

111TH CONGRESS
2D SESSION

S. 3300

To establish a Vote by Mail grant program.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2010

Mr. WYDEN (for himself, Mr. KERRY, Mr. CARPER, Ms. CANTWELL, Mr. MERKLEY, and Mrs. GILLIBRAND) 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 2010”.

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 recent presidential elections, voting tech-
2 nology failures, procedural irregularities, and long
3 lines for polling places deprived some Americans of
4 their fundamental right to vote.

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

18 (4) Oregon's Vote by Mail system has deterred
19 voter fraud because the system includes numerous
20 security measures such as the signature authentica-
21 tion system. Potential misconduct is also discour-
22 aged by the power of the State to punish those who
23 engage in voter fraud with up to 5 years in prison,
24 \$100,000 in fines, and the loss of their vote.

1 (5) Oregon's Vote by Mail system promotes uni-
2 formity and strict compliance with Federal and
3 State voting laws because ballot processing is cen-
4 tralized in county clerks' offices, rather than at nu-
5 merous polling places.

6 (6) Vote by Mail is 1 factor making voter turn-
7 out in Oregon consistently higher than the average
8 national voter turnout. In the 2004 presidential elec-
9 tion, for example, Oregon had a turnout rate of
10 86.48 percent of registered voters, compared to
11 69.96 percent turnout of registered voters nation-
12 ally.

13 (7) Women, younger voters, and homemakers
14 also report that they vote more often using Vote by
15 Mail.

16 (8) Vote by Mail reduces election costs by elimi-
17 nating the need to transport equipment to polling
18 stations and to hire and train poll workers. Oregon
19 reduced its costs to administer elections by nearly 30
20 percent after implementing Vote by Mail. In Or-
21 egon's last polling place election in 1998, the cost
22 per voter was \$3.07. By 2004, the cost per voter in
23 Oregon had dropped to \$2.21.

24 (9) Vote by Mail allows voters to educate them-
25 selves because they receive ballots well before elec-

1 tion day, which provides them with ample time to re-
2 search issues, study ballots, and deliberate in a way
3 that is not possible at a polling place.

4 (10) Vote by Mail is accurate—at least 2 stud-
5 ies comparing voting technologies show that absentee
6 voting methods, including Vote by Mail systems, re-
7 sult in a more accurate vote count.

8 (11) Vote by Mail results in more up-to-date
9 voter rolls, since election officials use forwarding in-
10 formation from the post office to update voter reg-
11 istration.

12 (12) Vote by Mail allows voters to visually
13 verify that their votes were cast correctly and pro-
14 duces a paper trail for election recounts.

15 (13) In a survey taken 5 years after Oregon im-
16 plemented the Vote by Mail system, more than 8 in
17 10 Oregon voters said they preferred voting by mail
18 to traditional voting.

19 (14) Voters in other States are moving toward
20 Vote by Mail as well. In 2008, 89 percent of voters
21 in Washington State who cast ballots voted by mail,
22 64 percent of voters in Colorado voted by mail, and
23 44 percent of voters in California voted by mail.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

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

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

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

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

15 (5) VOTING SYSTEM.—The term “voting sys-
16 tem” has the meaning given such term under section
17 301(b) of the Help America Vote Act of 2002 (42
18 U.S.C. 15481(b)).

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

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

24 (b) PURPOSE.—The purpose of the program is to
25 make implementation grants to participating States solely

1 for the implementation of procedures for the conduct of
 2 all elections by mail at the State or local government level.

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

9 (d) APPLICATION.—A State seeking to participate in
 10 the program under this section shall submit an application
 11 to the Election Assistance Commission containing such in-
 12 formation, and at such time, as the Election Assistance
 13 Commission may specify.

14 (e) AMOUNT AND AWARDING OF IMPLEMENTATION
 15 GRANTS; DURATION OF PROGRAM.—

16 (1) AMOUNT OF IMPLEMENTATION GRANTS.—

17 (A) IN GENERAL.—Subject to subpara-
 18 graph (B), the amount of an implementation
 19 grant made to a participating State shall be, in
 20 the case of a State that certifies that it will im-
 21 plement all elections by mail in accordance with
 22 the requirements of subsection (f), with respect
 23 to—

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

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

(B) EXCESS FUNDS.—

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

(ii) EXCESS FUNDS DEFINED.—For purposes of clause (i), the term “excess funds” means any amounts appropriated pursuant to the authorization under subsection (h)(1) with respect to a fiscal year that are not awarded to a participating State under an implementation grant during such fiscal year.

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

(2) AWARDING OF IMPLEMENTATION GRANTS.—

1 (A) IN GENERAL.—The Election Assist-
2 ance Commission shall award implementation
3 grants during each year in which the program
4 is conducted.

5 (B) ONE GRANT PER STATE.—The Elec-
6 tion Assistance Commission shall not award
7 more than 1 implementation grant to any par-
8 ticipating State under this section over the du-
9 ration of the program.

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

12 (f) REQUIREMENTS.—

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

18 (A) A process for recording electronically
19 each voter's registration information and signa-
20 ture.

21 (B) A process for mailing ballots to all eli-
22 gible voters.

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

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

3 (E) Procedures and penalties for pre-
4 venting election fraud and ballot tampering, in-
5 cluding procedures for the verification of the
6 signature of the voter accompanying the ballot
7 through comparison of such signature with the
8 signature of the voter maintained by the State
9 in accordance with subparagraph (A).

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

12 (G) Procedures for obtaining a replace-
13 ment ballot in the case of a ballot which is de-
14 stroyed, spoiled, lost, or not received by the
15 voter.

16 (H) A plan for training election workers in
17 signature verification techniques.

18 (I) Plans and procedures to ensure that
19 voters who are blind, visually impaired, or oth-
20 erwise disabled have the opportunity to partici-
21 pate in elections conducted by mail and to en-
22 sure compliance with the Help America Vote
23 Act of 2002. Such plans and procedures shall
24 be developed in consultation with disabled and
25 other civil rights organizations, voting rights

1 groups, State election officials, voter protection
2 groups, and other interested community organi-
3 zations.

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

8 (g) BEST PRACTICES, TECHNICAL ASSISTANCE, AND
9 REPORTS.—

10 (1) IN GENERAL.—The Election Assistance
11 Commission shall—

12 (A) develop, periodically issue, and, as ap-
13 propriate, update best practices for conducting
14 elections by mail;

15 (B) provide technical assistance to partici-
16 pating States for the purpose of implementing
17 procedures for conducting elections by mail; and

18 (C) submit to the appropriate committees
19 of Congress—

20 (i) annual reports on the implementa-
21 tion of such procedures by participating
22 States during each year in which the pro-
23 gram is conducted; and

24 (ii) upon completion of the program
25 conducted under this section, a final report

1 on the program, together with rec-
2 ommendations for such legislation or ad-
3 ministrative action as the Election Assist-
4 ance Commission determines to be appro-
5 priate.

6 (2) CONSULTATION.—In developing, issuing,
7 and updating best practices, developing materials to
8 provide technical assistance to participating States,
9 and developing the annual and final reports under
10 paragraph (1), the Election Assistance Commission
11 shall consult with interested parties, including—

12 (A) State and local election officials;

13 (B) the United States Postal Service;

14 (C) the Postal Regulatory Commission es-
15 tablished under section 501 of title 39, United
16 States Code; and

17 (D) voting rights groups, voter protection
18 groups, groups representing the disabled, and
19 other civil rights or community organizations.

20 (h) AUTHORIZATION OF APPROPRIATIONS.—

21 (1) GRANTS.—There are authorized to be ap-
22 propriated to award grants under this section, for
23 each of fiscal years 2012 through 2014, \$6,000,000,
24 to remain available without fiscal year limitation
25 until expended.

1 (2) ADMINISTRATION.—There are authorized to
2 be appropriated to administer the program under
3 this section, \$200,000 for the period of fiscal years
4 2012 through 2014, to remain available without fis-
5 cal year limitation until expended.

6 (i) RULE OF CONSTRUCTION.—Nothing in this Act
7 may be construed to authorize or require conduct prohib-
8 ited under any of the following laws, or to supersede, re-
9 strict, or limit the application of such laws:

10 (1) The Help America Vote Act of 2002 (42
11 U.S.C. 15301 et seq.).

12 (2) The Voting Rights Act of 1965 (42 U.S.C.
13 1973 et seq.).

14 (3) The Voting Accessibility for the Elderly and
15 Handicapped Act (42 U.S.C. 1973ee et seq.).

16 (4) The Uniformed and Overseas Citizens Ab-
17 sentee Voting Act (42 U.S.C. 1973ff et seq.).

18 (5) The National Voter Registration Act of
19 1993 (42 U.S.C. 1973gg et seq.).

20 (6) The Americans with Disabilities Act of
21 1990 (42 U.S.C. 12101 et seq.).

22 (7) The Rehabilitation Act of 1973 (29 U.S.C.
23 701 et seq.).

1 **SEC. 5. STUDY ON IMPLEMENTATION OF MAIL-IN VOTING**
2 **FOR ELECTIONS.**

3 (a) STUDY.—

4 (1) IN GENERAL.—The Comptroller General of
5 the United States (in this section referred to as the
6 “Comptroller General”) shall conduct a study evalu-
7 ating the benefits of broader implementation of mail-
8 in voting in elections, taking into consideration the
9 annual reports submitted by the Election Assistance
10 Commission under section 4(g)(1)(C)(i) before No-
11 vember 1, 2013.

12 (2) SPECIFIC ISSUES STUDIED.—The study
13 conducted under paragraph (1) shall include a com-
14 parison of traditional voting methods and mail-in
15 voting with respect to—

16 (A) the likelihood of voter fraud and mis-
17 conduct;

18 (B) the accuracy of voter rolls;

19 (C) the accuracy of election results;

20 (D) voter participation in urban and rural
21 communities and by minorities, language mi-
22 norities (as defined in section 203 of the Voting
23 Rights Act of 1965 (42 U.S.C. 1973aa–1a)),
24 and individuals with disabilities and by individ-
25 uals who are homeless or who frequently change
26 their official residences;

1 (E) public confidence in the election sys-
 2 tem;

3 (F) the residual vote rate, including such
 4 rate based on voter age, education, income,
 5 race, or ethnicity or whether a voter lives in an
 6 urban or rural community, is disabled, or is a
 7 language minority (as so defined); and

8 (G) cost savings.

9 (3) CONSULTATION.—In conducting the study
 10 under paragraph (1), the Comptroller General shall
 11 consult with interested parties, including—

12 (A) State and local election officials;

13 (B) the United States Postal Service;

14 (C) the Postal Regulatory Commission es-
 15 tablished under section 501 of title 39, United
 16 States Code; and

17 (D) voting rights groups, voter protection
 18 groups, groups representing the disabled, and
 19 other civil rights or community organizations.

20 (b) REPORT.—Not later than November 1, 2013, the
 21 Comptroller General shall prepare and submit to the ap-
 22 propriate committees of Congress a report on the study
 23 conducted under subsection (a), together with such rec-

- 1 ommendations for legislation or administrative action as
- 2 the Comptroller General determines to be appropriate.

