

110TH CONGRESS  
2D SESSION

# H. R. 5628

To amend the Help America Vote Act of 2002 to give individuals who are permitted to cast a provisional ballot in elections for Federal office the option to re-register to vote in such elections at the polling place, to establish a uniform standard for the treatment of provisional ballots cast at incorrect polling places, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. ELLISON (for himself, Ms. LEE, and Ms. MOORE of Wisconsin) introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Help America Vote Act of 2002 to give individuals who are permitted to cast a provisional ballot in elections for Federal office the option to re-register to vote in such elections at the polling place, to establish a uniform standard for the treatment of provisional ballots cast at incorrect polling places, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Make Provisional Bal-  
3 lots Count Act 2008”

4 **SEC. 2. SAME-DAY VOTER RE-REGISTRATION FOR INDIVID-**  
5 **UALS PERMITTED TO CAST PROVISIONAL**  
6 **BALLOTS.**

7       (a) IN GENERAL.—Section 302(a) of the Help Amer-  
8 ica Vote Act of 2002 (42 U.S.C. 15482(a)) is amended—

9           (1) in the matter preceding paragraph (1) by  
10 striking “such individual shall be permitted to cast  
11 a provisional ballot as follows” and inserting the fol-  
12 lowing: “such individual shall be permitted to re-reg-  
13 ister to vote in the election and all other elections  
14 for Federal office for which ballots are cast at the  
15 polling place, in accordance with section 303(d), or  
16 (at the option of the individual) shall be permitted  
17 to cast a provisional ballot as follows.”; and

18           (2) in paragraph (1), by striking the period at  
19 the end and inserting the following: “, or (at the op-  
20 tion of the individual) may re-register to vote in all  
21 elections for Federal office at which ballots are cast  
22 at the polling place.”.

23       (b) VOTER RE-REGISTRATION PROCEDURES DE-  
24 SCRIBED.—Section 303 of such Act (42 U.S.C. 15483) is  
25 amended—

1           (1) by redesignating subsection (d) as sub-  
2           section (e); and

3           (2) by inserting after subsection (c) the fol-  
4           lowing new subsection:

5           “(d) PERMITTING CERTAIN INDIVIDUALS TO RE-  
6 REGISTER TO VOTE AT POLLING PLACE ON DATE OF  
7 ELECTION.—

8           “(1) IN GENERAL.—At each polling place in a  
9           State at which ballots are cast in an election for  
10          Federal office, an individual who is permitted to cast  
11          a provisional ballot under section 302 may, at the  
12          option of the individual, re-register to vote on the  
13          date of the election, and may cast a regular ballot  
14          instead of a provisional ballot at the polling place in  
15          the election, if the individual meets each of the fol-  
16          lowing requirements:

17               “(A) The individual completes an applica-  
18               tion for voter registration in accordance with  
19               the requirements of this Act and other applica-  
20               ble law.

21               “(B) The individual provides the appro-  
22               priate election official at the polling place with  
23               evidence of the individual’s current address  
24               by—

1 “(i) presenting the official with a cur-  
2 rent and valid photo identification which  
3 includes the individual’s current address;

4 “(ii) presenting the official with a cur-  
5 rent and valid photo identification which  
6 does not include the individual’s current  
7 address, together with a utility bill for the  
8 individual which includes the individual’s  
9 current address and which is due not later  
10 than 30 days after the date of the election;  
11 or

12 “(iii) providing the official with such  
13 other evidence as the State or jurisdiction  
14 involved considers sufficient.

15 “(C) The individual executes a written af-  
16 firmation before an election official at the poll-  
17 ing place stating under penalty of perjury that  
18 the individual is eligible to register to vote in  
19 the jurisdiction in which the individual desires  
20 to vote and has not already voted in the elec-  
21 tion.

22 “(2) NOTICE FROM ELECTION OFFICIAL.—At  
23 the time an individual executes the written affirma-  
24 tion required under paragraph (1)(C), the appro-  
25 priate election official at the polling place shall no-

1       tify the individual that it is a crime to make false  
2       representations in registering to vote in elections for  
3       Federal office.

4           “(3) TRANSMITTAL OF COMPLETED APPLICA-  
5       TIONS TO STATE ELECTION OFFICIAL.—The appro-  
6       priate official at the polling place shall transmit all  
7       applications to re-register to vote which are sub-  
8       mitted at the polling place under this subsection to  
9       the appropriate State election official at the time the  
10      official at the polling place transmits the ballots cast  
11      at the polling place to the official.

12          “(4) REQUIREMENTS UNDER NATIONAL VOTER  
13      REGISTRATION ACT OF 1993.—In carrying out this  
14      subsection, a polling place in a State shall meet the  
15      requirements applicable to a voter registration agen-  
16      cy designated by the State under section 7(a)(2) of  
17      the National Voter Registration Act of 1993 (42  
18      U.S.C. 1973gg–5(a)(2)), except that clauses (i), (ii),  
19      and (iii) of section 7(a)(6)(B) of such Act (42  
20      U.S.C. 1973gg–5(a)(6)(B)) shall not apply with re-  
21      spect to any of the voter registration forms distrib-  
22      uted by the polling place pursuant to this sub-  
23      section.”.

1 (c) INCLUSION IN VOTING INFORMATION REQUIRE-  
2 MENTS.—Section 302(b)(2) of such Act (42 U.S.C.  
3 14582(b)(2)) is amended—

4 (1) in subparagraph (E), by inserting “and the  
5 right to re-register to vote at the polling place on the  
6 date of an election and vote in that election” after  
7 “provisional ballot”;

8 (2) by redesignating subparagraphs (E) and  
9 (F) as subparagraphs (F) and (G); and

10 (3) by inserting after subparagraph (D) the fol-  
11 lowing new subparagraph:

12 “(E) instructions for individuals re-reg-  
13 istering to vote at the polling place under sec-  
14 tion 303(d);”.

15 (d) EFFECTIVE DATE.—Section 303(e) of such Act  
16 (42 U.S.C. 15483(e)), as redesignated by subsection (b),  
17 is amended by adding at the end the following new para-  
18 graph:

19 “(3) REQUIREMENT FOR VOTER RE-REGISTRA-  
20 TION ON DATE OF ELECTION.—Each State and ju-  
21 risdiction shall be required to comply with the re-  
22 quirements of subsection (d) with respect to the reg-  
23 ularly scheduled general election for Federal office  
24 held in November 2008 and each succeeding election  
25 for Federal office.”.

1 **SEC. 3. UNIFORM STANDARD FOR TREATMENT OF PROVI-**  
2 **SIONAL BALLOTS CAST AT INCORRECT POLL-**  
3 **ING PLACES.**

4 (a) IN GENERAL.—Section 302(a)(4) of the Help  
5 America Vote Act of 2002 (42 U.S.C. 15482(a)(4)) is  
6 amended to read as follows:

7 “(4) The provisional ballot of an individual who  
8 is a registered voter in a jurisdiction in a State and  
9 who is eligible to vote in an election for Federal of-  
10 fice in the State shall be counted as a vote in such  
11 an election if the appropriate State or local election  
12 official to whom the ballot or voter information is  
13 transmitted under paragraph (3)—

14 “(A) in the case of an election for electors  
15 for President or for the office of a Senator, de-  
16 termines that the individual is registered to vote  
17 in the State in which the provisional ballot is  
18 cast; and

19 “(B) in the case of an election for the of-  
20 fice of a Member of the House of Representa-  
21 tives (including a Delegate or Resident Com-  
22 missioner to the Congress), determines that the  
23 individual is registered to vote in the Congres-  
24 sional district in which the provisional ballot is  
25 cast.”.

1 (b) RESPONSIBILITY OF ELECTION OFFICIAL TO NO-  
2 TIFY INDIVIDUAL OF DETERMINATION OF ELIGIBILITY OF  
3 BALLOT.—

4 (1) IN GENERAL.—Section 302(a)(5) of such  
5 Act (42 U.S.C. 15482(a)(5)) is amended to read as  
6 follows:

7 “(5)(A) Not later than 24 hours after deter-  
8 mining whether or not the vote of an individual who  
9 casts a provisional ballot in an election will be count-  
10 ed in that election under this Act, the appropriate  
11 State or local election official shall notify the indi-  
12 vidual of the determination and (if the determination  
13 is made that the vote will not be counted) the rea-  
14 sons for the determination and the individual’s right  
15 to challenge the determination under the procedures  
16 established under subparagraph (B).

17 “(B) Each State shall establish procedures, in-  
18 cluding a free access system (such as a toll-free tele-  
19 phone number or an Internet website), under which  
20 an individual who casts a provisional ballot in an  
21 election and who is notified by the appropriate State  
22 or local election official that the provisional ballot  
23 cast by the individual will not be counted as a vote  
24 in the election may challenge the determination prior  
25 to the final tabulation of ballots in the election.



1           “(C) In carrying out subparagraph (B), each  
2       State shall ensure that, in each jurisdiction of the  
3       State, an appropriate State or local election official  
4       operates open office hours for at least 8 hours on  
5       the day after the date of the election, during which  
6       a voter who cast a provisional ballot in the election  
7       may contact the official and challenge the deter-  
8       mination under the procedures established under  
9       subparagraph (B).”.

10           (2) CONFORMING AMENDMENT.—Section  
11       302(a) of such Act (42 U.S.C. 15482(a)) is amend-  
12       ed in the matter following paragraph (5) by striking  
13       “The appropriate State or local official” and all that  
14       follows through “paragraph (5)(B).”.

15       (c) EFFECTIVE DATE.—Section 302(d) of such Act  
16       (42 U.S.C. 15482(d)) is amended to read as follows:

17       “(d) EFFECTIVE DATE.—

18           “(1) IN GENERAL.—Except as provided in para-  
19       graph (2), each State and jurisdiction shall be re-  
20       quired to comply with the requirements of this sec-  
21       tion on and after January 1, 2004.

22           “(2) DELAYED EFFECTIVE DATE FOR CERTAIN  
23       PROVISION.—To the extent that any provision of this  
24       section was amended by the Make Provisional Bal-  
25       lots Count Act of 2008, such provision shall apply

1       with respect to the regularly scheduled general elec-  
2       tion for Federal office held in November 2008 and  
3       each succeeding election for Federal office.”.

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