

107TH CONGRESS
1ST SESSION

S. 731

To ensure that military personnel do not lose the right to cast votes in elections in their domicile as a result of their service away from the domicile, to amend the Uniformed and Overseas Citizens Absentee Voting Act to extend the voter registration and absentee ballot protections for absent uniformed services personnel under such Act to State and local elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2001

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To ensure that military personnel do not lose the right to cast votes in elections in their domicile as a result of their service away from the domicile, to amend the Uniformed and Overseas Citizens Absentee Voting Act to extend the voter registration and absentee ballot protections for absent uniformed services personnel under such Act to State and local elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military Overseas
3 Voter Empowerment Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds as follows:

6 (1) National defense is a core responsibility of
7 the Federal Government, which has the sole author-
8 ity to raise and maintain the military, and the Fed-
9 eral Government has a special responsibility to en-
10 sure the voting rights of military members and their
11 families are adequately protected.

12 (2) Over 2,700,000 members of the military
13 and their families are stationed away from their
14 home of record at any given time.

15 (3) The disenfranchisement of military voters
16 has been acknowledged since 1952, when the Sub-
17 committee on Elections of the Committee on House
18 Administration of the House of Representatives con-
19 ducted hearings on the likely disenfranchisement of
20 military personnel then fighting in the Korean War,
21 and President Truman recommended the enactment
22 of temporary legislation by Congress since it “should
23 be possible to make all the necessary changes in
24 State laws before the congressional elections of
25 1954.”

1 (4) The controversy during the 2000 Federal
2 election over uncounted military absentee ballots has
3 again shown that the votes of many military mem-
4 bers and their families have not been counted be-
5 cause of confusing State and local procedures, cum-
6 bersome ballot request and submission requirements,
7 and complicated procedures and ballots.

8 (5) Some States do not recognize the rights of
9 military voters and their families to vote in their
10 domicile of origin, further disenfranchising these vot-
11 ers and their families.

12 (6) Therefore, Federal legislation is needed to
13 protect the voting rights of military personnel who
14 serve in defense of our Nation.

15 **SEC. 3. GUARANTEE OF RESIDENCY FOR MILITARY PER-**
16 **SONNEL.**

17 Article VII of the Soldiers' and Sailors' Civil Relief
18 Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by
19 adding at the end the following:

20 “SEC. 704. (a) For purposes of voting for any Fed-
21 eral office (as defined in section 301 of the Federal Elec-
22 tion Campaign Act of 1971 (2 U.S.C. 431)) or a State
23 or local office, a person who is absent from a State in
24 compliance with military or naval orders shall not, solely
25 by reason of that absence—

1 “(1) be deemed to have lost a residence or
2 domicile in that State, without regard to whether or
3 not the person intends to return to that State;

4 “(2) be deemed to have acquired a residence or
5 domicile in any other State; or

6 “(3) be deemed to have become a resident in or
7 a resident of any other State.

8 “(b) In this section, the term ‘State’ includes a terri-
9 tory or possession of the United States, a political subdivi-
10 sion of a State, territory, or possession, and the District
11 of Columbia.”.

12 **SEC. 4. EXTENSION OF REGISTRATION AND BALLOTING**
13 **RIGHTS FOR ABSENT UNIFORMED SERVICES**
14 **VOTERS TO STATE AND LOCAL ELECTIONS.**

15 (a) IN GENERAL.—Section 102 of the Uniformed and
16 Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–
17 1) is amended—

18 (1) by inserting “(a) ELECTIONS FOR FEDERAL
19 OFFICES.—” before “Each State shall—”; and

20 (2) by adding at the end the following:

21 “(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—
22 Each State shall—

23 “(1) permit absent uniformed services voters to
24 use absentee registration procedures and vote by ab-

1 sentee ballot in general, special, primary, and runoff
 2 elections for State and local offices; and

3 “(2) accept and process, with respect to any
 4 election described in paragraph (1), any otherwise
 5 valid voter registration application from an absent
 6 uniformed services voter if the application is received
 7 by the appropriate State election official not less
 8 than 30 days before the date of the election.”.

9 (b) CONFORMING AMENDMENT.—The heading for
 10 title I of such Act is amended by striking **“FOR FED-
 11 ERAL OFFICE”**.

12 **SEC. 5. TREATMENT OF APPLICATIONS AND ABSENTEE**
 13 **BALLOTS SUBMITTED BY ABSENT UNI-**
 14 **FORMED SERVICES VOTERS.**

15 (a) IN GENERAL.—Section 102 of the Uniformed and
 16 Overseas Citizens Absentee Voting Act (42 U.S.C. 1073ff–
 17 1), as amended by section 4, is amended by adding at the
 18 end the following:

19 “(c) MANDATORY MINIMUM PERIOD BETWEEN
 20 AVAILABILITY OF ABSENTEE BALLOT AND DEADLINE
 21 FOR SUBMISSION FOR ABSENT UNIFORMED SERVICES
 22 VOTERS.—A State shall not refuse to count an otherwise
 23 valid absentee ballot submitted in an election for Federal,
 24 State, or local office by an absent uniformed services voter
 25 on the grounds that the ballot was not submitted in a

1 timely manner if the ballot was submitted not later than
2 30 days after the date on which the ballot was made avail-
3 able by the State.

4 “(d) STANDARD FOR INVALIDATION OF BALLOTS
5 SUBMITTED BY ABSENT UNIFORMED SERVICES VOT-
6 ERS.—

7 “(1) FRAUD.—

8 “(A) IN GENERAL.—A State shall not
9 refuse to count an otherwise valid ballot sub-
10 mitted in an election for Federal office by an
11 absent uniformed services voter on the grounds
12 that the ballot was improperly or fraudulently
13 cast unless the State finds clear and convincing
14 evidence of fraud in the preparation or casting
15 of the ballot by the voter.

16 “(B) EVIDENCE NOT CONSIDERED CLEAR
17 AND CONVINCING EVIDENCE OF FRAUD.—The
18 lack of a witness signature, address, postmark,
19 or other identifying information shall not be
20 considered clear and convincing evidence of
21 fraud under subparagraph (A), absent other in-
22 formation or evidence.

23 “(2) NO EFFECT ON FILING DEADLINES UNDER
24 STATE LAW.—Nothing in this subsection shall be
25 construed to affect the applicability of any ballot

1 submission deadline under State law to absentee bal-
 2 lots submitted by absent uniformed services voters
 3 (taking into account the requirements of subsection
 4 (c)).

5 “(e) PROHIBITING REFUSAL OF APPLICATIONS ON
 6 GROUNDS OF EARLY SUBMISSION.—A State shall not
 7 refuse to accept or process, with respect to any general,
 8 special, primary, or runoff election for Federal office, any
 9 otherwise valid voter registration application or absentee
 10 ballot application from an absent uniformed services voter,
 11 on the ground that the voter submitted the application be-
 12 fore the first date on which the State otherwise accepts
 13 or processes such applications from absentee voters.”.

14 (b) USE OF SINGLE APPLICATION FOR ABSENTEE
 15 BALLOTS FOR ALL FEDERAL ELECTIONS.—Section
 16 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as designated
 17 by section 4(a), is amended—

18 (1) by striking “and” at the end of paragraph

19 (2);

20 (2) by redesignating paragraph (3) as para-
 21 graph (4); and

22 (3) by inserting after paragraph (2) the fol-
 23 lowing:

24 “(3) accept and process, with respect to all gen-
 25 eral, special, primary, and runoff elections for Fed-

1 eral office occurring during a year, any otherwise
 2 valid absentee ballot application from an absent uni-
 3 formed services voter or overseas voter, if a single
 4 application for any such election is received by the
 5 appropriate State election official not less than 30
 6 days before the first election for Federal office oc-
 7 curring during the year; and”.

8 **SEC. 6. GRANTING PROTECTIONS GIVEN TO ABSENT UNI-**
 9 **FORMED SERVICES VOTERS TO RECENTLY**
 10 **SEPARATED UNIFORMED SERVICES VOTERS.**

11 The Uniformed and Overseas Citizens Absentee Vot-
 12 ing Act (42 U.S.C. 1973ff et seq.) is amended by inserting
 13 after section 104 the following:

14 **“SEC. 104A. COVERAGE OF RECENTLY SEPARATED UNI-**
 15 **FORMED SERVICES VOTERS.**

16 “(a) IN GENERAL.—For purposes of this Act, an in-
 17 dividual who is a separated uniformed services voter (or
 18 the spouse or dependent of such an individual) shall be
 19 treated in the same manner as an absent uniformed serv-
 20 ices voter with respect to any election occurring during
 21 the 60-day period which begins on the date the individual
 22 becomes a separated uniformed services voter.

23 “(b) SEPARATED UNIFORMED SERVICES VOTER DE-
 24 FINED.—

1 “(1) IN GENERAL.—In this section, the term
2 ‘separated uniformed services voter’ means an indi-
3 vidual who—

4 “(A) is separated from the uniformed serv-
5 ices;

6 “(B) was a uniformed services voter imme-
7 diately prior to separation;

8 “(C) presents to an appropriate election of-
9 ficial Department of Defense form 214, or any
10 other official proof, showing that the individual
11 meets the requirements of subparagraphs (A)
12 and (B); and

13 “(D) is otherwise qualified to vote with re-
14 spect to the election involved.

15 “(2) UNIFORMED SERVICES VOTER.—In para-
16 graph (1), the term ‘uniformed services voter’
17 means—

18 “(A) a member of a uniformed service on
19 active duty; or

20 “(B) a member of the merchant marine.”.

21 **SEC. 7. ELECTRONIC VOTING DEMONSTRATION PROJECT.**

22 (a) IN GENERAL.—The Secretary of Defense shall
23 carry out a demonstration project under which absent uni-
24 formed services voters (as defined in section 107(1) of the
25 Uniformed and Overseas Citizens Absentee Voting Act (42

1 U.S.C. 1973ff-6(1)) are permitted to cast ballots in the
2 regularly scheduled general election for Federal office for
3 November 2002 through an electronic voting system.

4 (b) COORDINATION WITH STATE ELECTION OFFI-
5 CIALS.—To the greatest extent practicable, the Secretary
6 of Defense shall carry out the demonstration project under
7 this section through cooperative agreements with State
8 election officials.

9 (c) REPORT TO CONGRESS.—Not later than June 1,
10 2003, the Secretary of Defense shall submit a report to
11 Congress analyzing the demonstration project conducted
12 under this section, and shall include in the report any rec-
13 ommendations the Secretary of Defense considers appro-
14 priate for continuing the project on an expanded basis
15 during the next regularly scheduled general election for
16 Federal office.

17 **SEC. 8. EFFECTIVE DATE.**

18 This Act and the amendments made by this Act shall
19 apply with respect to elections occurring after the date of
20 enactment of this Act.

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