

## CHAPTER 181

AN ACT to amend the election law and the state finance law, in relation to enacting the Election Reform and Modernization Act of 2005, repealing certain provisions of the election law relating to voting machine requirements, making an appropriation therefor and providing for the repeal of certain provisions upon expiration thereof

Became a law July 12, 2005, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "Election Reform and Modernization Act of 2005."

§ 2. Subdivision 18 of section 1-104 of the election law is amended to read as follows:

18. The word "ballot" when referring to voting machines or systems means that portion of the cardboard or paper or other material or electronic display within the ballot frame containing the name of the candidate and the emblem of the party organization by which he was nominated, of the form of submission of a proposed constitutional amendment, proposition referendum or question as provided in this chapter, with the word "yes" for voting for any question or the word "no" for voting against any question except that where the question or proposition is submitted only to the voters of a territory wholly within a county or city, such form shall be determined by the county board of elections. Such statement and the title shall be printed and/or displayed in the largest type or display which it is practicable to use in the space provided.

§ 3. Subdivision 1 of section 7-104 of the election law, as amended by chapter 654 of the laws of 1985, is amended to read as follows:

1. All ballots shall be printed and/or displayed in [~~black ink on clear, white material~~] a format and arrangement, of such uniform size and style as will fit the ballot frame, and shall be in as plain[7] and clear a type or display as the space will reasonably permit[~~, capitalizing only the first letters and initials of each name~~]. Such type or display on the ballot shall satisfy all requirements and standards set forth pursuant to the federal Help America Vote Act.

§ 4. Section 7-200 of the election law, as amended by chapter 262 of the laws of 1986 and subdivision 2 as amended by chapter 356 of the laws of 1986, is amended to read as follows:

§ 7-200. Adoption and use of voting machine or system. 1. The board of elections of the city of New York and [~~the local legislative governing body of each other city and of each town shall, and the board of trustees of any village~~] other county boards of elections may adopt any kind of voting machine or system approved by the state board of elections, or the use of which has been specifically authorized by law; and thereupon such voting machine or system may be used at any or all elections and shall be used at all general or special elections held by such boards in such city, town or village and in every contested primary election in

EXPLANATION--Matter in italics is new; matter in brackets [~~-~~] is old law to be omitted.

the city of New York and in every contested primary election outside the city of New York in which there are one thousand or more enrolled voters qualified to vote [~~except in a town or city in which the voting machines owned by such town or city do not permit the primary of more than one party on a single voting machine for voting, registering and counting votes cast at such elections.~~]

2. ~~No city or town may purchase any voting machine of a type approved by the state board of elections after September first, nineteen hundred eighty six unless such type of voting machine has been approved for use in that county by the county board of elections~~. No more than two types of voting machines or systems may be used [~~in any city, town or village~~] by any local board of elections at a single election. [~~If a voting machine of a type approved by the state board of elections after September first, nineteen hundred eighty six is used at an election in any election district, no machine of a type approved for use by the state board of elections before September first, nineteen hundred eighty six may be used in such election district at any subsequent election.~~] Notwithstanding the other provisions of this subdivision, any [~~county, city or town~~] local board of elections may borrow or lease for use on an experimental basis for a period of not more than one year each, voting machines or systems of any type approved by the state board of elections [~~after September first, nineteen hundred eighty six~~].

[~~3.~~] 2. For five years after any voting machine or system of a type approved by the state board of elections [~~after September first, nineteen hundred eighty six~~] pursuant to the election reform and modernization act of 2005 is first used in any election district, the [~~city or town which purchased such machine~~] local board of elections which owns such machine or system shall provide a model or diagram of such voting machine or system for each polling place in which any such election district is located. Such models or diagrams shall meet the standards set forth in regulations promulgated by the state board of elections.

[~~4.~~] 3. Whenever there are more offices to be elected than can be accommodated on the voting machine or system or more candidates have been nominated for an office than can be accommodated on the voting machine or system, the local board of elections may provide for the use of separate paper ballots for such offices, when other offices are voted for on voting machines or systems by voters of the same election district.

§ 5. Section 7-201 of the election law, as amended by chapter 262 of the laws of 1986, the section heading as amended and subdivision 4 as added by chapter 352 of the laws of 1986, subdivision 1 as amended and subdivision 5 as added by chapter 400 of the laws of 1987, is amended to read as follows:

§ 7-201. Voting [~~and ballot counting~~] machines and systems; examination of. 1. Any person or corporation owning or being interested in any voting [~~or ballot counting~~] machine or system may apply to have the state board of elections examine such machine or system. Such applicant shall pay to the board before the examination a fee equal to the cost of such examination[~~7, or forty thousand dollars, whichever is less~~]. The state board of elections shall cause the machine or system to be examined and a report of the examination to be made and filed in the office of the state board. Such examination shall include a determination as to whether the machine or system meets the requirements of section 7-202 of this title and a thorough review and testing of any electronic or computerized features of the machine or system. Such report shall state an opinion as to whether the kind of machine or system so examined can

safely and properly be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act. If the report states that the machine or system can be so used, and the board after its own examination so determines, in accordance with subdivision four of section 3-100 of this chapter, the machine or system shall be deemed approved, and machines or systems of its kind may be adopted for use at elections as herein provided. The voting [~~or ballot counting~~] machine or system shall be examined by examiners or testing laboratories to be selected for such purpose by the state board. Each examiner or laboratory shall receive compensation and expenses for making an examination and report as to each voting [~~or ballot counting~~] machine or system examined by him or it. Neither any member of the state board of elections nor any examiner or owner or employee of any testing laboratory, shall have any pecuniary interest in any voting [~~or ballot counting~~] machine or system. Any form of voting [~~or ballot counting~~] machine or system not so approved, cannot be used at any election.

1-a. A citizen's election modernization advisory committee is hereby established within the state board of elections. Such committee shall consist of the co-executive directors of the state board of elections, two local board of election commissioners appointed by the state board of election commissioners of one major party, two local board of election commissioners appointed by the state board of elections commissioners of the other major party, four members of disability rights organizations, who shall be appointed by the state board of elections in accordance with subdivision four of section 3-100 of this chapter, at least one of whom shall be a representative from the Commission on Quality of Care and Advocacy for Persons with Disabilities and the New York State Independent Living Council, Inc., one member appointed by the temporary president of the senate and one member appointed by the speaker of the assembly. Such appointments shall be made within thirty days of the effective date of this subdivision and the state board of elections shall immediately convene the committee. The committee shall have access to each machine or system submitted for examination and assist the state board of elections in the examination of the voting machines or systems pursuant to this section by recommending which machines or systems meet the requirements of section 7-202 of this title and the federal Help America Vote Act. The state board of elections shall take such recommendation into consideration when determining whether a machine or system meets the requirements of section 7-202 of this title and the federal Help America Vote Act.

2. When any change is made in the operation or material of any feature or component of any machine or system which has been approved pursuant to the provisions of this section, such machine or system must be submitted for such re-examination and reapproval pursuant to the provisions of subdivision one of this section as the state board of elections deems necessary.

3. If at any time after any machine or system has been approved pursuant to the provisions of subdivision one or two of this section, the state board of elections has any reason to believe that such machine or system does not meet all the requirements for voting machines or systems set forth in this article, it shall forthwith cause such machine or system to be examined again in the manner prescribed by subdivision one of this section. If the opinions in the report of such examinations do not state that such machine or system can safely and properly be used by voters at elections under the conditions prescribed by this article, the

state board of elections shall forthwith rescind its approval of such machine or system. After the date on which the approval of any machine or system is rescinded, no machines or systems of such type may be purchased for use in this state. The state board of elections shall examine all machines or systems of such type which were previously purchased, to determine if they may continue to be used in elections in this state.

4. ~~4.~~ The state board of elections may authorize, for use on an experimental basis, one or more types of voting machine, system or equipment not previously approved by such board pursuant to the provisions of this section and may authorize a ~~county~~ local board of elections ~~[or a city, town or village]~~ to rent or borrow a limited number of one such type of machine, system or equipment for use in a primary, special, general or village election. Authorization for such use of such a machine, system or equipment may be given for all or part of any city, town or village for any such election.

5. The board shall deposit all fees collected pursuant to the provisions of subdivision one of this section to the credit of the voting ~~and ballot counting~~ machine and system examination fund established pursuant to section ninety-two-p of the state finance law.

§ 6. Section 7-202 of the election law is REPEALED and a new section 7-202 is added to read as follows:

§ 7-202. Voting machine or system; requirements of. 1. A voting machine or system to be approved by the state board of elections shall:

a. be constructed so as to allow for voting for all candidates who may be nominated and on all ballot proposals which may be submitted and, except for elections at which the number of parties and independent bodies on the ballot exceeds the number of rows or columns available, so that the amount of space between the names of any two candidates of any party or independent body in any row or column of such machine or system at any election is no greater than the amount of space between the names of any other candidates of such party or independent body at such election;

b. permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or independent body without the ballot, or any part thereof, being removed from the machine at any time;

c. be constructed so that a voter cannot vote for a candidate or on a ballot proposal for whom or on which he or she is not lawfully entitled to vote;

d. if the voter selects votes for more than one candidate for a single office, except where a voter is lawfully entitled to vote for more than one person for that office, notify the voter that the voter has selected more than one candidate for a single office on the ballot, notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast and counted;

e. provide the voter an opportunity to privately and independently verify votes selected and the ability to privately and independently change such votes or correct any error before the ballot is cast and counted;

f. be provided with a "protective counter" which records the number of times the machine or system has been operated since it was built and a "public counter" which records the number of persons who have voted on the machine at each separate election;

g. be provided with a lock or locks, or other device or devices, the use of which, immediately after the polls are closed or the operation of the machine or system for such election is completed, will absolutely secure the voting or registering mechanism and prevent the recording of additional votes;

h. be provided with sufficient space to display the information required herein, provided, however, in the alternative, such information may be displayed within the official ballot;

i. be provided with a device for printing or photographing all counters or numbers recorded by the machine or system before the polls open and after the polls close which shall be a permanent record with a manual audit capacity available for canvassing the votes recorded by the machine or system; such paper record shall be preserved in accordance with the provisions of section 3-222 of this chapter;

j. retain all paper ballots cast or produce and retain a voter verified permanent paper record which shall be presented to the voter from behind a window or other device before the ballot is cast, in a manner intended and designed to protect the privacy of the voter; such ballots or record shall allow a manual audit and shall be preserved in accordance with the provisions of section 3-222 of this chapter;

k. provide sufficient illumination to enable the voter to see the ballot;

l. be suitable for the use of election officers in examining the counters such that the protective counters and public counters on all such machines or systems must be located so that they will be visible to the inspectors and watchers at all times while the polls are open;

m. be provided with a screen and hood or curtain or privacy features with equivalent function which shall be so made and adjusted as to conceal the voter and his or her action while voting;

n. contain a device which enables all the election inspectors and poll watchers at such election district to determine when the voting machine or system has been activated for voting and when the voter has completed casting his or her vote;

o. permit the primaries of at least five parties to be held on such machine or system at a single election, and accommodate such number of multiple ballots at a single election as may be required by the state board of elections but in no case less than five;

p. be constructed to allow a voter in a wheelchair to cast his or her vote;

q. permit inspectors of elections to easily and safely place the voting machine or system in a wheelchair accessible position;

r. ensure the integrity and security of the voting machine or system by:

(i) being capable of conducting both pre-election and post-election testing of the logic and accuracy of the machine or system that demonstrates an accurate tally when a known quantity of votes is entered into each machine; and

(ii) providing a means by which a malfunctioning voting machine or system shall secure any votes already cast on such machine or system;

s. permit alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) such that it must have the capacity to display the full ballot in the alternative languages required by the federal Voting Rights Act if such voting machine or system is to be used where such alternative languages are required or where the local board deems such feature necessary; and

t. not include any device or functionality potentially capable of externally transmitting or receiving data via the internet or via radio waves or via other wireless means.

2. The state board of elections shall approve, for use at each polling place at least one voting machine or system at such polling place which, in addition to meeting the requirements in subdivision one of this section, shall:

a. be equipped with a voting device with tactile discernible controls designed to meet the needs of voters with limited reach and limited hand dexterity;

b. be equipped with an audio voting feature that communicates the complete content of the ballot in a voice which permits a voter who is blind or visually impaired to cast a secret ballot using voice-only or tactile discernible controls; and

c. be capable of being equipped with a pneumatic switch voting attachment which can be operated orally by gentle pressure or the creation of a vacuum through the inhalation or exhalation of air by the voter including, but not limited to, a sip-and-puff switch voting attachment.

3. The state board of elections may, in accordance with subdivision four of section 3-100 of this chapter, establish by regulation additional standards for voting machines or systems not inconsistent with this chapter.

4. Local boards of elections which obtain voting machines pursuant to this chapter may determine to purchase direct recording electronic machines or optical scan machines in conformance with the requirements of this chapter.

§ 7. Section 7-204 of the election law, as added by chapter 262 of the laws of 1986, is amended to read as follows:

§ 7-204. Contracts for purchase of voting machines or systems. 1. All contracts for purchase of voting machines or systems of types approved by the state board of elections [~~after September first, nineteen hundred eighty six~~] shall include, but not be limited to, requirements that the vendors provide assistance in training board of elections personnel in the operation of such machines or systems and any ancillary equipment, assistance in the conduct of all elections conducted during the first year in which each such machine or system is used and at least five years of service for all such machines or systems and ancillary equipment.

2. All such contracts shall also require the vendor to guarantee in writing to keep such machines and systems in good working order for at least five years without additional cost and to perform satisfactorily its training and service obligations under the contract and to give a sufficient bond conditioned to that effect.

3. The state board of elections, in consultation with the office of general services, shall issue regulations specifying the manner in which contracts must be drawn in order to comply with the provisions of this section.

4. Purchase contracts for purchase of voting machines or systems of types approved by the state board of elections [~~after September first, nineteen hundred eighty six~~] may not become effective until a date at least ten days after copies of such contracts are received by the state board of elections unless, within such ten day period, such board of elections notifies [~~the political subdivision~~] the local board of elections which submitted such contract that such contract does not meet requirements of this chapter or the regulations of the state board of elections.

§ 8. The election law is amended by adding a new section 7-208 to read as follows:

§ 7-208. Escrow requirements. Prior to the use of any voting machine or system in any election in the state, on or after September first, two thousand six, the state board of elections and the local board of elections using such voting machine or system shall:

1. Require that the manufacturer and/or vendor of such voting machine, system or equipment shall place into escrow with the state board of elections a complete copy of all programming, source coding and software employed by the voting machine, system or equipment which shall be used exclusively for purposes authorized by this chapter and shall be otherwise confidential.

2. Require that the manufacturer and/or vendor of such voting machine, system or equipment file with the state board of elections and the appropriate local boards of elections a waiver, prepared by the state board of elections, which shall waive all rights of the vendor or manufacturer to assert intellectual property or trade secret rights in any court of competent jurisdiction hearing a challenge to the results of any election and requesting that programming source coding, firmware, and software as well as voting machines or systems be tested by independent experts under court supervision and at the conclusion of such proceeding shall be sealed.

3. Require that the manufacturer and/or vendor of such equipment file with the state board of elections and the appropriate local boards of elections a consent to having and cooperating in the testing of any programming, source coding, firmware, or software, pursuant to an order of any board of elections or court of competent jurisdiction. Any such board or agent thereof shall be required to maintain the confidentiality of any proprietary material.

§ 9. The election law is amended by adding a new section 7-209 to read as follows:

§ 7-209. Elimination of punch card ballots. Notwithstanding any other provision of law, on or after September first, two thousand six, no punch card ballot or punch card voting system shall be used in any manner in the conduct of any election.

§ 10. Formula for allocating Help America Vote Act money to local boards of elections. 1. The federal funds provided to New York state for purchasing voting machines, poll worker training and voter education shall be allocated to local boards of elections in proportion to the percentage of the state's registered voters residing in each local board's jurisdiction on December 31, 2004.

2. The state board of elections, shall in accordance with subdivision 4 of section 3-100 of the election law, provide the comptroller and local boards of elections with a list of the percentage of registered voters in each jurisdiction as compared to the total number of voters in New York state and, based on such percentage, the amount of Help America Vote Act money that will be available to each local board of elections for voting machines, poll worker training and voter education.

§ 11. Help America Vote Act voting machine and system implementation.

Effective the first federal election in 2006, each polling place shall be equipped with at least one voting machine or voting system which is equipped for individuals with disabilities and provides individuals with disabilities with the same opportunity for access and participation as other voters and which meets the requirements of section 7-202 of the election law and the federal Help America Vote Act.

Effective September 1, 2007, all lever machines in New York state shall be replaced by voting machines or voting systems which meet the requirements of section 7-202 of the election law, provided, however, that with respect to any board of elections which determines to retain lever machines on or after the effective date of this act and prior to September 1, 2007, the provisions of this act which impose new standards for voting machines which were not required prior to the effective date of this act, including the amendments to section 7-202 of the election law made by section six of this act, shall not be applicable with respect to such lever machines during any period of time during which such lever machines are lawfully utilized.

Each board of elections shall attempt to the greatest degree practicable to select and utilize voting machines or systems which, from the perspective of a voter or poll worker, are functionally equivalent, provided, however, that nothing shall preclude a board of elections from selecting more than one type of voting system where such multiple systems are determined by such board to be necessary in order to meet the requirements of this act for such voting machine systems to be accessible to disabled voters or where such multiple voting machine systems are determined by such board to be necessary for other reasons.

§ 12. Help America Vote Act voting machine and system implementation procurement process. 1. To meet the requirements of the federal Help America Vote Act and the election law, local boards of election shall select voting machines or systems from the list of those certified by the state board of elections and determine the number of voting machines or systems needed. Such information shall be provided to the state board of elections on a voting machine or system selection form created by the state board of elections which indicates the specific voting machines or systems it has selected and any special features or functions that a voting machine or system must include to meet legal obligations under state or federal law.

2. The state board of elections shall review the voting machine or system selection form submitted by local boards of elections. If the board determines, in accordance with subdivision 4 of section 3-100 of the election law, that the provisions of such voting machine or system selection form do not meet the requirements of section 7-202 of the election law, the state board shall issue a written determination to the local board and the local board shall modify such voting machine or system selection form and resubmit it to the state board of elections for further review.

3. The state board of elections, in consultation with the office of general services and in compliance with section 163 of the state finance law and section 7-204 of the election law, shall, where applicable, combine the orders for voting machines or systems made by the local boards of election and, acting as a purchasing agent for the local boards of election, negotiate a contract for the purchase of such voting machines or systems.

4. The state board of elections, in accordance with subdivision 4 of section 3-100 of the election law, shall enter into procurement contracts with the vendor of each certified voting machine or system selected by local boards of election pursuant to section 163 of the state finance law and section 7-204 of the election law.

5. The local boards of elections shall select certified voting machines or systems pursuant to one or more of the procurement contracts entered into pursuant to this section. The state board of elections shall notify the comptroller to release the appropriate funds to the

vendor of such machines or systems upon audit and certification unless the voting machine or system selection form has been rejected by the state board of elections pursuant to subdivision 2 of this section. The comptroller shall only release funds in the amount authorized for each local board of election in section ten of this act.

6. Nothing in this section shall be construed to require the state board of elections to provide a board of elections with funding for all voting machines or systems it shall require.

§ 13. Subdivision 3 of section 8-300 of the election law is amended to read as follows:

3. No voter shall remain within a voting machine longer than [~~three minutes or a voting booth longer than five minutes~~] a reasonable amount of time and if he or she shall refuse to leave after the lapse of such time, he or she shall be removed by the inspectors.

§ 14. The election law is amended by adding a new section 9-211 to read as follows:

§ 9-211. Audit of voter verifiable audit records. 1. Within fifteen days after each general or special election, and within seven days after every primary or village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall manually audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

2. The manual audit tallies for each voting machine or system shall be compared to the tallies recorded by such voting machine or system, and a report shall be made of such comparison which shall be filed in the office of the state board of elections.

3. The state board of elections shall, in accordance with subdivision four of section 3-100 of this chapter, promulgate regulations establishing a uniform statewide standard to be used by boards of elections to determine when a discrepancy between the manual audit tallies and the voting machine or system tallies shall require a further voter verifiable record audit of additional voting machines or systems or a complete manual audit of all machines or systems within the jurisdiction of a board of elections. Any board of elections shall be empowered to order that any such audit shall be conducted whenever any such discrepancy exists.

4. If a complete audit shall be conducted, the results of such audit shall be used by the canvassing board in making the statement of canvass and determinations of persons elected and propositions rejected or approved. The results of a partial voter verifiable record audit shall not be used in lieu of voting machine or system tallies.

5. Notwithstanding subdivision four of this section, if a voting machine or system is found to have failed to record votes in a manner indicating an operational failure, the board of canvassers shall use the voter verifiable audit records to determine the votes cast on such

machine or system, provided such records were not also impaired by the operational failure of the voting machine or system.

§ 15. The election law is amended by adding a new section 16-113 to read as follows:

§ 16-113. Audit of voter verifiable records. The supreme court, by a justice within the judicial district, or the county court, by a county judge within his or her county, by any candidate or his or her agent, may direct a manual audit of the voter verifiable audit records applicable to any candidate running for office within such judicial district or county where (1) the uniform statewide standard promulgated by regulation by the state board of elections pursuant to subdivision three of section 9-211 of this chapter with respect to discrepancies between manual audit tallies and voting machines or systems tallies requires a further voter verifiable record audit of additional voting machines or systems or all voting machines or systems applicable to such election, or (2) where evidence presented to the court otherwise indicates that there is a likelihood of a material discrepancy between such manual audit tally and such voting machine or system tally which creates a substantial possibility that the winner of the election as reflected in the voting machine or system tally could change if a voter verifiable record audit of additional voting machines or systems or of all voting machines or systems applicable to such election were conducted.

§ 16. The state board of elections shall establish guidelines for a public campaign for use by local boards of election to educate the voters of New York on the pending transition to new voting machines or systems and other changes in the electoral process as required by the federal Help America Vote Act and the laws of 2005.

Each local board of elections, in consultation with the state board of elections, shall conduct a public campaign pursuant to the guidelines established by the state board of elections to educate the voters of New York on the pending transition to new voting machines and other changes in the electoral process as required by the federal Help America Vote Act and the laws of 2005. Such campaign shall include information about the voting machine or system in use in that jurisdiction and shall begin at least 60 days before the primary election.

§ 17. Section 3-412 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-a. The state board of elections shall establish a mandatory core curriculum for poll worker training which includes the requirements in subdivision two of this section, as amended by a chapter of the laws of 2005, and the rights of voters at the polls and obligation of election workers to protect those rights while maintaining the integrity of the franchise, including assisting voters with disabilities or with limited or no proficiency in the English language, handling, processing and entitlement to ballots, including affidavit and emergency ballots, proper identification requirements, procedures to be followed with respect to voters whose names are not on the list of registered voters or whose identities have not been verified, electioneering and other violations of the elective franchise as defined in this chapter, solicitation by individuals and groups at the polling place and procedures to be followed after the polls close. Each board of elections shall augment the core curriculum with local procedures not inconsistent with the core curriculum adopted by the state board of elections and which includes procedures relating to proper operation of, and remedying problems with, the voting machine or system in use in that jurisdiction.

§ 18. Section 92-p of the state finance law, as added by chapter 400 of the laws of 1987, is amended to read as follows:

§ 92-p. Voting [~~and ballot counting~~] machine and system examination fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance, a special fund to be known as the "voting [~~and ballot counting~~] machine and system examination fund".

2. Such fund shall consist of moneys collected by the state board of elections pursuant to the provisions of subdivision one of section 7-201 of the election law.

3. Moneys of the fund shall be available to the state board of elections for purposes of carrying out the provisions of section 7-201 of the election law.

4. The moneys shall be paid out of the fund on the audit and warrant of the comptroller on vouchers certified or approved by the chairperson of the board or his or her duly designated officer.

§ 19. The local boards of election shall, within thirty days of the effective date of this act, mail a letter to all absentee voters requesting information regarding any special needs of the voter at the polls to allow such board to consider such special needs when selecting voting machines or systems pursuant to this act.

§ 20. The sum of one hundred ninety million dollars (\$190,000,000) is hereby appropriated from federal moneys received for the purpose of implementing the Help America Vote Act of 2002, for services and expenses related to the purchase of new voting machines and voting systems for use by local boards of elections pursuant to the Help America Vote Act of 2002. Notwithstanding any other provision of law, such funds may only be expended in accordance with the provisions of this act related to the allocation of such funds and the procurement and purchase of voting systems and voting machines, including section ten of this act entitled "Formula for allocating Help America Vote Act money to local boards of election" and section twelve of this act entitled "Help America Vote Act voting machine and system implementation procurement process". Such moneys shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved in the manner provided by law.

§ 21. This act shall take effect immediately; provided, however, that subdivision 1-a of section 7-201 of the election law, as added by section five of this act, shall expire and be deemed repealed January 31, 2006 and section sixteen of this act shall expire and be deemed repealed December 31, 2008.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO  
Temporary President of the Senate

SHELDON SILVER  
Speaker of the Assembly

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