Charles Allen
Councilmember, Ward 6

Chairperson	**Committee Member**
Committee on the Judiciary and Public Safety	**Business and Economic Development**
Co-Chairperson	**Health**
Special Committee on COVID-19 Pandemic Recovery	**Transportation and the Environment**

July 14, 2022

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Secretary Smith:

Today, I am introducing the "**Automatic Voter Registration Expansion Amendment Act of 2022**". Please find enclosed a signed copy of the legislation.

In 2015, I introduced the Automatic Voter Registration Amendment Act of 2015, which was passed unanimously by the Council and became law in 2017. This legislation created the District's current automatic voter registration ("AVR") system, which allows qualified electors (i.e. eligible prospective voters) to register to vote when applying for identification from the Department of Motor Vehicles ("DMV"). Since its implementation, AVR has helped dramatically increase voter registration and streamline the registration process, while ensuring that the voter rolls are accurate, up-to-date, and secure.

Currently, the District uses what is known as a "front-end" opt-out AVR system, in which the qualified elector is given the opportunity to opt out of being automatically registered to vote *at the time of* the transaction with the DMV. Other leading jurisdictions[1] have begun to move toward what is known as a "back-end" opt-out system, in which the qualified elector is given the opportunity to opt out *after* the agency transaction – usually through a mailer sent to the qualified elector's home after state officials verify their eligibility.

The consensus among many election experts is that back-end AVR is superior to front-end AVR for several reasons. First, research shows back-end AVR results in more people being added to the voter rolls. Second, employees at source agencies, like the DMV, are not necessarily experts on voter registration eligibility issues and may not be able to assist applicants who are unsure if

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[1] "Back-end" opt-out AVR is currently used in different forms in Alaska, Colorado, Delaware, Nevada, and Oregon, with legislative proposals pending in other jurisdictions.

they are eligible to vote, which can lead to error. With back-end AVR, the state officials who are eligibility experts review all applicants' eligibility, capturing eligible applicants who may not have understood they were eligible, as well as weeding out ineligible applicants. Third, experts believe back-end AVR is more secure because state officials use existing information in the possession of the government to confirm eligibility and prevent ineligible individuals from being registered.

The legislation I am introducing today moves the District towards a back-end system. In the proposed system, eligible qualified electors who interact with source agencies, such as by completing a Medicaid application, are *automatically* placed on a "preapproved for registration list" after the Board of Elections ("the Board") verifies their eligibility to register. Within 14 calendar days after receipt of the resident's registration information, the Board is required to mail a notification to any person on the preapproved for registration list that includes instructions on how the person may activate their voter registration or be removed from the list, as well as the option to affiliate with a political party. A resident on the preapproved for registration list may activate their voter registration by appearing to vote in person or by returning a mail-in ballot, among other methods.

The bill also expands the source agencies for automatic voter registration to include the Department of Health Care Finance ("DHCF"). The bill requires DHCF to send the Board electronic records for all applicants (including applicants for recertification) for the District's medical assistance programs like Medicaid for the Board to review for voter eligibility. In addition, the bill allows the Board to designate other agencies for AVR by rulemaking. In doing so, the bill further streamlines and increases access to voter registration for District residents, in particular capturing hard-to-reach and under-registered populations.

Sincerely,

Charles Allen, Ward 6 Councilmember
Chairperson, Committee on the Judiciary and Public Safety

Councilmember Charles Allen

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the District of Columbia Election Code of 1955 to expand automatic voter registration by additional District agencies and create "back-end" automatic voter registration.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Automatic Voter Registration Expansion Amendment Act of 2022".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq*.), is amended as follows:

(a) Section 7 (D.C. Official Code § 1-1001.07) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Subparagraph (A) is amended by striking the phrase "; or" and inserting a semicolon in its place.

(ii) Subparagraph (B) is amended by striking the phrase "; and" and inserting the phrase "; or" in its place.

(iii) A new subparagraph (C) is added to read as follows:

"(C) Has been placed on the preapproved for registration list pursuant to section 7b and subsequently activates the person's registration; and".

33   (B) Paragraph (3) is amended by striking the phrase "subsection (e)" and

34   inserting the phrase "subsections (e) and (g)" in its place.

35   (2) Subsection (a-1)(1)(A) is amended by striking the phrase ", or" and inserting

36   the phrase "; or" in its place.

37   (3) Subsection (c)(1) is amended as follows:

38   (A) Subparagraph (B)(i) is amended by striking the phrase "card shall

39   automatically serve as an application to register to vote or update the applicant's voter registration

40   information;" and inserting the phrase "card by a person who is not already registered to vote or

41   preregistered to vote in the District shall automatically serve as an application to register to vote;"

42   in its place.

43   (B) Subparagraph (C)(ii)(VII) is amended by striking the phrase "to vote,

44   or, if already registered in the District, ability to decline to update the applicant's voter registration"

45   and inserting the phrase "to vote" in its place.

46   (C) Subparagraph (D) is amended by striking the phrase "to vote or update

47   the applicant's voter registration information" and inserting the phrase "to vote" in its place.

48   (D) Subparagraph (F) is amended to read as follows:

49   "(F)(i) If a registered or preregistered voter submits a change of name or

50   address notice to the DMV, or supplies a name or address as part of a driver's license or nondriver's

51   identification card application, renewal, or correction that differs from the voter's name or address

52   in the voter roll, the DMV shall automatically and electronically transmit the information

53   necessary to update the voter roll to the Board.

54   "(ii) Subject to compliance with applicable federal laws and

55   regulations, if a registered or preregistered voter supplies a name or address as part of an

56   application for a District medical assistance program (including any recertification), such as

57   Medicaid, that differs from the voter's name or address in the voter roll, the DMV shall

58   automatically and electronically transmit the information necessary to update the voter roll to the

59   Board.

60   "(iii)(I) If a registered or preregistered voter supplies a name or

61   address as part of an agency transaction to another government agency that the Board designates

62   by rulemaking, and such name or address differs from the name or address in the voter roll, the

63   agency shall automatically and electronically transmit the information necessary to update the

64   voter roll to the Board.

65   "(II) The Board may designate a government agency

66   pursuant to this subsection without designating such agency as an automatic voter registration

67   agency pursuant to subsection (c)(1)(A).

68   "(III) A government agency designated pursuant to this

69   subsection may include an agency of the federal government, subject to the agreement of such

70   agency.

71   "(iv) Upon receipt of the information described in sub-subparagraph

72   (i), the Board shall change the voter roll to reflect the change of name or address, mark the voter

73   as "active", and send to the voter's address of record, by forwardable mail, notice of the change

74   and a return form and postage-paid, preaddressed envelope by which the voter may verify or

75   correct the information.

76   "(v) If the voter returns the form described in sub-subparagraph (iv)

77   and indicates that the change to the voter roll was in error, the Board shall immediately correct the

78   voter's previously updated information in the voter roll.".

79   (E) Subparagraph (J) is amended to read as follows:

80   "(J) The DMV and the Board shall prescribe a method by which the DMV,

81 upon obtaining a person's full name, date of birth, DMV-issued identification number, last four

82 digits of the person's social security number (if available), residence address, and mailing address

83 if different from residence address, may use the information from the voter roll to determine

84 whether the person is already registered to vote or preregistered to vote in the District, and, if so,

85 whether the person is registered or preregistered at the address the person provided to the DMV.".

86   (4) Subsection (g) is amended as follows:

87   (A) Paragraph (1) is amended by striking the phrase "by completing a voter

88 registration application and submitting it in person at the Board's office, using the digital voter

89 service system required by subsection (b)(2A) of this section, or by mail. A registration" and

90 inserting the phrase "by completing a voter registration application or request to activate the

91 qualified elector's registration and submitting it in person at the Board's office, using the digital

92 voter service system required by subsection (b)(2A) of this section, or by mail. A registration or

93 request to activate the elector's registration" in its place.

94   (B) Paragraph (2) is amended by striking the phrase "applications and voter

95 registration update notifications that" and inserting the phrase "applications, voter registration

96 update notifications, and requests to activate registration" in its place.

97   (C) Paragraph (4) is amended to read as follows:

98   "(4)(A) After the 21st day preceding an election, a qualified elector may register to

99 vote in the precinct in which the voter maintains residence by completing a voter registration

100 application or request to activate the qualified elector's registration and submitting it in person at

101 the Board's office.

102   "(B) A qualified elector shall not change the qualified elector's party

103   affiliation after the 21st day preceding an election; provided, that:

104   "(i) A qualified elector who is requesting to activate the qualified

105   elector's registration may select a party affiliation after the 21st day preceding an election; and

106   "(ii) The Board may permit a qualified elector to register to vote by

107   requesting to activate the qualified elector's registration using the digital voter service system

108   required by subsection (b)(2A) of this section or by mail after the 21st day preceding an election.

109   "(C) A qualified elector may register to vote by requesting to activate the

110   qualified elector's registration through the return of a mail ballot pursuant to section 7b(d)(4)(E)

111   that is accepted by the Board pursuant to section 5(a)(10A).".

112   (D) A new paragraph (8) is added to read as follows:

113   "(8) A qualified elector may register to vote by requesting to activate the qualified

114   elector's registration while appearing in person at a polling place pursuant to section 7b(d)(4)(D).

115   A qualified elector on the preapproved for registration list appearing in person at a polling place

116   during voting hours is not required to provide proof of residence to activate the qualified elector's

117   registration. Each qualified elector on the preapproved for registration list who successfully

118   activates their registration at a polling place during voting hours shall cast a regular ballot;

119   provided, that any qualified elector on the preapproved for registration list for whom there is no

120   signature on file shall be required to provide either their DMV-issued identification number or the

121   last 4 digits of their social security number in order to activate their registration at a polling place.

122   A qualified elector who is requesting to activate the qualified elector's registration by appearing

123   in person at a polling place during voting hours may select a party affiliation at a polling place

124   during voting hours.".

125   (5) Subsection (j)(1)(D) is amended to read as follows:

126   "(j)(1)(D)(i) The Board may, in addition, utilize information obtained from the United

127   States Postal Service and the National Change of Address System ("NCOA") which identifies

128   registrants who have moved from the addresses listed on the Board's records. In these cases, the

129   Board shall issue the notices prescribed in subparagraph (B) of this paragraph.

130   "(ii) The Board shall process information obtained from the DMV

131   identifying registrants who have updated their name or address from the information listed in the

132   Board's records as provided in subsection (c)(1)(F) of this section.

133   "(iii) The Board shall utilize information obtained from the

134   Department of Health Care Finance (subject to compliance with all applicable federal laws and

135   regulations), and any other agency designated by the Board, identifying registrants who have

136   updated their name or address from the information listed in the Board's records as provided in

137   subsection (c)(1)(F) of this section.".

138   (b) A new section 7b (D.C. Official Code § 1-1001.07b) is added to read as follows:

139   "Sec. 7b. Automatic voter registration expansion.

140   "(a) The DMV shall provide to the Board the following electronic records for any person

141   who applies for a driver's license (including any renewal or correction) or nondriver's

142   identification card, provides documentation demonstrating United States citizenship in the course

143   of the person's transaction with the DMV, is of sufficient age to register to vote or to preregister

144   to vote, is not already registered to vote in the District, and for whom the DMV does not submit

145   an application for voter registration to the Board pursuant to section 7(c)(1):

146   "(1) Legal name;

147   "(2) Date of birth;

148   "(3) Residence;

149   "(4) Mailing address;

150   "(5) DMV-issued identification number or social security number;

151   "(6) Citizenship information; and

152   "(7) Electronic signature.

153   "(b) Subject to compliance with all applicable federal laws and regulations, the Department

154 of Health Care Finance shall provide to the Board the following electronic records for all applicants

155 contained on each application for the District medical assistance program (including any

156 recertification), such as Medicaid, who are of sufficient age to register to vote or preregister to

157 vote, and who are externally verified as a United States citizen as part of the medical assistance

158 application, regardless of any response by the applicant to the information specified by section

159 7(d)(3)(A) and (B):

160   "(1) Legal name;

161   "(2) Date of birth;

162   "(3) Residence;

163   "(4) Mailing address;

164   "(5) DMV-issued identification number or social security number;

165   "(6) Citizenship information; and

166   "(7) Electronic signature.

167   "(c) Upon a determination by the Mayor that an agency can confirm an applicant's

168 citizenship through documentation or external verification in the regular course of its business, the

169 Board shall establish a schedule by which the agency shall begin providing electronic records

170 regarding applicants who are of sufficient age to register to vote or preregister to vote and who are

171   verified as United States citizens substantially in accordance with the procedures and requirements

172   in subsection (b) of this section, subject to any modifications necessary to comply with federal

173   law. An agency designated by the Mayor pursuant to this subsection may include an agency of the

174   federal government, subject to the agreement of such agency.

175   "(d)(1) Unless the Board has information indicating that a person is ineligible to register to

176   vote or is already registered to vote in the District, upon receiving information from the DMV

177   pursuant to subsection (a) of this section, the Department of Health Care Finance pursuant to

178   subsection (b) of this section, or an agency designated by the Mayor pursuant to subsection (c) of

179   this section, the Board shall add the person to a computerized preapproved for registration list of

180   individuals maintained by the Board who are not registered to vote in the District, but are

181   preapproved for registration based on information presented during an agency transaction.

182   "(2) Within 14 calendar days after the receipt of information pursuant to this

183   section, the Board shall mail a non-forwardable notification to any person added to the

184   preapproved for registration list, including any voter education materials it deems appropriate.

185   Such notifications shall include the following:

186   "(A) Notice that the person has been added to the preapproved for

187   registration list;

188   "(B) Instructions on how the person may activate their registration and

189   become a registered voter in the District;

190   "(C) The person's ward, precinct, single-member district, and Advisory

191   Neighborhood Commission;

192   "(D) Instructions on how the person can request to be removed from the

193   preapproved for registration list;

194   "(E) Instructions on how the person can request that their information on

195   the preapproved for registration list be designated as confidential and not subject to public

196   disclosure; and

197   "(F) A form and postage-paid return envelope by which the person may

198   activate their registration, which shall also provide the option to affiliate with a political party.

199   "(3)(A) Eligible persons on the preapproved for registration list shall be

200   automatically sent a mail-in ballot for the first 2 years after they are added to the preapproved for

201   registration list.

202   "(B) Mail-in ballots sent pursuant to subparagraph (A) of this section shall

203   include an opportunity to request activation of the person's registration, pursuant to paragraph (4)

204   of this section.

205   "(4) Notwithstanding any other law, individuals on the preapproved for registration

206   list may request activation of their registration and become registered voters in the District by any

207   of the following methods:

208   "(A) Returning the notification described in subsection (d)(2);

209   "(B) Accessing the digital voter service system provided by the Board;

210   "(C) Appearing in person at the Board's office;

211   "(D) Appearing in person at a polling place; or

212   "(E) Returning a mail ballot sent pursuant to subsection (d)(3).

213   "(e) The Board shall adopt regulations to update the preapproved for registration list. Such

214   program shall utilize address and name information obtained from the United States Postal Service,

215   the National Change of Address System, the DMV, the Department of Health Care Finance

216   (subject to compliance with all applicable federal laws and regulations), and any other government

217 agency designated by the Board to identify individuals who have moved from the addresses listed

218 in the Board's records or updated their name. A government agency designated under this

219 subsection may include an agency of the federal government, subject to the agreement of such

220 agency. Such program shall also utilize any available records to identify individuals who are

221 deceased.

222   "(f) The Board may issue rules to implement this section.".

223   Sec. 3. Fiscal impact statement.

224   The Council adopts the fiscal impact statement in the committee report as the fiscal impact

225 statement required by section 4a of the General Legislative Procedures Act of 1975, approved

226 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

227   Sec. 4. Effective date.

228   This act shall take effect following approval by the Mayor (or in the event of veto by the

229 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

230 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,

231 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of

232 Columbia Register.