

110TH CONGRESS
1ST SESSION

S. 979

To establish a Vote by Mail grant program.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2007

Mr. WYDEN (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To establish a Vote by Mail grant program.

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 “Vote by Mail Act of
5 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Supreme Court declared in *Reynolds v.*
9 *Sims* that “[i]t has been repeatedly recognized that
10 all qualified voters have a constitutionally protected
11 right to vote . . . and to have their votes counted.”.

1 (2) In the 2000 and 2004 presidential elections,
2 voting technology failures and procedural irregular-
3 ities deprived some Americans of their fundamental
4 right to vote.

5 (3) In 2000, faulty punch card ballots and
6 other equipment failures prevented accurate vote
7 counts nationwide. A report by the Caltech/MIT
8 Voting Technology Project estimates that approxi-
9 mately 1,500,000 votes for president were intended
10 to be cast but not counted in the 2000 election be-
11 cause of equipment failures.

12 (4) In 2004, software errors, malfunctioning
13 electronic voting systems, and long lines at the polls
14 prevented accurate vote counts and prevented some
15 people from voting. For instance, voters at Kenyon
16 College in Gambier, Ohio waited in line for up to 12
17 hours because there were only 2 machines available
18 for 1,300 voters.

19 (5) In 2006, election day problems plagued vot-
20 ers in a number of States as well. For instance, in
21 Denver, Colorado, hundreds of voters were turned
22 away when the database of registered voters crashed.
23 In Allegheny County, Pennsylvania, malfunctioning
24 machines and an inadequate number of provisional

1 ballots generated long lines, causing many voters to
2 leave without casting a vote.

3 (6) Under the Oregon Vote by Mail system,
4 election officials mail ballots to all registered voters
5 at least 2 weeks before election day. Voters mark
6 their ballots, seal the ballots in both unmarked se-
7 crecy envelopes and signed return envelopes, and re-
8 turn the ballots by mail or to secure drop boxes.
9 Once a ballot is received, election officials scan the
10 bar code on the ballot envelope, which brings up the
11 voter's signature on a computer screen. The election
12 official compares the signature on the screen and the
13 signature on the ballot envelope. Only if the signa-
14 ture on the ballot envelope is determined to be au-
15 thentic is the ballot forwarded on to be counted.

16 (7) Oregon's Vote by Mail system has deterred
17 voter fraud because the system includes numerous
18 security measures such as the signature authentica-
19 tion system. Potential misconduct is also discour-
20 aged by the power of the State to punish those who
21 engage in voter fraud with up to five years in prison,
22 \$100,000 in fines, and the loss of their vote.

23 (8) Oregon's Vote by Mail system promotes uni-
24 formity and strict compliance with Federal and
25 State voting laws because ballot processing is cen-

1 tralized in county clerk’s offices, rather than at nu-
2 merous polling places.

3 (9) Vote by Mail is one factor making voter
4 turnout in Oregon consistently higher than the aver-
5 age national voter turnout. For example, Oregon ex-
6 perienced a record voting-age-eligible population
7 turnout of 70.6 percent in the 2004 presidential
8 election, compared to 58.4 percent nationally. Or-
9 regon’s turnout of registered voters for that election
10 was 86.48 percent.

11 (10) Women, younger voters, and homemakers
12 also report that they vote more often using Vote by
13 Mail.

14 (11) Vote by Mail reduces election costs by
15 eliminating the need to transport equipment to poll-
16 ing stations and to hire and train poll workers. Or-
17 regon has reduced its election-related costs by 30 per-
18 cent since implementing Vote by Mail.

19 (12) Vote by Mail allows voters to educate
20 themselves because they receive ballots well before
21 election day, which provides them with ample time
22 to research issues, study ballots, and deliberate in a
23 way that is not possible at a polling place.

24 (13) Vote by Mail is accurate—at least 2 stud-
25 ies comparing voting technologies show that absentee

1 voting methods, including Vote by Mail systems, re-
2 sult in a more accurate vote count.

3 (14) Vote by Mail results in more up-to-date
4 voter rolls, since election officials use forwarding in-
5 formation from the post office to update voter reg-
6 istration.

7 (15) Vote by Mail allows voters to visually
8 verify that their votes were cast correctly and pro-
9 duces a paper trail for recounts.

10 (16) In a survey taken 5 years after Oregon im-
11 plemented the Vote by Mail system, more than 8 in
12 10 Oregon voters said they preferred voting by mail
13 to traditional voting.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) ELECTION.—The term “election” means
17 any general, special, primary, or runoff election.

18 (2) PARTICIPATING STATE.—The term “partici-
19 pating State” means a State receiving a grant under
20 the Vote by Mail grant program under section 4.

21 (3) RESIDUAL VOTE RATE.—The term “resid-
22 ual vote rate” means the sum of all votes that can-
23 not be counted in an election (overvotes, undervotes,
24 and otherwise spoiled ballots) divided by the total
25 number of votes cast.

1 (4) STATE.—The term “State” means a State
2 of the United States, the District of Columbia, the
3 Commonwealth of Puerto Rico, or a territory or pos-
4 session of the United States.

5 (5) VOTING SYSTEM.—The term “voting sys-
6 tem” has the meaning given such term under section
7 301(b) of the Help America Vote Act of 2002 (42
8 U.S.C. 15481(b)).

9 **SEC. 4. VOTE BY MAIL GRANT PROGRAM.**

10 (a) ESTABLISHMENT.—Not later than 270 days after
11 the date of enactment of this Act, the Election Assistance
12 Commission shall establish a Vote by Mail grant program
13 (in this section referred to as the “program”).

14 (b) PURPOSE.—The purpose of the program is to
15 make implementation grants to participating States solely
16 for the implementation of procedures for the conduct of
17 all elections by mail at the State or local government level.

18 (c) LIMITATION ON USE OF FUNDS.—In no case may
19 grants made under this section be used to reimburse a
20 State for costs incurred in implementing mail-in voting for
21 elections at the State or local government level if such
22 costs were incurred prior to the date of enactment of this
23 Act.

24 (d) APPLICATION.—A State seeking to participate in
25 the program under this section shall submit an application

1 to the Election Assistance Commission containing such in-
2 formation, and at such time, as the Election Assistance
3 Commission may specify.

4 (e) AMOUNT AND AWARDING OF IMPLEMENTATION
5 GRANTS; DURATION OF PROGRAM.—

6 (1) AMOUNT OF IMPLEMENTATION GRANTS.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the amount of an implementation
9 grant made to a participating State shall be, in
10 the case of a State that certifies that it will im-
11 plement all elections by mail in accordance with
12 the requirements of subsection (f), with respect
13 to—

14 (i) the entire State, \$2,000,000; or

15 (ii) any single unit or multiple units
16 of local government within the State,
17 \$1,000,000.

18 (B) EXCESS FUNDS.—

19 (i) IN GENERAL.—To the extent that
20 there are excess funds in either of the first
21 2 years of the program, such funds may be
22 used to award implementation grants to
23 participating States in subsequent years.

24 (ii) EXCESS FUNDS DEFINED.—For
25 purposes of clause (i), the term “excess

1 funds” means any amounts appropriated
2 pursuant to the authorization under sub-
3 section (h)(1) with respect to a fiscal year
4 that are not awarded to a participating
5 State under an implementation grant dur-
6 ing such fiscal year.

7 (C) CONTINUING AVAILABILITY OF FUNDS
8 AFTER APPROPRIATION.—An implementation
9 grant made to a participating State under this
10 section shall be available to the State without
11 fiscal year limitation.

12 (2) AWARDING OF IMPLEMENTATION
13 GRANTS.—

14 (A) IN GENERAL.—The Election Assist-
15 ance Commission shall award implementation
16 grants during each year in which the program
17 is conducted.

18 (B) ONE GRANT PER STATE.—The Elec-
19 tion Assistance Commission shall not award
20 more than 1 implementation grant to any par-
21 ticipating State under this section over the du-
22 ration of the program.

23 (3) DURATION.—The program shall be con-
24 ducted for a period of 3 years.

25 (f) REQUIREMENTS.—

1 (1) REQUIRED PROCEDURES.—A participating
2 State shall establish and implement procedures for
3 conducting all elections by mail in the area with re-
4 spect to which it receives an implementation grant
5 to conduct such elections, including the following:

6 (A) A process for recording electronically
7 each voter's registration information and signa-
8 ture.

9 (B) A process for mailing ballots to all eli-
10 gible voters.

11 (C) The designation of places for the de-
12 posit of ballots cast in an election.

13 (D) A process for ensuring the secrecy and
14 integrity of ballots cast in the election.

15 (E) Procedures and penalties for pre-
16 venting election fraud and ballot tampering, in-
17 cluding procedures for the verification of the
18 signature of the voter accompanying the ballot
19 through comparison of such signature with the
20 signature of the voter maintained by the State
21 in accordance with subparagraph (A).

22 (F) Procedures for verifying that a ballot
23 has been received by the appropriate authority.

24 (G) Procedures for obtaining a replace-
25 ment ballot in the case of a ballot which is de-

1 stroyed, spoiled, lost, or not received by the
2 voter.

3 (H) A plan for training election workers in
4 signature verification techniques.

5 (I) Plans and procedures to ensure that
6 voters who are blind, visually-impaired, or oth-
7 erwise disabled have the opportunity to partici-
8 pate in elections conducted by mail and to en-
9 sure compliance with the Help America Vote
10 Act of 2002. Such plans and procedures shall
11 be developed in consultation with disabled and
12 other civil rights organizations, voting rights
13 groups, State election officials, voter protection
14 groups, and other interested community organi-
15 zations.

16 (J) Plans and procedures to ensure the
17 translation of ballots and voting materials in
18 accordance with section 203 of the Voting
19 Rights Act of 1965 (42 U.S.C. 1973aa-1a)).

20 (g) BEST PRACTICES, TECHNICAL ASSISTANCE, AND
21 REPORTS.—

22 (1) IN GENERAL.—The Election Assistance
23 Commission shall—

1 (A) develop, periodically issue, and, as ap-
2 propriate, update best practices for conducting
3 elections by mail;

4 (B) provide technical assistance to partici-
5 pating States for the purpose of implementing
6 procedures for conducting elections by mail; and

7 (C) submit to the appropriate committees
8 of Congress—

9 (i) annual reports on the implementa-
10 tion of such procedures by participating
11 States during each year in which the pro-
12 gram is conducted; and

13 (ii) upon completion of the program
14 conducted under this section, a final report
15 on the program, together with rec-
16 ommendations for such legislation or ad-
17 ministrative action as the Election Assist-
18 ance Commission determines to be appro-
19 priate.

20 (2) CONSULTATION.—In developing, issuing,
21 and updating best practices, developing materials to
22 provide technical assistance to participating States,
23 and developing the annual and final reports under
24 paragraph (1), the Election Assistance Commission
25 shall consult with interested parties, including—

- 1 (A) State and local election officials;
- 2 (B) the United States Postal Service;
- 3 (C) the Postal Regulatory Commission es-
- 4 tablished under section 501 of title 39, United
- 5 States Code; and
- 6 (D) voting rights groups, voter protection
- 7 groups, groups representing the disabled, and
- 8 other civil rights or community organizations.

9 (h) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) GRANTS.—There are authorized to be ap-

11 propriated to award grants under this section, for

12 each of fiscal years 2007 through 2009, \$6,000,000,

13 to remain available without fiscal year limitation

14 until expended.

15 (2) ADMINISTRATION.—There are authorized to

16 be appropriated to administer the program under

17 this section, \$200,000 for the period of fiscal years

18 2007 through 2009, to remain available without fis-

19 cal year limitation until expended.

20 (i) RULE OF CONSTRUCTION.—Nothing in this Act

21 may be construed to authorize or require conduct prohib-

22 ited under any of the following laws, or to supersede, re-

23 strict, or limit the application of such laws:

24 (1) The Help America Vote Act of 2002 (42

25 U.S.C. 15301 et seq.).

1 parison of traditional voting methods and mail-in
2 voting with respect to—

3 (A) the likelihood of voter fraud and mis-
4 conduct;

5 (B) the accuracy of voter rolls;

6 (C) the accuracy of election results;

7 (D) voter participation in urban and rural
8 communities and by minorities, language mi-
9 norities (as defined in section 203 of the Voting
10 Rights Act of 1965 (42 U.S.C. 1973aa–1a)),
11 and individuals with disabilities and by individ-
12 uals who are homeless or who frequently change
13 their official residences;

14 (E) public confidence in the election sys-
15 tem;

16 (F) the residual vote rate, including such
17 rate based on voter age, education, income,
18 race, or ethnicity or whether a voter lives in an
19 urban or rural community, is disabled, or is a
20 language minority (as so defined); and

21 (G) cost savings.

22 (3) CONSULTATION.—In conducting the study
23 under paragraph (1), the Comptroller General shall
24 consult with interested parties, including—

25 (A) State and local election officials;

1 (B) the United States Postal Service;

2 (C) the Postal Regulatory Commission es-
3 tablished under section 501 of title 39, United
4 States Code; and

5 (D) voting rights groups, voter protection
6 groups, groups representing the disabled, and
7 other civil rights or community organizations.

8 (b) REPORT.—Not later than November 1, 2009, the
9 Comptroller General shall prepare and submit to the ap-
10 propriate committees of Congress a report on the study
11 conducted under subsection (a), together with such rec-
12 ommendations for legislation or administrative action as
13 the Comptroller General determines to be appropriate.

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