strips of cardboard or paper
24 containing] material displaying the names of the candidates nominated
25 and a statement of the questions submitted.

26 "Irregular ballot" means a vote cast, by or on a special device, for
27 a person whose name does not appear on the ballots.

28 "Voting machine custodian" means the person who shall have
29 charge of preparing and arranging the voting machine for elections.

30 "Protective counter" means a separate counter built into the voting
31 machine which cannot be reset, which records the total number of
32 [movements of the operating lever] votes cast.

33 The list of candidates used or to be used on the front of the voting
34 machine for an election district in which the voting machine is used
35 pursuant to law shall be deemed official ballots under this subtitle.

36 (cf: R.S.19:47-1)

37

38 14. R.S.19:48-1 is amended to read as follows:

39 19:48-1. Any thoroughly tested and reliable voting machines may
40 be adopted, rented, purchased or used, which shall be so constructed
41 as to fulfill the following requirements:

42 (a) It shall secure to the voter secrecy in the act of voting;

43 (b) It shall provide facilities for such number of office columns, not
44 less than 40 and not exceeding 60, as the purchasing authorities may
45 specify and of as many political parties or organizations, not exceeding
46 nine, as may make nominations, and for or against as many questions,

1 not exceeding 30, as submitted;

2 (c) It shall, except at primary elections, permit the voter to vote for
3 all the candidates of one party or in part for the candidates of one
4 party or one or more parties;

5 (d) It shall permit the voter to vote for as many persons for an
6 office as he is lawfully entitled to vote for, but no more;

7 (e) It shall prevent the voter from voting for the same person more
8 than once for the same office;

9 (f) It shall permit the voter to vote for or against any question he
10 may have the right to vote on, but no other;

11 (g) It shall for use in primary elections be so equipped that the
12 election officials can [lock out all rows] stop a voter from voting for
13 all candidates except those of the voter's party [by a single adjustment
14 on the outside of the machine];

15 (h) It shall correctly register or record and accurately count all
16 votes cast for any and all persons, and for or against any and all
17 questions;

18 (i) It shall be provided with a "protective counter" or "protective
19 device" whereby any operation of the machine before or after the
20 election will be detected;

21 (j) It shall be so equipped with such [locks] protective devices as
22 shall prevent the operation of the machine after the polls are closed;

23 (k) It shall be provided with a counter which shall show at all times
24 during an election how many persons have voted;

25 (l) It shall be provided with a [mechanical] model, illustrating the
26 manner of voting on the machine, suitable for the instruction of voters;

27 (m) It must permit a voter to vote for any person for any office,
28 except delegates and alternates to national party conventions, whether
29 or not nominated as a candidate by any party or organization by
30 providing [space for writing in] an opportunity to indicate such names
31 or name;

32 (n) It shall be equipped with a permanently affixed box or container
33 of sufficient strength, size and security to hold all emergency ballots
34 and pre-punched single-hole envelopes and with a clipboard and a
35 table-top privacy screen;

36 (o) It shall not use mechanical lever machines or punch cards to
37 record votes.

38 All voting machines used in any election shall be provided with a
39 screen, hood or curtain, which shall be so made and adjusted as to
40 conceal the voter and his action while voting.

41 It shall also be provided with one device for each party for voting
42 for all the presidential electors of that party by one operation, and a
43 ballot therefor containing only the words "presidential electors for,"
44 preceded by the name of that party and followed by the names of the
45 candidates thereof for the offices of President and Vice-President and
46 a registering device therefor which shall register the vote cast for such

1 electors when thus voted collectively.

2 (cf: P.L.1992, c.3, s.3)

3

4 15. R.S.19:48-7 is amended to read as follows:

5 19:48-7. If any voting machine being used in any election district
6 shall, during the time the polls are open, become damaged so as to
7 render it inoperative in whole or in part, the election officers shall
8 immediately give notice thereof to the county board of elections or the
9 superintendent of elections or the municipal clerk, as the case may be,
10 having custody of voting machines, and such county board of elections
11 or such superintendent of elections or such municipal clerk, as the case
12 may be, shall cause any person or persons employed or appointed
13 pursuant to section 19:48-6 of this Title to substitute a machine in
14 perfect [mechanical] working order for the damaged machine. At the
15 close of the polls the records of both machines shall be taken and the
16 votes shown on their counters shall be added together in ascertaining
17 and determining the results of the election. During any period when
18 a voting machine is inoperative, emergency ballots made as nearly as
19 possible in the form of the official ballot shall be used in accordance
20 with the provisions of this amendatory and supplementary act,
21 P.L.1992, c.3 (C.19:53B-1 et al.), received by the election officers and
22 placed by them in an emergency ballot box as provided in this
23 amendatory and supplementary act, P.L.1992, c.3 (C.19:53B-1 et al.),
24 and shall be counted with the votes registered on the voting machines.
25 The result shall be declared the same as though there had been no
26 accident to the voting machine. The emergency ballots thus voted
27 shall be preserved and returned with a statement setting forth how and
28 why the same were voted. The original statement shall be filed with
29 the county or municipal clerk, as the case may be; a copy of the
30 statement shall be filed with the commissioner of registration; and an
31 additional copy shall be placed in the emergency ballot box. The
32 statement for use in all elections except primary elections shall be in
33 the following form:

34

35 ELECTION STATEMENT FOR EMERGENCY PAPER BALLOTS
36 VOTED

37

38 This statement must be completed by all election district board
39 workers present when a voting machine malfunctions and emergency
40 paper ballots are issued and voted. R.S.19:48-7.

41 This is to certify that voting machine no. became inoperative at
42AM, PM. We further certify that emergency paper
43 ballots were issued and voted during the time the voting machine
44 assigned to Election District No. in (municipality)
45 was inoperative. The last voting authority given out before the voting
46 machine became inoperative was no. This day of

1 [19] 2

2 TO BE COMPLETED ONLY IF VOTING MACHINE IS
3 REPLACED

4 Voting machine no. was replaced by voting machine no..... at
5 AM,PM.

6 The next voting authority given out after the voting machine was
7 replaced was no.

8 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
9 REPAIRED AND IS READY TO RECEIVE VOTES

10 Voting machine no. was repaired at AM,PM.

11 The next voting authority given out after the voting machine was
12 repaired was no.

13

14 Signature of Judge Signature of Clerk

15

16 Signature of Inspector Signature of Clerk

17

18 Municipality Signature of Voting
19 Machine Technician

20

21 Ward

22

23 District

24 The statement for use in the primary election shall be in the
25 following form:

26

27

PRIMARY ELECTION

28

29

STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

30

31 This statement must be completed by all election district board
32 workers present when a voting machine malfunctions and emergency
33 paper ballots are issued and voted. R.S.19:48-7.

34 This is to certify that voting machine no. became inoperative at
35AM, PM. We further certify that emergency paper
36 ballots were issued and voted during the time the voting machine
37 assigned to Election District No. in (municipality)
38 was inoperative. The last voting authorities given out before the
39 voting machine became inoperative were REPUBLICAN NO.,
40 DEMOCRATIC NO.

41 this day of [19] 2

42

43 TO BE COMPLETED ONLY IF VOTING MACHINE IS
44 REPLACED

45

46 Voting machine no. was replaced by voting machine no..... at

1 AM,PM.
 2 The next voting authorities given out after the voting machine was
 3 replaced were REPUBLICAN NO....., DEMOCRATIC NO.....
 4 TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
 5 REPAIRED AND IS READY TO RECEIVE VOTES
 6 Voting machine no. was repaired at AM,PM.

7
 8 The next voting authorities given out after the voting machine was
 9 repaired were REPUBLICAN NO., DEMOCRATIC NO.

10
 11 Signature of Judge Signature of Clerk
 12
 13 Signature of Inspector Signature of Clerk
 14
 15 Municipality Signature of Voting
 16 Machine Technician
 17
 18 Ward
 19
 20 District

21 If a voting machine fails to operate on multiple occasions during a
 22 single election, a STATEMENT FOR EMERGENCY PAPER
 23 BALLOTS VOTED shall be completed on each occasion when the
 24 machine fails to operate.
 25 (cf: P.L.1992, c.3, s.7)

26
 27 16. R.S.19:49-2 is amended to read as follows:
 28 19:49-2. All official ballots shall be [printed on clear white paper
 29 or cardboard of such form and size as will fit the ballot frames of the
 30 machines, printed] in black ink in type as large as [the] space will
 31 reasonably permit; provided, however, that any public question which
 32 shall be placed on the ballot shall be [printed] in red [ink] and above
 33 any public question to be voted upon by the voters of the entire State
 34 there shall be [printed], also in red [ink], a description of the public
 35 question, which description shall not exceed six words and shall be
 36 [printed] in type as large as is practicable. Party nominations shall be
 37 arranged on each voting machine, either in columns or horizontal
 38 rows; the caption of the various ballots on the machines shall be so
 39 placed on the machines as to indicate to the voter what [push knob,
 40 pointer, lever or other] device is to be used or operated in order to
 41 vote for the candidates or candidate of his or her choice. The
 42 providing of the official ballots and the order of the precedence and
 43 arrangement of parties and of candidates shall be as now required by
 44 law; provided, however, that in those counties where voting machines
 45 are used, the specifications for the [printing of the] official ballots
 46 shall be drawn by the county clerk.

1 For the primary election for the general election in all counties
2 where voting machines are or shall be used, all candidates who shall
3 file a joint petition with the county clerk of their respective county and
4 who shall choose the same designation or slogan shall be drawn for
5 position on the ballot as a unit and shall have their names placed on the
6 same line of the voting machine; and provided further, that all
7 candidates for municipal or party office in municipalities in counties
8 where voting machines are or shall be used who shall file a petition
9 with the clerk of their municipality bearing the same designation or
10 slogan as that of the candidates filing a joint petition with the county
11 clerk as aforesaid, may request that his or her name be placed on the
12 same line of the voting machine with the candidates who have filed a
13 joint petition with the county clerk as aforesaid by so notifying the
14 county clerk of said county in writing within two days after the last
15 day for filing nominating petitions and thereupon the county clerk shall
16 forthwith notify the campaign manager of such candidates filing a
17 joint petition as aforesaid of said request, and if the said campaign
18 manager shall file his consent in writing with the said county clerk
19 within two days after the receipt of said notification from said county
20 clerk, the clerk of said county shall place the name of such candidate
21 on the same line of the voting machine on which appears the names of
22 the candidates who have filed the joint petition as aforesaid; provided,
23 also, that any candidate filing a petition with the [Secretary of State]
24 Attorney General may request that his or her name be placed on the
25 same line of the voting machine with the candidates who have filed a
26 joint petition with the county clerk as aforesaid by so notifying the
27 county clerk of said county in writing within two days after the last
28 day for filing nominating petitions, and thereupon the county clerk
29 shall forthwith notify the campaign manager of such candidates filing
30 a joint petition as aforesaid of said request, and if the said campaign
31 manager shall file his consent in writing with the said county clerk
32 within two days after the receipt of said notification from said county
33 clerk, the clerk of said county shall place the name of such candidate
34 on the same line of the voting machine on which appears the names of
35 the candidates who have filed the joint petition as aforesaid.

36 (cf: P.L.1948, c.240, s.1)

37

38 17. Section 2 of P.L.1973, c.82 (C.19:53A-2) is amended to read
39 as follows:

40 2. a. The board of chosen freeholders of any county may adopt,
41 acquire by purchase, lease, or otherwise, or abandon any electronic
42 voting system or mechanical system authorized herein which has been
43 approved for use in the State, in any election or primary or
44 combination thereof, and may use such system in all or a part of the
45 districts within its boundaries[, or in combination with paper ballots].
46 The county authorities, on the adoption and acquisition of an

1 electronic voting system, shall provide for the payment therefor in
2 such manner as they deem for the best interest of the locality, in such
3 manner as may be provided by law.

4 b. The provisions of this act shall be controlling with respect to
5 elections where electronic voting systems are used, and shall be
6 liberally construed so as to carry out the purpose and intent of this act.
7 Any provisions of law relating to the conduct of elections which
8 conflict with this act shall not apply to the conduct of elections with
9 an approved electronic voting system.

10 c. Following the effective date of P.L. , c. (C.) (now
11 pending before the Legislature as this bill), an electronic voting system
12 that uses a voting device requiring the voter to punch out a hole in a
13 ballot card or pull a mechanical lever as a means of recording the
14 voter's vote shall not be used in any election in any district within this
15 State.

16 (cf: P.L.1973, c.82, s.2)

17

18 18. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read
19 as follows:

20 3. Every electronic voting system, consisting of a voting device in
21 combination with automatic tabulating equipment, acquired or used
22 in accordance with this act, shall:

23 a. Provide for voting in secrecy, except in the case of voters who
24 have received assistance as provided by law;

25 b. Permit each voter to vote at any election for all persons and
26 offices for whom and for which he is lawfully entitled to vote; to vote
27 for or against any question upon which he is entitled to vote; and the
28 automatic tabulating equipment shall reject choices recorded on his
29 ballot [card] if the number of choices exceeds the number which he
30 is entitled to vote for the office or on the measure;

31 c. Permit each voter, at presidential elections, by one mark [or
32 punch] to vote for the candidates of that party for president, vice
33 president, and their presidential electors;

34 d. Permit each voter, at other than primary elections, to vote for
35 the nominees of one or more parties and for independent candidates;
36 and personal choice or write-in candidates;

37 e. Permit each voter in primary elections to vote for candidates in
38 the party primary in which he is qualified to vote, and the automatic
39 tabulating equipment shall reject any votes cast for candidates of
40 another party;

41 f. Prevent the voter from voting for the same person more than
42 once for the same office;

43 g. Be suitably designed for the purpose used, of durable
44 construction, and may be used safely, efficiently, and accurately in the
45 conduct of elections and counting ballots;

46 h. When properly operated, record correctly and count accurately

1 every vote cast, including all overvotes or undervotes and all
2 affirmative votes or negative votes on all public questions or
3 referenda.

4 (cf: P.L.1973, c.82, s.3)

5

6 19. Section 5 of P.L.1973, c.82 (C.19:53A-5) is amended to read
7 as follows:

8 5. a. Ballot labels shall be **[printed]** in plain clear type in black
9 **[ink]**, of such size and arrangement as to fit the construction of the
10 voting device; they shall be **[printed]** on clear white material or on
11 material of different colors to identify different ballots or parts of the
12 ballot, and in primary elections to identify each political party.

13 b. The titles of offices and the names of candidates may be
14 arranged in vertical columns or in a series of separate pages. The
15 office title with a statement of the number of candidates to be voted
16 for shall be printed above or at the side of the names of the candidates
17 for that office. The names of candidates shall be **[printed]** in the order
18 provided by law, and in general elections the party designation of each
19 candidate, which may be abbreviated, and a slogan not to exceed six
20 words may **[be printed following]** follow his or her name. In case
21 there are more candidates for an office than can be **[printed]** arranged
22 in one column or on one ballot page, the ballot label shall be clearly
23 marked that the list of candidates is continued on the following column
24 or page, and so far as possible, the same number of names shall be
25 **[printed]** arranged on each column or page. Arrows may be used to
26 indicate the place to vote for each candidate and on each measure.

27 c. The different parts of the ballot, such as partisan, nonpartisan,
28 and measures, shall be prominently indicated on the ballot labels, and,
29 if practicable, each part shall be placed on a separate page or pages.
30 In the event that two or more elections are held on the same day, the
31 ballot labels shall be clearly marked to indicate the ballot for each
32 election, and, if practical, the ballot labels for each election shall be
33 placed upon separate pages, and labels of a different color or tint may
34 be used for each election.

35 d. Sample ballots, which shall be facsimile copies of the official
36 ballot or ballot labels, shall be provided as required by law. At least
37 three copies shall be posted in each polling place on election day.
38 Sample ballots may be printed on a single sheet or on a number of
39 pages stapled together.

40 e. In elections in which voters are authorized to vote for persons
41 whose names do not appear on the ballot, at the discretion of the
42 county board of elections either (1) a separate write-in ballot, which
43 may be in the form of a paper ballot, card or envelope in which the
44 voter places his or her ballot card after voting, shall be provided to
45 permit voters to write in the title of the office and the name of the
46 person or persons for whom he or she wishes to vote, or to attach a

1 sticker of suitable size on which is printed the title of the office and the
2 name of the person or persons for whom he or she wishes to vote; or
3 (2) provisions shall be made for the voter to write the name of the
4 person or persons for whom he or she wishes to vote on the ballot
5 card in the location designated and to [punch] mark the ballot card in
6 the location provided.

7 (cf: P.L.1975, c.316, s.4)

8

9 20. Section 9 of P.L.1973, c.82 (C.19:53A-9) is amended to read
10 as follows:

11 9. Absentee votes may be cast on paper ballots or ballot cards, or
12 both methods may be used, provided that, following the effective date
13 of P.L. , c. (C.) (now pending before the Legislature as this
14 bill), absentee votes shall not be cast in any election in this State by
15 means of ballot cards that require the voter to punch out a hole in the
16 card as a means of recording the voter's vote.

17 Such ballots may be counted by automatic tabulating equipment or
18 by special canvassing boards appointed by and under the direction of
19 the county board of elections. A true copy of absentee paper ballots
20 may be made on ballot cards, which after being duly verified, shall
21 forthwith be counted in the same manner as other ballot cards, except
22 that, following the effective date of P.L. , c. (C.) (now
23 pending before the Legislature as this bill), ballot cards that require a
24 hole to be punched out in the card to record a vote shall not be used
25 in any election in this State. Such paper ballots and ballot cards shall
26 be forthwith marked with corresponding numbers, which numbering
27 shall be done in such manner as not to identify any voter and such
28 marking shall not be considered to be a marked ballot. Such paper
29 ballots and corresponding ballot cards shall both be preserved in the
30 same manner as other ballot cards are required to be preserved
31 hereunder.

32 (cf: P.L.1973, c.82, s.9)

33

34 21. Section 21 of P.L.1992, c.3 (C.19:53B-12) is amended to read
35 as follows:

36 21. The right to challenge a voter who uses the emergency ballot
37 shall exist until the emergency ballot is deposited in the emergency
38 ballot box. If the right of a person to vote is challenged, the same
39 procedures shall be used as prescribed when the right of a person to
40 cast a vote on an electronic [or mechanical] voting machine is
41 challenged.

42 (cf: P.L.1992, c.3, s.21)

43

44 22. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read
45 as follows:

46 7. a. (1) The county clerk or the municipal clerk, in the case of a

1 municipal election, shall arrange for the preparation of a provisional
2 ballot packet for each election district. It shall include the appropriate
3 number of provisional ballots, the appropriate number of envelopes
4 with an affirmation statement, the appropriate number of written
5 notices to be distributed to voters who vote by provisional ballot and
6 one provisional ballot inventory form affixed to the provisional ballot
7 bag. The clerk shall arrange for the preparation of and placement in
8 each provisional ballot bag of a provisional ballot packet and an
9 envelope containing a numbered seal. The envelope shall contain, on
10 its face, the instructions for the use of the seal, the number and the
11 election district location of the provisional ballot bag, and the
12 identification numbers of the seal placed in the envelope. Each
13 provisional ballot bag shall be sealed with a numbered security seal
14 before being forwarded to the appropriate election district.

15 (2) Each provisional ballot bag and the inventory of the contents
16 of each such bag shall be delivered to the designated polling place no
17 later than the opening of the polls on the day of an election.

18 b. The county clerk or the municipal clerk, in the case of a
19 municipal election, shall arrange for the preparation of the envelope
20 [and], affirmation statement, and written notice that is to accompany
21 each provisional ballot. The envelope shall be of sufficient size to
22 accommodate the provisional ballot, and the affirmation statement
23 shall be affixed thereto in a manner that enables it to be detached once
24 completed and verified by the county commissioner of registration.
25 The statement shall require the voter to provide the voter's name, and
26 to indicate whether the voter is registered to vote in a county but has
27 moved within that county since registering to vote; or is registered to
28 vote in the election district in which that polling place is located but
29 the voter's registration information is missing or otherwise deficient.
30 The statement shall further require the voter to provide the voter's
31 most recent prior voter registration address and address on the day of
32 the election and date of birth. The statement shall include the
33 statement: "I swear or affirm, that the foregoing statements made by
34 me are true and correct and that I understand that any fraudulent
35 voting may subject me to a fine of up to \$1,000, imprisonment up to
36 five years or both, pursuant to R.S.19:34-11." It shall be followed
37 immediately by spaces for the voter's signature and printed name, and
38 in the case of a name change, the voter's printed old and new name and
39 a signature for each name, the date the statement was completed,
40 political party affiliation, if used in a primary election, and the name of
41 the person providing assistance to the voter, if applicable. Each
42 statement shall also note the number of the election district, or ward,
43 and name of the municipality at which the statement will be used.

44 The written notice shall contain information to be distributed to
45 each voter who votes by provisional ballot. The notice shall state that,
46 if the voter is a mail-in registrant voting for the first time in his or her

1 current county of residence following registration and was given a
2 provisional ballot because he or she did not provide required personal
3 identification information, the voter shall be given until the close of
4 business on the second day after the election to provide identification
5 to the applicable county commissioner of registration, and the notice
6 shall contain a telephone number at which the commissioner may be
7 contacted. The notice shall further state that failure to provide the
8 required personal identification information within that time period
9 shall result in the rejection of the ballot. The notice shall state that
10 pursuant to section 4 of P.L. , c. (C.)(now pending before the
11 Legislature as this bill), any individual who casts a provisional ballot
12 will be able to ascertain under a system established by the State
13 whether the ballot was accepted for counting, and if the vote was not
14 counted, the reason for the rejection of the ballot. The notice shall
15 include instructions on how to access such information.

16 c. For the primary for the general election, the provisional ballots
17 shall be printed in ink on paper of a color that matches the color of the
18 voting authority, which shall indicate the party primary of the voter.
19 The provisional ballots shall be uniform in size, quality and type and
20 of a thickness that the printing thereon cannot be distinguished from
21 the back of the paper, and without any mark, device or figure on the
22 front or back other than as provided in P.L.1999, c.232 (C.19:53C-1
23 et [al.] seq.). Each such ballot shall include near the top thereof and
24 in large type the designation PROVISIONAL BALLOT. In all other
25 respects, the provisional ballots shall conform generally to the other
26 ballots to be used in the election district for the primary election.

27 The clerk of the county or municipality shall arrange for the
28 preparation of each provisional ballot package with an appropriate
29 number of provisional ballots for each political party [and], a
30 corresponding number of envelopes with affirmation statements, and
31 a corresponding number of written notices. Additional provisional
32 ballots [and], envelopes, and notices shall be available for delivery to
33 that election district on the day of the election, if necessary.

34 d. For the general election the provisional ballots shall be printed
35 in ink. The provisional ballots shall be uniform in size, quality and
36 type and of a thickness that the printing thereon cannot be
37 distinguished from the back of the paper, and without any mark,
38 device or figure on the front or back other than as provided in this act.
39 Each such ballot shall include near the top thereof and in large type the
40 designation PROVISIONAL BALLOT. In all other respects, the
41 provisional ballots shall conform generally to the other ballots to be
42 used in the election district for the general election.

43 The clerk of the county or municipality shall arrange for the
44 preparation of each provisional ballot package with an appropriate
45 number of provisional ballots [and], a corresponding number of
46 envelopes with affirmation statements, and a corresponding number of

1 written notices. Additional provisional ballots [and], envelopes, and
2 notices shall be available for delivery to that election district on the
3 day of the election, if necessary.

4 e. For a school election the provisional ballots shall be printed in
5 ink. The provisional ballots shall be uniform in size, quality and type
6 and of a thickness that the printing thereon cannot be distinguished
7 from the back of the paper, and without any mark, device or figure on
8 the front or back other than as provided in this act. Each such ballot
9 shall include near the top thereof and in large type the designation
10 PROVISIONAL BALLOT. In all other respects, the provisional
11 ballots shall conform generally to the other ballots to be used in the
12 election district for the school election.

13 The clerk of the county shall arrange for the preparation of each
14 provisional ballot package with an appropriate number of provisional
15 ballots [and], a corresponding number of envelopes with affirmation
16 statements, and a corresponding number of written notices. Additional
17 provisional ballots [and], envelopes, and notices shall be available for
18 delivery to that election district on the day of the election, if necessary.

19 f. Following on the effective date of P.L. , c. (C.) (now
20 pending before the Legislature as this bill), a provisional ballot that
21 requires the voter to punch out a hole in the ballot as a means of
22 recording the voter's vote shall not be used in any election in this
23 State.

24 (cf: P.L.1999, c.232, s.7)

25

26 23. Section 9 of P.L.1999, c.232 (C.19:53C-3) is amended to read
27 as follows:

28 9. Whenever a voter enters a polling place to vote on the day of an
29 election and the circumstance of that voter matches the circumstance
30 of a voter described in subsection b. of R.S.19:31-11, the district
31 board shall query the voter and follow the appropriate procedure
32 herein described.

33 a. If, at any time, the voter has moved from one residence to
34 another in the same election district, the board shall permit the voter
35 to vote at that polling place in the same manner as other voters at the
36 polling place upon written affirmation by the voter to the district
37 board.

38 b. If the voter has moved within a municipality but currently
39 resides in an election district different from that listed for the voter by
40 the commissioner of registration, the district board shall direct the
41 voter to the appropriate election district and polling place for the voter
42 and inform that person that: (1) the person must go to that polling
43 place to vote; and (2) the person will be permitted to vote thereat by
44 provisional ballot after completing an affirmation statement.

45 c. If the voter has moved within the county but currently resides in
46 a municipality different from that listed for the voter by the

1 commissioner of registration, the district board shall determine the
2 appropriate election district and polling place for the voter and inform
3 that person that: (1) the person must go to that polling place to vote;
4 and (2) the person will be permitted to vote thereat by provisional
5 ballot after completing an affirmation statement.

6 d. If, on or before the 29th day prior to the day of the election, the
7 voter has moved into the county from another county or state and has
8 not registered to vote in that county, the board shall inform the voter
9 that he is not eligible to vote in that county at that election.

10 e. If, after the 29th day prior to the day of an election, the voter
11 has moved into the county from another county in this State, the board
12 shall inform the voter that: (1) the voter is not eligible to vote in the
13 county where he resides currently at that election; and (2) the voter
14 may be eligible to vote in the election district where the voter resided
15 prior to moving to the voter's current residence.

16 f. If the voter's registration information has been marked by the
17 county commissioner of registration to indicate a problem therewith,
18 or if the voter's sample ballot has been returned as undeliverable to the
19 county or municipal clerk, as the case may be, but the voter states that
20 the voter has not moved prior to the day of an election, but instead
21 continues to reside at the same address the voter resided at when
22 voting previously, the voter shall be permitted to vote in such election
23 district in the same manner as other voters at the polling place upon
24 written affirmation to the district board of that election district.

25 g. If the voter's registration information is missing, the voter shall
26 be permitted to vote by provisional ballot after completing the
27 affirmation statement attached to the envelope provided with the
28 provisional ballot.

29 h. In accordance with the requirements of subsection (c) of section
30 302 of Pub.L.107-252 (42 U.S.C. 15482), whenever a voter is voting
31 as a result of a federal or State court order or any other order
32 extending the time established for closing the polls in effect 10 days
33 before the date of an election, the voter may vote only by provisional
34 ballot. Any such ballot shall be separated by the county board from
35 other provisional ballots cast at the election and the results shall be
36 canvassed and recorded separately in the official canvas for the
37 election.

38 i. Any person who, pursuant to subsection b. of R.S.19:15-17,
39 votes by provisional ballot at the polling place because of his or her
40 failure to provide required personal identification information shall be
41 given until the close of business on the second day after the election
42 to provide the applicable county commissioner of registration with the
43 identification information. Failure to provide the required personal
44 identification information within that time period shall result in the
45 rejection of the ballot.

46 (cf: P.L.1999, c.232, s.9)

1 24. Section 13 of P.L.1999, c.232 (C.19:53C-7) is amended to
2 read as follows:

3 13. To vote for a candidate whose name is printed in any column,
4 or to vote in favor of or against any public question printed on the
5 provisional ballot, the voter shall:

6 a. Mark a cross x, plus + or check in the square provided for the
7 name of each candidate in any column for whom the voter chooses to
8 vote, or for a public question, make the same marking in the square
9 provided for either the word "Yes" or "No" of each public question,
10 if the ballot requires such designation to be considered valid;

11 b. ~~【Punch out completely the hole adjacent to the name of each~~
12 ~~candidate in any column for whom the voter chooses to vote, or for a~~
13 ~~public question, punch out completely the hole adjacent to either the~~
14 ~~word "Yes" or "No" of each public question, if the ballot requires such~~
15 ~~an action to be considered valid】 Deleted by amendment, P.L. , c.~~
16 ~~(C.) (now pending before the Legislature as this bill);~~

17 c. Complete the connecting line adjacent to the name of each
18 candidate in any column for whom the voter chooses to vote, or for a
19 public question, complete the connecting line adjacent to either the
20 word "Yes" or "No" of each public question, if the ballot requires such
21 designation to be considered valid; or

22 d. Fill in the designated space adjacent to the name of the candidate
23 for whom the voter chooses to vote, or for a public question, fill in the
24 designated space adjacent to either the word "Yes" or "No" of each
25 public question, if the ballot requires such a designation to be
26 considered valid.

27 (cf: P.L.1999, c.232, s.13)

28

29 25. Section 16 of P.L.1999, c.232 (C.19:53C-10) is amended to
30 read as follows:

31 16. a. After voting the provisional ballot and completing the
32 affirmation statement, and before leaving the polling booth or the
33 designated voting area, as the case may be, the voter shall place the
34 voted provisional ballot in the envelope. The voter shall seal the
35 envelope and shall retain custody of the envelope until a member of
36 the board is ready to accept the envelope.

37 b. The voter shall hand the sealed envelope to the member of the
38 district board. The member shall keep the sealed envelope in full view
39 of the voter, the other district board members and all other persons
40 present until it is placed in the provisional ballot bag. The voter may
41 also take hold of the envelope, with that member of the board, until
42 the envelope is placed in the provisional ballot bag. The security of
43 the provisional ballot bag and its contents while any election occurs
44 shall be the responsibility of the members of the district board. After
45 placing the envelope in the provisional ballot bag, the member of the
46 district board shall hand to the voter the written notice of instructions

1 on how the voter may access information regarding whether the ballot
2 of the individual is accepted for counting, and if the vote is not
3 counted, the reason for the rejection of the ballot, pursuant to section
4 4 of P.L. , c. (C.)(now pending before the Legislature as this
5 bill).

6 (cf: P.L.1999, c.232, s.16)

7
8 26. Section 4 of P.L.1953, c.211 (C.19:57-4) is amended to read
9 as follows:

10 4. At any time not less than seven days prior to an election in
11 which he desires to vote by mail, a civilian absentee voter may apply
12 to the person designated in section 6 of [this act] P.L.1953, c.211
13 (C.19:57-6), for a civilian absentee ballot. Such application or request
14 shall be made in writing, shall be signed by the applicant and shall state
15 his or her place of voting residence and the address to which said
16 ballot shall be sent, and the reason for which the ballot is requested.

17 Any military service voter desiring to vote in any election or any
18 relative or friend of a military service voter who believes that such
19 voter will desire to vote in any election, may apply to the person
20 designated in section 6 of [this act] P.L.1953, c.211 (C.19:57-6) for
21 a military service ballot to be sent to such voter. A military service
22 voter may use a federal postcard application form to apply for a
23 military service ballot. On any application made by a military service
24 voter the voter may request a military service ballot for all subsequent
25 elections [held during] through and including the [calendar year in
26 which] next two regularly scheduled general elections for federal
27 office which take place after the request is made; if such a request is
28 made, a military service ballot shall be sent in a timely manner to the
29 voter for all such elections.

30 Any civilian absentee voter who fails to apply within the seven-day
31 time prescribed above may apply in person to the county clerk for an
32 absentee ballot on any day up to 3 p.m. of the day before the election.

33 In the event of sickness or confinement, the qualified voter may
34 apply in writing for and obtain an absentee ballot by authorized
35 messenger, who shall be so designated over the signature of the voter
36 and whose printed name and address shall appear on the application in
37 the space provided. The authorized messenger shall be a family
38 member or a registered voter of the county in which the application is
39 made and shall place his signature on the application in the space so
40 provided in the presence of the county clerk or his designee. The
41 county clerk or his designee shall authenticate the signature of the
42 authorized messenger, in the event such a messenger is other than a
43 family member, by comparing it with the signature of the said person
44 appearing on a State of New Jersey driver's license, or other
45 identification issued or recognized as official by the federal
46 government, the State, or any of its political subdivisions, which

1 identification carries the full address and signature of said person.
2 After the signature of the application and, when appropriate,
3 authentication, the county clerk or his designee is authorized to deliver
4 to the authorized messenger a ballot to be delivered to the qualified
5 voter. The Attorney General shall cause to be prepared a standard
6 authorized messenger application form, which may be included with
7 the standard civilian absentee ballot application forms.

8 A voter who is permanently and totally disabled, and who states the
9 reason for such disability in a request for an absentee ballot, shall be
10 furnished an application for an absentee ballot by the county clerk for
11 all future elections in which the voter shall be eligible to vote, without
12 further request on the part of the voter. A voter who is permanently
13 and totally disabled shall have the option to indicate on an application
14 for an absentee ballot that the voter would like to receive an absentee
15 ballot for each election that takes place during the remainder of the
16 calendar year in which the application is completed and submitted. A
17 voter who exercises this option shall be furnished with an absentee
18 ballot for each election that takes place during the remainder of the
19 calendar year without further request by the voter. A person voting
20 by absentee ballot who registered by mail after January 1, 2003, who
21 did not provide personal identification information when registering
22 pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting
23 for the first time in his or her current county of residence following
24 registration shall include the required identification information with
25 the absentee ballot. Failure to include such information with the
26 absentee ballot shall result in the rejection of the ballot.

27 (cf: P.L.2000, c.86, s.1)

28

29 27. Section 6 of P.L.1953, c.211 (C.19:57-6) is amended to read
30 as follows:

31 6. In the case of any election, the application or request shall be
32 made to the county clerk of the county.

33 In the case of applications for civilian absentee ballots, the county
34 clerk shall stamp thereon the date on which said application was
35 received in his office. In the case of applications for military service
36 ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2) and
37 overseas Federal election voter ballots, as provided for in P.L.1976,
38 c.23 (C.19:59-1 et seq.), no application shall be refused on the
39 grounds that it was submitted too early.

40 (cf: P.L.1977, c.47, s.5)

41

42 28. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read
43 as follows:

44 7. a. The [county clerk of the county, in the case of any Statewide
45 election, countywide election, or school election in a regional or other
46 school district comprising more than one municipality; the clerk of the

1 municipality, in the case of any municipal election or school election
2 in a school district comprising a single municipality; and the
3 commissioners or other governing or administrative body of the
4 district, in the case of any election to be held in any fire district, road
5 district, sewerage district, street lighting district, water supply district
6 or other special district, other than a municipality, created for specified
7 public purposes within one or more municipalities,] Attorney General,
8 through the Division of Elections in the Department of Law and Public
9 Safety shall be responsible for providing all information regarding
10 military service ballots, as defined in section 2 of P.L.1953, c.211
11 (C.19:57-2), and overseas Federal election voter ballots, as provided
12 for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make
13 available valid military service voter registration applications, military
14 service ballot applications and overseas Federal election voter
15 registration and ballot applications to any military service or overseas
16 Federal election voter who wishes to register to vote or to vote in any
17 jurisdiction in this State. The division shall publish or cause to be
18 published the following [notices] notice in substantially the following
19 [forms] form:

20

21 NOTICE TO MILITARY SERVICE VOTERS AND
22 TO THEIR RELATIVES AND FRIENDS

23

24 If you are in the military service, or the spouse or dependent of a
25 person in military service or are a patient in a veterans' hospital or a
26 civilian attached to or serving with the Armed Forces of the United
27 States without the State of New Jersey, or the spouse or dependent of
28 and accompanying or residing with a civilian attached to or serving
29 with the Armed Forces of the United States, and desire to vote, or if
30 you are a relative or friend of any such person who, you believe, will
31 desire to vote in the (school, municipal,
32 primary, general or other) election to be held on
33 (date of election) kindly write to the undersigned at once making
34 application for a military service ballot to be voted in said election to
35 be forwarded to you, stating your name, age, serial number if you are
36 in military service, home address and the address at which you are
37 stationed or can be found, or if you desire the military service ballot
38 for a relative or friend then make application under oath for a military
39 service ballot to be forwarded to him, stating in your application that
40 he is over the age of 18 years and stating his name, serial number if he
41 is in military service, home address and the address at which he is
42 stationed or can be found.

43 Military service voters may also apply for a military service ballot
44 by sending a federal postcard application form to the undersigned.

45 On the application for a military service ballot, military service
46 voters may request that a military service ballot be sent for all

1 subsequent elections [held during] through and including [this
2 calendar year] the next two regularly scheduled general elections for
3 federal office which take place after the request is made.

4
5 (NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY
6 STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY
7 NOT USE MILITARY ABSENTEE BALLOT UNLESS
8 REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH
9 STATION IS LOCATED.)

10 Forms of application other than federal postcard application forms
11 can be obtained from the undersigned. Dated
12

13 (signature and title of [county clerk] Director of Division of
14 Elections)

15

16 (address of [county clerk] Division of Elections)

17 b. The county clerk of the county, in the case of any Statewide
18 election, countywide election, or school election in a regional or other
19 school district comprising more than one municipality; the clerk of the
20 municipality, in the case of any municipal election or school election
21 in a school district comprising a single municipality; and the
22 commissioners or other governing or administrative body of the
23 district, in the case of any election to be held in any fire district, road
24 district, sewerage district, street lighting district, water supply district
25 or other special district, other than a municipality, created for specified
26 public purposes within one or more municipalities, shall publish or
27 cause to be published the following notice in substantially the
28 following form:

29
30 NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE
31 BALLOTS

32
33 If you are a qualified and registered voter of the State who expects
34 to be absent outside the State on(date of election) or a
35 qualified and registered voter who will be within the State on
36 (date of election) but because of permanent and
37 total disability, or because of illness or temporary physical disability,
38 or because of the observance of a religious holiday pursuant to the
39 tenets of your religion, or because of resident attendance at a school,
40 college, or university, or because of the nature and hours of
41 employment, will be unable to cast your ballot at the polling place in
42 your district on said date, and you desire to vote in the
43 (school, municipal, primary, general, or other)
44 election to be held on (date of election) kindly complete
45 the application form below and send to the undersigned, or write or
46 apply in person to the undersigned at once requesting that a civilian

1 absentee ballot be forwarded to you. Such request must state your
2 home address, and the address to which said ballot should be sent, and
3 must be signed with your signature, and state the reason why you will
4 not be able to vote at your usual polling place. No civilian absentee
5 ballot will be furnished or forwarded to any applicant unless request
6 therefor is received not less than seven days prior to the election, and
7 contains the foregoing information.

8 Voters who are permanently and totally disabled shall, after their
9 initial request and without further action on their part, be forwarded
10 an absentee ballot application by the county clerk for all future
11 elections in which they are eligible to vote. Permanently and totally
12 disabled voters also have the option of indicating on their absentee
13 ballot applications that they would prefer to receive absentee ballots
14 for each election that takes place during the remainder of this calendar
15 year. Permanently and totally disabled voters who exercise this option
16 will be furnished with absentee ballots for each election that takes
17 place during the remainder of this calendar year, without further action
18 on their part. Application forms may be obtained by applying to the
19 undersigned either in writing or by telephone, or the application form
20 provided below may be completed and forwarded to the undersigned.

21 Dated

22 (signature and title of county clerk)

23

24 (address of county clerk)

25

26 (Telephone No. of county clerk)

27 APPLICATION FORM FOR CIVILIAN

28 ABSENTEE BALLOT

29 (Form to be prepared by the Attorney General pursuant to section
30 17 of P.L.1977, c.47 (C.19:57-4.1)).

31 c. The absentee ballot materials shall contain a notice that any
32 person voting by absentee ballot who registers by mail after January
33 1, 2003, who did not provide personal identification information when
34 registering and is voting for the first time in his or her current county
35 of residence following registration shall include the required
36 identification information with the absentee ballot, and that failure to
37 include such information shall result in the rejection of the ballot.

38 d. Such notices as described in subsections a. and b. of this section
39 shall be separately published prior to the 50th day immediately
40 preceding the holding of any election.

41 Notices relating to any Statewide or countywide election shall be
42 published [by the county clerk] in at least two newspapers published
43 in the county. All [other] officials charged with the duty of publishing
44 such notices shall publish the same in at least one newspaper published
45 in each municipality or district in which the election is to be held or if
46 no newspaper be published in said municipality or district, then in a

1 newspaper published in the county and circulating in such municipality,
2 municipalities or district. All such notices shall be display
3 advertisements.

4 (cf: P.L.2000, c.86, s.2)

5

6 29. Section 8 of P.L.1953, c.211 (C.19:57-8) is amended to read
7 as follows:

8 8. Each county clerk shall cause to be printed sufficient military
9 service ballots and civilian absentee ballots for each primary election
10 for the general election, and for the general election, and there shall be
11 furnished to the said county clerk of the county, as expeditiously as
12 possible before the day fixed for holding any other election within the
13 county, by the officer whose duty it shall be to provide the official
14 ballots for such election, sufficient military service ballots and civilian
15 absentee ballots. Along with all such ballots for all elections there
16 shall also be furnished by such county clerk or other official, inner and
17 outer envelopes and printed directions for the preparation and
18 transmitting of such ballots, for use in such election within the county
19 and all expenses of mailing such ballots shall be paid in the same
20 manner as other expenses of said election are paid.

21 The absentee ballots [used in counties which do not use any type
22 of computer punch cards as absentee ballots] shall be printed on paper
23 different in color from that used for the primary or general election
24 ballot, but in all other respects, shall be as nearly as possible facsimiles
25 of the election ballot to be voted at such election, as prescribed by the
26 county clerk and in conformity with the provisions of this act.

27 (cf: P.L.1994, c.77, s.12)

28

29 30. Section 1 of P.L.1972, c.87 (C.19:57-15.1) is amended to read
30 as follows:

31 1. Notwithstanding any provision of law to the contrary, any
32 county may adopt a system of electronic scanning, [punch cards or]
33 other mechanical or electronic device, which system has been
34 previously approved by the Secretary of State, to be used in counting
35 or canvassing absentee ballots. The county clerk in any county
36 adopting such a system may prepare and use absentee ballots that do
37 not conform generally to the ballot to be used at said election to the
38 extent that such nonconformance is necessary in the operation of the
39 electronic or mechanical canvassing system.

40 In preparing the absentee ballot, the county clerk shall insert the
41 names of the candidates on the appropriate ballot[, punch card] or
42 other device in the same order in which they appear on the official
43 ballot with full instructions to the voter as to how to mark [or
44 puncture] the ballot.

45 (cf: P.L.1972, c.87, s.1)

1 31. This act shall take effect immediately, except that sections 12
2 through 20, subsection f. of section 21 and sections 23, 28 and 29 of
3 this act shall remain inoperative until January 1, 2005 or, if the State
4 receives a waiver in accordance with subparagraph (d.) of paragraph
5 (b) of subsection (1) of section 303 of Pub.L.107-252 (42 U.S.C.
6 15483), January 1, 2006.

7
8
9 STATEMENT

10
11 The purpose of this bill is to implement portions of the federal
12 "Help America Vote Act of 2002," Pub.L.107-252, signed into law in
13 October 2002.

14 Specifically, the bill:

15 (1) establishes the Federal Elections Assistance Fund, for the
16 purpose of receiving all State allocated funds and federal funds
17 authorized pursuant to the federal law;

18 (2) establishes an administrative grievance procedure for voters
19 who believe their rights under Title III of the federal act have been or
20 will be violated;

21 (3) requires the Attorney General to issue reports on the progress
22 of the implementation of the "Help America Vote Act of 2002" in the
23 State to the Governor, the Senate President, Senate Minority Leader,
24 Speaker of the General Assembly, and Assembly Minority Leader;

25 (4) establishes additional voter identification requirements for
26 persons who have registered to vote by mail after January 1, 2003 and
27 seeking to vote for the first time after so registering;

28 (5) amends current voter registration application forms to add
29 questions regarding the citizenship and voting age of applicants and
30 gives the Attorney General the authority to amend the form if
31 necessary to conform to the requirements of federal or State law;

32 (6) changes the statutory designation of the chief state election
33 official from the Secretary of State to the Attorney General, consistent
34 with Governor Whitman's Reorganization Plan No.004-1998;

35 (7) permits any voter who is a mail-in registrant voting for the first
36 time following registration, and voting by provisional ballot because
37 the voter did not provide the required personal identification
38 information at the time of registration, to be given until the close of
39 business on the second day after the election to provide such
40 information;

41 (8) designates the Division of Elections in the Department of Law
42 and Public Safety as the single State office to provide information to
43 military service absentee voters and requires it to make available
44 military service voter registration and absentee ballot applications and
45 overseas Federal election voter registration and ballot applications;

46 (9) allows applications for military service ballots to remain active

1 for two regularly scheduled general elections for federal office that
2 occur after the request for such ballots is made;

3 (10) provides that applications for military service ballots may not
4 be refused on the grounds that they were submitted too early;

5 (11) prohibits the use of punch card and mechanical lever voting
6 machines after January 1, 2006, and removes references to such
7 machines in existing law, provided the State receives a waiver in
8 accordance with section 303 of the "Help America Vote Act of 2002;"
9 and

10 (12) provides that a free-access system be established for
11 provisional voters and absentee ballot voters to ascertain whether or
12 not their votes were accepted for counting.

ASSEMBLY FEDERAL RELATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2477

STATE OF NEW JERSEY

DATED: MAY 13, 2004

The Assembly Federal Relations Committee reports favorably Assembly Bill No. 2477.

This bill implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252 ("HAVA"), which was signed into law on October 29, 2002. HAVA was based upon recommendations by several national study commissions including the National Commission on Federal Election Reform and resulted from a consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote will be counted that should be counted, and that no legal vote will be canceled by a fraudulent vote.

HAVA authorizes substantial amounts of federal aid to the states to fund the purchase of more reliable voting systems, and mandates changes in the conduct of federal elections in all states to ensure greater access to the polls by individuals with disabilities, to provide more information for individuals who wish to vote and better training of poll workers, and to reduce the possibility of fraud. It also clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement due to mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

This bill begins the process of implementing the changes in New Jersey's election law required by HAVA, ensuring the fulfillment by this State of all requirements for eligibility to receive appropriated federal funds. Specifically, this bill accomplishes the following:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) provides that a free-access system be established for provisional voters to ascertain whether or not their votes were accepted for counting.

(3) provides that a free-access system be established for absentee ballot voters to ascertain whether or not their votes were accepted for counting;

(4) establishes an administrative grievance procedure for voters

who believe their rights under Title III of the federal act have been or will be violated;

(5) requires county boards of election to submit reports to the Attorney General on the number of ballots transmitted to and returned by military service and overseas voters;

(6) requires the Attorney General to issue reports on the progress of the implementation of HAVA in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(7) amends current law to require additional voter identification requirements and procedures;

(8) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(9) changes the statutory designation of the chief State election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(10) amends the voter registration application form and authorizes the Attorney General to amend the form if necessary to conform to the requirements of federal or State law;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of HAVA;

(12) permits a mail-in registrant who is voting for the first time following registration and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(13) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(14) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early; and

(15) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications.

As reported, this bill is identical to Senate Bill No. 701 (1R) as also reported by the committee.

FISCAL IMPACT

The Executive Branch estimates that in order for the State to implement HAVA, 3,200 voting machines must be replaced. It estimates the cost per machine to range from about \$9,000 to about

\$12,100. It estimates the cost to create the required, free-access provisional ballot system to be approximately \$1 million. It estimates the cost to the State of assuming responsibility for the preparation and distribution of military ballots to be \$5,500 annually. And, it estimates the cost to revise forms and notices to be \$500,000.

In its fiscal analysis of Senate, No.701 (1R), the Office of Legislative Services has concluded that the Executive Branch's cost estimates are reasonable, but notes that the costs to replace voting machines may be overestimated.

Under HAVA, federal funds are to be budgeted and appropriated for states to use in implementing HAVA. New Jersey has already received \$16.8 million from the federal government in so-called "early money" as provided for by Title I of HAVA. (Of that amount, \$8.1 million is for administrative improvements, voter education and development of a State plan; and \$8.7 million is for upgrading voting machines.)

According to the Congressional Research Service, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money," is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

However, given the uncertainties of the federal budget and appropriations processes, it is difficult to forecast the amount and timing of funds the State may receive from the federal government to implement HAVA. Thus, it is difficult to forecast the amount of matching money the State will be required to provide.

MINORITY STATEMENT

(Submitted by Assemblymen Gregg and Pennacchio)

Although the Minority believes that this bill is well-intentioned, we are unable to support it in its current form due to questions regarding whether it sufficiently conforms to federal law and adequately protects against fraud, concerns about the disparate treatment of new voters, and objections to the ceding of legislative authority to the Executive Branch.

In the previous legislative session, the Legislature passed an earlier version of this bill with not a single vote cast in opposition in either house. However, Governor McGreevey conditionally vetoed the bill, and so much opposition developed as a result of the Governor's changes that the bill was ultimately voted down in the Legislature. Unfortunately, the bill before us today contains the controversial and questionable provisions that caused its demise in the previous session.

This bill is intended to implement certain portions of the federal Help America Vote Act (HAVA), which passed with strong bipartisan

support in Congress and was signed into law by President Bush in October 2002. That law is designed to improve the accuracy and integrity of the electoral system by, among other things, encouraging the use of updated voting technology and requiring first-time mail-in voter registration applicants to provide identification. We believe that certain provisions of the bill do not conform to the intent of HAVA, but given the large amount of federal aid contingent upon enactment of state implementing legislation we have more serious concerns regarding the lack of any authoritative determination by the federal government that this bill in its current form even meets the requirements set by HAVA.

Most significantly, compared to the version sent to the Governor last session, this bill fails to protect against fraudulent voter registrations by gutting provisions that are central to an effective implementation of the federal law. This bill creates a tremendous loophole by allowing people who do not register to vote in person to avoid federal requirements to provide identification. This loophole will cause new voters who have not registered in person to be treated differently depending on whether they had their registration applications delivered by mail or by some other courier; this disparate treatment is something that the Minority cannot accept. Making voting easy is desirable, but it is important to assure, as stated in the legislative findings section of the bill, that no legal vote will be canceled by a fraudulent vote. We are aware of no other state that has chosen to interpret HAVA as permitting the type of loophole to be created by this bill.

Further, testimony given before this committee by county election officials and a representative of a civil rights organization raise significant concerns in two areas. First, the testimony indicates with startling clarity that the identification and verification system currently dictated by the New Jersey Attorney General's Office is inadequate to the task of assuring that new registration applications will be properly processed in time for those new voters to cast their vote in the June 2004 primary without incident. The testimony indicated that a serious backlog of identification verifications exists which may result in thousands of new voters being required to provide identification at the polls despite having already provided it as requested upon application.

Second, the testimony strongly demonstrates that whatever public money may have been spent so far toward "educational" efforts has not been used effectively or even appropriately. Taxpayer money has been wasted on useless trinkets such as magnets displaying trite slogans, a pep rally at the New Jersey Performing Arts Center, and television advertisements saying absolutely nothing to voters about the new identification requirements or other aspects of HAVA. Meanwhile, election workers need new training right away and, as stated by the civil rights organization representative, all voters should be very strongly advised to bring acceptable identification with them to the polls to assure that they will be able to cast their votes. This bill

does nothing to address these concerns. Due to the problems with the identification verification system combined with the lack of voter education and poll worker training, there exists the very real potential for confusion and even chaos at the polls, which may result in voter disenfranchisement and embarrassment for the State of New Jersey perhaps on the scale of Florida's in the 2000 general election.

This bill concentrates too much power in the Office of the Attorney General. The bill inappropriately places the Attorney General in control of the grievance procedure for voters who believe their rights have been violated by the very election system which itself is run by the Attorney General; it would be more appropriate for the grievance procedure to be handled by the Office of Administrative Law, which is organizationally located in the Department of the Treasury but is independent of supervision or control by that department. This bill would also give the Attorney General the unprecedented authority to change the voter registration form unilaterally without legislative approval, which is an unwarranted surrender of legislative authority to the Executive Branch.

Worse, the bill gives the Attorney General the discretion to authorize the acceptance of forms of identification that are not specified in the federal HAVA nor in this bill. This grant of discretion is too broad and essentially endorses the Attorney General's current directive authorizing the acceptance of such flimsy forms of identification as a retail store purchasing club membership card. That directive is part of an unfortunate overall lack of seriousness about combating election fraud exhibited by the Attorney General's Office. During a recent investigation of election fraud allegations in Atlantic City and Pleasantville, the Atlantic County Board of Chosen Freeholders found that there has been a persistent and recurring problem with fraud involving the misuse of absentee and messenger ballots. The report issued following that investigation states that the rulings from the Attorney General on issues such as voter identification "created the perfect atmosphere for increased problems relating to voter fraud." The report also states, "The Attorney General's Office should have acknowledged that there is a genuine problem with voting irregularities in Atlantic City and Pleasantville... the Attorney General's Office's failure to act is inconceivable and inexcusable."

If New Jersey fails to implement the federal law properly, substantial amounts of federal aid could well be jeopardized. The U.S. Department of Justice has indicated that it cannot determine if New Jersey will be eligible for funding under the provisions of this bill. Time has already been wasted since the Governor's conditional veto was issued, and the State of New Jersey and its localities should not risk receiving their fair share of funding.

Assemblyman David Russo has reintroduced last session's version of HAVA compliance legislation which garnered full bipartisan support in both houses of the Legislature. This committee erred today

in failing to consider and report Assemblyman Russo's superior bill and possible changes to address the concerns raised before this committee, rather than reporting this inadequate and questionable bill without necessary changes.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2477

STATE OF NEW JERSEY

DATED: JUNE 14, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2477.

Assembly Bill No. 2477 implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252 ("HAVA"), which was signed into law on October 29, 2002. HAVA was based upon recommendations by several national study commissions including the National Commission on Federal Election Reform and resulted from a consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote will be counted that should be counted, and that no legal vote will be canceled by a fraudulent vote.

HAVA authorizes substantial amounts of federal aid to the states to fund the purchase of more reliable voting systems, and mandates changes in the conduct of federal elections in all states to ensure greater access to the polls by individuals with disabilities, to provide more information for individuals who wish to vote and better training of poll workers, and to reduce the possibility of fraud. It also clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement due to mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

This bill begins the process of implementing the changes in New Jersey's election law required by HAVA, ensuring the fulfillment by this State of all requirements for eligibility to receive appropriated federal funds. Specifically, this bill accomplishes the following:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) provides that a free-access system be established for provisional voters to ascertain whether or not their votes were accepted for counting.

(3) provides that a free-access system be established for absentee ballot voters to ascertain whether or not their votes were accepted for counting;

(4) establishes an administrative grievance procedure for voters

who believe their rights under Title III of the federal act have been or will be violated;

(5) requires county boards of election to submit reports to the Attorney General on the number of ballots transmitted to and returned by military service and overseas voters;

(6) requires the Attorney General to issue reports on the progress of the implementation of HAVA in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader;

(7) amends current law to require additional voter identification requirements and procedures;

(8) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(9) changes the statutory designation of the chief State election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(10) amends the voter registration application form and authorizes the Attorney General to amend the form if necessary to conform to the requirements of federal or State law;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of HAVA;

(12) permits a mail-in registrant who is voting for the first time following registration and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(13) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(14) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early; and

(15) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available military service voter registration and absentee ballot applications and overseas Federal election voter registration and ballot applications.

As reported, this bill is identical to Senate Bill No. 701 (1R) as also reported by the committee.

FISCAL IMPACT

The Executive Branch estimates that in order for the State to implement HAVA, 3,200 voting machines must be replaced. It estimates the cost per machine to range from about \$9,000 to about

\$12,100. It estimates the cost to create the required, free-access provisional ballot system to be approximately \$1 million. It estimates the cost to the State of assuming responsibility for the preparation and distribution of military ballots to be \$5,500 annually. And, it estimates the cost to revise forms and notices to be \$500,000.

In its fiscal analysis of Senate, No.701 (1R), the Office of Legislative Services has concluded that the Executive Branch's cost estimates are reasonable, but notes that the costs to replace voting machines may be overestimated.

Under HAVA, federal funds are to be budgeted and appropriated for states to use in implementing HAVA. New Jersey has already received \$16.8 million from the federal government in so-called "early money" as provided for by Title I of HAVA. (Of that amount, \$8.1 million is for administrative improvements, voter education and development of a State plan; and \$8.7 million is for upgrading voting machines.)

According to the Congressional Research Service, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money," is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

However, given the uncertainties of the federal budget and appropriations processes, it is difficult to forecast the amount and timing of funds the State may receive from the federal government to implement HAVA. Thus, it is difficult to forecast the amount of matching money the State will be required to provide.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2477
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JUNE 3, 2004

SUMMARY

Synopsis: Implements portions of federal "Help America Vote Act of 2002."
Type of Impact: Increased Expenditure and Revenue. General Fund and County Funds.
Agencies Affected: Department of Law and Public Safety, Division of Elections and Counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1- 3</u>
State Cost	\$4.45 Million
State Revenue	\$4.45 Million (From Federal Aid)
Local Cost	\$28.8 million - \$38.7 Million
Local Revenue	\$28.8 million - \$38.7 Million (Federal Aid, via State)

- * This bill implements portions of the federal "Help America Vote Act of 2002" (HAVA).
- * The State has already received \$16.8 million in so-called "early money," as provided for by Title I of the federal act, including \$8.1 million for administrative improvements, voter education and development of a State plan, and \$8.7 million for upgrading voting machines.
- * The FY05 Budget anticipates an additional \$22.9 million in FY04 and 13.6 million in FY05 of additional federal aid to implement HAVA requirements for a three-year total of \$53.3 million that would be available to fund the costs of this bill. OLS notes that federal appropriation of FY 04 and FY 05 amounts has yet to occur.
- * The Executive Branch has informally estimated the cost to implement the relevant provisions of this bill as follows: 3,200 replacement voting machines: \$28.8 million - \$38.7 million (county costs); a provisional ballot free-access system: \$1 million; the shift of printing and distributing military ballots from the counties to the State: \$5,500; a grievance procedure system: \$250,000; and updating forms: \$500,000. The OLS concurs with these estimates, and further notes that state matching funds of 5 percent, or about \$2.7 million, are also required to secure the anticipated level of federal aid.
- * The Office of Legislative Services (OLS) estimate assumes that once sufficient federal funding is provided to the State for HAVA implementation, the State will in turn appropriate these funds to counties to fully offset voting machine replacement cost. If sufficient federal funds are not received, counties will be required to fund these costs through other means.

BILL DESCRIPTION

Assembly Bill No. 2477 of 2004 entitled "The Voting Opportunity and Technology Enhancement Act," implements portions of the federal "Help America Vote Act of 2002," Pub.L.107-252, which was signed into law in October 2002.

The Help America Vote Act was intended to improve the administration of elections throughout the country and make elections easier to understand, easier to access and easier to audit, among other things. Specifically, the bill:

(1) establishes the Federal Elections Assistance Fund, for the purpose of receiving all State allocated funds and federal funds authorized pursuant to the federal law;

(2) establishes an administrative grievance procedure for voters who believe their rights under Title III of the federal act have been or will be violated;

(3) requires the Attorney General to issue a report on the progress of the implementation of the "Help America Vote Act of 2002" in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader. The report is to be issued quarterly in the first year, with the first report due on July 1, 2004, and issued biennially thereafter;

(4) establishes additional voter identification requirements for persons who have registered to vote by mail after January 1, 2003 and seeking to vote for the first time after so registering;

(5) amends current voter registration application forms to add questions regarding the citizenship and voting age of applicants and gives the Attorney General the authority to amend the form if necessary to conform to the requirements of federal or State law;

(6) changes the statutory designation of the chief state election official from the Secretary of State to the Attorney General, consistent with Governor Whitman's Reorganization Plan No.004-1998;

(7) permits any voter who is a mail-in registrant voting for the first time following registration, and voting by provisional ballot because the voter did not provide the required personal identification information at the time of registration, to be given until the close of business on the second day after the election to provide such information;

(8) designates the Division of Elections in the Department of Law and Public Safety as the single State office to provide information to military service absentee voters and requires it to make available to the military voter registration and absentee ballot applications as well as overseas Federal election voter registration and ballot applications;

(9) allows applications for military service ballots to remain active for two regularly scheduled general elections for federal office that occur after the request for such ballots is made;

(10) provides that applications for military service ballots may not be refused on the grounds that they were submitted too early;

(11) prohibits the use of punch card and mechanical lever voting machines after January 1, 2006, and removes references to such machines in existing law, provided the State receives a waiver in accordance with section 303 of the "Help America Vote Act of 2002;" and

(12) provides that a free-access system be established for provisional voters and absentee ballot voters to ascertain whether or not their votes were accepted for counting.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Although no formal estimate was received, the Department of Law and Public Safety has estimated the cost of implementing the relevant provisions of the "Help America Vote Act of 2002" in New Jersey in the *HAVA State Plan, Improving the Shape of New Jerseys' Voting Experience*, prepared by the Office of the Attorney General, and has further provided information on an informal basis. The department has determined that five counties (Camden, Cape May, Cumberland, Essex, Monmouth) have lever machines which must be replaced, and another three counties (Atlantic, Passaic and Warren) that have machines that cannot be made HAVA compliant due to requirements for accessibility requirements. In total, it is estimated that 3,200 machines need to be replaced. The estimated cost per machine, depending on which model and features, such as audio components, are selected, ranges from about \$9,000 to \$12,100. The provision to create a free-access Provisional Ballot system is estimated to cost approximately \$1 million. The cost to the State of assuming responsibility for preparation and distribution of military ballots from the counties to the State is estimated to be \$5,500 annually. The cost to revise forms and notices is estimated at \$500,000.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) finds that the Executive cost estimates noted above are reasonable, but notes that the costs to replace voting machines may be overestimated. According to the National Conference of State Legislatures (NCSL), the cost to replace voting machines could vary according to the specific needs of State or local jurisdictions responsible for providing voting machines. For example, the estimated cost for a direct recording machine, which complies with HAVA disability requirements, ranges from \$3,500 to \$5,000 depending on service contracts, training and software. The optical scanner is another option which may be purchased for an estimated \$8,000. A precinct only needs one optical scanner compared to the number of direct recording equipment that may be needed. These costs are significantly lower than the per machine cost reflected in the Executive's informal estimates noted above.

With respect to federal aid to implement HAVA and thus to fund the costs of this bill, OLS notes that it is difficult to forecast the amount and timing of funds the State might receive (and consequently the amount of matching money the State will be required to provide), given the uncertainties of the federal budget and appropriations process. The State has already received \$16.8 million in so-called "early money" as provided for by Title I of the act, including \$8.1 million for administrative improvements, voter education and development of a State plan, and \$8.7 million for upgrading voting machines. According to a memorandum prepared by the Congressional Research Service soon after the "Help America Vote Act of 2002" was enacted, the amount authorized for payment to New Jersey under Title III of HAVA, the so-called "requirements money," is \$87 million, paid out over three years, with the State needing to provide a matching amount equal to five percent of the federal funds. The FY05 Budget anticipates New Jersey receiving \$22.9 million for fiscal year 2004 and \$13.6 million in fiscal year 2005.

A2477

4

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.