

110TH CONGRESS  
2D SESSION

# S. 3073

To amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 22, 2008

Mr. CORNYN (for himself, Mr. VITTER, Mr. ALLARD, Mr. CRAIG, Mrs. DOLE, Mr. ROBERTS, Mr. INHOFE, Mr. ENSIGN, Mr. MARTINEZ, Mr. GRASSLEY, Mr. STEVENS, Mr. CHAMBLISS, Mr. BUNNING, Mr. KYL, Mrs. HUTCHISON, Mr. ENZI, Mr. WICKER, Mr. COBURN, Mr. COLEMAN, Mr. ISAKSON, Mr. BOND, Mr. LUGAR, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Voting Protec-  
5 tion Act of 2008”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) In the defense of freedom, members of the  
4 United States Armed Forces are routinely deployed  
5 to overseas theaters of combat, assigned to overseas  
6 locations, and assigned to ocean-going vessels far  
7 from home.

8 (2) As the United States continues to fight the  
9 Global War on Terror, the substantial need for over-  
10 seas service by members of the Armed Forces will  
11 continue, as we live in what senior Army leaders  
12 have referred to as an “era of persistent conflict”.

13 (3) The right to vote is one of the most basic  
14 and fundamental rights enjoyed by Americans, and  
15 one which the members of the Armed Forces bravely  
16 defend both at home in the United States and over-  
17 seas.

18 (4) The decisions of elected officials of the  
19 United States Government directly impact the mem-  
20 bers of the Armed Forces who are often called to de-  
21 ploy or otherwise serve overseas as a result of deci-  
22 sions made by such elected officials.

23 (5) The ability of the members of the Armed  
24 Forces to vote while serving overseas has been ham-  
25 pered by numerous factors, including inadequate  
26 processes for ensuring their timely receipt of absen-

1       tee ballots, delivery methods that are typically slow  
2       and antiquated, and a myriad of absentee voting  
3       procedures that are often confusing and vary among  
4       the several States.

5               (6) The Uniformed and Overseas Citizens Ab-  
6       sentee Voting Act, which requires the States to allow  
7       absentee voting for members of the Armed Forces  
8       and other specified groups of United States citizens,  
9       was intended to protect the voting rights of members  
10      of the Armed Forces.

11              (7) According to a survey conducted by the  
12      United States Election Assistance Commission in  
13      September 2007, at least 992,034 absentee ballots  
14      were requested in the 2006 general election under  
15      the Uniformed and Overseas Citizens Absentee Vot-  
16      ing Act. However, less than one-third of such bal-  
17      lots, or approximately 330,000 out of 992,034, were  
18      ultimately received by local election officials, evidenc-  
19      ing an unacceptable failure of the current absentee  
20      ballot system in ensuring that those who defend our  
21      freedom and the American way of life have a voice  
22      in choosing their elected officials.

23              (8) The United States Election Assistance  
24      Commission specifically found that, of the overseas  
25      members of the Armed Forces who requested ballots

1 for the 2006 election, only 47.6 percent actually cast  
2 a ballot or had their cast ballot counted.

3 (9) According to the survey, of all the absentee  
4 ballots under the Uniformed and Overseas Citizens  
5 Absentee Voting Act not counted in the 2006 gen-  
6 eral election, more than 70 percent were not counted  
7 because they were either sent back to local election  
8 officials as undeliverable (likely due to a bad ad-  
9 dress), or were sent in by the voter but received by  
10 local election officials after the deadline for receipt.

11 (10) The current system of absentee voting for  
12 overseas members of the Armed Forces could be  
13 greatly improved by decreasing delays in the process,  
14 and certain steps by the Department of Defense, in-  
15 cluding utilization of express mail services for the  
16 delivery of completed absentee ballots, would address  
17 the major sources of delay.

18 (11) Modern technology continues to rapidly  
19 advance, greatly expanding the range of potential so-  
20 lutions to these problems and increasing the ability  
21 to remove obstacles encountered by overseas mem-  
22 bers of the Armed Forces in the past in trying to  
23 cast their votes.

1 **SEC. 3. PROCEDURES FOR COLLECTION AND DELIVERY OF**  
2 **ABSENTEE BALLOTS OF ABSENT OVERSEAS**  
3 **UNIFORMED SERVICES VOTERS.**

4 (a) IN GENERAL.—The Uniformed and Overseas  
5 Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.)  
6 is amended by inserting after section 103 the following  
7 new section:

8 **“SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY**  
9 **OF ABSENTEE BALLOTS OF ABSENT OVER-**  
10 **SEAS UNIFORMED SERVICES VOTERS.**

11 “(a) COLLECTION.—The Presidential designee shall  
12 establish procedures for collecting absentee ballots of ab-  
13 sent overseas uniformed services voters in regularly sched-  
14 uled general elections for Federal office, including absen-  
15 tee ballots prepared by States and the Federal write-in  
16 absentee ballot prescribed under section 103, and for de-  
17 livering the ballots to the appropriate election officials.

18 “(b) ENSURING DELIVERY PRIOR TO CLOSING OF  
19 POLLS.—

20 “(1) IN GENERAL.—Under the procedures es-  
21 tablished under this section, the Presidential des-  
22 ignee shall ensure (either directly or by contract)  
23 that any absentee ballot for a regularly scheduled  
24 general election for Federal office which is collected  
25 prior to the applicable deadline described in para-  
26 graph (2) is delivered to the appropriate election of-

1        ficial in a State prior to the time established by the  
2        State for the closing of the polls on the date of the  
3        election.

4            “(2) CONTRACT WITH EXPRESS MAIL PRO-  
5        VIDERS.—

6            “(A) IN GENERAL.—To the greatest extent  
7        practicable, the Presidential designee shall  
8        carry out this section by contract with a pro-  
9        vider of express mail services.

10           “(B) SPECIAL RULE FOR VOTERS IN JU-  
11        RISDICTIONS USING POST OFFICE BOXES FOR  
12        COLLECTION OF ABSENTEE BALLOTS.—In the  
13        case of an absent uniformed services voter who  
14        wishes to use the procedures established under  
15        this section and whose absentee ballot is re-  
16        quired by the appropriate election official to be  
17        delivered to a post office box, the Presidential  
18        designee shall enter into an agreement with the  
19        United States Postal Service for the delivery of  
20        the ballot to the election official under the pro-  
21        cedures established under this section.

22           “(3) APPLICABLE DEADLINE.—The applicable  
23        deadline described in this paragraph is—

1           “(A) noon (in the location in which the  
2 ballot is collected) on the last Friday that pre-  
3 cedes the date of the election; or

4           “(B) in the case of a location for which the  
5 Presidential designee determines that the appli-  
6 cable deadline under subparagraph (A) is not  
7 sufficient to ensure timely delivery of the ballot  
8 under paragraph (1) because of remoteness or  
9 other factors, noon (in the location in which the  
10 ballot is collected) on such date prior to the last  
11 Friday that precedes the date of the election as  
12 the Presidential designee establishes.

13           “(4) PROHIBITING REFUSAL BY STATE TO AC-  
14 CEPT BALLOTS NOT DELIVERED BY POSTAL SERVICE  
15 OR IN PERSON.—A State may not refuse to accept  
16 or process any absentee ballot delivered under the  
17 procedures established under this section on the  
18 grounds that the ballot is received by the State other  
19 than through delivery by the United States Postal  
20 Service or delivery in person.

21           “(c) TRACKING MECHANISM.—Under the procedures  
22 established under this section, the entity responsible for  
23 delivering absentee ballots to the appropriate election offi-  
24 cials shall implement procedures to enable any individual  
25 whose absentee ballot for a regularly scheduled general

1 election for Federal office is collected by the Presidential  
 2 designee to determine whether the ballot has been deliv-  
 3 ered to the appropriate election official, using the Internet,  
 4 an automated telephone system, or such other methods as  
 5 the entity may provide.

6 “(d) ABSENT OVERSEAS UNIFORMED SERVICES  
 7 VOTER DEFINED.—In this section, the term ‘absent over-  
 8 seas uniformed services voter’ means an overseas voter de-  
 9 scribed in section 107(5)(A).

10 “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
 11 are authorized to be appropriated to the Presidential des-  
 12 ignee such sums as may be necessary to carry out this  
 13 section. Any amounts appropriated pursuant to the au-  
 14 thorization under this subsection shall remain available  
 15 until expended without fiscal year limitation.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) FEDERAL RESPONSIBILITIES.—Section  
 18 101(b) of such Act (42 U.S.C. 1973ff(b)) is amend-  
 19 ed—

20 (A) by striking “and” at the end of para-  
 21 graph (6);

22 (B) by striking the period at the end of  
 23 paragraph (7) and inserting “; and”; and

24 (C) by adding at the end the following new  
 25 paragraph:

1           “(8) carry out section 103A with respect to the  
2 collection and delivery of absentee ballots of absent  
3 overseas uniformed services voters in elections for  
4 Federal office.”.

5           (2) STATE RESPONSIBILITIES.—Section 102(a)  
6 of such Act (42 U.S.C. 1973ff–1(a)) is amended—

7           (A) by striking “and” at the end of para-  
8 graph (4);

9           (B) by striking the period at the end of  
10 paragraph (5) and inserting “; and”; and

11           (C) by adding at the end the following new  
12 paragraph:

13           “(6) carry out section 103A(b)(2) with respect  
14 to the processing and acceptance of absentee ballots  
15 of absent overseas uniformed services voters.”.

16           (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply with respect to the regularly sched-  
18 uled general election for Federal office held in November  
19 2008 and each succeeding election for Federal office.

20 **SEC. 4. PROTECTING VOTER PRIVACY AND SECRECY OF AB-**  
21 **SENTEE BALLOTS.**

22           Section 101(b) of the Uniformed and Overseas Citi-  
23 zens Absentee Voting Act (42 U.S.C. 1973ff(b)), as  
24 amended by section 3(b), is amended—

1 (1) by striking “and” at the end of paragraph  
2 (7);

3 (2) by striking the period at the end of para-  
4 graph (8) and inserting “; and”; and

5 (3) by adding at the end the following new  
6 paragraph:

7 “(9) to the greatest extent practicable, take  
8 such actions as may be required to ensure that ab-  
9 sent uniformed services voters who cast absentee  
10 ballots at locations or facilities under the Presi-  
11 dential designee’s jurisdiction are able to do so in a  
12 private and independent manner, and take such ac-  
13 tions as may be required to protect the privacy of  
14 the contents of absentee ballots cast by absent uni-  
15 formed services voters and overseas voters while  
16 such ballots are in the Presidential designee’s pos-  
17 session or control.”.

18 **SEC. 5. SENSE OF CONGRESS ON USE OF TECHNOLOGY TO**  
19 **IMPROVE ABSENTEE BALLOTING BY MEM-**  
20 **BERS OF THE ARMED FORCES.**

21 (a) FINDINGS.—Congress makes the following find-  
22 ings:

23 (1) The majority of the overseas members of  
24 the Armed Forces, whether deployed or regularly

1 stationed overseas, have regular access to computers  
2 and the Internet.

3 (2) The majority of the members of the Armed  
4 Forces have already proven themselves able to rou-  
5 tinely conduct electronic transactions involving sen-  
6 sitive personal information, including transactions  
7 relating to pay and allowances, allotments, perform-  
8 ance reviews, and payment of income taxes.

9 (3) Strong evidence exists that the implementa-  
10 tion of secure electronic voting for deployed mem-  
11 bers of the Armed Forces is an achievable goal. Aus-  
12 tralia, an important ally of the United States, has  
13 successfully utilized electronic voting for its deployed  
14 military members through a trial program run by  
15 the Department of Defence of Australia and the  
16 Australian Electoral Commission. In November,  
17 2007, military members of Australia deployed to  
18 Iraq, Timor-Leste, and the Solomon Islands voted in  
19 the federal election in Australia through a secure  
20 encrypted electronic voting system that makes use of  
21 the secure communications infrastructure of the De-  
22 partment of Defence of Australia.

23 (b) SENSE OF CONGRESS.—In light of the findings  
24 in subsection (a), it is the sense of Congress that the De-  
25 partment of Defense—

1           (1) should work to utilize existing and emerging  
2 technologies and procedures that have the potential  
3 to enhance the ability of the members of the Armed  
4 Forces (whether overseas or in the United States  
5 but not located in reasonable proximity to their reg-  
6 istered voting locations) to meaningfully participate  
7 in elections and have their votes counted; and

8           (2) should continue to closely examine the op-  
9 tion of electronic voting for overseas members of the  
10 Armed Forces, focusing on systems and procedures  
11 that are efficient, cost-effective, secure, and well-  
12 suited to achieve the important objectives of pro-  
13 tecting voter privacy and guarding against voter  
14 fraud.

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