

116TH CONGRESS
2D SESSION

S. 3440

To require States to adopt contingency plans to prevent the disruption of Federal elections from the COVID–19 virus, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2020

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To require States to adopt contingency plans to prevent the disruption of Federal elections from the COVID–19 virus, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resilient Elections
5 During Quarantines and Natural Disasters Act of 2020”.

6 **SEC. 2. REQUIREMENTS FOR FEDERAL ELECTION CONTIN-**
7 **GENCY PLANS IN RESPONSE TO COVID–19.**

8 (a) IN GENERAL.—Not later than 30 days after the
9 date of the enactment of this Act, each State and jurisdic-
10 tion shall establish and make publicly available a contin-

1 gency plan to enable individuals to vote in elections for
 2 Federal office in any case in which a significant number
 3 of individuals in such State or jurisdiction are unable to
 4 vote because—

5 (1) they are under a quarantine that is—

6 (A) imposed by a government order in re-
 7 sponse to the coronavirus disease 2019 (re-
 8 ferred to in this section as “COVID-19”); or

9 (B) recommended by a government official
 10 or public health expert in response to COVID-
 11 19; or

12 (2) their polling place is closed because poll
 13 workers or election officials are under a quarantine
 14 that is—

15 (A) imposed by a government order in re-
 16 sponse to COVID-19; or

17 (B) recommended by a government official
 18 or public health expert in response to COVID-
 19 19.

20 (b) REQUIREMENT TO PLAN FOR VOTERS TO BE
 21 ABLE TO REQUEST ABSENTEE BALLOTS ONLINE AND
 22 VOTE BY MAIL.—The contingency plan established under
 23 subsection (a) shall—

24 (1) permit all individuals who are registered to
 25 vote to—

1 (A) submit an online request for an absen-
 2 tee ballot; and

3 (B) cast a vote in Federal elections by
 4 mail; and

5 (2) provide for the extension of vote-by-mail
 6 deadlines if postal service is disrupted as a result of
 7 COVID–19.

8 (c) STATE.—For purposes of this section, the term
 9 “State” includes the District of Columbia, the Common-
 10 wealth of Puerto Rico, Guam, American Samoa, the
 11 United States Virgin Islands, and the Commonwealth of
 12 the Northern Mariana Islands.

13 (d) ENFORCEMENT.—The Attorney General may
 14 bring a civil action against any State or jurisdiction in
 15 an appropriate United States District Court for such de-
 16 claratory and injunctive relief (including a temporary re-
 17 straining order, a permanent or temporary injunction, or
 18 other order) as may be necessary to carry out the require-
 19 ments of this section.

20 **SEC. 3. REQUIREMENT TO ALLOW NO-EXCUSE ABSENTEE**
 21 **VOTING DURING CERTAIN PERIODS.**

22 (a) IN GENERAL.—Title III of the Help America
 23 Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amended
 24 by adding at the end the following new subtitle:

1 **“Subtitle C—Other Requirements**

2 **“SECTION 321. NO-EXCUSE ABSENTEE VOTING DURING NA-**
 3 **TIONAL EMERGENCIES.**

4 “(a) IN GENERAL.—Notwithstanding section 6(c) of
 5 the National Voter Registration Act of 1993 (52 U.S.C.
 6 20505(c)), in the case of any election for Federal office
 7 occurring during any period described in subsection (b),
 8 each State and jurisdiction shall—

9 “(1) permit any eligible voter to use absentee
 10 registration procedures and to vote by absentee bal-
 11 lot; and

12 “(2) comply with the requirements of subsection
 13 (d).

14 For purposes of this subsection, an election shall be con-
 15 sidered to occur during a period described in subsection
 16 (b) if votes may be cast in such election (through absentee
 17 balloting, early voting, or otherwise) on any day during
 18 such period.

19 “(b) PERIOD DESCRIBED.—

20 “(1) IN GENERAL.—A period described in this
 21 subsection is a period—

22 “(A) subject to paragraph (2), that begins
 23 with the date that is 30 days after the date on
 24 which at least 25 percent of States have de-
 25 clared an emergency (under the laws of the

1 State) with respect to any single natural dis-
2 aster or infectious disease (including the
3 coronavirus disease 2019 (referred to in this
4 section as ‘COVID–19’)); and

5 “(B) that ends with—

6 “(i) in the case of a State that did not
7 declare an emergency with respect to the
8 single natural disaster or infectious disease
9 described in subparagraph (A), 180 days
10 after the first date on which less than 25
11 percent of States have an emergency dec-
12 laration in effect with respect to such nat-
13 ural disaster or disease; and

14 “(ii) in the case of a State that did
15 declare an emergency with respect to such
16 natural disaster or infectious disease, the
17 later of—

18 “(I) 180 days after the date on
19 which the State declares that the
20 emergency is no longer in effect; and

21 “(II) the date described in clause
22 (i).

23 “(2) SPECIAL PERIOD.—If, as of the date of en-
24 actment of this section, at least 25 percent of States
25 have declared an emergency (under the laws of the

1 State) with respect to any single natural disaster or
 2 infectious disease (including COVID–19), then a pe-
 3 riod described in this subsection shall begin on the
 4 date that is 30 days after the date of enactment of
 5 this section.

6 “(3) TREATMENT OF EMERGENCY DECLARA-
 7 TIONS BY CERTAIN COUNTIES AND CITIES.—For
 8 purposes of this subsection, a State shall be deemed
 9 to have declared an emergency under the laws of the
 10 State with respect to a natural disaster or infectious
 11 disease (including COVID–19) if an emergency is
 12 declared with respect to such disaster or infectious
 13 disease by a city, county, parish, or other political
 14 subdivision of the State that has a population that
 15 is greater than 1,000,000.

16 “(c) STATE OPTION TO DECLARE EMERGENCY VOT-
 17 ING PERIOD.—

18 “(1) IN GENERAL.—Notwithstanding section
 19 6(c) of the National Voter Registration Act of 1993
 20 (52 U.S.C. 20505(c)), if the Governor of a State has
 21 declared an emergency voting period with respect to
 22 the State in accordance with paragraph (2), the
 23 State and any jurisdiction in the State, with respect
 24 to any election for Federal office occurring during
 25 such period, shall—

1 “(A) permit any eligible voter to use ab-
 2 sentee registration procedures and to vote by
 3 absentee ballot; and

4 “(B) comply with the requirements of sub-
 5 section (d).

6 For purposes of this paragraph, an election shall be
 7 considered to occur during an emergency voting pe-
 8 riod if votes may be cast in such election (through
 9 absentee balloting, early voting, or otherwise) on any
 10 day during such period.

11 “(2) EMERGENCY VOTING PERIOD.—

12 “(A) IN GENERAL.—The Governor of a
 13 State may declare an emergency voting period
 14 in the State by—

15 “(i) stating that a natural disaster or
 16 infectious disease (including COVID–19)
 17 has resulted in emergency conditions in the
 18 State; and

19 “(ii) invoking the authority provided
 20 under this subsection to apply the absentee
 21 registration procedures and absentee vot-
 22 ing requirements described in paragraph
 23 (1) to the State.

24 “(B) DURATION OF EMERGENCY VOTING
 25 PERIOD.—An emergency voting period declared

1 by a Governor of a State under subparagraph
 2 (A)—

3 “(i) shall begin on the date that is 30
 4 days after the Governor declares the emer-
 5 gency voting period in accordance with
 6 subparagraph (A); and

7 “(ii) shall end on the later of—

8 “(I) 180 days after the date on
 9 which the Governor declares that
 10 emergency conditions no longer exist
 11 in the State; and

12 “(II) if applicable, the date on
 13 which the period described in sub-
 14 section (b) ends.

15 “(d) ABSENTEE REGISTRATION AND VOTING RE-
 16 QUIREMENTS.—The requirements described in this sub-
 17 section are the following:

18 “(1) DEADLINE FOR ABSENTEE BALLOTS.—If a
 19 ballot submitted by an individual by mail with re-
 20 spect to an election for Federal office in the State
 21 is postmarked on or before the date of the election,
 22 the State may not refuse to accept or process the
 23 ballot on the grounds that the individual did not
 24 meet a deadline for returning the ballot to the ap-
 25 propriate State or local election official.

1 “(2) ABSENTEE BALLOT REQUESTS.—The
2 State shall—

3 “(A) permit any eligible voter to submit an
4 online request for an absentee ballot to vote in
5 an election for Federal office in the State;

6 “(B) send an absentee ballot to vote in an
7 election for Federal office in the State by mail
8 to any eligible voter that submits a request for
9 such a ballot on or before the date that is 5
10 days before the date of such election; and

11 “(C) on or before the date that is 1 day
12 before the date of an election for Federal office
13 in the State, permit any eligible voter that sub-
14 mits a request for an absentee ballot to vote in
15 such election to download or receive via elec-
16 tronic mail a version of such ballot that the
17 voter may print out and mail in.

18 “(3) NO EXCUSE REQUIRED.—The State shall
19 not require that an eligible voter provide a reason in
20 order to vote by absentee ballot or request to receive
21 an absentee ballot.

22 “(4) NO WRITE-IN BALLOTS.—Any absentee
23 ballot for an election for Federal office in the State
24 that is provided to an eligible voter pursuant to

1 paragraph (2) shall include the name of each can-
 2 didate for such office.

3 “(e) STATE.—For purposes of this section, the term
 4 ‘State’ includes the District of Columbia, the Common-
 5 wealth of Puerto Rico, Guam, American Samoa, the
 6 United States Virgin Islands, and the Commonwealth of
 7 the Northern Mariana Islands.

8 “(f) PRIVATE RIGHT OF ACTION.—

9 “(1) IN GENERAL.—In the case of a violation of
 10 this section, section 402 shall not apply and any per-
 11 son who is aggrieved by such violation may provide
 12 written notice of the violation to the chief election
 13 official of the State involved.

14 “(2) RELIEF.—If the violation is not corrected
 15 within 20 days after receipt of a notice under para-
 16 graph (1), or within 5 days after receipt of the no-
 17 tice if the violation occurred within 120 days before
 18 the date of an election for Federal office, the ag-
 19 grieved person may, in a civil action, obtain declara-
 20 tory or injunctive relief with respect to the viola-
 21 tion.”.

22 (b) ENFORCEMENT BY ATTORNEY GENERAL.—Sec-
 23 tion 401 of the Help America Vote Act of 2002 (52
 24 U.S.C. 21111) is amended by striking “and 303” and in-
 25 serting “303, and 321”.

1 (c) CLERICAL AMENDMENT.—The table of contents
 2 of the Help America Vote Act of 2002 is amended by in-
 3 serting after the item relating to section 312 the following:

“Subtitle C—Other Requirements

“Sec. 321. No-excuse absentee voting during national emergencies.”.

4 **SEC. 4. REQUIREMENT FOR PREPAID RETURN ENVELOPES**
 5 **FOR ABSENTEE BALLOTS.**

6 (a) IN GENERAL.—Subtitle A of title III of the Help
 7 America Vote Act of 2002 (52 U.S.C. 21081 et seq.) is
 8 amended—

9 (1) by redesignating sections 304 and 305 as
 10 sections 305 and 306, respectively; and

11 (2) by inserting after section 303 the following
 12 new section:

13 **“SEC. 304. USE OF PREPAID SELF-SEALING RETURN ENVE-**
 14 **LOPES.**

15 “(a) IN GENERAL.—Each State and local jurisdiction
 16 shall provide with any voter registration application, ab-
 17 sentee ballot application, or blank absentee ballot sent by
 18 mail a self-sealing return envelope with prepaid postage
 19 or subject to an arrangement whereby the State will reim-
 20 burse the United States Postal Service for the postage of
 21 any such return envelope that is sent by mail.

22 “(b) STATE.—For purposes of this section, the term
 23 ‘State’ includes the District of Columbia, the Common-
 24 wealth of Puerto Rico, Guam, American Samoa, the

1 United States Virgin Islands, and the Commonwealth of
 2 the Northern Mariana Islands.

3 “(c) EFFECTIVE DATE.—The requirements of this
 4 section shall apply to materials sent by States and local
 5 jurisdictions after the date that is 60 days after the date
 6 of the enactment of this Act.”.

7 (b) CONFORMING AMENDMENT RELATING TO EN-
 8 FORCEMENT.—Section 401 of such Act (52 U.S.C.
 9 21111), as amended by section 3(b), is amended by insert-
 10 ing “304,” after “303,”.

11 (c) CLERICAL AMENDMENTS.—The table of contents
 12 of such Act is amended—

13 (1) by redesignating the items relating to sec-
 14 tions 304 and 305 as relating to sections 305 and
 15 306, respectively; and

16 (2) by inserting after the item relating to sec-
 17 tion 303 the following new item:

“Sec. 304. Use of prepaid self-sealing return envelopes.”.

18 **SEC. 5. REIMBURSEMENTS TO STATES.**

19 (a) IN GENERAL.—Subtitle D of title II of the Help
 20 America Vote Act of 2002 (52 U.S.C. 21001 et seq.) is
 21 amended by adding at the end the following:

1 **“PART 7—REIMBURSEMENTS FOR CERTAIN**
2 **FEDERAL ELECTION EXPENDITURES**

3 **“SEC. 297. REIMBURSEMENTS.**

4 “(a) IN GENERAL.—The Commission shall make pay-
5 ments to each State equal to the following costs incurred
6 by the State (and local jurisdictions within the State):

7 “(1) Costs of printing and mailing ballots and
8 balloting material to absentee voters.

9 “(2) Costs for providing return envelopes and
10 the postage associated with such envelopes pursuant
11 to section 304.

12 “(3) Costs of purchasing high speed scanners
13 and other equipment for processing absentee ballots.

14 “(4) Costs of purchasing and deploying absen-
15 tee ballot drop boxes.

16 “(5) Costs paid or incurred in complying with
17 section 2 of the Resilient Elections During Quar-
18 antines and Natural Disasters Act of 2020.

19 “(6) Any costs not described in paragraph (1)
20 that are paid or incurred in complying with section
21 321.

22 “(b) LIMITATION.—No funds may be provided to a
23 State under this section for costs attributable to the elec-
24 tronic return of marked ballots by any voter.

25 “(c) PASS-THROUGH OF FUNDS TO LOCAL JURISDIC-
26 TIONS.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
 2 if a State receives a payment under this section for
 3 costs that include costs incurred by a local jurisdic-
 4 tion within the State, the State shall pass through
 5 to such local jurisdiction a portion of such payment
 6 that is equal to the amount of the costs incurred by
 7 such local jurisdiction.

8 “(2) INSUFFICIENT FUNDS.—If a State receives
 9 a payment for a period under this section that, as
 10 a result of the application of subsection (d), is less
 11 than the aggregate amount of costs described in sub-
 12 section (a) for such State for such period, than the
 13 portion of such payment that the State is required
 14 to pass through to a local jurisdiction under para-
 15 graph (1) shall not exceed the amount which bears
 16 the same ratio to the total amount of costs incurred
 17 by such local jurisdiction for such period as—

18 “(A) the amount of the payment received
 19 by the State under this section for the period;
 20 bears to

21 “(B) the aggregate amount of costs de-
 22 scribed in subsection (a) for such State for such
 23 period.

24 “(d) INSUFFICIENT FUNDS.—If the amount appro-
 25 priated under section 298 exceeds the aggregate costs in-

1 curred by all States for the amounts described in sub-
 2 section (a) for any period, the amount of payment made
 3 under such subsection to each State shall not exceed the
 4 amount which bears the same ratio to the aggregate
 5 amount of costs described in subsection (a) for such State
 6 for such period as—

7 “(1) the voting age population of the State (as
 8 reported in the most recent decennial census); bears
 9 to

10 “(2) the total voting age population of all
 11 States (as reported in the most recent decennial cen-
 12 sus).

13 “(e) STATE.—For purposes of this section, the term
 14 ‘State’ includes the District of Columbia, the Common-
 15 wealth of Puerto Rico, Guam, American Samoa, the
 16 United States Virgin Islands, and the Commonwealth of
 17 the Northern Mariana Islands.

18 **“SEC. 298. AUTHORIZATION OF APPROPRIATIONS.**

19 “(a) IN GENERAL.—There are authorized to be ap-
 20 propriated for payments under this part \$500,000,000 for
 21 fiscal year 2020.

22 “(b) AVAILABILITY OF FUNDS.—Amounts appro-
 23 priated pursuant to the authorization under this section
 24 shall remain available, without fiscal year limitation, until
 25 fiscal year 2030.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 of the Help America Vote Act of 2002 is amended by in-
3 serting after the item relating to section 296 the following:

“PART 7—BALLOT TRACKING REIMBURSEMENTS

“Sec. 297. Reimbursements.

“Sec. 298. Authorization of appropriations.”.

