

117TH CONGRESS
1ST SESSION

H. R. 3867

To amend the Help America Vote Act of 2002 to prohibit a State from establishing certain restrictions on voting by mail in an election for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2021

Mrs. DEMINGS (for herself and Mr. SARBANES) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Help America Vote Act of 2002 to prohibit a State from establishing certain restrictions on voting by mail in an election 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.**

4 This Act may be cited as the “Every Vote Counts
5 Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Congress has the authority under article 1,
4 section 4 of the Constitution of the United States to
5 enact laws governing the time, place, and manner of
6 Federal elections.

7 (2) Congress has the authority under section 2
8 of the 15th Amendment to enforce the right of citi-
9 zens of the United States to vote, which shall not be
10 denied or abridged by the United States, by legisla-
11 tion.

12 (3) Section 1 of the 14th Amendment guaran-
13 tees due process of law and equal protection of the
14 laws.

15 (4) The right to vote is the foundation of Amer-
16 ican democracy. Voting provides the citizenry with a
17 vital check on their elected officials and grants peo-
18 ple the political power necessary to exercise and de-
19 fend the rights guaranteed by the United States
20 Constitution.

21 (5) As Dr. Martin Luther King Jr. explained in
22 a speech delivered on May 17, 1957, “So long as I
23 do not firmly and irrevocably possess the right to
24 vote I do not possess myself. I cannot make up my
25 mind—it is made up for me. I cannot live as a

1 democratic citizen, observing the laws I have helped
2 to enact—I can only submit to the edict of others”.

3 (6) The right to vote for all Americans is fun-
4 damental and rules for voting and election adminis-
5 tration should protect the right to vote and promote
6 voter participation.

7 (7) Waiting in long lines discourages people
8 from voting, undermines confidence in the electoral
9 system, and imposes economic costs on voters.

10 (8) Multiple studies have shown that voters of
11 all races are more likely to wait in line to vote longer
12 in counties with higher population density, and
13 Latino and Black voters disproportionately live in
14 these areas.

15 (9) One way voting in communities of color has
16 been suppressed is through long waits at polling lo-
17 cations. Studies have shown a number of contrib-
18 uting factors, including the drastic reduction of early
19 voting days, poor allocation of resources to certain
20 communities, cuts to election funding, and a reduc-
21 tion of polling locations.

22 (10) These problems led to the creation of the
23 bipartisan Presidential Commission on Election Ad-
24 ministration, which issued a 2014 report that set

1 forth a standard: “No citizen should have to wait
2 more than 30 minutes to vote”.

3 (11) Basic constitutional principles of fairness
4 and equal protection require an equal opportunity
5 for citizens of the United States to vote in Federal
6 elections. The right to vote may not be abridged or
7 denied by the United States or by any State on ac-
8 count of race, color, gender, or previous condition of
9 servitude. The 13th, 14th, 15th, 19th, 24th, and
10 26th Amendments to the Constitution empower Con-
11 gress to enact measures to protect the right to vote
12 in Federal elections. The 8th Amendment to the
13 Constitution provides for no excessive bail to be re-
14 quired, nor excessive fines imposed, nor cruel and
15 unusual punishments inflicted.

16 (12) American Indian and Alaska Native voters
17 face unique obstacles in a vote-by-mail system. Trib-
18 al communities in rural areas often do not have tra-
19 ditional residential mailing addresses and have lim-
20 ited access to transportation. Tribal members have
21 distant rural post offices, slow mail routes, limited
22 numbers of post office operation, and too few post
23 office boxes. As a result, rural Tribal communities
24 require distinct voting accommodations to ensure
25 participation in a vote-by-mail system.

1 (13) The Cybersecurity and Infrastructure Se-
2 curity Agency Elections Infrastructure Government
3 Coordinating Council and Sector Coordinating Coun-
4 cils Joint COVID Working Group designated ballot
5 drop boxes are a secure and convenient means for
6 votes to return their mail ballot.

7 (14) The Cybersecurity and Infrastructure Se-
8 curity Agency Elections Infrastructure Government
9 Coordinating Council and Sector Coordinating Coun-
10 cils Joint COVID Working Group says best practices
11 require one drop box for every 15,000 voters and no
12 more than 50 miles in between drop boxes in rural
13 areas.

14 **SEC. 3. ABSENTEE BALLOT TRACKING PROGRAM.**

15 (a) REQUIREMENTS.—Subtitle A of title III of the
16 Help America Vote Act of 2002 (52 U.S.C. 21081 et seq.)
17 is amended—

18 (1) by redesignating sections 304 and 305 as
19 sections 305 and 306, respectively; and

20 (2) by inserting after section 303 the following
21 new section:

22 **“SEC. 304. ABSENTEE BALLOT TRACKING PROGRAM.**

23 “(a) REQUIREMENT.—Each State shall carry out a
24 program to track and confirm the receipt of absentee bal-
25 lots in an election for Federal office under which the State

1 or local election official responsible for the receipt of voted
2 absentee ballots in the election carries out procedures to
3 track and confirm the receipt of such ballots, and makes
4 information on the receipt of such ballots available to the
5 individual who cast the ballot, by means of online access
6 using the Internet site of the official's office.

7 “(b) INFORMATION ON WHETHER VOTE WAS
8 COUNTED.—The information referred to under subsection
9 (a) with respect to the receipt of an absentee ballot shall
10 include information regarding whether the vote cast on the
11 ballot was counted, and, in the case of a vote which was
12 not counted, the reasons therefor.

13 “(c) USE OF TOLL-FREE TELEPHONE NUMBER BY
14 OFFICIALS WITHOUT INTERNET SITE.—A program estab-
15 lished by a State or local election official whose office does
16 not have an Internet site may meet the requirements of
17 subsection (a) if the official has established a toll-free tele-
18 phone number that may be used by an individual who cast
19 an absentee ballot to obtain the information on the receipt
20 of the voted absentee ballot as provided under such sub-
21 section.

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

1 (b) REIMBURSEMENT FOR COSTS INCURRED BY
 2 STATES IN ESTABLISHING PROGRAM.—Subtitle D of title
 3 II of the Help America Vote Act of 2002 (42 U.S.C.
 4 15401 et seq.) is amended by adding at the end the fol-
 5 lowing new part:

6 **“PART 7—PAYMENTS TO REIMBURSE STATES**
 7 **FOR COSTS INCURRED IN ESTABLISHING**
 8 **PROGRAM TO TRACK AND CONFIRM RE-**
 9 **CEIPT OF ABSENTEE BALLOTS**

10 **“SEC. 297. PAYMENTS TO STATES.**

11 “(a) PAYMENTS FOR COSTS OF PROGRAM.—In ac-
 12 cordance with this section, the Commission shall make a
 13 payment to a State to reimburse the State for the costs
 14 incurred in establishing the absentee ballot tracking pro-
 15 gram under section 305 (including costs incurred prior to
 16 the date of the enactment of this part).

17 “(b) CERTIFICATION OF COMPLIANCE AND COSTS.—

18 “(1) CERTIFICATION REQUIRED.—In order to
 19 receive a payment under this section, a State shall
 20 submit to the Commission a statement containing—

21 “(A) a certification that the State has es-
 22 tablished an absentee ballot tracking program
 23 with respect to elections for Federal office held
 24 in the State; and

1 “(B) a statement of the costs incurred by
2 the State in establishing the program.

3 “(2) AMOUNT OF PAYMENT.—The amount of a
4 payment made to a State under this section shall be
5 equal to the costs incurred by the State in estab-
6 lishing the absentee ballot tracking program, as set
7 forth in the statement submitted under paragraph
8 (1), except that such amount may not exceed the
9 product of—

10 “(A) the number of jurisdictions in the
11 State which are responsible for operating the
12 program; and

13 “(B) \$3,000.

14 “(3) LIMIT ON NUMBER OF PAYMENTS RE-
15 CEIVED.—A State may not receive more than one
16 payment under this part.

17 **“SEC. 297A. AUTHORIZATION OF APPROPRIATIONS.**

18 “(a) AUTHORIZATION.—There are authorized to be
19 appropriated to the Commission for fiscal year 2022 and
20 each succeeding fiscal year such sums as may be necessary
21 for payments under this part.

22 “(b) CONTINUING AVAILABILITY OF FUNDS.—Any
23 amounts appropriated pursuant to the authorization under
24 this section shall remain available until expended.”.

1 (c) CONFORMING AMENDMENT RELATING TO EN-
 2 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
 3 is amended by striking “sections 301, 302, and 303” and
 4 inserting “subtitle A of title III”.

5 (d) CLERICAL AMENDMENTS.—The table of contents
 6 of such Act is amended—

7 (1) by adding at the end of the items relating
 8 to subtitle D of title II the following:

“PART 7—PAYMENTS TO REIMBURSE STATES FOR COSTS INCURRED IN ES-
 TABLISHING PROGRAM TO TRACK AND CONFIRM RECEIPT OF ABSENTEE
 BALLOTS

“Sec. 297. Payments to States.

“Sec. 297A. Authorization of appropriations.”;

9 (2) by redesignating the items relating to sec-
 10 tions 304 and 305 as relating to sections 305 and
 11 306, respectively; and

12 (3) by inserting after the item relating to sec-
 13 tion 303 the following new item:

“Sec. 304. Absentee ballot tracking program.”.

14 **SEC. 4. REQUIRING STATES TO PROVIDE SECURED DROP**
 15 **BOXES FOR VOTED ABSENTEE BALLOTS IN**
 16 **ELECTIONS FOR FEDERAL OFFICE.**

17 (a) REQUIREMENT.—Subtitle A of title III of the
 18 Help America Vote Act of 2002 (52 U.S.C. 21081 et seq.),
 19 as amended by section 3(a), is amended—

20 (1) by redesignating sections 305 and 306 as
 21 sections 306 and 307, respectively; and

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

3 **“SEC. 305. USE OF SECURED DROP BOXES FOR VOTED AB-**
4 **SENTEE BALLOTS.**

5 “(a) **REQUIRING USE OF DROP BOXES.**—In each
6 county in the State, each State shall provide in-person,
7 secured, and clearly labeled drop boxes at which individ-
8 uals may, at any time during the period described in sub-
9 section (b), drop off voted absentee ballots in an election
10 for Federal office.

11 “(b) **MINIMUM PERIOD FOR AVAILABILITY OF DROP**
12 **BOXES.**—The period described in this subsection is, with
13 respect to an election, the period which begins 45 days
14 before the date of the election and which ends at the time
15 the polls close for the election in the county involved.

16 “(c) **ACCESSIBILITY.**—

17 “(1) **IN GENERAL.**—Each State shall ensure
18 that the drop boxes provided under this section are
19 accessible for use—

20 “(A) by individuals with disabilities, as de-
21 termined in consultation with the protection
22 and advocacy systems (as defined in section 102
23 of the Developmental Disabilities Assistance
24 and Bill of Rights Act of 2000 (42 U.S.C.
25 15002)) of the State; and

1 “(B) by individuals with limited proficiency
2 in the English language.

3 “(2) DETERMINATION OF ACCESSIBILITY FOR
4 INDIVIDUALS WITH DISABILITIES.—For purposes of
5 this subsection, drop boxes shall be considered to be
6 accessible for use by individuals with disabilities if
7 the drop boxes meet such criteria as the Attorney
8 General may establish for such purposes.

9 “(3) RULE OF CONSTRUCTION.—If a State pro-
10 vides a drop box under this section on the grounds
11 of or inside a building or facility which serves as a
12 polling place for an election during the period de-
13 scribed in subsection (b), nothing in this subsection
14 may be construed to waive any requirements regard-
15 ing the accessibility of such polling place for the use
16 of individuals with disabilities or individuals with
17 limited proficiency in the English language.

18 “(d) NUMBER OF DROP BOXES.—

19 “(1) FORMULA FOR DETERMINATION OF NUM-
20 BER.—The number of drop boxes provided under
21 this section in a county with respect to an election
22 shall be determined as follows:

23 “(A) In the case of a county in which the
24 number of individuals who are residents of the
25 county and who are registered to vote in the

1 election is equal to or greater than 20,000, the
2 number of drop boxes shall be a number equal
3 to or greater than the number of such individ-
4 uals divided by 20,000 (rounded to the nearest
5 whole number).

6 “(B) In the case of any other county, the
7 number of drop boxes shall be equal to or
8 greater than one.

9 “(2) TIMING.—For purposes of this subsection,
10 the number of individuals who reside in a county
11 and who are registered to vote in the election shall
12 be determined as of the 90th day before the date of
13 the election.

14 “(e) LOCATION OF DROP BOXES.—The State shall
15 determine the location of drop boxes provided under this
16 section in a county on the basis of criteria which ensure
17 that the drop boxes are—

18 “(1) available to all voters on a non-discrimina-
19 tory basis;

20 “(2) accessible to voters with disabilities (in ac-
21 cordance with subsection (c));

22 “(3) accessible by public transportation to the
23 greatest extent possible;

24 “(4) available during all hours of the day; and

1 “(5) sufficiently available in all communities in
2 the county, including rural communities and on
3 Tribal lands within the county (subject to subsection
4 (f)).

5 “(f) RULES FOR DROP BOXES ON TRIBAL LANDS.—
6 In making a determination of the number and location of
7 drop boxes provided under this section on Tribal lands in
8 a county, the appropriate State and local election officials
9 shall—

10 “(1) consult with Tribal leaders prior to making
11 the determination; and

12 “(2) take into account criteria such as the
13 availability of direct-to-door residential mail delivery,
14 the distance and time necessary to travel to the drop
15 box locations (including in inclement weather),
16 modes of transportation available, conditions of
17 roads, and the availability (if any) of public trans-
18 portation.

19 “(g) POSTING OF INFORMATION.—On or adjacent to
20 each drop box provided under this section, the State shall
21 post information on the requirements that voted absentee
22 ballots must meet in order to be counted and tabulated
23 in the election.

24 “(h) EFFECTIVE DATE.—This section shall apply
25 with respect to the regularly scheduled general election for

1 Federal office held in November 2022 and each succeeding
2 election for Federal office.”.

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

5 (1) by redesignating the items relating to sec-
6 tions 305 and 306 as relating to sections 306 and
7 307, respectively; and

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

“Sec. 305. Use of secured drop boxes for voted absentee ballots.”.

10 **SEC. 5. DEVELOPMENT OF ALTERNATIVE VERIFICATION**
11 **METHODS.**

12 (a) DEVELOPMENT OF STANDARDS.—The National
13 Institute of Standards, in consultation with the Election
14 Assistance Commission, shall develop standards for the
15 use of alternative methods which could be used in place
16 of signature verification requirements for purposes of
17 verifying the identification of an individual voting by ab-
18 sentee ballot in elections for Federal office.

19 (b) PUBLIC NOTICE AND COMMENT.—The National
20 Institute of Standards shall solicit comments from the
21 public in the development of standards under paragraph
22 (1).

23 (c) DEADLINE.—Not later than one year after the
24 date of the enactment of this Act, the National Institute

1 of Standards shall publish the standards developed under
2 paragraph (1).

