

116TH CONGRESS
1ST SESSION

S. 1397

To amend the Help America Vote Act of 2002 to provide for a national Federal write-in absentee ballot for domestic use.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2019

Ms. KLOBUCHAR (for herself, Mrs. FEINSTEIN, Mr. KING, Mr. BROWN, Mr. UDALL, Mr. MERKLEY, Mr. WYDEN, and Mr. BENNET) 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 provide for a national Federal write-in absentee ballot for domestic use.

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. FEDERAL WRITE-IN ABSENTEE BALLOT FOR**
4 **DOMESTIC USE.**

5 (a) IN GENERAL.—

6 (1) IN GENERAL.—Title III of the Help Amer-
7 ica Vote Act of 2002 (52 U.S.C. 21081) is amended
8 by adding at the end the following new subtitle:

“Subtitle C—Additional Requirements

“SEC. 321. USE OF NATIONAL FEDERAL WRITE-IN ABSEN- TEE BALLOT FOR DOMESTIC USE.

“(a) IN GENERAL.—Each State shall permit qualified individuals to use the national Federal write-in absentee ballot prescribed by the Election Assistance Commission under section 298 to cast a vote in any election for Federal office.

“(b) QUALIFIED INDIVIDUAL.—For purposes of this section:

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘qualified individual’ means any individual who is otherwise qualified to vote in a Federal election in a State and who—

“(A) resides in an area of a State with respect to which an emergency has been declared by the Governor of the State (with respect to any portion of the State) due to a natural disaster, including severe weather;

“(B) expects to be absent from such individual’s jurisdiction on the day of the election for Federal office due to professional or volunteer service in response to a natural disaster or emergency as so declared;

1 “(C) expects to be hospitalized on the day
2 of the election for Federal office; or

3 “(D)(i) has requested an absentee ballot
4 from the State or jurisdiction where such indi-
5 vidual is registered to vote; and

6 “(ii) has not received such absentee ballot
7 before a date on which such individual can re-
8 turn such ballot in time to be counted in the
9 election.

10 “(2) COORDINATION WITH FEDERAL WRITE-IN
11 BALLOT FOR ABSENT UNIFORMED SERVICES AND
12 OVERSEAS VOTERS.—The term ‘qualified individual’
13 shall not include an individual who—

14 “(A) is an absent uniformed services voter
15 (as defined in section 107(1) of the Uniformed
16 and Overseas Citizens Absentee Voting Act (52
17 U.S.C. 20310(1))) or an overseas voter (as de-
18 fined in section 107(5) of such Act (52 U.S.C.
19 20310(5))); and

20 “(B) who is entitled to vote using the Fed-
21 eral write-in absentee ballot developed under
22 section 103 of such Act (52 U.S.C. 20303).

23 “(c) SUBMISSION AND PROCESSING.—

24 “(1) IN GENERAL.—Except as otherwise pro-
25 vided in this section, a national Federal write-in ab-

1 absentee ballot to which this section applies shall be
2 submitted and processed in the manner provided by
3 law for absentee ballots in the State involved.

4 “(2) DEADLINE.—An otherwise eligible national
5 Federal write-in absentee ballot to which this section
6 applies shall be counted if postmarked or signed be-
7 fore the close of the polls on election day and re-
8 ceived by the appropriate State election official on or
9 before the day on which final vote totals are required
10 by law to be submitted to the State for an official
11 canvass of the election.

12 “(d) SPECIAL RULES.—The following rules shall
13 apply with respect to national Federal write-in absentee
14 ballots to which this section applies:

15 “(1) In completing the ballot, the voter may
16 designate a candidate by writing in the name of the
17 candidate or by writing in the name of a political
18 party (in which case the ballot shall be counted for
19 the candidate of that political party).

20 “(2) In the case of the offices of President and
21 Vice President, a vote for a named candidate or a
22 vote by writing in the name of a political party shall
23 be counted as a vote for the electors supporting the
24 candidate involved.

1 “(3) Any abbreviation, misspelling, or other
 2 minor variation in the form of the name of a can-
 3 didate or a political party shall be disregarded in de-
 4 termining the validity of the ballot.

5 “(e) PROHIBITING REFUSAL TO ACCEPT BALLOT
 6 FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A
 7 State shall not refuse to accept and process any otherwise
 8 valid Federal write-in absentee ballot submitted in any
 9 manner by a qualified individual solely on the basis of the
 10 following:

11 “(1) Notarization requirements.

12 “(2) Restrictions on paper type, including
 13 weight and size.

14 “(3) Restrictions on envelope type, including
 15 weight and size.

16 “(f) EFFECTIVE DATE.—Each State shall be re-
 17 quired to comply with the requirements of this section on
 18 and after January 1, 2020.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 401 of the Help America Vote
 21 Act of 2002 (52 U.S.C. 21111) is amended by
 22 striking “and 303” and inserting “303, and
 23 subtitle C”.

1 (B) The table of contents for such Act is
 2 amended by inserting after the item relating to
 3 section 312 the following:

“Subtitle C—Additional Requirements

“Sec. 321. Use of national Federal write-in absentee ballot for domestic use.”.

4 (b) FORM OF NATIONAL FEDERAL WRITE-IN ABSEN-
 5 TEE BALLOT.—

6 (1) IN GENERAL.—Title II of the Help America
 7 Vote Act of 2002 (52 U.S.C. 20921) is amended by
 8 adding at the end the following new subtitle:

9 **“Subtitle E—National Federal**
 10 **Write-In Absentee Ballot for Do-**
 11 **mestic Use**

12 **“SEC. 297. NATIONAL FEDERAL WRITE-IN ABSENTEE BAL-**
 13 **LOT FOR DOMESTIC USE.**

14 “(a) FORM OF BALLOT.—

15 “(1) IN GENERAL.—The Commission shall pre-
 16 scribe a national Federal write-in absentee ballot
 17 (including a secrecy envelope and mailing envelope
 18 for such ballot) for use in elections for Federal office
 19 by qualified individuals (as defined in section
 20 321(b)).

21 “(2) EMERGENCY DESIGNATION.—The ballot
 22 prescribed under paragraph (1) shall contain an af-
 23 firmation, signed by the person submitting the bal-
 24 lot, that—

1 “(A) such individual is a qualified indi-
2 vidual (as defined in section 321(b));

3 “(B) such individual has not and will not
4 cast another ballot with respect to the election
5 for which the national Federal write-in absentee
6 ballot is cast; and

7 “(C) acknowledging that a material
8 misstatement of fact in completing the ballot
9 may constitute grounds for conviction of per-
10 jury.

11 “(b) AVAILABILITY.—The Commission shall make
12 the Federal write-in absentee ballot available on the Inter-
13 net in a printable format.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 202 of the Help America Vote
16 Act of 2002 (52 U.S.C. 20922) is amended by
17 redesignating paragraphs (5) and (6) as para-
18 graphs (6) and (7), respectively, and by insert-
19 ing after paragraph (4) the following new para-
20 graph:

21 “(5) carrying out the duties described in sub-
22 title E;”.

23 (B) The table of contents for such Act is
24 amended by inserting after the item related to
25 section 296 the following:

“Subtitle E—National Federal Write-In Absentee Ballot for Domestic Use

“Sec. 297. National Federal write-in absentee ballot for domestic use.”.

