

107TH CONGRESS
1ST SESSION

H. R. 1377

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 HOUSE OF REPRESENTATIVES

APRIL 3, 2001

Mr. THORNBERRY (for himself, Mr. CUNNINGHAM, Mr. SAM JOHNSON of Texas, and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Veterans' Affairs, the Judiciary, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 most recent controversy over uncounted
2 military absentee ballots has again shown that the
3 votes of many military members and their families
4 have not been counted because of confusing State
5 and local procedures, cumbersome ballot request and
6 submission requirements, and complicated proce-
7 dures 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. 700 et seq.) is amended by adding
19 at the end the following:

20 “SEC. 704. (a) For purposes of voting for an office
21 of the United States or of a State, a person who is absent
22 from a State in compliance with military or naval orders
23 shall not, solely 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 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 Absentee Voting Act (42 U.S.C. 1973ff–1) is
17 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 to vote by

1 absentee ballot in general, special, primary, and run-
2 off 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 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(a), is further amended by
18 adding at the end the following new subsections:

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

1 was not submitted in a timely manner if the ballot was
2 submitted not later than 30 days after the date on which
3 the ballot was made available by the State.

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

7 “(1) IN GENERAL.—A State may not refuse to
8 count a ballot submitted in an election for Federal
9 office by an absent uniformed services voter on the
10 grounds that the ballot was improperly or fraudu-
11 lently cast unless the State finds clear and con-
12 vincing evidence of fraud in the preparation or cast-
13 ing of the ballot by the voter. For purposes of the
14 previous sentence, the lack of a witness signature,
15 address, postmark, or other identifying information
16 may not be considered clear and convincing evidence
17 of fraud (absent any other information or evidence).

18 “(2) NO EFFECT ON FILING DEADLINES UNDER
19 STATE LAW.—Nothing in this subsection may be
20 construed to affect the application to ballots sub-
21 mitted by absent uniformed services voters of any
22 ballot submission deadline applicable under State
23 law (taking into account the requirements of sub-
24 section (c)).

1 “(e) PROHIBITING REFUSAL OF APPLICATIONS ON
2 GROUNDS OF EARLY SUBMISSION.—A State may not
3 refuse to accept or process, with respect to any general,
4 special, primary, or runoff election for Federal office, any
5 otherwise valid voter registration application or absentee
6 ballot application from an absent uniformed services voter
7 during a year on the grounds that the voter submitted the
8 application before the first date on which the State other-
9 wise accepts or processes such applications from absentee
10 voters during the year.”.

11 (b) USE OF SINGLE APPLICATION FOR ABSENTEE
12 BALLOTS FOR ALL FEDERAL ELECTIONS.—Section
13 102(a) of such Act (42 U.S.C. 1973ff–1(a)), as amended
14 by section 4(a), is amended—

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

16 (2);

17 (2) by redesignating paragraph (3) as para-
18 graph (4); and

19 (3) by inserting after paragraph (2) the fol-
20 lowing new paragraph:

21 “(3) accept and process, with respect to all gen-
22 eral, special, primary, and runoff elections for Fed-
23 eral office occurring during a year, any otherwise
24 valid absentee ballot application from an absent uni-
25 formed services voter or overseas voter, if a single

1 application for all such elections is received by the
2 appropriate State election official not less than 30
3 days before the first election for Federal office oc-
4 ccurring during the year; and”.

5 (c) RECOMMENDATION REGARDING EXTENSION OF
6 PERIOD BETWEEN AVAILABILITY OF ABSENTEE BALLOT
7 AND DEADLINE FOR SUBMISSION.—Section 104 of such
8 Act (42 U.S.C. 1973ff–3) is amended—

9 (1) by striking “and” at the end of paragraph
10 (8);

11 (2) by striking the period at the end of para-
12 graph (9) and inserting “; and”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(10) find that any ballot submitted in an elec-
16 tion for Federal, State, or local office by an absent
17 uniformed services voter was submitted in a timely
18 manner if the ballot was submitted not later than 45
19 days after the date on which the ballot was made
20 available by the State.”.

1 **SEC. 6. GRANTING PROTECTIONS GIVEN TO ABSENT UNI-**
2 **FORMED SERVICES VOTERS TO RECENTLY**
3 **SEPARATED UNIFORMED SERVICES VOTERS.**

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

7 **“SEC. 104A. COVERAGE OF RECENTLY SEPARATED UNI-**
8 **FORMED SERVICES VOTERS.**

9 “(a) IN GENERAL.—For purposes of this Act, an in-
10 dividual who is a separated uniformed services voter (or
11 the spouse or dependent of such an individual) shall be
12 treated in the same manner as an absent uniformed serv-
13 ices voter with respect to any election occurring during
14 the 60-day period which begins on the date the individual
15 becomes a separated uniformed services voter.

16 “(b) SEPARATED UNIFORMED SERVICES VOTER DE-
17 FINED.—

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

21 “(A) is separated from the uniformed serv-
22 ices;

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

25 “(C) presents to an appropriate election of-
26 ficial Department of Defense Form 214 show-

1 ing that the individual meets the requirements
2 of subparagraphs (A) and (B) (or any other of-
3 ficial proof of meeting such requirements); and

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

6 “(2) UNIFORMED SERVICES VOTER.—In para-
7 graph (1), the term ‘uniformed services voter’
8 means—

9 “(A) a member of a uniformed service on
10 active duty; or

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

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

13 (a) IN GENERAL.—The Secretary of Defense shall
14 carry out a demonstration project under which absent uni-
15 formed services voters shall be permitted to cast ballots
16 in the regularly scheduled general election for Federal of-
17 fice for November 2002 through an electronic voting sys-
18 tem.

19 (b) COORDINATION WITH STATE ELECTION OFFI-
20 CIALS.—To the greatest extent practicable, the Secretary
21 shall carry out the demonstration project under this sec-
22 tion through cooperative agreements with State election
23 officials.

24 (c) REPORT TO CONGRESS.—Not later than June 1,
25 2003, the Secretary shall submit a report to Congress ana-

1 lyzing the demonstration project conducted under this sec-
2 tion, and shall include in the report any recommendations
3 the Secretary considers appropriate for continuing the
4 project on an expanded basis during the next regularly
5 scheduled general election for Federal office.

6 **SEC. 8. ABSENT UNIFORMED SERVICES VOTER DEFINED.**

7 In this Act, the term “absent uniformed services
8 voter” has the meaning given such term in section 107(1)
9 of the Uniformed and Overseas Citizens Absentee Voting
10 Act (42 U.S.C. 1973ff–6(1)).

11 **SEC. 9. EFFECTIVE DATE.**

12 This Act and the amendments made by this Act shall
13 apply with respect to ballots submitted for elections occur-
14 ring after the date of the enactment of this Act.

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