

114TH CONGRESS
2D SESSION

S. 3214

To amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections, to amend the National Voter Registration Act of 1993 to provide for automatic voter registration.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections, to amend the National Voter Registration Act of 1993 to provide for automatic voter registration.

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 “Vote By Mail Act of
5 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) An inequity of voting rights exists in the
2 United States because voters in some States have
3 the universal right to vote by mail while voters in
4 other States do not.

5 (2) Many voters often have work, family, or
6 other commitments that make getting to polls and
7 waiting in line on the date of an election difficult or
8 impossible. Many citizens with disabilities are phys-
9 ically unable to vote due to long lines, inadequate
10 parking, no curb cuts, steep ramps, and large
11 crowds. In 2012, 30 percent of voters with disabil-
12 ities had difficulty voting, and more than 5,000,000
13 voters waited more than an hour to vote. Under cur-
14 rent State laws, many of these voters are not per-
15 mitted to vote by mail.

16 (3) Twenty-eight States currently allow uni-
17 versal absentee voting (also known as “no-excuse”
18 absentee voting), which permits any voter to request
19 a mail-in ballot without providing a reason for the
20 request. No State which has implemented no-excuse
21 absentee voting has repealed it.

22 (4) Three States currently hold elections en-
23 tirely by mail. Twenty-two States currently allow
24 some elections to be conducted by mail, especially in
25 large and rural jurisdictions where voting by mail is

1 especially convenient. Polling stations in rural juris-
2 dictions tend to have higher costs per voter, smaller
3 staffs, and limited resources. Transportation is often
4 a crucial barrier for rural voters.

5 (5) Voting by mail gives voters more time to
6 consider their choices, which is especially important
7 as many ballots contain greater numbers of ques-
8 tions about complex issues than in the past due to
9 the expanded use of the initiative and referendum
10 process in many States.

11 (6) Voting by mail is cost effective. After the
12 State of Oregon adopted vote by mail for all voters
13 in 1996, the cost to administer an election in the
14 State dropped by nearly 30 percent over the next
15 few elections, from \$3.07 per voter to \$2.21 per
16 voter. After Colorado implemented all-mail balloting
17 in 2013, voting administration costs decreased by an
18 average of 40 percent. The cost of conducting vote-
19 by-mail elections is generally one-third to one-half
20 less than conducting polling place elections. Voting
21 by mail also saves a substantial amount by getting
22 rid of the temporary labor costs of hiring poll work-
23 ers. In addition to that cost, many jurisdictions have
24 been facing difficulty in obtaining sufficient numbers
25 of poll workers.

1 (7) Allowing all voters the option to vote by
2 mail can reduce waiting times for those voters who
3 choose to vote at the polls. In 2016, voters in Ari-
4 zona reported waiting in line from 1 to 5 hours to
5 vote; in New York, voters reported that stations ran
6 out of ballots and did not have staff during all of
7 the hours scheduled for voting.

8 (8) Voting by mail is preferable to many voters
9 as an alternative to going to the polls. In 2012, 19
10 percent of ballots in the United States were cast by
11 mail, up from 10 percent in 2000. Voting by mail
12 has become increasingly popular with voters who
13 want to be certain that they are able to vote no mat-
14 ter what comes up on election day, as it reduces the
15 physical obstacles and eases the time constraints
16 connected with the act of voting.

17 (9) The signature verification process, the
18 tracking system for each ballot, and postal service
19 cooperation in preventing ballots from being deliv-
20 ered to names not recognized as receiving mail at an
21 address nearly eliminate the potential for fraud in
22 vote-by-mail elections. Evidence of undue influence
23 or voter coercion after vote-by-mail implementation
24 in Oregon has been nonexistent to minimal.

1 (10) Many of the reasons which voters in many
2 States are required to provide in order to vote by
3 mail require the revelation of personal information
4 about health, travel plans, or religious activities,
5 which violate voters' privacy while doing nothing to
6 prevent voter fraud.

7 (11) State laws which require voters to obtain
8 a notary signature to vote by mail only add cost and
9 inconvenience to voters without increasing security.

10 (12) Many voters choose to cast ballots early
11 when they have the option (over 40 percent in Ne-
12 vada, New Mexico, Texas, and Tennessee). Nearly
13 one-third of voters in the 2012 election cast their
14 ballot before election day, which is about double the
15 rate of voters in 2000. In Oregon, 7 years after
16 vote-by-mail election implementation, over 80 per-
17 cent of voters favored the vote-by-mail system.

18 (13) Voting by mail typically increases turnout
19 in all elections, but can be particularly effective in
20 increasing voter participation in special elections and
21 primary elections. Oregon and Washington, the 2
22 States with the longest standing vote-by-mail sys-
23 tems, continue to have consistently high voter turn-
24 out rates. In the 2012 primary elections, while the

1 national average turnout was 18 percent, Oregon’s
 2 was 45 percent and Washington’s was 38 percent.

3 (14) A crucial component of a modern voting
 4 system is making it easy, affordable, and accessible
 5 to register to vote. Eighteen States and the District
 6 of Columbia introduced automatic voter registration
 7 legislation in 2015, and Oregon and California now
 8 automatically register their citizens to vote when
 9 they apply for a driver’s license. Automatic, perma-
 10 nent voter registration has the potential to increase
 11 participation, protect election integrity, and reduce
 12 registration costs.

13 **SEC. 3. PROMOTING ABILITY OF VOTERS TO VOTE BY MAIL**
 14 **IN FEDERAL ELECTIONS.**

15 (a) VOTING BY MAIL IN FEDERAL ELECTIONS.—

16 (1) IN GENERAL.—Subtitle A of title III of the
 17 Help America Vote Act of 2002 (52 U.S.C. 21081
 18 et seq.) is amended by inserting after section 303
 19 the following new section:

20 **“SEC. 303A. PROMOTING ABILITY OF VOTERS TO VOTE BY**
 21 **MAIL.**

22 “(a) IN GENERAL.—If an individual in a State is eli-
 23 gible to cast a vote in an election for Federal office, the
 24 State may not impose any additional conditions or require-
 25 ments on the eligibility of the individual to cast the vote

1 in such election by mail, except to the extent that the
2 State imposes a deadline for returning the ballot to the
3 appropriate State or local election official.

4 “(b) PROVISION OF BALLOT MATERIALS.—Not later
5 than 2 weeks before the date of any election for Federal
6 office, each State shall mail ballots to individuals who are
7 registered to vote in such election.

8 “(c) ACCESSIBILITY FOR INDIVIDUALS WITH DIS-
9 ABILITIES.—All ballots provided under this section shall
10 be accessible to individuals with disabilities in a manner
11 that provides the same opportunity for access and partici-
12 pation (including for privacy and independence) as for
13 other voters.

14 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to affect the authority of States
16 to conduct elections for Federal office through the use of
17 polling places at which individuals cast ballots.

18 “(e) EFFECTIVE DATE.—A State shall be required
19 to comply with the requirements of subsection (a) with re-
20 spect to elections for Federal office held in years beginning
21 with 2018.”.

22 (2) CONFORMING AMENDMENT RELATING TO
23 ENFORCEMENT.—Section 401 of such Act (52
24 U.S.C. 21111) is amended by striking “and 303”
25 and inserting “303, and 303A”.

1 (3) CLERICAL AMENDMENT.—The table of con-
 2 tents for such Act is amended by inserting after the
 3 item relating to section 303 the following new item:

“Sec. 303A. Promoting ability of voters to vote by mail.”.

4 (b) FREE POSTAGE FOR VOTING BY MAIL.—

5 (1) IN GENERAL.—Chapter 34 of title 39,
 6 United States Code, is amended by adding at the
 7 end the following:

8 **“§ 3407. Ballots provided for voting in Federal elec-**
 9 **tions**

10 “Ballots mailed pursuant to section 303A(b) of the
 11 Help America Vote Act of 2002 (individually or in bulk)
 12 shall be carried expeditiously and free of postage.”.

13 (2) TECHNICAL AND CONFORMING AMEND-
 14 MENTS.—

15 (A) TABLE OF SECTIONS.—The table of
 16 sections for chapter 34 of title 39, United
 17 States Code, is amended by adding at the end
 18 the following:

“3407. Ballots provided for voting in Federal elections.”.

19 (B) AUTHORIZATION OF APPROPRIA-
 20 TIONS.—Section 2401(c) of title 39, United
 21 States Code, is amended by striking “3403
 22 through 3406” and inserting “3403 through
 23 3407”.

1 **SEC. 4. AUTOMATIC VOTER REGISTRATION THROUGH**
 2 **STATE MOTOR VEHICLE AUTHORITIES.**

3 (a) AUTOMATIC VOTER REGISTRATION.—Section 5
 4 of the National Voter Registration Act of 1993 (52 U.S.C.
 5 20504) is amended to read as follows:

6 **“SEC. 5. VOTER REGISTRATION THROUGH MOTOR VEHICLE**
 7 **AUTHORITY.**

8 “(a) SIMULTANEOUS APPLICATION FOR VOTER REG-
 9 ISTRATION AND APPLICATION FOR MOTOR VEHICLE
 10 DRIVER’S LICENSE.—

11 “(1) TRANSMISSION OF INFORMATION TO ELEC-
 12 TION OFFICIALS.—Each State’s motor vehicle au-
 13 thority, upon receiving any of the identifying infor-
 14 mation described in paragraph (2) with respect to
 15 any applicable individual, shall securely transmit the
 16 identifying information to the appropriate State elec-
 17 tion official.

18 “(2) IDENTIFYING INFORMATION DESCRIBED.—
 19 The identifying information described in this para-
 20 graph with respect to any individual is as follows:

- 21 “(A) The individual’s legal name.
 22 “(B) The individual’s age.
 23 “(C) The individual’s residence.
 24 “(D) The individual’s citizenship status.
 25 “(E) The individual’s electronic signature.

1 “(b) DUTIES OF OFFICIALS RECEIVING INFORMA-
2 TION.—

3 “(1) IN GENERAL.—Upon receiving the identi-
4 fying information with respect to an applicable indi-
5 vidual under subsection (a), the appropriate State
6 election official shall determine—

7 “(A) whether such individual is eligible to
8 vote in an election for Federal office; and

9 “(B) whether such individual is currently
10 registered to vote in elections for Federal office
11 at the address provided in such identifying in-
12 formation.

13 “(2) NOTIFICATION TO INDIVIDUALS.—

14 “(A) ELIGIBLE UNREGISTERED INDIVID-
15 UALS.—In the case of an applicable individual
16 who is eligible to vote in an election for Federal
17 office and who is not currently registered to
18 vote, the appropriate State election official shall
19 issue a notification to the individual con-
20 taining—

21 “(i) a statement that, unless the indi-
22 vidual notifies the election official prior to
23 the expiration of the 21-calendar-day pe-
24 riod which begins on the date the official
25 issued the notification that the individual

1 declines to be registered to vote in elections
2 for Federal office held in the State, the in-
3 dividual's records and signature will con-
4 stitute a completed registration for the in-
5 dividual; and

6 “(ii) a description of the process by
7 which the individual may decline to be reg-
8 istered to vote in elections for Federal of-
9 fice in the State.

10 “(B) ELIGIBLE INDIVIDUALS REGISTERED
11 AT A DIFFERENT ADDRESS.—In the case of an
12 applicable individual who is eligible to vote in
13 an election for Federal office and who is reg-
14 istered to vote in such election at a different
15 address than the address provided in the identi-
16 fying information, the appropriate State elec-
17 tion official shall issue a notification to the indi-
18 vidual containing—

19 “(i) a statement that, unless the indi-
20 vidual notifies the election official prior to
21 the expiration of the 21-calendar-day pe-
22 riod which begins on the date the official
23 issued the notification that the address
24 provided in the identifying information
25 should not be used for voter registration

1 purposes, the address provided in the iden-
2 tifying information shall be used as the in-
3 dividual's address for voter registration
4 purposes; and

5 “(ii) a description of the process by
6 which the individual may decline a change
7 of address for voter registration purposes.

8 “(c) AUTOMATIC REGISTRATION OF ELIGIBLE INDI-
9 VIDUALS; AUTOMATIC CHANGE OF ADDRESS.—

10 “(1) REGISTRATION.—Upon the expiration of
11 the 21-calendar-day period which begins on the date
12 the appropriate State election official issues a notifi-
13 cation to an individual under subsection (b)(2)(A),
14 the official shall ensure that the individual is reg-
15 istered to vote in elections for Federal office held in
16 the State unless—

17 “(A) the official later determines that the
18 individual does not meet the eligibility require-
19 ments for registering to vote in such elections;
20 or

21 “(B) prior to the expiration of such 21-cal-
22 endar-day period, the individual notifies the of-
23 ficial that the individual declines to be reg-
24 istered to vote in such elections.

1 “(2) CHANGE OF ADDRESS.—Upon the expira-
2 tion of the 21-calendar-day period which begins on
3 the date the appropriate State election official issues
4 a notification to an individual under subsection
5 (b)(2)(B), the official shall ensure that the indi-
6 vidual is registered to vote in elections for Federal
7 office at the address provided in the identifying in-
8 formation unless—

9 “(A) the official later determines that the
10 individual does not meet the eligibility require-
11 ments for registering to vote in such elections;
12 or

13 “(B) prior to the expiration of such 21-cal-
14 endar-day period, the individual notifies the of-
15 ficial that the individual declines a change of
16 address for voter registration purposes.

17 “(d) APPLICABLE INDIVIDUAL.—For purposes of this
18 section, the term ‘applicable individual’ means any indi-
19 vidual who seeks assistance from, receives benefits from,
20 or receives service or assistance from a State motor vehicle
21 authority that issues motor vehicle driver’s licenses.”.

22 (b) CONFORMING AMENDMENT RELATING TO TIM-
23 ING OF REGISTRATION PRIOR TO ELECTIONS.—Section
24 8(a)(1)(A) of such Act (52 U.S.C. 20507(a)(1)(A)) is
25 amended to read as follows:

1 “(A) in the case of registration through a
2 motor vehicle authority under section 5, if the
3 identifying information with respect to the indi-
4 vidual is transmitted by the authority to the ap-
5 propriate State election official under section
6 5(a)(1) not later than the lesser of 30 days, or
7 the period provided by State law, before the
8 date of the election;”.

9 (c) OTHER CONFORMING AMENDMENT.—Section
10 4(a)(1) of such Act (52 U.S.C. 20503(a)(1)) is amended
11 to read as follows:

12 “(1) through the State motor vehicle authority
13 pursuant to section 5;”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect upon the expiration of the
16 180-day period which begins on the date of the enactment
17 of this Act.

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