

REPUBLIC ACT NO. 9369

REPUBLIC ACT No. 9369 – AN ACT AMENDING REPUBLIC ACT NO. 8436, ENTITLED "AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 881, AS AMENDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTION LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES"

enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. Section 1 of Republic Act No. 8436 is hereby amended to read as follows:

"Section 1. Declaration of Policy - It is the policy of the State to ensure free, orderly, honest, peaceful, credible and informed elections, plebiscites, referenda, recall and other similar electoral exercises by improving on the election process and adopting systems, which shall involve the use of an automated election system that will ensure the secrecy and sanctity of the ballot and all election, consolidation and transmission documents in order that the process shall be transparent and credible and that the results shall be fast, accurate and reflective of the genuine will of the people.

"The State recognizes the mandate and authority of the Commission to prescribe the adoption and use of the most suitable technology of demonstrated capability taking into account the situation prevailing in the area and the funds available for the purpose."

Sec. 2. Section 2 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 2. Definition of Terms. - As used in this Act, the following terms shall mean:

"1. Automated election system, hereinafter referred to as AES - a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election results, and other electoral processes;

"2. Electronic transmission - conveying data in electronic form from one location to another;

"3. Official ballot - where AES is utilized, refers to the paper ballot, whether printed or generated by the technology applied, that faithfully captures or represents the votes cast by a voter recorded or to be recorded in electronic form;

"4. Election returns - a document in electronic and printed form directly produced by the counting or voting machine, showing the date of the election, the province, municipality and the precinct in which it is held and the votes in figures for each candidate in a precinct in areas where AES is utilized;

"5. Statement of votes - a document containing the votes obtained by candidates in each precinct in a city/municipality;

"6. City/municipal/district/provincial certificate of canvass - a document in electronic and printed form containing the total votes in figures obtained by each candidate in a city/municipality/district/ province as the case may be. The electronic certificate of canvass shall be the official canvass results in the aforementioned jurisdictions;

"7. Paper-based election system - a type of automated election system that uses paper ballots, records and counts votes, tabulates, consolidates! canvasses and transmits electronically the results of the vote count;"

"8. Direct recording electronic election system - a type of automated election system that uses electronic ballots, records votes by means of a ballot display provided with mechanical or electro optical components that can be activated by the voter, processes data by means of a computer program, records voting data and ballot images, and transmits voting results electronically;

"9. Counting center - a public place within the city/municipality or in such other places as may be designated by the Commission where the official ballots cast in various precincts of the city/ municipality shall be counted. Polling places or voting centers may also be designated as counting centers;

"10. Continuity plan - a list of contingency measures, and the policies for activation of such, that are put in place to ensure continuous operation of the AES;

"11. Disabled voters - a person with impaired capacity to use the AES;

"12. Source code - human readable instructions that define what the computer equipment will do; and

"13. Station - refers to a polling place, counting center, municipal or provincial canvassing center."

Sec. 3. Section 3 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 3. Board of Election Inspectors. Where AES shall be adopted, at least one member of the Board of Election Inspectors shall be an information technology-capable person, who is trained or certified by the DOST to use the AES. Such certification shall be issued by the DOST, free of charge."

Sec. 4. Section 4 of Republic Act No. 8436 is hereby deleted. The succeeding sections are hereby renumbered accordingly.

Sec. 5. Section 5 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 4. Information Technology Support for the Board of Canvassers. - To implement the AES, each board of canvassers shall be assisted by an information technology-capable person authorized to operate the equipment adopted for the elections. The Commission shall deputize information technology personnel from among the agencies and instrumentalities of the government, including government-owned and controlled corporations. The per diem of the deputized personnel shall be the same as that of the members of the board of canvassers."

Sec. 6. Section 6 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 5. Authority to Use an Automated Election System. - To carry out the above-stated policy, the Commission on Elections, herein referred to as the Commission, is hereby authorized to use an automated election system or systems in the same election in different provinces, whether paper-based or a direct recording electronic election system as it may deem appropriate and practical for the process of voting, counting of votes and canvassing/consolidation and transmittal of results of electoral exercises: Provided, That for the regular national and local elections, which shall be held immediately after the effectivity of this Act, the AES shall be used in at least two highly urbanized cities and two provinces each in Luzon, Visayas and Mindanao, to be chosen by the Commission: Provided, further, That local government units whose officials have been the subject of administrative charges within sixteen (16) months prior to the May 14, 2007 elections shall not be chosen: Provided finally, That no area shall be

chosen without the consent of the Sanggunian of the local government unit concerned. The term local government unit as used in this provision shall refer to a highly urbanized city or province. In succeeding regular national or local elections, the AES shall be implemented nationwide."

Sec. 7. Section 7 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 6. Minimum System Capabilities. "The automated election system must at least have the following functional capabilities:

- (a) Adequate security against unauthorized access;
- (b) Accuracy in recording and reading of votes as well as in the tabulation, consolidation/ canvassing, electronic transmission, and storage of results;
- (c) Error recovery in case of non-catastrophic failure of device;
- (d) System integrity which ensures physical stability and functioning of the vote recording and counting process;
- (e) Provision for voter verified paper audit trail;
- (f) System auditability which provides supporting documentation for verifying the correctness of reported election results;
- (g) An election management system for preparing ballots and programs for use in the casting and counting of votes and to consolidate, report and display election results in the shortest time possible;
- (h) Accessibility to illiterates and disabled voters;
- (i) Vote tabulating program for election, referendum or plebiscite;
- (j) Accurate ballot counters;
- (k) Data retention provision;
- (l) Provide for the safekeeping, storing and archiving of physical or paper resource used in the election process;
- (m) Utilize or generate official ballots as herein defined;
- (n) Provide the voter a system of verification to find out whether or not the machine has registered his choice; and

(o) Configure access control for sensitive system data and functions.

"In the procurement of this system, the Commission shall develop and adopt an evaluation system to ascertain that the above minimum system capabilities are met. This evaluation system shall be developed with the assistance of an advisory council."

Sec. 8. A new Section 7 is hereby provided to read as follows:

"Sec. 7. Communication Channels for Electronic Transmissions. - All electronic transmissions by and among the AES and its related components shall utilize secure communication channels as recommended by the Advisory Council, to ensure authentication and integrity of transmissions."

Sec. 9. New Sections 8, 9, 10 and 11 are hereby provided to read as follows:

"Sec. 8. The Advisory Council. - The Commission shall create an Advisory Council, hereafter referred to as the Council, which shall be convened not later than eighteen (18) months prior to the next scheduled electoral exercise, and deactivated six months after completion of canvassing: Provided, for purposes of the 2007 elections, the Advisory Council shall be immediately convened within ten (10) days after the effectivity of this Act.

"The Council shall be composed of the following members, who must be registered Filipino voters, of known independence, competence and probity:

"(a) The Chairman of the Commission on Information and Communications Technology (crCT) who shall act as the chairman of the Council;

"(b) One member from the Department of Science and Technology;

"(c) One member from the Department of Education;

"(d) One member representing the academe, to be selected by the chair of the Advisory Council from among the list of nominees submitted by the country's academic institutions;

"(e) Three members representing ICT professional organizations to be selected by the chair of the Advisory Council from among the list of nominees submitted by Philippine-based ICT professional organizations. Nominees shall be individuals, at least one of whom shall be experienced in managing or implementing largescale IT projects.

"(f) Two members representing nongovernmental electoral reform organizations, to be selected by the chair of the Advisory Council from among the list of nominees submitted by the country's nongovernmental electoral reform organizations.

"A person who is affiliated with any political party or candidate for any national position, or is related to a candidate for any national position by affinity or consanguinity within the fourth civil degree, shall not be eligible for appointment or designation to the Advisory Council. Should any such situation arise at any time during the incumbency of a member, the designation or appointment of that member shall ipso facto be terminated.

"Any member of the Advisory Council is prohibited from engaging, directly or indirectly, with any entity that advocates, markets, imports, produces or in any manner handles software, hardware or any equipment that may be used for election purposes for personal gain.

"Any violation of the two immediately preceding paragraphs shall disqualify said member from the Advisory Council and shall be punishable as provided in this Act and shall be penalized in accordance with the Anti-Graft and Corrupt Practices Act and other related laws.

"The Council may avail itself of the expertise and services of resource persons who are of known independence, competence and probity, are nonpartisan, and do not possess any of the disqualifications applicable to a member of the Advisory Council as provided herein. The resource persons shall also be subject to the same prohibitions and penalties as the members of the Advisory Council.

"The Commission on Information and Communications Technology (CICT), shall include in its annual appropriation the funds necessary to enable the Council to effectively perform its functions."

"Sec. 9. Functions of the Advisory Council. - The Council shall have the following functions:

1. Recommend the most appropriate, secure, applicable and cost-effective technology to be applied in the AES, in whole or in part, at that specific point. in time.
2. Participate as nonvoting members of the Bids and Awards Committee in the conduct of the bidding process for the AES. Members of the Advisory Council representing the ICT professional organizations are hereby excluded from participating in any manner in the Bids and Awards Committee.

3. Participate as nonvoting members of the steering committee tasked with the implementation of the AES. Members of the Advisory Council representing the ICT professional organizations are hereby excluded from participating in any manner in the steering committee.
4. Provide advice and assistance in the review of the systems planning, inception, development, testing, operationalization, and evaluation stages.
5. Provide advice and/or assistance in the identification, assessment and resolution of systems problems or inadequacies as may surface or resurface in the course of the bidding, acquisition, testing, operationalization, re-use, storage or disposition of the AES equipment and/or resources as the case may be.
6. Provide advice and/or assistance in the risk management of the AES especially when a contingency or disaster situation arises.
7. Prepare and submit a written report, which shall be submitted within six months from the date of the election to the oversight committee, evaluating the use of the AES.

Nothing in the role of the Council or any outside intervention or influence shall be construed as an abdication or diminution of the Commission's authority and responsibility for the effective development, management and implementation of the AES and this Act."

The Advisory Council shall be entitled to a just and reasonable amount of per diem allowances and/or honoraria to cover the expenses of the services rendered chargeable against the budget of the Commission."

"Sec. 10. The Technical Evaluation Committee. - The Commission, in collaboration with the chairman of the Advisory Council, shall establish an independent technical evaluation committee, herein known as the Committee, composed of a representative each from the Commission, the Commission on Information and Communications Technology and the Department of Science and Technology who shall act as Chairman of the Committee.

"The Committee shall be immediately convened within ten (10) days after the effectivity of this Act."

"Sec. 11. Functions of the Technical Evaluation Committee. - The Committee shall certify, through an established international certification entity to be chosen by the Commission from the recommendations of the Advisory Council, not later than three months before the date of the

electoral exercise, categorically stating that the AES, including its hardware and software components, is operating properly, securely, and accurately, in accordance with the provisions of this Act based, among others, on the following documented results:

1. The successful conduct of a field testing process followed by a mock election event in one or more cities/municipalities;
2. The successful completion of audit on the accuracy, functionality and security controls of the AES software;
3. The successful completion of a source code review;
4. A certification that the source code is kept in escrow with the Bangko Sentral ng Pilipinas;
5. A certification that the source code reviewed is one and the same as that used by the equipment; and
6. The development, provisioning, and operationalization of a continuity plan to cover risks to the AES at all points in the process such that a failure of elections, whether at voting, counting or consolidation, may be avoided.

For purposes of the 2007 elections, the certification shall be done not later than eight weeks prior to the date of the elections.

"If the Commission decides to proceed with the use of the AES without the Committee's certification, it must submit its reasons in writing, to the Oversight Committee, no less than thirty (30) days prior to the electoral exercise where the AES will be used.

"The Committee may avail itself of the expertise and services of resource persons who are of known independence, competence and probity, are non partisan, and who do not possess any of the disqualifications applicable to a member of the Advisory Council as provided herein. The resource persons shall also be subject to the same prohibitions and penalties as the members of the Advisory Council.

"The Committee shall closely coordinate with the steering committee of the Commission tasked with the implementation of the AES in the identification and agreement of the project deliverables and timelines, and in the formulation of the acceptance criteria for each deliverable."

Sec. 10. Section 8 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 12. Procurement of Equipment and Materials. - To achieve the purpose of this Act, the Commission is authorized to procure, in accordance with existing laws, by purchase, lease, rent or other forms of acquisition, supplies, equipment, materials, software, facilities and other services, from local or foreign sources free from taxes and import duties, subject to accounting and auditing rules and regulations. With respect to the May 10, 2010 elections and succeeding electoral exercises, the system procured must have demonstrated capability and been successfully used in a prior electoral exercise here or abroad. Participation in the 2007 pilot exercise shall not be conclusive of the system's fitness.

"In determining the amount of any bid from a technology, software or equipment supplier, the cost to the government of its deployment and implementation shall be added to the bid price as integral thereto. The value of any alternative use to which such technology, software or equipment can be put for public use shall not be deducted from the original face value of the said bid."

Sec. 11. Section 9 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 13. Continuity Plan. - The AES shall be so designed to include a continuity plan in case of a systems breakdown or any such eventuality which shall result in the delay, obstruction or nonperformance of the electoral process. Activation of such continuity and contingency measures shall be undertaken in the presence of representatives of political parties and citizens' arm of the Commission who shall be notified by the election officer of such activation.

"All political parties and party-lists shall be furnished copies of said continuity plan at their official addresses as submitted to the Commission. The list shall be published in at least two newspapers of national circulation and shall be posted at the website of the Commission at least fifteen (15) days prior to the electoral activity concerned."

Sec. 12. Section 10 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 14. Examination and Testing of Equipment or Device of the AES and Opening of the Source Code for Review. - The Commission shall allow the political parties and candidates or their representatives, citizens' arm or their representatives to examine and test.

"The equipment or device to be used in the voting and counting on the day of the electoral exercise, before voting starts. Test ballots and test forms shall be provided by the Commission.

"Immediately after the examination and testing of the equipment or device, the parties and candidates or their representatives, citizens' arms or their representatives, may submit a written comment to the election officer who shall immediately transmit it to the Commission for appropriate action.

"The election officer shall keep minutes of the testing, a copy of which shall be submitted to the Commission together with the minutes of voting.

"Once an AES technology is selected for implementation, the Commission shall promptly make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof."

Sec. 13. Section 11 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 15. Official Ballot. - The Commission shall prescribe the format of the electronic display and/or the size and form of the official ballot, which shall contain the titles of the positions to be filled and/or the propositions to be voted upon in an initiative, referendum or plebiscite. Where practicable, electronic displays must be constructed to present the names of all candidates for the same position in the same page or screen, otherwise, the electronic displays must be constructed to present the entire ballot to the voter, in a series of sequential pages, and to ensure that the voter sees all of the ballot options on all pages before completing his or her vote and to allow the voter to review and change all ballot choices prior to completing and casting his or her ballot. Under each position to be filled, the names of candidates shall be arranged alphabetically by surname and uniformly indicated using the same type size. The maiden or married name shall be listed in the official ballot, as preferred by the female candidate. Under each proposition to be voted upon, the choices should be uniformly indicated using the same font and size.

"A fixed space where the chairman of the board of election inspectors shall affix his/her signature to authenticate the official ballot shall be provided.

"For this purpose, the Commission shall set the deadline for the filing of certificate of candidacy/petition for registration/manifestation to participate in the election. Any person who files his certificate of candidacy within this period shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy: Provided, That, unlawful acts or omissions applicable to a candidate shall take effect only upon the start of the aforesaid campaign period: Provided, finally, That any person holding a public appointive office or position, including active members of the armed forces, and officers and employees in government-owned or -controlled corporations, shall be considered ipso facto resigned from his/her office and must vacate the same at the start of

the day of the filing of his/her certificate of candidacy.

"Political parties may hold political conventions to nominate their official candidates within thirty (30) days before the start of the period for filing a certificate of candidacy.

"With respect to a paper-based election system, the official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas at the price comparable with that of private printers under proper security measures which the Commission shall adopt. The Commission may contract the services of private printers upon certification by the National Printing Office/Bangko Sentra] ng Pilipinas that it cannot meet the printing requirements. Accredited political parties and deputized citizen's arms of the Commission shall assign watchers in the printing, storage and distribution of official ballots.

"To prevent the use of fake ballots, the Commission through the Committee shall ensure that the necessary safeguards, such as, but not limited to, bar codes, holograms, color shifting ink, microprinting, are provided on the ballot.

"The official ballots shall be printed and distributed to each city/municipality at the rate of one ballot for every registered voter with a provision of additional three ballots per precinct."

Sec. 14. Section 13 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 17. Ballot box. - Where applicable, there shall be in each precinct on election day a ballot box with such safety features that the Commission may prescribe and of such size as to accommodate the official ballots."

Sec. 15. Section 14 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 18. Procedure in voting - The Commission shall prescribe the manner and procedure of voting, which can be easily understood and followed by the voters, taking into consideration, among other things, the secrecy of the voting."

Sec. 16. Section 15 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 19. Closing of Polls. - The Commission shall prescribe the time, manner and procedure of closing the polls and the steps for the correct reporting of votes cast and the proper conduct of counting for areas covered by the AES."

Sec. 17. Section 16 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 20. Notice of Designation of Counting Centers. - The election officer shall post prominently in his/her office, in the bulletin boards at the city/municipal hall and in three other conspicuous places in the city/municipality, the notice on the designated counting center(s) for at least three weeks prior to election day. The notice shall specify the precincts covered by each counting center and the number of registered voters in each of said precincts. The election officer shall also furnish a copy of the notice to the headquarters or official address of the political parties or independent candidates within the same period. The election officer shall post in the Commission website concerned the said notice and publish the notices in the local newspapers. Where the polling place or voting center is also the designated counting center, such information shall be contained in the notice.

"The Commission may not designate as counting center any building or facility located within the premises of a camp, reservation compound, headquarters, detachment, or field office of the military, police, prison or detention bureau, or any law enforcement or investigation agency."

Sec. 18. Section 17 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 21. Counting Procedure. - The Commission shall prescribe the manner and procedure of counting the votes under the automated system: Provided, That apart from the electronically stored result, thirty (30) copies of the election return are printed."

Sec. 19. Section 18 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 22. Election Returns. - Each copy of the printed election returns shall bear appropriate control marks to determine the time and place of printing. Each copy shall be signed and thumbmarked by all the members of the board of election inspectors and the watchers present. If any member of the board of election inspectors present refuses to sign, the chairman of the board shall note the same in each copy of the printed election returns. The member of the board of election inspectors concerned refusing to sign shall be compelled to explain his or her refusal to do so. Failure to explain an unjustifiable refusal to sign each copy of the printed election return by any member of the board of election inspectors shall be punishable as provided in this Act. The chairman of the board shall then publicly read and announce the total number of registered voters, the total number of voters

who actually voted and the total number of votes obtained by each candidate based on the election returns.

"Thereafter, the copies of the election returns shall be sealed and placed in the proper envelopes for distribution as follows:

"A. In the election of president, vice-president, senators and party-list system:

1) The first copy shall be delivered to the city or municipal board of canvassers;

2) The second copy, to the Congress, directed to the President of the Senate;

3) The third copy, to the Commission;

4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count.

5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and

7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.

8) The eighth copy, to the Provincial Board of Canvassers;

9) The ninth to the eighteenth copies, to the ten (10) accredited major national parties, excluding the dominant majority and minority parties, in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic Act No. 7166;

10) The nineteenth and twentieth copies, to the two accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act No. 7166;

11) The twenty-first to the twenty-fourth copies, to national broadcast or print media entities as may be equitably

determined by the Commission in view of propagating the copies to the widest extent possible;

12) The twenty-fifth and twenty-sixth copies, to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

13) The twenty-seventh to the thirtieth copies, to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arms, groups and organizations may use the four certified copies of election returns for the conduct of citizens' quick counts at the local or national levels.

"B. In the election of local officials and members of the House of Representatives:

1) The first copy shall be delivered to the city or municipal board of canvassers;

2) The second copy, to the Commission;

3) The third copy, to the provincial board of canvassers;

4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count.

5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law;

7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots;

8) The eighth copy to be posted conspicuously on a wall within the premises of the polling place or counting center;

9) The ninth to eighteenth copies shall be given to the ten (10) accredited major national parties, excluding the dominant majority and minority parties, in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic

Act No. 7166;

10) The nineteenth and twentieth copies shall be given to the two accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act No. 7166;

11) The twenty-first to the twenty-fifth copies, to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

12) The twenty-sixth and twenty-seventh copies, to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

13) The twenty-eighth to the thirtieth copies, to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arms, groups and organizations may use the five certified copies of election returns for the conduct of citizens' quick counts at the local or national levels.

"Immediately after the eighth copy is printed, the poll clerk shall announce the posting of said copy on a wall within the premises of the polling place or counting center, which must be sufficiently lighted and accessible to the public. Any person may view or capture an image of the election return by means of any data capturing device such as, but not limited to, cameras at any time of the day for forty-eight (48) hours following its posting. After such period, the chairman of the board of election inspectors shall detach the election return from the wall and keep the same in his custody to be produced as may be requested by any voter for image or data capturing or for any lawful purpose as may be ordered by competent authority.

"Within one hour after the printing of the election returns, the chairman of the board of election inspectors or any official authorized by the Commission shall, in the presence of watchers and representatives of the accredited citizen's arm, political parties/candidates, if any, electronically transmit the precinct results to the respective levels of board of canvassers, to the dominant majority and minority party, to the accredited citizen's arm, and to the Kapisanan ng mga Broadcasters ng Pilipinas (KEP).

"The election results at the city/municipality canvassing centers shall be

transmitted in the same manner by the election officer or any official authorized by the commission to the district or provincial canvassing centers.

"The election returns transmitted electronically and digitally signed shall be considered as official election results and shall be used as the basis for the canvassing of votes and the proclamation of a candidate."

"After the electronic results have been transmitted, additional copies not to exceed thirty (30) may be printed and given to requesting parties at their own expense."

Sec. 20. Section 21 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 25. Canvassing by Provincial, City, District and Municipal Boards of Canvassers.

"The city or municipal board of canvassers shall canvass the votes for the president, vice-president, senators, and parties, organizations or coalitions participating under the party-list system by consolidating the electronically transmitted results or the results contained in the data storage devices used in the printing of the- election returns. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice-president, senators and members of the House of Representatives and elective provincial officials and thereafter, proclaim the elected city or municipal officials, as the case may be.

"The city board of canvassers of cities comprising one or more legislative districts shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective city officials by consolidating the certificates of canvass electronically transmitted or the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, the board shall produce the canvass of votes for president, vice-president, and senators and thereafter, proclaim the elected members of the House of Representatives and city officials.

"In the Metro Manila area, each municipality comprising a legislative district shall have a district board of canvassers which shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective municipal officials by consolidating the electronically transmitted results or the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall produce the certificate of canvass of votes for president, vice-president, and senators and thereafter, proclaim the elected members of the House of Representatives and municipal officials.

"Each component municipality in a legislative district in the Metro Manila area shall have a municipal board of canvassers which shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective municipal officials by consolidating the results electronically transmitted from the counting centers or the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall prepare the certificate of canvass of votes for president, vice-president, senators, members of the House of Representatives and thereafter, proclaim the elected municipal officials.

"The district board of canvassers of each legislative district comprising two municipalities in the Metro Manila area shall canvass the votes for president, vice-president, senators and members of the House of Representatives by consolidating the certificates of canvass electronically transmitted from the city/municipal consolidating centers or the results contained in the data storage devices submitted by the municipal board of canvassers of the component municipalities. Upon completion of the canvass, it shall produce a certificate of canvass of votes for president, vice-president and senators and thereafter, proclaim the elected members of the House of Representatives in the legislative district.

"The district provincial board of canvassers shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective provincial officials by consolidating the results electronically transmitted from the city/municipal consolidating centers or the results contained in the data storage devices submitted by the board of canvassers of the municipalities and component cities. Upon completion of the canvass, it shall produce the certificate of canvass of votes for president, vice-president and senators and thereafter, proclaim the elected members of the House of Representatives and the provincial officials.

"The municipal, city, district and provincial certificates of canvass of votes shall each be supported by a statement of votes.

"Within one hour after the canvassing, the Chairman of the district or provincial Board of Canvassers or the city board of canvassers of those cities which comprise one or more legislative districts shall electronically transmit the certificates of canvass to the Commission sitting as the national board of canvassers for senators and party-list representatives and to the Congress as the National Board of Canvassers for the president and vice president, directed to the President of the Senate.

"The Commission shall adopt adequate and effective measures to preserve the integrity of the certificates of canvass transmitted electronically and the results in the storage devices at the various levels of the boards of

canvassers.

"The certificates of canvass transmitted electronically and digitally signed shall be considered as official election results and shall be used as the basis for the proclamation of a winning candidate."

Sec. 21. Section 22 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 26. Number of Copies of Certificates of Canvass of Votes and their distribution. - (a) The certificate of canvass of votes for president, vice-president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials shall be produced by the city or municipal board of canvassers and distributed as follows:

"(1) The first copy shall be delivered to the provincial board of canvassers for use in the canvass of election results for president, vice-president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials;

"(2) The second copy shall be sent to the Commission;

"(3) The third copy shall be kept by the chairman of the board; and

"(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass at the expense of the requesting party.

"(5) The fifth copy to Congress, directed to the President of the Senate;

"(6) The sixth copy to be posted on a wall within the premises of the canvassing center;

"(7) The seventh and eighth copies shall be given to the dominant majority and minority parties;

"(8) The ninth to eighteenth copies shall be given to the ten (10) accredited major national parties, excluding the dominant majority and minority parties, in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic Act No. 7166;

"(9) The nineteenth and twentieth copies shall be given to the two accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act No. 7166;

"(10) The twenty-first to the twenty-fifth copies, to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

"(11) The twenty-sixth and twenty-seventh copies, to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

"(12) The twenty-eighth to the thirtieth copies, to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arms, groups and organizations may use the three certified copies of election returns for the conduct of citizens' quick counts at the local or national levels."

"The board of canvassers shall furnish all other registered parties copies of the certificate of canvass at the expense of the requesting party.

"(b) The certificate of canvass of votes for president, vice-president and senators, parties, organizations or coalitions participating under the party-list system shall be produced by the city boards of canvassers of cities comprising one or more legislative districts, by provincial boards of canvassers and by district boards of canvassers in the Metro Manila area, and other highly urbanized areas and distributed as follows:

"(1) The first copy shall be sent to Congress, directed to the President of the Senate for use in the canvass of election results for president and vice-president;

"(2) The second copy shall be sent to the Commission for use in the canvass of the election results for senators;

"(3) The third copy shall be kept by the chairman of the board; and

"(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the

certificate of canvass at the expense of the requesting party.

"(5) The fifth copy to Congress, directed to the President of the Senate;

"(6) The sixth copy to be posted on a wall within the premises of the canvassing center;

"(7) The seventh and eighth copies to the dominant majority and minority parties;

"(8) The ninth and tenth copies to two accredited major national parties representing the majority and the minority, excluding the dominant majority and minority parties, to be determined by the Commission on the basis of the criteria provided in Section 26 of Republic Act No. 7166;

"(9) The eleventh to thirteenth copies to national broadcast media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible; and

"(10) The fourteenth copy to another citizens' arm or in the absence thereof, to a non-partisan group or organization enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881. Such citizens' arm or non-partisan group or organization may use the copy of election return for the conduct of citizens' quick counts at the local or national levels.

"The board of canvassers shall furnish all other registered parties copies of the certificate of canvass at the expense of the requesting party.

"(c) The certificates of canvass printed by the provincial, district, city or municipal boards of canvassers shall be signed and thumb marked by the chairman and members of the board and the principal watchers, if available. Thereafter, it shall be sealed and placed inside an envelope which shall likewise be properly sealed.

"In all instances, where the Board of Canvassers has the duty to furnish registered political parties with copies of the certificate of canvass, the pertinent election returns shall be attached thereto, where appropriate."

"Immediately after the sixth copy and its supporting statement of votes are printed, the chairman of the board of canvassers shall announce the posting of said prints on a wall within the premises of the canvassing center, which must be sufficiently lighted and accessible to the public. Any person may view or capture an image of the Certificate of Canvass or the supporting statement of votes by means of any data capturing device such

as, but not limited to, cameras at any time of the day for forty-eight (48) hours following the posting. After such period, the chairman of the board of canvassers shall detach the election return from the wall and keep the same in his custody to be produced as may be requested by any voter for image or data capturing or for any lawful purpose as may be ordered by competent authority."

Sec. 22. Section 23 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 27. National Board of Canvassers for Senators and party-List Representatives. – The chairman and members of the Commission on Elections sitting en banc, shall compose the national board of canvassers for senators and party-list representatives. It shall canvass the results by consolidating the certificates of canvass electronically transmitted. Thereafter, the national board shall proclaim the winning candidates for senators and party-list representatives."

Sec. 23. Section 24 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 28. Congress as the National Board of Canvassers for President and Vice-President – The Senate and the House of Representatives in joint public session shall compose the national board of canvassers for president and vice-president. The certificate of canvass for president and vice president duly certified by the board of canvassers of each province or city, shall be electronically transmitted to the Congress, directed to the president of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty (30) days after the day of the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session and the Congress upon determination of the authenticity and the due execution thereof in the manner provided by law, canvass all the results for president and vice-president and thereafter, proclaim the winning candidates."

Sec. 24. A new Section 29 is hereby provided to read as follows:

"Sec. 29. Random Manual Audit. – Where the AES is used, there shall be a random manual audit in one precinct per congressional district randomly chosen by the Commission in each province and city. Any difference between the automated and manual count will result in the determination of root cause and initiate a manual count for those precincts affected by the computer or procedural error."

Sec. 25. A new Section 30 is hereby provided to read as follows:

"Sec. 30. Authentication of Electronically Transmitted Election Results. - The manner of determining the authenticity and due execution of the certificates shall conform with the provisions of Republic Act No. 7166 as may be supplemented or modified by the provisions of this Act, where applicable, by appropriate authentication and certification procedures for electronic data, electronic documents and electronic signatures as provided in Republic Act No. 8792 as well as the rules promulgated by the Supreme Court pursuant thereto."

Sec. 26. Section 25 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 31. Stakeholder education and training. - The Commission shall, not later than six months before the actual automated election exercise, undertake a widespread stakeholder education and training program, through newspapers of general circulation, radio, television and other media forms, as well as through seminars, symposia, fora and other nontraditional means, to educate the public and fully inform the electorate about the AES and inculcate values on honest, peaceful, orderly and informed elections.

"Such program shall ensure the acceptance and readiness of the following stakeholders to understand and appreciate the benefits of the AES:

1. General public voters;
2. Commission's staff;
3. Department of Education, Department of Finance (municipal, city and provincial treasurers) and all other government agencies who will play a role in the electoral exercise;
4. Local government officials (provincial, municipal, barangay levels);
5. Incumbent elected officials in the legislative and executive departments;
6. Political parties and candidates;
7. Members of the military and police.

"The general public or voters training will focus on building the capability to use the automated system to cast their vote, as well as a general appreciation of the AES. All other stakeholders mentioned above will receive additional information in order to build a deeper understanding of the voting, counting, canvassing procedures, so that they may act as advocates of the AES.

"The Commission together with and in support of accredited citizens' arms shall carry out a continuing and systematic campaign through newspapers of general circulation, radio and other media forms, as well as through seminars, symposia, fora and other nontraditional means to educate the public and fully inform the electorate about the AES and inculcate values on honest, peaceful and orderly elections."

Sec. 27. Section 27 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 33. Joint Congressional Oversight Committee. - An Oversight Committee is hereby created composed of seven members each from the Senate and the House of Representatives, four of whom shall come from the majority and three from the minority, to monitor and evaluate the implementation of this Act. A written report to the Senate and the House of Representatives shall be submitted by the Advisory Council within six months from the date of election. The oversight committee shall conduct a mandatory review of this Act every twelve (12) months from the date of the last regular national or local elections."

"The oversight committee shall conduct a comprehensive assessment and evaluation of the performance of the different AES technologies implemented and shall make appropriate recommendations to Congress, in session assembled, specifically including the following:

"1. An assessment and comparison of each of the AES technologies utilized, including their strengths, weaknesses, applicability or inapplicability in specific areas and situations;

"2. An evaluation of their accuracy through a comparison of a random sample of the AES election results with a manual tabulation, and the conduct of similar tests;

"3. As to the scope of AES implementation in the subsequent elections, provide for recommendations as to whether any of the following should be adopted:

"a. Further test application of the AES or a particular AES technology used in the 2007 elections, whether in the same or other areas;

"b. An increase or enlargement of areas for implementation of the AES or an AES technology and not a full implementation; or

"c. A full implementation of the AES.

"4. As to the kind of AES technology, provide for proposals as to whether:

"a. A particular AES technology should no longer be utilized for being obsolete, inapplicable, inaccurate or with a defect which cannot be remedied;

"b. An enhancement or improvement is needed to an AES technology which was used in the 2007 elections to make it more functional, appropriate and accurate;

"c. A particular AES technology is already appropriate and should be utilized fully for subsequent elections; or

"d. The testing or adoption of new technologies which may have emerged after the 2007 elections is needed."

Sec. 28. Section 29 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 35. Prohibited Acts and Penalties. The following shall be penalized as provided in this Act, whether or not said acts affect the electoral process or results:

"(a) Utilizing without authorization, tampering with, damaging, destroying or stealing:

"(1) Official ballots, election returns, and certificates of canvass of votes used in the system; and

"(2) Electronic devices or their components, peripherals or supplies used in the AES such as counting machine, memory pack/diskette, memory pack receiver and computer set;

"(b) Interfering with, impeding, absconding for purpose of gain, preventing the installation or use of computer counting devices and the processing, storage, generation and transmission of election results, data or information;

"(c) Gaining or causing access to using, altering, destroying or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified;

"(d) Refusal of the citizens' arm to present for perusal its copy of election return to the board of canvassers;

"(e) Presentation by the citizens' arm of tampered or spurious election returns;

"(f) Refusal or failure to provide the dominant majority and dominant minority parties or the citizens' arm their copy of election returns; and

"(g) The failure to post the voters' list within the specified time, duration and in the designated location shall constitute an election offense on the part the election officer concerned.

"Any person convicted for violation of this Act, except those convicted of the crime of electoral sabotage, shall be penalized with imprisonment of eight years and one day to twelve (12) years without possibility of parole, and perpetual disqualification to hold public office and deprivation of the right of suffrage. Moreover, the offender shall be perpetually disqualified to hold any non-elective public office."

Sec. 29. Section 30 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 36. Applicability. - The provisions of Batas Pambansa Blg. 881, as amended, otherwise known as the 'Omnibus Election Code of the Philippines', and other election laws not inconsistent with this Act shall apply."

Sec. 30. Section 31 of Republic Act No. 8436 is hereby amended to read as follows:

"Sec. 37. Rules and Regulations. - The Commission shall promulgate rules and regulations for the implementation and enforcement of this Act.

"Notwithstanding the foregoing canvassing procedure, the Commission is authorized to prescribe other manner or procedure for the canvassing and consolidation of votes as technology evolves, subject to the provisions of Section 7 hereof on the minimum capabilities of the AES and other pertinent laws."

Sec. 31. Section 25 of Republic Act No. 7166 is hereby amended to read as follows:

"Sec. 25. Manner of Counting Votes. - In addition to the requirement in the fourth paragraph of Section 12 of the Republic Act No. 6646 and Section 210 of the Omnibus Election Code, in reading the official ballots during the counting, the chairman, the poll clerk and the third member shall assume such positions as to provide the watchers and the members of the public as may be conveniently accommodated in the polling place, an unimpeded view of the ballot being read by the chairman, of the election return and the

tally board being simultaneously accomplished by the, poll clerk and the third member respectively, without touching any of these election documents. The table shall be cleared of all unnecessary writing paraphernalia. Any violation of this requirement shall constitute an election offense punishable under Sections 263 and 264 of the Omnibus Election Code.

"The chairman shall first read the votes for national positions.

"Any violation of this Section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

Sec. 32. Section 212 of Batas Pambansa Blg. 881, as amended, is hereby amended to read as follows:

"Sec. 212. Election Returns. - The board of election inspectors shall prepare the election returns simultaneously with the counting of votes in the polling place as prescribed in Section 210 hereof. The recording of vote shall be made as prescribed in said section. The entry of votes in words and figures for each candidate shall be closed with the signature and the clear imprint of the thumbmark of the right hand of all the members, likewise to be affixed in full view of the public, immediately after the last vote recorded or immediately after the name of the candidate who did not receive any vote."

"The returns shall also show the date of the election, the polling place, the barangay and the city or municipality in which it was held, the total number of ballots found in the compartment for valid ballots, the total number of valid ballots withdrawn from the compartment for spoiled ballots because they were erroneously placed therein, the total number of excess ballots, the total number of marked or void ballots, and the total number of votes obtained by each candidate, writing out the said number in words and figures and, at the end thereof, the board of election inspectors shall certify that the contents are correct. The returns shall be accomplished in a single sheet of paper, but if this is not possible, additional sheets may be used which shall be prepared in the same manner as the first sheet and likewise certified by the board of election inspectors."

"The Commission shall take steps so that the entries on the first copy of the election returns are clearly reproduced on the second, third, fourth, fifth, and sixth copies thereof, and for the purpose this Commission shall use a special kind of paper."

"Immediately upon the accomplishment of the election return for national positions, the poll clerk shall announce the posting of the second copy of the election return on a wall with sufficient lighting within the premises of

the polling place or counting center. He shall then proceed to do the same in the presence of the other members of the Board, the watchers and those present in the polling place or counting center. Without delay and, when feasible, he shall secure an image of the election return using a secured data capturing device and immediately thereafter, while in the premises of the polling place or counting center, directly print thirty (30) copies of the election return. Once the prints have been produced, the poll clerk shall call the other members of the board to authenticate each print copy by closely comparing the same with the election return posted on the wall in the presence of the watchers and within view of the public. If the Board finds each print a faithful reproduction of the election return, all members thereof shall annotate and sign a certification to that effect on the bottom front of the print.

"Each certified printed copy shall be placed in an envelope and distributed as herein provided. Designated recipients of the certified print copies may receive their copies at the polling place or counting center.

"Immediately upon the accomplishment of the election returns for local positions, the second copy of the same shall be posted on a wall with sufficient lighting within the premises of the polling place.

"The other copies of election returns for both national and local positions shall be sealed in the presence of the watchers and the public, and placed in the proper envelope, which shall likewise be sealed and distributed as herein provided."

"Any election return with a separately printed serial number or which bears a different serial number from that assigned to the particular polling place concerned shall not be canvassed. This is to be determined by the board of canvassers prior to its canvassing on the basis of the certification of the provincial, city or municipal treasurer as to the serial number of the election return assigned to the said voting precinct, unless the Commission shall order in writing for its canvassing, stating the reason for the variance in serial numbers."

"If the signatures and/or thumbmarks of the members of the board of election inspectors or some of them as required in this provision are missing in the election returns, the board of canvassers may summon the members of the board of election inspectors concerned to complete the returns.

"The citizen's arm is mandated to present for perusal its copy of the election return to the board of election canvassers upon the request of any interested candidate.

"Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881.

"In addition, the following shall likewise be guilty of an election offense:

"(a) Any person who removes the election return posted on the wall, whether within or after the prescribed forty-eight (48) hours of posting, or defaces the same in any manner;

"(b) Any person who simulates an actual election return, or a print or digital copy thereof;

"(c) Any person who simulates the certification in a print of an election return;

"(d) The chairman or any member of the board of election inspectors who, during the prescribed period of posting, removes the election return from the wall on which it had been posted other than for the purpose of immediately transferring it to a more suitable place;

"(e) The chairman or any member of the board of election inspectors who signs or authenticates a print of the election return outside of the polling place; and

"(f) The chairman or any member of the board of election inspectors who signs or authenticates a print which bears an image different from the election return produced after counting and posted on the wall."

Sec. 33. Section 27 of Republic Act No. 7166, as amended by Republic Act No. 8045 and Republic Act No. 8173, is hereby further amended to read as follows:

"Sec. 27. Number of Copies of Election Returns and their Distribution. - The board of election inspectors shall prepare in handwriting the election returns in their respective polling places, in the number of copies herein provided and in the form to be prescribed and provided by the Commission.

"The copies of election returns shall be distributed by the chairman of the board of election inspectors as follows:

"(a) In the election of president, vice president, senators and members of the House of Representatives including the party-list representatives:

"(1) The first copy shall be delivered to the city or municipal board of canvassers;

"(2) The second copy to be posted on a wall within the premises of the polling place;

"(3) The third copy, to the Congress, directed to the President of the Senate;

"(4) The fourth copy, to the Commission;

"(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

"(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law;

"(7) The seventh copy, to a citizens' arm authorized by the Commission to conduct an unofficial count: Provided, however, That the accreditation of the citizens' arm shall be subject to the provisions of Section 52(k) of Batas Pambansa Blg. 881; and

"(8) The eighth copy shall be deposited inside the compartment of the ballot box for valid ballots; and

"(b) In the election of local officials:

"(1) The first copy shall be delivered to the city or municipal board of canvassers;

"(2) The second copy to be posted on a wall within the premises of the polling place;

"(3) The third copy, to the Commission;

"(4) The fourth copy, to the provincial board of canvassers;

"(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

"(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law;

"(7) The seventh copy, to a citizens' arm authorized by the Commission to conduct an unofficial count: Provided, however, That the accreditation of the citizens' arm shall be subject to the provisions of Section 52(k) of Batas Pambansa Blg. 881; and

"(8) The eighth copy shall be deposited inside the compartment of the ballot box for valid votes.

"The copy of the election return posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Any person may view or capture an image of the election return by means of any data capturing device such as, but not limited to, cameras at any time of the day for forty-eight (48) hours following its posting. After the prescribed period for posting, the chairman of the board of election inspectors shall collect the posted election returns and keep the same in his custody to be produced for image or data capturing as may be requested by any voter or for any lawful purpose as may be ordered by competent authority.

"Except for those copies that are required to be delivered, copies of election returns may be claimed at the polling place. Any unclaimed copy shall be brought by the chairman of the board of election inspectors to the canvassing center where the recipients or their representatives may claim them. Copies still unclaimed at the canvassing center shall be deemed placed in the custody of the chairman of the board of election inspectors, who shall produce them when requested by the recipient or when ordered by a competent authority.

"The thirty (30) certified print copies of the election return for national positions shall be distributed as follows:

"(a) The first fourteen (14) copies shall be given to the fourteen (14) accredited major national parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 hereof;

"(b) The next three copies shall be given to the three accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 hereof;

"(c) The next five copies shall be given to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

"(d) The next two copies shall be given to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

"(e) The next four copies to the major citizens' arms, including the

accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881;

"(f) The next copy to be placed inside the compartment of the ballot box for valid ballots; and

"(g) The last copy to the provincial board of canvassers."

"The certified print copies may be claimed at the polling place. Any unclaimed copy shall be brought by the chairman of the board of election inspectors to the canvassing center where the recipients or their representatives may claim them. Copies still unclaimed at the canvassing center shall be placed in the custody of the chairman of the board of election inspectors, who shall produce them when requested by the recipient or when ordered by a competent authority.

"Any provision of law to the contrary notwithstanding, any of the recipients of the print or digital copies of the election return may conduct an unofficial consolidation of votes and may announce the result to the public.

"The Commission shall post its digital files in its website for the public to view or download at any time of the day. The Commission shall maintain the files for at least three years from the date of posting.

"Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

Sec. 34. Sec. 26 of Republic Act No. 7166 is hereby amended to read as follows:

"Sec. 26. Official Watchers. - Every registered political party or coalition of political parties, and every candidate shall each be entitled to one watcher in every polling place and canvassing center: Provided, That, candidates for the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sangguniang Bayan belonging to the same slate or ticket shall collectively be entitled to only one watcher.

"The dominant majority party and dominant minority party, which the Commission shall determine in accordance with law, shall each be entitled to one official watcher who shall be paid a fixed per diem of Four hundred pesos (p400.00).

"There shall also be recognized six principal watchers, representing the six accredited major political parties excluding the dominant majority and minority parties, who shall be designated by the Commission upon nomination of the said parties. These political parties shall be determined

by the Commission upon notice and hearing on the basis of the following circumstances:

"(a) The established record of the said parties, coalition of groups that now composed them, taking into account, among other things, their showing in past elections;

"(b) The number of incumbent elective officials belonging to them ninety (90) days before the date of election;

"(c) Their identifiable political organizations and strengths as evidenced by their organized! chapters;

"(d) The ability to fill a complete slate of candidates from the municipal level to the position of President; and

"(e) Other analogous circumstances that may determine their relative organizations and strengths."

Sec. 35. Section 206 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

"Sec. 206. Counting to be Public and without Interruption. - As soon as the voting is finished, the board of election inspectors shall publicly count in the polling place the votes cast and ascertain the results. The Board may rearrange the physical set up of the polling place for the counting or perform any other activity with respect to the transition from voting counting. However, it may do so only in the presence of the watchers and within close view of the public. At all times, the ballot boxes and all election documents and paraphernalia shall be within close view of the watchers and the public.

"The board of election inspectors shall not adjourn or postpone or delay the count until it has been fully completed, unless otherwise ordered by the Commission.

"The Commission, in the interest of free, orderly, and honest elections, may authorize the board of election inspectors to count the votes and to accomplish the election returns and other forms prescribed under this Code in any other place within a public building in the same municipality or city on account of imminent danger of widespread violence or similar causes of comparable magnitude: Provided, That the transfer shall have been' recommended in writing by the board of election inspectors by unanimous vote and endorsed in writing by the majority of watchers present: Provided, further, That the said public building shall not be located within the perimeter of or inside a military or police camp, reservation, headquarters, detachment or field office nor within the premises of a prison or detention

bureau or any law enforcement or investigation agency.

"Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

Sec. 36. Section 18 of Republic Act No. 6646 is hereby repealed.

Sec. 37. Section 30 of Republic Act No. 7166 is hereby amended to read as follows:

"Sec. 30. Congress as the National Board of Canvassers for the Election of President and Vice President: The Commission en banc as the National Board of Canvassers for the election of senators: Determination of Authenticity and Due Execution of Certificates of Canvass. - Congress and the Commission en banc shall determine the authenticity and due execution of the certificate of canvass for president and vice-president and senators, respectively, as accomplished and transmitted to it by the local boards of canvassers, on a showing that: (1) each certificate of canvass was executed, signed and thumbmarked by the chairman and members of the board of canvassers and transmitted or caused to be transmitted to Congress by them; (2) each certificate of canvass contains the names of all of the candidates for president and vice-president or senator, as the case may be, and their corresponding votes in words and in figures; (3) there exists no discrepancy in other authentic copies of the certificates of canvass or in any of its supporting documents such as statement of votes by city/municipality by precinct or discrepancy in the votes of any candidate in words and figures in the certificate; and (4) there exists no discrepancy in the votes of any candidate in words and figures in the certificate of canvass against the aggregate number of votes appearing in the election returns of precincts covered by the certificate of canvass: Provided, That certified print copies of election returns or certificates of canvass may be used for the purpose of verifying the existence of the discrepancy.

"When the certificate of canvass, duly certified by the board of canvassers of each province, city or district, appears to be incomplete, the Senate President or the Chairman of the Commission, as the case may be, shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two (2) days from receipt of notice.

"When it appears that any certificate of canvass or supporting statement of votes by city/ municipality or by precinct bears erasures or alterations which may cast doubt as to the veracity of the number of votes stated herein and may affect the result of the election, upon request of the presidential, vice-presidential or senatorial candidate concerned or his party, Congress or the

Commission en banc, as the case may be, shall, for the sole purpose of verifying the actual number of votes cast for President and Vice-President or senator, count the votes as they appear in the copies of the election returns submitted to it.

"In case of any discrepancy, incompleteness, erasure or alteration as mentioned above, the procedure on pre-proclamation controversies shall be adopted and applied as provided in Sections 17,18,19 and 20.

"Any person who presents in evidence a simulated copy of an election return, certificate of canvass or statement of votes, or a printed copy of an election return, certificate of canvass or statement of votes bearing a simulated certification or a simulated image, shall be guilty of an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

Sec. 38. Section 15 of Republic Act No. 7166 is hereby amended to read as follows:

"Sec. 15. Pre-proclamation Cases in Elections for President, Vice-President/;, Senator; and Member of the House of Representatives. - For purposes of the elections for president, vice-president, senator, and member of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of election returns or the certificates of canvass, as the case may be, except as provided for in Section 30 hereof. However, this does not preclude the authority of the appropriate canvassing body motu proprio or upon written complaint of an interested person to correct manifest errors in the certificate of canvass or election returns before it.

"Questions affecting the composition or proceedings of the board of canvassers may be initiated in the board or directly with the Commission in accordance with Section 19 hereof.

"Any objection on the election returns before the city or municipal board of canvassers, or on the municipal certificates of canvass before the provincial board of canvassers or district board of canvassers in Metro Manila Area, shall be specifically noticed in the minutes of their respective proceedings."

Sec. 39. Section 28 of Republic Act No. 7166 is hereby amended as follows:

"Sec. 28. Canvassing by Provincial City, District and Municipal Board of Canvassers. - a) The city or municipal board of canvassers shall canvass the election returns of President, Vice President, Senator and Members of the House of Representatives and for elective provincial and city or municipal officials: Provided, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the

certificate of canvass for president, vice-president, senators and members of the House of Representatives and elective provincial officials, announce the results of the election for national positions in the city or municipality, and thereafter, proclaim the elected city or municipal officials, as the case may be.

"b) The city board of canvassers of cities comprising one or more legislative districts shall canvass the election returns for president, vice-president, senators, members of the House of Representatives and elective city officials: Provided, That the returns for national positions shall be canvassed first. Upon completion of the canvass, the board shall prepare the certificate of canvass of president, vice-president, and senators announce the results of the election for national positions in the city, and thereafter, proclaim the elected members of the House of Representatives and city officials.

"c) (1) In the Metro Manila Area such municipality comprising a legislative district shall have district board of canvassers which shall canvass the election returns for President, Vice President, Senators, Members of the House of Representatives and elective municipal officials: Provided, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for president, vice-president and senators, announce the results of the election for national positions in the municipality, and thereafter, proclaim the elected member of the House of Representatives and municipal officials.

"(2) Each component municipality in a legislative district in the Metro Manila Area shall have a municipal board of canvassers which shall canvass the election returns for president, vice president, senators, member of the House of Representatives and elective municipal officials:

Provided, that the returns for national positions shall be canvassed first. Upon completion of the canvass, each shall prepare the certificate of canvass for president, vice-president, senators, and members of the House of Representatives, announce the results of the election for national positions in the municipality, and thereafter, proclaim the elected municipal officials.

"(3) The district board of canvassers of each legislative district comprising two municipalities in the Metro Manila Areas shall canvass the certificate of canvass for President, Vice-President, Senators and Members of the House of Representatives submitted by the municipal board of canvassers of the component municipalities. Upon completion of the canvass, it shall prepare a certificate of canvass for president, vice-president and senators, announce the results of the election for national positions in the district, and thereafter, proclaim the elected member of the House of Representatives in the legislative district,

"(d) The provincial board of canvassers shall canvass the certificate of canvass for president, vice-president, senators, and members of the House of Representatives and elective provincial officials as well as plebiscite results, if any plebiscite is conducted simultaneously with the same election, as submitted by the board of canvassers of municipalities and component cities: Provided, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for president, vice-president, and senators, announce the results of the election for national positions in the province, and thereafter, proclaim the elected member of the House of Representatives and provincial officials as well as the plebiscite results, if any.

"In conducting the canvass of election returns or certificates of canvass, as the case may be, the board-of canvassers in a municipality, city, district or province shall project each election return or certificate of canvass on a wall from which its contents shall be read in order that those present in the canvassing center may follow the progress of the canvassing process from beginning to end. The Commission may utilize the appropriate projection equipment for this purpose.

"Immediately after the certificate of canvass for national positions is accomplished, the chairman of the Board of Canvassers shall announce the posting of the second copy thereof and its supporting statement of votes on a wall with sufficient lighting within the premises of the canvassing center. He shall then proceed to do the same in the presence of the other members of the board, the watchers and those present in the canvassing center. without delay and when feasible, he shall capture images of the certificate of canvass and supporting statement of votes using a secured data capturing device and thereafter, while in the premises of the canvassing center, immediately print the data so captured in thirty (30) copies. The board of canvassers shall then authenticate each printed copy, in the presence of watchers and within public view, by closely comparing the same with the certificate of canvass or statement of votes, as the case may be, posted on the wall. if the board finds each printed copy a faithful reproduction of the certificate of canvass or statement of votes, all members thereof shall annotate and sign a certification to that effect on the bottom front of the printed copy.

"Each certified printed copy shall be placed in an envelope and distributed as herein provided. Designated recipients of the certified printed copies may receive their copies at the canvassing center.

"The chairman of the board shall transmit the digital files of the certificate of canvass and its supporting statement of votes using a secured transmission device with authentication features to the secured tabulation

system of the Commission and to the systems of the other designated recipients as herein provided.

"Any provision of law to the contrary notwithstanding, any of the recipients of the print or digital copies of the certificate of canvass and the supporting statements of votes may conduct an unofficial consolidation of votes and may announce the result thereof to the public.

"Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881.

"In addition, the following shall likewise be guilty of an election offense:

"(a) Any person who removes the certificate of canvass posted on the wall, whether within or after the prescribed forty-eight (48) hours of posting, or defaces the same in any manner;

"(b) Any person who simulates an actual certificate of canvass or statement of votes, or a print or digital copy thereof;

"(c) Any person who simulates the certification of a certificate of canvass or statement of votes;

"(d) The chairman or any member of the board of canvassers who, during the prescribed period of posting, removes the certificate of canvass or its supporting statement of votes from the wall on which they have been posted other than for the purpose of immediately transferring them to a more suitable place;

"(e) The chairman or any member of the board of canvassers who signs or authenticates a print of the certificate of canvass or its supporting statement of votes outside of the polling place; and

"(f) The chairman or any member of the board of canvassers who signs or authenticates a print which bears an image different from the certificate of canvass or statement of votes produced after counting and posted on the wall"

Sec. 40. Section 29 of Republic Act No. 7166 is hereby amended to read as follows:

"Sec. 29. Number of Copies of Certificates of Canvass and their Distribution. - a) The certificate of canvass for president, vice-president, senators and members of the House of Representatives and elective provincial officials shall be prepared in seven copies by the city or municipal board of canvassers and distributed as follows:

"(1) The first copy shall be delivered to the provincial board of canvassers for use in the canvass of election results for president, vice-president, senators and members of the House of Representatives and elective provincial officials;

"(2) The second copy shall be sent to the Commission;

"(3) The third copy shall be posted on a wall within the premises of the canvassing center;

"(4) The fourth copy shall be kept by the Chairman of the Board; and

"(5) The fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media-based unofficial count, and the sixth and seventh copies shall be given to the representatives of two of the six major political parties in accordance with the voluntary agreement of the parties. If no such agreement is reached, the Commission shall decide which parties shall receive the copies of the certificate of canvass on the basis of the criteria provided in Section 26 hereof. The parties receiving the certificates shall have the obligation to furnish the other parties with authentic copies thereof with the least possible delay.

"b) The certificate of canvass for president, vice-president, senators shall be prepared in seven (7) copies by the city boards of canvassers of cities comprising one or more legislative districts, by provincial boards of canvassers and by district boards of canvassers in the Metro Manila Area, and distributed as follows:

"(1) The first copy shall be sent to the Congress, directed to the President of the Senate for use in the canvass of election results for president and vice-president;

"(2) The second copy shall be sent to the Commission for use in the canvass of the election results for Senators;

"(3) The third copy shall be posted on a wall within the premises of the canvassing center;

"(4) The fourth copy shall be kept by the Chairman of the Board; and

"(5) The fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media-based unofficial count, and the sixth and seventh copies shall be given to the representatives of two of the six major political parties in accordance with the voluntary agreement of the parties. If no such agreement is reached, the Commission shall decide which parties shall receive the copies of the

certificate of canvass on the basis of the criteria provided in Section 26 hereof. The parties receiving the certificates shall have the obligation to furnish the other parties with authentic copies thereof with the least possible delay.

"The copy of the certificate of canvass posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Any person may view or capture an image of the certificate of canvass. After the prescribed period for posting, the chairman of the board of canvassers shall collect the posted certificate of canvass and keep the same in his custody to be produced for image or data capturing as may be requested by any voter or for any lawful purpose as may be ordered by competent authority.

"Except for those copies that are required to be delivered, copies of certificates of canvass may be claimed at the canvassing center. Any unclaimed copy shall be deemed placed in the custody of the chairman of the board of canvassers, who shall produce them when requested by the recipient or when ordered by a competent authority.

"The thirty (30) certified print copies of the certificate of canvass for national positions shall be distributed as follows:

"(a) The first fourteen (14) copies shall be given to the fourteen (14) accredited major national parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 hereof;

"(b) The next three copies shall be given to the three accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 hereof;

"(c) The next five copies shall be given to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

"(d) The next two copies shall be given to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;

"(e) The next four copies to the major citizens' arms, including the accredited citizens' arm, and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881; and

"(f) The last two copies to be kept in file by the chairman of the board of canvassers to be subsequently distributed as the national board of canvassers may direct.

"The certified print copies may be claimed at the canvassing center. Any unclaimed copy shall be deemed placed in the custody of the chairman of the board of canvassers, who shall produce them when requested by the recipient or when ordered by a competent authority.

"The Commission shall post its digital files in its website for the public to view or download at any time of the day. The Commission shall maintain the files for at least three years from the date of posting.

"Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

Sec. 41. The first paragraph of Sec. 52 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

"Sec. 52. Powers and Functions of the Commission on Elections. - In addition to the powers and functions conferred upon it by the Constitution, the Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections, except as otherwise provided herein and shall:"

Sec. 42. Section 27 (b) of Republic Act No. 6646 is hereby amended to read as follows:

"Sec. 27. Election Offenses; Electoral Sabotage. - In addition to the prohibited acts and election offenses enumerated in Sections 261 and 262 of Batas Pambansa Blg. 881, as amended, the following shall be guilty of an election offense or a special election offense to be known as electoral sabotage:

"(a) x x x

"(b) Any person or member of the board of election inspectors or board of canvassers who tampers, increases or decreases the votes received by a candidate in any election or any member of the board who refuses, after proper verification and hearing, to credit the correct votes or deduct such tampered votes: Provided, however, That when the tampering, increase or decrease of votes or the refusal to credit the correct votes and/or to deduct tampered votes are perpetrated on a large scale or in substantial numbers, the same shall be considered, not as an ordinary election offense under

Sections 261 and/or 262 of the omnibus election code, but a special election offense to be known as electoral sabotage and the penalty to be imposed shall be life imprisonment.

"The act or offense committed shall fall under the category of electoral sabotage in any of the following instances;

"(1) When the tampering, increase and/or decrease of votes perpetrated or the refusal to credit the correct votes or to deduct tampered votes, is/are committed in the election of a national elective office which is voted upon nationwide and the tampering, increase and/or decrease votes, refusal to credit the correct votes or to deduct tampered votes, shall adversely affect the results of the election to the said national office to the extent that losing candidate/s is/are made to appear the winner/s;

"(2) Regardless of the elective office involved, when the tampering, increase and/or decrease of votes committed or the refusal to credit the correct votes or to deduct tampered votes perpetrated, is accomplished in a single election document or in the transposition of the figures/results from one election document to another and involved in the said tampering increase and/or decrease or refusal to credit correct votes or deduct tampered votes exceed five thousand (5,000) votes, and that the same adversely affects the true results of the election;

"(3) Any and all other forms or tampering increase/s and/or decrease/s of votes perpetrated or in cases of refusal to credit the correct votes or deduct the tampered votes, where the total votes involved exceed ten thousand (10,000) votes:

Provided finally, That any and all either persons or individuals determined to be in conspiracy or in connivance with the members of the BEIs or BOCs involved, shall be meted the same penalty of life imprisonment."

Sec. 43. Section 265 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

"Sec. 265. Prosecution. - The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same."

Sec. 44. Appropriations. - To carry out the provisions of this Act, the amount necessary for the automated system shall be charged against the Two billion six hundred million pesos (P2,600,000,000.00) modernization fund in the current year's appropriations of the Commission. Further, the amount necessary to carry out the manual system, at a maximum of Three billion pesos (P3,000,000,000.00), shall be charged against the current year's appropriation of

the Commission.

Thereafter, such sums as may be necessary for the continuous implementation of this Act shall be included in the annual General Appropriations Act. If the said funds shall not be fully utilized, the same shall continue to be appropriated for the electoral modernization as set forth in this Act and shall not revert to the General Fund.

Sec. 45. Separability Clause. - If, for any reason, any section or provision of this Act or any part thereof, or the application of such section, provision or portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.

Sec. 46. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 47. Effectivity. - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved:

MANNY VILLAR
President of the Senate

JOSE DE VENECIA, JR.
Speaker of the House of Representatives

This Act which is a consolidation of Senate Bill No. 2231 and House Bill No. 5352 was finally passed by the Senate and the House of Representatives on December 7, 2006 and December 19, 2006, respectively.

ROBERTO P. NAZARENO
Secretary General
House of Representative

OSCAR G. YABES
Secretary of the Senate

Approved: January 23, 2007

GLORIA MACAPAGAL ARROYO
President of the Philippines