

117TH CONGRESS
1ST SESSION

S. 459

To amend the National Voter Registration Act of 1993 and the Help America Vote Act of 2002 to promote integrity in voter registration, the casting of ballots, and the tabulation of ballots in elections for Federal office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

Mr. SCOTT of Florida (for himself, Mrs. HYDE-SMITH, Mr. BARRASSO, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the National Voter Registration Act of 1993 and the Help America Vote Act of 2002 to promote integrity in voter registration, the casting of ballots, and the tabulation of ballots in elections for Federal office, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Save Democracy Act”.

6 (b) FINDINGS.—Congress finds the following:

1 (1) Congress recognizes that the legitimacy of
2 the United States representative democracy rests on
3 the integrity of our Federal elections and confidence
4 our citizens have in them.

5 (2) Consistent with article I, section 4, clause
6 1 of the Constitution of the United States and the
7 principles of federalism, primary authority to regu-
8 late Federal elections is reserved to the States, while
9 Congress' role is secondary.

10 (3) While exercising its primary role in deter-
11 mining the manner in which Federal elections shall
12 be carried out, States must seek to protect the fair-
13 ness, accessibility, and integrity of the elections.

14 (4) Congress should limit its secondary role in
15 regulating Federal elections to instances in which
16 State regulation of Federal elections has contributed
17 to or proven unsuccessful in preventing impropriety.

18 **SEC. 2. INTEGRITY IN VOTER REGISTRATION.**

19 (a) PROHIBITING AUTOMATIC VOTER REGISTRA-
20 TION.—Section 8 of the National Voter Registration Act
21 of 1993 (52 U.S.C. 20507) is amended—

22 (1) by redesignating subsection (j) as sub-
23 section (k); and

24 (2) by inserting after subsection (i) the fol-
25 lowing new subsection:

1 “(j) PROHIBITING REGISTRATION PURSUANT TO
2 AUTOMATIC VOTER REGISTRATION SYSTEM.—

3 “(1) PROHIBITION.—A State may not register
4 an individual to vote in elections for Federal office
5 pursuant to an automatic voter registration system.

6 “(2) DEFINITION.—In this subsection, an
7 ‘automatic voter registration system’ means, with re-
8 spect to a State, a system that registers an indi-
9 vidual to vote in elections for Federal office in the
10 State, if eligible, by electronically transferring the
11 information necessary for registration from govern-
12 ment agencies to election officials of the State so
13 that, unless the individual affirmatively declines to
14 be registered, the individual will be registered to vote
15 in such elections.”.

16 (b) PROHIBITING REGISTRATION TO VOTE OF INDI-
17 VIDUALS WHO FAIL TO PROVIDE PROOF OF UNITED
18 STATES CITIZENSHIP.—Section 8 of the National Voter
19 Registration Act of 1993 (52 U.S.C. 20507), as amended
20 by subsection (a), is amended—

21 (1) by redesignating subsection (k) as sub-
22 section (l); and

23 (2) by inserting after subsection (j) the fol-
24 lowing new subsection:

1 “(k) PROHIBITING REGISTRATION OF INDIVIDUALS
2 NOT PROVIDING PROOF OF UNITED STATES CITIZEN-
3 SHIP.—

4 “(1) PROHIBITION.—Notwithstanding any other
5 provision of this Act, a State may not register an in-
6 dividual to vote in elections for Federal office held
7 in the State unless, at the time the individual ap-
8 plies to register to vote, the individual provides docu-
9 mentary proof that the individual is a citizen of the
10 United States, which shall consist of any of the fol-
11 lowing (or a photocopy thereof):

12 “(A) A certified birth certificate issued by
13 a State or unit of local government in a State.

14 “(B) A valid United States passport.

15 “(C) A Consular Report of Birth Abroad
16 issued by the Secretary of State.

17 “(D) A Naturalization Certificate or Cer-
18 tificate of Citizenship issued by the Secretary of
19 Homeland Security.

20 “(2) APPLICABILITY.—Paragraph (1) applies
21 with respect to an individual who applies to register
22 to vote under section 5, 6, or 7 (including an indi-
23 vidual who submits the mail voter registration appli-
24 cation form prescribed by the Election Assistance
25 Commission pursuant to section 9), or who applies

1 under any other method of voter registration avail-
2 able in the State.”.

3 (c) REQUIRING APPLICANTS FOR VOTER REGISTRA-
4 TION TO PROVIDE FULL SOCIAL SECURITY NUMBERS.—

5 (1) REQUIREMENT.—Section 303(a)(5)(A) of
6 the Help America Vote Act of 2002 (52 U.S.C.
7 21083(a)(5)(A)) is amended to read as follows:

8 “(A) REQUIRING APPLICANTS TO PROVIDE
9 FULL SOCIAL SECURITY NUMBER.—Notwith-
10 standing any other provision of law, an applica-
11 tion for voter registration for an election for
12 Federal office may not be accepted or processed
13 by a State unless the application includes the
14 applicant’s full Social Security number.”.

15 (2) CONFORMING AMENDMENT RELATING TO
16 CERTAIN VOTERS REGISTERING BY MAIL.—Section
17 303(b)(3)(B)(i) of such Act (52 U.S.C.
18 21083(b)(3)(B)(i)) is amended by striking “either—
19 ” and all that follows through “; and” and inserting
20 “the individual’s full Social Security number; and”.

21 (3) CONFORMING AMENDMENT RELATING TO
22 WAIVER OF PRIVACY ACT.—Section 303(c) of such
23 Act (52 U.S.C. 21083(c)) is amended to read as fol-
24 lows:

1 “(c) PERMITTED USE OF SOCIAL SECURITY NUM-
 2 BERS.—Section 7 of the Privacy Act of 1974 (5 U.S.C.
 3 552a note) does not apply to the use of a Social Security
 4 number under subsection (a)(5)(A) or subsection
 5 (b)(3)(B)(i).”.

6 (d) ENSURING PROVISION OF INFORMATION TO
 7 STATE ELECTION OFFICIALS ON INDIVIDUALS RECUSED
 8 FROM JURY SERVICE ON GROUNDS OF NONCITIZEN-
 9 SHIP.—

10 (1) REQUIRING STATE ELECTION OFFICIALS TO
 11 COORDINATE INFORMATION ON RECUSAL AS PART
 12 OF MAINTENANCE OF STATEWIDE VOTER REGISTRA-
 13 TION LIST.—Subparagraph (A) of section 303(a)(2)
 14 of the Help America Vote Act of 2002 (52 U.S.C.
 15 21083(a)(2)) is amended—

16 (A) by redesignating clause (iii) as clause
 17 (iv); and

18 (B) by inserting after clause (ii) the fol-
 19 lowing new clause:

20 “(iii) For purposes of removing names
 21 of ineligible voters from the official list of
 22 eligible voters by reason of citizenship sta-
 23 tus, the State shall coordinate the comput-
 24 erized list with records of courts which
 25 have recused individuals from serving on a

1 jury on the grounds that the individuals
2 are not citizens of the United States.”.

3 (2) REQUIRING NOTIFICATION BY COURTS.—

4 (A) REQUIREMENT DESCRIBED.—If a
5 United States district court or a court of any
6 State or local jurisdiction recuses an individual
7 from serving on a jury on the grounds that the
8 individual is not a citizen of the United States,
9 the court shall transmit a notice of the individ-
10 ual’s recusal—

11 (i) to the chief State election official
12 of the State in which the individual re-
13 sides; and

14 (ii) to the Attorney General.

15 (B) DEFINITIONS.—For purposes of this
16 subsection—

17 (i) the “chief State election official”
18 of a State is the individual designated by
19 the State under section 10 of the National
20 Voter Registration Act of 1993 (52 U.S.C.
21 20509) to be responsible for coordination
22 of the State’s responsibilities under such
23 Act; and

24 (ii) the term “State” means each of
25 the several States, the District of Colum-

1 bia, the Commonwealth of Puerto Rico,
2 American Samoa, Guam, the United States
3 Virgin Islands, and the Commonwealth of
4 the Northern Mariana Islands.

5 (e) EFFECTIVE DATE.—This section and the amend-
6 ments made by this section shall take effect on the date
7 of the enactment of this Act, and shall apply with respect
8 to applications for voter registration which are submitted
9 on or after such date.

10 **SEC. 3. INTEGRITY IN CASTING OF BALLOTS.**

11 (a) PROMOTING INTEGRITY IN CASTING OF BAL-
12 LOTS.—Title III of the Help America Vote Act of 2002
13 (52 U.S.C. 21081 et seq.) is amended—

14 (1) by redesignating sections 304 and 305 as
15 sections 305 and 306; and

16 (2) by inserting after section 303 the following
17 new section:

18 **“SEC. 304. PROMOTING INTEGRITY IN CASTING OF BAL-**
19 **LOTS.**

20 “(a) REQUIRING PROVISION OF IDENTIFICATION AS
21 CONDITION OF VOTING.—

22 “(1) INDIVIDUALS VOTING IN PERSON.—Not-
23 withstanding any other provision of law, the appro-
24 priate State or local election official may not provide
25 a ballot for an election for Federal office to an indi-

1 vidual who desires to vote in person unless the indi-
2 vidual presents to the official a current and valid
3 identification.

4 “(2) INDIVIDUALS VOTING OTHER THAN IN
5 PERSON.—Notwithstanding any other provision of
6 law, the appropriate State or local election official
7 may not accept any ballot for an election for Federal
8 office provided by an individual who votes other than
9 in person unless the individual submits with the bal-
10 lot a copy of a current and valid identification.

11 “(3) CURRENT AND VALID IDENTIFICATION DE-
12 FINED.—In this subsection, a ‘current and valid
13 identification’ means a current and valid version of
14 any of the following:

15 “(A) An identification issued by a State or
16 a unit of local government in a State.

17 “(B) A United States passport.

18 “(C) A military identification card.

19 “(D) An identification issued by a tribal
20 government.

21 “(b) PROHIBITING DELIVERY OF BALLOTS BY MAIL
22 UNLESS REQUESTED.—A State may not deliver a ballot
23 in an election for Federal office to an individual by mail
24 unless the individual requests that the State deliver the
25 ballot to the individual by mail.

1 “(c) PROHIBITING USE OF DROP BOXES FOR COL-
2 LECTION OF BALLOTS.—A State may not use a drop box
3 for the collection of voted absentee ballots in an election
4 for Federal office unless the drop box is located inside a
5 building which serves as an office for a State or local elec-
6 tion official.

7 “(d) RESTRICTIONS ON DELIVERY OF VOTED BAL-
8 LOTS BY THIRD PARTIES.—A State may not accept a
9 voted absentee ballot in an election for Federal office
10 which is delivered in person to an election official by any
11 individual other than the voter to whom the ballot was
12 transmitted, other than an individual described as follows:

13 “(1) An election official while engaged in offi-
14 cial duties as authorized by law.

15 “(2) An employee of the United States Postal
16 Service while engaged in official duties as authorized
17 by law.

18 “(3) Any other individual who is allowed by law
19 to collect and transmit United States mail, while en-
20 gaged in official duties as authorized by law.

21 “(e) PROHIBITING ACCEPTANCE OF ABSENTEE BAL-
22 LOTS RECEIVED AFTER DATE OF ELECTION.—A State
23 may not accept a voted absentee ballot in an election for
24 Federal office which is not received by the appropriate

1 State or local election official prior to the time at which
2 the polls in the election close on the date of the election.

3 “(f) USE OF SOCIAL SECURITY NUMBERS TO CROSS-
4 CHECK IDENTIFICATIONS OF INDIVIDUALS CASTING BAL-
5 LOTS IN AN ELECTION WITH INDIVIDUALS REGISTERED
6 TO VOTE IN THE ELECTION.—

7 “(1) REQUIREMENT.—Immediately upon the
8 closing of the polls in an election for Federal office,
9 each State shall verify the identification of each indi-
10 vidual who cast a ballot in the election by carrying
11 out a cross-check of the individual’s identification
12 with the individual’s identification in the official list
13 of individuals who are registered to vote in the elec-
14 tion, using the individual’s full Social Security num-
15 ber as the method for determining the individual’s
16 identification.

17 “(2) REPORT TO CONGRESS.—Not later than 7
18 days after the closing of the polls in an election for
19 Federal office, the State shall submit to the Com-
20 mittee on House Administration of the House of
21 Representatives and the Committee on Rules and
22 Administration of the Senate a report on the State’s
23 compliance with subsection (a), and shall include in
24 the report—

1 “(A) the percentage of individuals who cast
2 votes in the election whose identifications were
3 verified by the State under such subsection; and

4 “(B) the number of individuals who cast
5 votes in the election, or who attempted to cast
6 votes in the election, whose identifications could
7 not be verified by the State under such sub-
8 section.

9 “(g) EXCEPTION FOR ABSENT MILITARY AND OVER-
10 SEAS VOTERS.—This section does not apply with respect
11 to any individual who is entitled to vote by absentee ballot
12 under the Uniformed and Overseas Citizens Absentee Vot-
13 ing Act (52 U.S.C. 20301 et seq.).

14 “(h) EFFECTIVE DATE.—This section shall apply
15 with respect to the regularly scheduled general election for
16 Federal office held in 2022 and any succeeding election
17 for Federal office.”.

18 (b) CONFORMING AMENDMENT RELATING TO EXIST-
19 ING IDENTIFICATION REQUIREMENTS.—Section 303 of
20 such Act (52 U.S.C. 21083) is amended—

21 (1) by striking subsection (b); and

22 (2) in subsection (c), as amended by section
23 2(c)(3), by striking “or subsection (b)(3)(B)(i)”.

24 (c) CONFORMING AMENDMENT RELATING TO EN-
25 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)

1 is amended by striking “and 303” and inserting “303, and
2 304”.

3 (d) CLERICAL AMENDMENT.—The table of contents
4 of such Act is amended—

5 (1) by redesignating the items relating to sec-
6 tions 304 and 305 as relating to sections 305 and
7 306; and

8 (2) by inserting after the item relating to sec-
9 tion 303 the following:

“Sec. 304. Promoting integrity in casting of ballots.”.

10 **SEC. 4. INTEGRITY IN TABULATION OF BALLOTS.**

11 (a) PROMOTING INTEGRITY.—Title III of the Help
12 America Vote Act of 2002 (52 U.S.C. 21081 et seq.), as
13 amended by section 3(a), is amended—

14 (1) by redesignating sections 305 and 306 as
15 sections 306 and 307; and

16 (2) by inserting after section 304 the following
17 new section:

18 **“SEC. 305. PROMOTING INTEGRITY IN TABULATION OF BAL-**
19 **LOTS.**

20 “(a) MINIMUM PRESENCE OF ELECTION OBSERV-
21 ERS.—The appropriate State or local election official shall
22 permit at least 2 representatives of each candidate appear-
23 ing on the ballot in a general election for Federal office
24 to observe the tabulation of the ballots in the election.

1 “(b) CONTINUOUS TABULATION OF BALLOTS UNTIL
2 COMPLETION.—

3 “(1) IN GENERAL.—Upon the closing of the
4 polls on the date of an election for Federal office,
5 the appropriate State or local election official shall
6 continue the tabulation of the ballots cast in the
7 election without interruption (other than an inter-
8 ruption caused by an emergency affecting the health
9 or safety of the election officials carrying out the
10 tabulation) until each lawfully cast ballot has been
11 tabulated.

12 “(2) EXCEPTION FOR PROVISIONAL BALLOTS.—
13 Paragraph (1) does not apply with respect to the
14 tabulation of any provisional ballot cast in the elec-
15 tion.

16 “(c) POST-ELECTION AUDIT.—Not later than 30
17 days after each election for Federal office held in the
18 State, each State shall conduct and publish an audit of
19 the effectiveness and accuracy of the voting systems used
20 to carry out the election and the performance of the State
21 and local election officials who carried out the election.

22 “(d) EFFECTIVE DATE.—This section shall apply
23 with respect to the regularly scheduled general election for
24 Federal office held in 2022 and any succeeding election
25 for Federal office.”.

1 (b) CONFORMING AMENDMENT RELATING TO EN-
2 FORCEMENT.—Section 401 of such Act (52 U.S.C.
3 21111), as amended by section 3(c), is amended by strik-
4 ing “and 304” and inserting “304, and 305”.

5 (c) CLERICAL AMENDMENT.—The table of contents
6 of such Act, as amended by section 3(d), is amended—

7 (1) by redesignating the items relating to sec-
8 tions 305 and 306 as relating to section 306 and
9 307; and

10 (2) by inserting after the item relating to sec-
11 tion 304 the following new item:

“Sec. 305. Promoting integrity in tabulation of ballots.”.

