

ABSENTEE BALLOT TRACK, RECEIVE, AND CONFIRM ACT

JUNE 19, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Pennsylvania, from the Committee on House Administration, submitted the following

R E P O R T

[To accompany H.R. 2510]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 2510) to amend the Help America Vote Act of 2002 to reimburse States for the costs incurred in establishing a program to track and confirm the receipt of voted absentee ballots in elections for Federal office and make information on the receipt of such ballots available by means of online access, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

A number of States and jurisdictions have seen an increase in absentee voting over the past decade. More voters than ever are participating in elections by casting a ballot by mail. Unfortunately, according to a study conducted by the Overseas Vote Foundation, more than half of the surveyed military and overseas voters who tried to vote in the 2008 election were unable to because their requested ballots either were received by the voter too late to be counted or were not received by the voter at all.¹ Even when ballots do arrive in time for absentee voters to cast their mail-in ballots, many become anxious that their ballots may not reach election official offices on time and question whether their votes are actually counted.²

¹ “2008 Overseas Vote Foundation Post Election UOCAVA Survey Report and Analysis,” Overseas Vote Foundation: February 2009.

² Binlot, Ann, “Why is Voting Overseas So Difficult,” *Time*: November 1, 2008.

In order to address voters' uncertainty regarding whether their absentee ballots have been actually counted, a handful of jurisdictions have implemented tracking technology allowing voters to verify that their ballots have been received and processed by their election officials in a timely manner. Using the internet, some voters can already track ballots from receipt to tabulation. Counties in states such as California, Washington, Virginia, and Kansas have highly effective systems in place.

H.R. 2510 provides grants to states that chose to establish such procedures to track absentee mail-in ballots. Tracking systems would allow voters to check, via the internet or calling an automated number, whether an elections office has sent out a ballot, whether a completed ballot has arrived back at the registrar's office, whether the registrar has counted the ballot, and if not, why.

Both voters and election offices benefit from the implementation of ballot tracking technology. Providing voters such tracking services will offer voters the opportunity to easily assess if there are problems with their ballots. Voters will be given peace of mind that their ballots have been processed appropriately. The ability to check ballot status around the clock is an especially convenient service for military and overseas voters who live in various time zones. In fact, during the Committee on House Administration Elections Subcommittee's hearing titled "Military and Overseas Voting: Obstacles and Potential Solutions" held on May, 21, 2009, every witness expressed support for ballot tracking technology.³

Additionally, adopting ballot tracking systems would alleviate elections offices from the deluge of phone calls that voters make in the weeks approaching elections as they try to track down their absentee ballots. Ballot tracking technology ultimately results in cost savings and takes the strain off election offices. A ballot tracking program will yield enormous benefits and is inexpensive to implement. For example, San Mateo County in California set up a ballot tracking program for under \$2,000 to assist almost 20% of eligible voters who use absentee voting.⁴ Election offices and officials should be able to work with companies that currently make the technology; some may even opt to stay "in-house" to create effective ballot tracking systems with the grants provided in this bill.

Lastly, the intent of this legislation is still to allow for voters to cast a secret ballots; only the outside ballot envelopes would be marked. Therefore, no additional information would be made available about absentee requestors or the way their votes were cast.

This legislation will greatly improve transparency and voter confidence in America's election system by allowing voters to receive accurate and updated information on the status of their ballots and whether they were counted.

³"Military and Overseas Voting—Obstacles and Potential Solutions: Hearing before the Subcommittee on Elections of the Committee on House Administration," 111th Congress, 1st Session (2009).

⁴H.R. 2510 was modeled on California Senate Bill 1725, which provided the framework for the successful San Mateo County ballot tracking program.

SECTION-BY-SECTION SUMMARY OF LEGISLATION

Section 1—Short title: Entitles bill “Absentee Ballot Track, Receive, and Confirm Act”

Section 2—Reimbursement for costs incurred in establishing a program to track and confirm receipt of absentee ballots

Section 2(a)—Payment for Costs Establishing Program: Authorizes the Election Assistance Commission (EAC) to make payments reimbursing states that voluntarily establish absentee ballot tracking programs.

Section 2(b)—Absentee Ballot Tracking Program Described: Requires a program receiving funds to track ballots, confirm receipt of ballots, provide information regarding whether the ballot was counted, and if a ballot was not counted explain the reason why it was rejected. In addition, the program must offer individuals the ability to access information online or, if the election office has no internet capability, via a telephone service, to check the status of their absentee ballots.

Section 2(c)—Certification of Compliance and Costs: Requires participating states to submit to the EAC a certification that a program has been established as well as a statement of the costs incurred. Participating States are eligible for full reimbursement for the costs incurred, but the reimbursement amount cannot exceed the product of \$3,000 and the number of jurisdictions in the State that are responsible for operating the program. In addition, States are limited to one payment under this program. Lastly, this section authorizes such sums as necessary for payments and allows such appropriated monies to remain available until expended.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On May 5, 2009, Mrs. Davis of California, along with Mr. McCarthy, introduced H.R. 2510, which was referred to the Committee on House Administration.

HEARINGS

On May 21, 2009, the Committee on House Administration Subcommittee on Elections held a hearing entitled “Military and Overseas Voting: Obstacles and Potential Solutions.” The following members were present at the hearing: Subcommittee Chair Zoe Lofgren, Representative Susan Davis, Representative Kevin McCarthy, and Representative Greg Harper.

Witnesses

1. The Honorable Gail McGinn—Acting Undersecretary for Personnel and Readiness, U.S. Department of Defense.

2. Captain Patricia Garcia—Voting Assistance Officer, United States Air Force.

3. Mr. Rokey Suleman—General Registrar, Fairfax County, Virginia.

4. Ms. Jessie Jane Duff—Gunnery Sergeant, U.S. Marine Corps (Ret).

MARKUP

On June 10, 2009, the Committee met to mark up H.R. 2510. The Committee favorably reported H.R. 2510 by a voice vote. A quorum was present.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XIII requires that the results of each record vote on an amendment or motion to report, together with the name of those voting for and against, to be printed in the committee report.

There were no amendments considered during the markup.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII, the Committee states that Article 1, Section 4 of the U.S. Constitution grants Congress the authority to make laws governing the time, place and manner of holding Federal elections.

EARMARK IDENTIFICATION

In response to the requirements of clause 9 of rule XXI, H.R. 2510, the Committee reports that the Absentee Ballot Track, Receive, and Confirm Act does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

JUNE 16, 2009.

Hon. ROBERT A. BRADY,
Chairman, Committee on House Administration,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2510, the Absentee Ballot Track, Receive, and Confirm Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford and Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

PART 7—PAYMENTS TO REIMBURSE STATES FOR COSTS INCURRED IN ESTABLISHING PROGRAM TO TRACK AND CONFIRM RECEIPT OF ABSENTEE BALLOTS

Sec. 297. Payments to States.

Sec. 297A. Authorization of appropriations.

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TITLE II—COMMISSION

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Subtitle D—Election Assistance

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PART 7—PAYMENTS TO REIMBURSE STATES FOR COSTS INCURRED IN ESTABLISHING PROGRAM TO TRACK AND CONFIRM RECEIPT OF ABSENTEE BALLOTS

SEC. 297. PAYMENTS TO STATES.

(a) *PAYMENTS FOR COSTS OF ESTABLISHING PROGRAM.*—In accordance with this section, the Commission shall make a payment to a State to reimburse the State for the costs incurred in establishing, if the State so chooses to establish, an absentee ballot tracking program with respect to elections for Federal office held in the State (including costs incurred prior to the date of the enactment of this part).

(b) *ABSENTEE BALLOT TRACKING PROGRAM DESCRIBED.*—

(1) *PROGRAM DESCRIBED.*—

(A) *IN GENERAL.*—In this part, an “absentee ballot tracking program” is a program to track and confirm the receipt of absentee ballots in an election for Federal office under which the State or local election official responsible for the receipt of voted absentee ballots in the election carries out procedures to track and confirm the receipt of such ballots, and makes information on the receipt of such ballots available to the individual who cast the ballot, by means of on-line access using the Internet site of the official’s office.

(B) *INFORMATION ON WHETHER VOTE WAS COUNTED.*—The information referred to under subparagraph (A) with respect to the receipt of an absentee ballot shall include information regarding whether the vote cast on the ballot was counted, and, in the case of a vote which was not counted, the reasons therefor.

(2) *USE OF TOLL-FREE TELEPHONE NUMBER BY OFFICIALS WITHOUT INTERNET SITE.*—A program established by a State or local election official whose office does not have an Internet site may meet the description of a program under paragraph (1) if the official has established a toll-free telephone number that may be used by an individual who cast an absentee ballot to obtain the information on the receipt of the voted absentee ballot as provided under such paragraph.

(c) *CERTIFICATION OF COMPLIANCE AND COSTS.*—

(1) *CERTIFICATION REQUIRED.*—In order to receive a payment under this section, a State shall submit to the Commission a statement containing—

(A) a certification that the State has established an absentee ballot tracking program with respect to elections for Federal office held in the State; and

(B) a statement of the costs incurred by the State in establishing the program.

(2) *AMOUNT OF PAYMENT.*—The amount of a payment made to a State under this section shall be equal to the costs incurred by the State in establishing the absentee ballot tracking program, as set forth in the statement submitted under paragraph

(1), except that such amount may not exceed the product of—

(A) the number of jurisdictions in the State which are responsible for operating the program; and

(B) \$3,000.

(3) *LIMIT ON NUMBER OF PAYMENTS RECEIVED.*—A State may not receive more than one payment under this part.

SEC. 297A. AUTHORIZATION OF APPROPRIATIONS.

(a) *AUTHORIZATION.*—There are authorized to be appropriated to the Commission for fiscal year 2010 and each succeeding fiscal year such sums as may be necessary for payments under this part.

(b) *CONTINUING AVAILABILITY OF FUNDS.*—Any amounts appropriated pursuant to the authorization under this section shall remain available until expended.

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