

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.

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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

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## 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

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

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

“(c) STATE OPTION TO DECLARE EMERGENCY VOTING PERIOD.—

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

