To establish a Vote by Mail grant program.

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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

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A BILL

To establish a Vote by Mail grant program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Vote by Mail Act of 2007”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Supreme Court declared in Reynolds v. Sims that “[i]t has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote . . . and to have their votes counted.”.
(2) In the 2000 and 2004 presidential elections, voting technology failures and procedural irregularities deprived some Americans of their fundamental right to vote.

(3) In 2000, faulty punch card ballots and other equipment failures prevented accurate vote counts nationwide. A report by the Caltech/MIT Voting Technology Project estimates that approximately 1,500,000 votes for president were intended to be cast but not counted in the 2000 election because of equipment failures.

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

(5) In 2006, election day problems plagued voters in a number of States as well. For instance, in Denver, Colorado, hundreds of voters were turned away when the database of registered voters crashed. In Allegheny County, Pennsylvania, malfunctioning machines and an inadequate number of provisional
ballots generated long lines, causing many voters to leave without casting a vote.

(6) Under the Oregon Vote by Mail system, election officials mail ballots to all registered voters at least 2 weeks before election day. Voters mark their ballots, seal the ballots in both unmarked secrecy envelopes and signed return envelopes, and return the ballots by mail or to secure drop boxes. Once a ballot is received, election officials scan the bar code on the ballot envelope, which brings up the voter’s signature on a computer screen. The election official compares the signature on the screen and the signature on the ballot envelope. Only if the signature on the ballot envelope is determined to be authentic is the ballot forwarded on to be counted.

(7) Oregon’s Vote by Mail system has deterred voter fraud because the system includes numerous security measures such as the signature authentication system. Potential misconduct is also discouraged by the power of the State to punish those who engage in voter fraud with up to five years in prison, $100,000 in fines, and the loss of their vote.

(8) Oregon’s Vote by Mail system promotes uniformity and strict compliance with Federal and State voting laws because ballot processing is cen-
tralized in county clerk’s offices, rather than at nu-
merous polling places.

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

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

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

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

(13) Vote by Mail is accurate—at least 2 stud-
ies comparing voting technologies show that absentee
voting methods, including Vote by Mail systems, result in a more accurate vote count.

(14) Vote by Mail results in more up-to-date voter rolls, since election officials use forwarding information from the post office to update voter registration.

(15) Vote by Mail allows voters to visually verify that their votes were cast correctly and produces a paper trail for recounts.

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

**SEC. 3. DEFINITIONS.**

In this Act:

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

(2) **PARTICIPATING STATE.**—The term “participating State” means a State receiving a grant under the Vote by Mail grant program under section 4.

(3) **RESIDUAL VOTE RATE.**—The term “residual vote rate” means the sum of all votes that cannot be counted in an election (overvotes, undervotes, and otherwise spoiled ballots) divided by the total number of votes cast.
(4) STATE.—The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

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

SEC. 4. VOTE BY MAIL GRANT PROGRAM.

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

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

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

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

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

(1) AMOUNT OF IMPLEMENTATION GRANTS.—

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

(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.—

(A) IN GENERAL.—The Election Assistance Commission shall award implementation grants during each year in which the program is conducted.

(B) ONE GRANT PER STATE.—The Election Assistance Commission shall not award more than 1 implementation grant to any participating State under this section over the duration of the program.

(3) DURATION.—The program shall be conducted for a period of 3 years.

(f) REQUIREMENTS.—
(1) **REQUIRED PROCEDURES.**—A participating State shall establish and implement procedures for conducting all elections by mail in the area with respect to which it receives an implementation grant to conduct such elections, including the following:

(A) A process for recording electronically each voter’s registration information and signature.

(B) A process for mailing ballots to all eligible voters.

(C) The designation of places for the deposit of ballots cast in an election.

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

(E) Procedures and penalties for preventing election fraud and ballot tampering, including procedures for the verification of the signature of the voter accompanying the ballot through comparison of such signature with the signature of the voter maintained by the State in accordance with subparagraph (A).

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

(G) Procedures for obtaining a replacement ballot in the case of a ballot which is de-
strored, spoiled, lost, or not received by the
voter.

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

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

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

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

(1) IN GENERAL.—The Election Assistance
Commission shall—
(A) develop, periodically issue, and, as appropriate, update best practices for conducting elections by mail;

(B) provide technical assistance to participating States for the purpose of implementing procedures for conducting elections by mail; and

(C) submit to the appropriate committees of Congress—

(i) annual reports on the implementation of such procedures by participating States during each year in which the program is conducted; and

(ii) upon completion of the program conducted under this section, a final report on the program, together with recommendations for such legislation or administrative action as the Election Assistance Commission determines to be appropriate.

(2) Consultation.—In developing, issuing, and updating best practices, developing materials to provide technical assistance to participating States, and developing the annual and final reports under paragraph (1), the Election Assistance Commission shall consult with interested parties, including—
(A) State and local election officials;

(B) the United States Postal Service;

(C) the Postal Regulatory Commission established under section 501 of title 39, United States Code; and

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

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) GRANTS.—There are authorized to be appropriated to award grants under this section, for each of fiscal years 2007 through 2009, $6,000,000, to remain available without fiscal year limitation until expended.

(2) ADMINISTRATION.—There are authorized to be appropriated to administer the program under this section, $200,000 for the period of fiscal years 2007 through 2009, to remain available without fiscal year limitation until expended.

(i) RULE OF CONSTRUCTION.—Nothing in this Act may be construed to authorize or require conduct prohibited under any of the following laws, or to supersede, restrict, or limit the application of such laws:

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

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


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

(a) Study.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study evaluating the benefits of broader implementation of mail-in voting in elections, taking into consideration the annual reports submitted by the Election Assistance Commission under section 4(g)(1)(C)(i) before November 1, 2009.

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

(A) the likelihood of voter fraud and misconduct;

(B) the accuracy of voter rolls;

(C) the accuracy of election results;

(D) voter participation in urban and rural communities and by minorities, language minorities (as defined in section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a)), and individuals with disabilities and by individuals who are homeless or who frequently change their official residences;

(E) public confidence in the election system;

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

(G) cost savings.

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

(A) State and local election officials;
(B) the United States Postal Service;

(C) the Postal Regulatory Commission established under section 501 of title 39, United States Code; and

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

(b) REPORT.—Not later than November 1, 2009, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report on the study conducted under subsection (a), together with such recommendations for legislation or administrative action as the Comptroller General determines to be appropriate.