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

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. REQUIREMENTS FOR FEDERAL ELECTION CONTINGENCY PLANS IN RESPONSE TO COVID-19.

(a) In General.—Not later than 30 days after the date of the enactment of this Act, each State and jurisdiction shall establish and make publicly available a contin-
1. A contingency plan to enable individuals to vote in elections for Federal office in any case in which a significant number of individuals in such State or jurisdiction are unable to vote because—

   (1) they are under a quarantine that is—
      (A) imposed by a government order in response to the coronavirus disease 2019 (referred to in this section as “COVID-19”); or
      (B) recommended by a government official or public health expert in response to COVID-19; or
   (2) their polling place is closed because poll workers or election officials are under a quarantine that is—
      (A) imposed by a government order in response to COVID-19; or
      (B) recommended by a government official or public health expert in response to COVID-19.

(b) Requirement to Plan for Voters to Be Able to Request Absentee Ballots Online and Vote by Mail.—The contingency plan established under subsection (a) shall—

   (1) permit all individuals who are registered to vote to—
(A) submit an online request for an absentee ballot; and

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

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

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

(d) ENFORCEMENT.—The Attorney General may bring a civil action against any State or jurisdiction in an appropriate United States District Court for such declaratory and injunctive relief (including a temporary restraining order, a permanent or temporary injunction, or other order) as may be necessary to carry out the requirements of this section.

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

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

SECTION 321. NO-EXCUSE ABSENTEE VOTING DURING NATIONAL EMERGENCIES.

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

“(1) permit any eligible voter to use absentee registration procedures and to vote by absentee ballot; and

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

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

“(b) Period described.—

“(1) In general.—A period described in this subsection is a period—

“(A) subject to paragraph (2), that begins with the date that is 30 days after the date on which at least 25 percent of States have declared an emergency (under the laws of the
State) with respect to any single natural disaster or infectious disease (including the coronavirus disease 2019 (referred to in this section as ‘COVID-19’)); and

“(B) that ends with—

“(i) in the case of a State that did not declare an emergency with respect to the single natural disaster or infectious disease described in subparagraph (A), 180 days after the first date on which less than 25 percent of States have an emergency declaration in effect with respect to such natural disaster or disease; and

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

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

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

“(2) SPECIAL PERIOD.—If, as of the date of enactment of this section, at least 25 percent of States 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—
“(A) permit any eligible voter to use absentee registration procedures and to vote by absentee ballot; and

“(B) comply with the requirements of subsection (d).

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

“(2) EMERGENCY VOTING PERIOD.—

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

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

“(ii) invoking the authority provided under this subsection to apply the absentee registration procedures and absentee voting requirements described in paragraph (1) to the State.

“(B) DURATION OF EMERGENCY VOTING PERIOD.—An emergency voting period declared
by a Governor of a State under subparagraph (A)—

“(i) shall begin on the date that is 30 days after the Governor declares the emergency voting period in accordance with subparagraph (A); and

“(ii) shall end on the later of—

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

“(II) if applicable, the date on which the period described in subsection (b) ends.

“(d) Absentee Registration and Voting Requirements.—The requirements described in this subsection are the following:

“(1) Deadline for Absentee Ballots.—If a ballot submitted by an individual by mail with respect to an election for Federal office in the State is postmarked on or before the date of the election, the State may not refuse to accept or process the ballot on the grounds that the individual did not meet a deadline for returning the ballot to the appropriate State or local election official.
“(2) Absentee ballot requests.—The State shall—

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

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

“(C) on or before the date that is 1 day before the date of an election for Federal office in the State, permit any eligible voter that submits a request for an absentee ballot to vote in such election to download or receive via electronic mail a version of such ballot that the voter may print out and mail in.

“(3) No excuse required.—The State shall not require that an eligible voter provide a reason in order to vote by absentee ballot or request to receive an absentee ballot.

“(4) No write-in ballots.—Any absentee ballot for an election for Federal office in the State that is provided to an eligible voter pursuant to
paragraph (2) shall include the name of each candidate for such office.

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

“(f) PRIVATE RIGHT OF ACTION.—

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

“(2) RELIEF.—If the violation is not corrected within 20 days after receipt of a notice under paragraph (1), or within 5 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may, in a civil action, obtain declaratory or injunctive relief with respect to the violation.”.

(b) ENFORCEMENT BY ATTORNEY GENERAL.—Section 401 of the Help America Vote Act of 2002 (52 U.S.C. 21111) is amended by striking “and 303” and inserting “303, and 321”.
11

c) CLERICAL AMENDMENT.—The table of contents
of the Help America Vote Act of 2002 is amended by in-
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

FOR ABSENTEE BALLOTS.

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

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

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

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

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

“(b) STATE.—For purposes of this section, the term
‘State’ includes the District of Columbia, the Common-
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:
18 “Sec. 304. Use of prepaid self-sealing return envelopes.”.
19 SEC. 5. REIMBURSEMENTS TO STATES.
20 (a) IN GENERAL.—Subtitle D of title II of the Help
21 America Vote Act of 2002 (52 U.S.C. 21001 et seq.) is
22 amended by adding at the end the following:
“PART 7—REIMBURSEMENTS FOR CERTAIN
FEDERAL ELECTION EXPENDITURES

“SEC. 297. REIMBURSEMENTS.

“(a) In general.—The Commission shall make pay-
ments to each State equal to the following costs incurred
by the State (and local jurisdictions within the State):

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

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

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

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

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

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

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

“(c) Pass-through of funds to local jurisdictions.—
“(1) IN GENERAL.—Subject to paragraph (2), if a State receives a payment under this section for costs that include costs incurred by a local jurisdiction within the State, the State shall pass through to such local jurisdiction a portion of such payment that is equal to the amount of the costs incurred by such local jurisdiction.

“(2) INSUFFICIENT FUNDS.—If a State receives a payment for a period under this section that, as a result of the application of subsection (d), is less than the aggregate amount of costs described in subsection (a) for such State for such period, than the portion of such payment that the State is required to pass through to a local jurisdiction under paragraph (1) shall not exceed the amount which bears the same ratio to the total amount of costs incurred by such local jurisdiction for such period as—

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

“(B) the aggregate amount of costs described in subsection (a) for such State for such period.

“(d) INSUFFICIENT FUNDS.—If the amount appropriated under section 298 exceeds the aggregate costs in-
curred by all States for the amounts described in sub-
section (a) for any period, the amount of payment made
under such subsection to each State shall not exceed the
amount which bears the same ratio to the aggregate
amount of costs described in subsection (a) for such State
for such period as—

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

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

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

“SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

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

“(b) AVAILABILITY OF FUNDS.—Amounts appro-
priated pursuant to the authorization under this section
shall remain available, without fiscal year limitation, until
fiscal year 2030.”.
(b) CLERICAL AMENDMENT.—The table of contents of the Help America Vote Act of 2002 is amended by inserting after the item relating to section 296 the following:

"PART 7—BALLOT TRACKING REIMBURSEMENTS

"Sec. 297. Reimbursements.
"Sec. 298. Authorization of appropriations."