

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Rules, Ethics & Elections offered the following:

Amendment (with title amendment)

Delete everything after the enacting clause

and insert in lieu thereof:

Section 1. This act may be cited as the "Military and Overseas Voter Protection Act."

Section 2. Definitions.--As used in this act, the term:

(1) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(2) "Member of the Merchant Marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes for the inland waterways, who is:

(a) Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned

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1 by the United States, or a vessel of foreign-flag registry
2 under charter to or control of the United States; or

3 (b) Enrolled with the United States for employment or
4 training for employment, or maintained by the United States
5 for emergency relief service, as an officer or crew member of
6 such vessel.

7 (3) "Overseas voter" means:

8 (a) Members of the uniformed services while in the
9 active service who are permanent residents of the state and
10 are temporarily residing outside the territorial limits of the
11 United States and the District of Columbia;

12 (b) Members of the Merchant Marine of the United
13 States who are permanent residents of the state and are
14 temporarily residing outside the territorial limits of the
15 United States and the District of Columbia; and

16 (c) Other citizens of the United States who are
17 permanent residents of the state and are temporarily residing
18 outside the territorial limits of the United States and the
19 District of Columbia,

20
21 who are qualified and registered to vote as provided by law.

22 Section 3. It is the intent of the Legislature to
23 facilitate the provisions of the federal Uniformed and
24 Overseas Citizens Absentee Voting Act.

25 Section 4. Any person who is qualified as an overseas
26 voter under this act and who has been discharged or separated
27 after the book closing for an election pursuant to section
28 97.055, Florida Statutes, from the uniformed services or
29 Merchant Marine, and any spouse or child accompanying such
30 person, who is otherwise qualified, may register to vote in
31 such election until 5 p.m. on the Friday before said election.

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1 Such persons must produce sufficient documentation showing
2 evidence of qualifying for late registration pursuant to this
3 section. The Department of State shall adopt rules specifying
4 documentation that is sufficient to determine eligibility.

5 Section 5. State write-in ballot.--

6 (1) An overseas voter may request, not earlier than
7 180 days before a general election, a state write-in absentee
8 ballot from the supervisor of elections in the county of
9 registration. In order to receive a state write-in ballot, the
10 voter shall state that due to military or other contingencies
11 that preclude normal mail delivery, the voter cannot vote an
12 absentee ballot during the normal absentee voting period.

13 State write-in absentee ballots shall be made available to
14 voters 90 to 180 days prior to a general election. The
15 Department of State shall prescribe by rule the form of the
16 state write-in ballot.

17 (2) In completing the ballot, the overseas voter may
18 designate his or her choice by writing in the name of the
19 candidate or by writing in the name of a political party, in
20 which case the ballot must be counted for the candidate of
21 that political party, if there is such a party candidate on
22 the ballot.

23 (3) Any abbreviation, misspelling, or other minor
24 variation in the form of the name of a candidate or a
25 political party must be disregarded in determining the
26 validity of the ballot if there is a clear indication that the
27 voter has made a definite choice.

28 (4) The state write-in ballot shall contain all
29 offices, federal, state, and local, for which the voter would
30 otherwise be entitled to vote.

31 Section 6. Absentee ballots for overseas voters.--

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1 (1) Not fewer than 35 days prior to the first primary
2 and not fewer than 45 days prior to the second primary and the
3 general election, the supervisor of elections shall mail an
4 absentee ballot to each overseas voter who has made a request
5 for an absentee ballot.

6 (2) If the regular absentee ballots for the second
7 primary or general election are not available for mailing by
8 the times prescribed in subsection (1), the supervisor of
9 elections shall mail an advance ballot.

10 (a) The advance ballot for the second primary must be
11 the same as the first primary ballot as to the names of
12 candidates, except that for any offices where there are only
13 two candidates, those offices and all political party
14 executive committee offices shall be omitted.

15 (b) Except as provided in section 99.063(4), Florida
16 Statutes, the advance absentee ballot for the general election
17 shall include the same information as the general election
18 ballot, except that in the case of candidates of political
19 parties when nominations were not made in the first primary,
20 the names of the candidates placing first and second in the
21 first primary election must be printed on the advance absentee
22 ballot.

23 (c) The advance absentee ballot shall be a different
24 color for each election and also a different color from the
25 absentee ballots for the first primary, second primary, and
26 general election.

27 (d) The supervisor shall enclose with the advance
28 ballot an explanation stating that the absentee ballot for the
29 election will be mailed as soon as it is printed; and, if both
30 the advance absentee ballot and the absentee ballot for the
31 election are returned in time to be counted, only the absentee

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1 ballot will be counted.

2 (e) In the event that the Elections Canvassing
3 Commission is unable to certify the results of an election for
4 a state office in time to comply with the provisions of the
5 subsection, the Department of State is authorized to prescribe
6 rules for a ballot to be sent to overseas voters.

7 (3) If an overseas voter's request for an absentee
8 ballot includes an e-mail address, the supervisor of elections
9 shall inform the voter of the names of candidates who will be
10 on the ballots via electronic transmission. The supervisor of
11 elections shall e-mail to the voter the list of candidates for
12 the first primary not later than 30 days before the first
13 primary; the list of candidates for the second primary not
14 later than eight days after the first primary, and the list of
15 candidates for the general election not later than four days
16 after the second primary.

17 (4) For absentee ballots received from overseas
18 voters, there is a presumption that the envelope was mailed on
19 the date stated and witnessed on the outside of the return
20 envelope, regardless of the absence of a postmark on the
21 mailed envelope or the existence of a postmark date that is
22 later than the date of the election.

23 Section 7. Electronic transmission of election
24 materials.--The Department of State shall adopt rules to
25 authorize a supervisor of elections to accept a request for an
26 absentee ballot and a voted absentee ballot by facsimile
27 machine or other electronic means from overseas voters. The
28 rules must provide that in order to accept a voted ballot, the
29 verification of the voter must be established, the security of
30 the transmission must be established, and each ballot received
31 must be recorded.

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1 Section 8. If a national or local emergency or other
2 situation arises which makes substantial compliance with the
3 provisions of state or federal law relating to the methods of
4 voting for overseas voters impossible or unreasonable, such as
5 an armed conflict involving United States Armed Forces or
6 mobilization of those forces, including state National Guard
7 and reserve components, the Elections Canvassing Commission
8 may adopt by emergency rules, such special procedures or
9 requirements necessary to facilitate absentee voting by those
10 persons directly affected who are otherwise eligible to vote
11 in the election.

12 Section 9. Subsections (4), (5), (6), and (7) of
13 section 101.62, Florida Statutes, are amended to read:

14 101.62 Request for absentee ballots.--

15 ~~(4)(a) To each absent qualified elector overseas who~~
16 ~~has requested an absentee ballot, the supervisor of elections~~
17 ~~shall, not fewer than 35 days before the first primary~~
18 ~~election, mail an absentee ballot. Not fewer than 45 days~~
19 ~~before the second primary and general election, the supervisor~~
20 ~~of elections shall mail an advance absentee ballot to those~~
21 ~~persons requesting ballots for such elections. The advance~~
22 ~~absentee ballot for the second primary shall be the same as~~
23 ~~the first primary absentee ballot as to the names of~~
24 ~~candidates, except that for any offices where there are only~~
25 ~~two candidates, those offices and all political party~~
26 ~~executive committee offices shall be omitted. Except as~~
27 ~~provided in s. 99.063(4), the advance absentee ballot for the~~
28 ~~general election shall be as specified in s. 101.151, except~~
29 ~~that in the case of candidates of political parties where~~
30 ~~nominations were not made in the first primary, the names of~~
31 ~~the candidates placing first and second in the first primary~~

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1 ~~election shall be printed on the advance absentee ballot. The~~
2 ~~advance absentee ballot or advance absentee ballot information~~
3 ~~booklet shall be of a different color for each election and~~
4 ~~also a different color from the absentee ballots for the first~~
5 ~~primary, second primary, and general election. The supervisor~~
6 ~~shall mail an advance absentee ballot for the second primary~~
7 ~~and general election to each qualified absent elector for whom~~
8 ~~a request is received until the absentee ballots are printed.~~
9 ~~The supervisor shall enclose with the advance second primary~~
10 ~~absentee ballot and advance general election absentee ballot~~
11 ~~an explanation stating that the absentee ballot for the~~
12 ~~election will be mailed as soon as it is printed; and, if both~~
13 ~~the advance absentee ballot and the absentee ballot for the~~
14 ~~election are returned in time to be counted, only the absentee~~
15 ~~ballot will be counted.~~

16 ~~(b)~~ As soon as ~~the remainder~~ of the absentee ballots
17 are printed, the supervisor shall provide an absentee ballot
18 to each elector by whom a request for that ballot has been
19 made by one of the following means:

20 ~~(a)1.~~ By nonforwardable, return-if-undeliverable mail
21 to the elector's current mailing address on file with the
22 supervisor, unless the elector specifies in the request that:

23 ~~(1.)a.~~ The elector is absent from the county and does
24 not plan to return before the day of the election;

25 ~~(2.)b.~~ The elector is temporarily unable to occupy the
26 residence because of hurricane, tornado, flood, fire, or other
27 emergency or natural disaster; or

28 ~~(3.)c.~~ The elector is in a hospital, assisted-living
29 facility, nursing home, short-term medical or rehabilitation
30 facility, or correctional facility,

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1 in which case the supervisor shall mail the ballot by
2 nonforwardable, return-if-undeliverable mail to any other
3 address the elector specifies in the request.

4 ~~(b)2.~~ By forwardable mail to voters who are entitled
5 to vote by absentee ballot under the Uniformed and Overseas
6 Citizens Voting Act.

7 ~~(c)3.~~ By personal delivery to the elector, upon
8 presentation of the identification required in s. 101.657.

9 ~~(d)4.~~ By delivery to a designee on election day or up
10 to 4 days prior to the day of an election. Any elector may
11 designate in writing a person to pick up the ballot for the
12 elector; however, the person designated may not pick up more
13 than two absentee ballots per election, other than the
14 designee's own ballot, except that additional ballots may be
15 picked up for members of the designee's immediate family. For
16 purposes of this section, "immediate family" means the
17 designee's spouse or the parent, child, grandparent, or
18 sibling of the designee or of the designee's spouse. The
19 designee shall provide to the supervisor the written
20 authorization by the elector and a picture identification of
21 the designee and must complete an affidavit. The designee
22 shall state in the affidavit that the designee is authorized
23 by the elector to pick up that ballot and shall indicate if
24 the elector is a member of the designee's immediate family
25 and, if so, the relationship. The department shall prescribe
26 the form of the affidavit. If the supervisor is satisfied that
27 the designee is authorized to pick up the ballot and that the
28 signature of the elector on the written authorization matches
29 the signature of the elector on file, the supervisor shall
30 give the ballot to that designee for delivery to the elector.

31 ~~(5) In the event that the Elections Canvassing~~

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1 ~~Commission is unable to certify the results of an election for~~
2 ~~a state office in time to comply with subsection (4), the~~
3 ~~Department of State is authorized to prescribe rules for a~~
4 ~~ballot to be sent to absent electors overseas.~~

5 ~~(5)(6) Nothing other than the materials necessary to~~
6 ~~vote absentee shall be mailed or delivered with any absentee~~
7 ~~ballot.~~

8 ~~(7)(a) For the purposes of this section, "absent~~
9 ~~qualified elector overseas" means:~~

10 ~~1. Members of the Armed Forces while in the active~~
11 ~~service who are permanent residents of the state and are~~
12 ~~temporarily residing outside the territorial limits of the~~
13 ~~United States and the District of Columbia;~~

14 ~~2. Members of the Merchant Marine of the United States~~
15 ~~who are permanent residents of the state and are temporarily~~
16 ~~residing outside the territorial limits of the United States~~
17 ~~and the District of Columbia; and~~

18 ~~3. Other citizens of the United States who are~~
19 ~~permanent residents of the state and are temporarily residing~~
20 ~~outside the territorial limits of the United States and the~~
21 ~~District of Columbia,~~

22
23 ~~who are qualified and registered as provided by law.~~

24 ~~(b) Notwithstanding any other provision of law to the~~
25 ~~contrary, there shall appear on the ballots sent to absent~~
26 ~~qualified electors overseas, in addition to the names of the~~
27 ~~candidates for each office, the political party affiliation of~~
28 ~~each candidate for each office, other than a nonpartisan~~
29 ~~office.~~

30 ~~(c) With respect to marked ballots mailed by absent~~
31 ~~qualified electors overseas, only those ballots mailed with an~~

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1 ~~APO, FPO, or foreign postmark shall be considered valid.~~

2 Section 10. Subsection (1) of section 101.64, Florida
3 Statutes, is amended to read:

4 101.64 Delivery of absentee ballots; envelopes;
5 form.--

6 (1) The supervisor shall enclose with each absentee
7 ballot two envelopes: a secrecy envelope, into which the
8 absent elector shall enclose his or her marked ballot; and a
9 mailing envelope, into which the absent elector shall then
10 place the secrecy envelope, which shall be addressed to the
11 supervisor and also bear on the back side a certificate in
12 substantially the following form:

13
14 Note: Please Read Instructions Carefully Before
15 Marking Ballot and Completing Voter's Certificate.

16 VOTER'S CERTIFICATE

17 I,, am a qualified and registered voter of
18 County, Florida. I understand that if I commit or attempt to
19 commit any fraud in connection with voting, vote a fraudulent
20 ballot, or vote more than once in an election, I can be
21 convicted of a felony of the third degree and fined up to
22 \$5,000 and/or imprisoned for up to 5 years. I also understand
23 that failure to sign this certificate and have my signature
24 witnessed will invalidate my ballot. I am entitled to vote an
25 absentee ballot for one of the following reasons:

- 26
- 27 1. I am unable without another's assistance to attend
28 the polls.
 - 29 2. I may not be in the precinct of my residence during
30 the hours the polls are open for voting on election day.
 - 31 3. I am an inspector, a poll worker, a deputy voting

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1 machine custodian, a deputy sheriff, a supervisor of
2 elections, or a deputy supervisor who is assigned to a
3 different precinct than that in which I am registered.

4 4. On account of the tenets of my religion, I cannot
5 attend the polls on the day of the general, special, or
6 primary election.

7 5. I have changed my permanent residency to another
8 county in Florida within the time period during which the
9 registration books are closed for the election. I understand
10 that I am allowed to vote only for national and statewide
11 offices and on statewide issues.

12 6. I have changed my permanent residency to another
13 state and am unable under the laws of such state to vote in
14 the general election. I understand that I am allowed to vote
15 only for President and Vice President.

16 7. I am unable to attend the polls on election day and
17 am voting this ballot in person at the office of, and under
18 the supervision of, the county supervisor of elections.

19
20

21 ...(Date)... ...(Voter's Signature)...

22

23 ~~...(Last four digits of voter's social security number)...~~

24 Note: Your Signature Must Be Witnessed By ~~Either:~~

25 ~~a. A Notary or Officer Defined in Item 6.b. of the~~
26 ~~Instruction Sheet.~~

27

28 ~~Sworn to (or affirmed) and subscribed before me this~~
29 ~~.... day of, ...(year)...., by ...(name of person~~
30 ~~making statement).... My commission expires this day of~~
31 ~~....., ...(year)....~~

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1 ~~...(Signature of Official)...~~

2 ~~...(Print, Type, or Stamp Name)...~~

3 ~~...(State or Country of Commission)...~~

4 Personally Known OR Produced Identification

5

6 ~~Type of Identification Produced.....~~

7

8 OR

9

10 b. One Witness, 18 years of age or older ~~who is a~~

11 ~~registered voter in the State.~~

12

13 I swear or affirm that the voter signed this Voter's

14 Certificate in my presence ~~and that, unless certified as an~~

15 ~~absentee ballot coordinator, I have not witnessed more than 5~~

16 ~~ballots for this election.~~

17

18 WITNESS:

19

20 ~~...(Signature of Witness)...~~

21 ~~...(Printed Name of Witness)...~~

22

23 ~~...(Voter I.D. Number of Witness and County of~~

24 ~~Registration)...~~

25

26 ~~...(Address)...~~

27

~~...(City/State)...~~

28

29 Section 11. Section 101.65, Florida Statutes, is

30 amended to read:

31

101.65 Instructions to absent electors.--The

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1 supervisor shall enclose with each absentee ballot separate
2 printed instructions in substantially the following form:

3
4 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

5 1. VERY IMPORTANT. In order to ensure that your
6 absentee ballot will be counted, it should be completed and
7 returned as soon as possible so that it can reach the
8 supervisor of elections of the county in which your precinct
9 is located no later than 7 p.m. on the day of the election.

10 2. Mark your ballot in secret as instructed on the
11 ballot. You must mark your own ballot unless you are unable to
12 do so because of blindness, disability, or inability to read
13 or write.

14 3. Place your marked ballot in the enclosed secrecy
15 envelope.

16 4. Insert the secrecy envelope into the enclosed
17 mailing envelope which is addressed to the supervisor.

18 5. Seal the mailing envelope and completely fill out
19 the Voter's Certificate on the back of the mailing envelope.

20 6. VERY IMPORTANT. In order for your absentee ballot
21 to be counted, you must sign your name on the line above
22 (Voter's Signature), ~~place the last four digits of your~~
23 ~~Social Security number in the space provided, and your ballot~~
24 ~~must be witnessed in either of the following manners:~~

25 a. ~~One witness, who is a registered voter in the~~
26 ~~state, must affix his or her signature, printed name, address,~~
27 ~~voter identification number, and county of registration on the~~
28 ~~voter's certificate. Each witness is limited to witnessing~~
29 ~~five ballots per election unless certified as an absentee~~
30 ~~ballot coordinator. A candidate may not serve as an attesting~~
31 ~~witness.~~

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1 ~~b. Any notary or other officer entitled to administer~~
2 ~~oaths or any Florida supervisor of elections or deputy~~
3 ~~supervisor of elections, other than a candidate, may serve as~~
4 ~~an attesting witness.~~

5 7. VERY IMPORTANT. If you are an overseas voter, you
6 must include the date you signed the Voter's Certificate on
7 the line above (Date) or your ballot may not be counted.

8 8. VERY IMPORTANT. In order for your absentee ballot
9 to be counted, it must include the signature and address of a
10 witness 18 years of age or older affixed to the voter's
11 certificate. No candidate may serve as an attesting witness.

12 ~~9.7.~~ Mail, deliver, or have delivered the completed
13 mailing envelope. Be sure there is sufficient postage if
14 mailed.

15 ~~10.8.~~ FELONY NOTICE. It is a felony under Florida law
16 to accept any gift, payment, or gratuity in exchange for your
17 vote for a candidate. It is also a felony under Florida law to
18 vote in an election using a false identity or false address,
19 or under any other circumstances making your ballot false or
20 fraudulent.

21 Section 12. Subsection (1) of section 102.111, Florida
22 Statutes, is amended to read:

23 102.111 Elections Canvassing Commission.--

24 (1) Immediately after certification of any election by
25 the county canvassing board, the results shall be forwarded to
26 the Department of State concerning the election of any federal
27 or state officer. The Governor, the Secretary of State, and
28 the Director of the Division of Elections shall be the
29 Elections Canvassing Commission. The Elections Canvassing
30 Commission shall, as soon as the official results are compiled
31 from all counties, certify the returns of the election and

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1 determine and declare who has been elected for each office. In
 2 the event that any member of the Elections Canvassing
 3 Commission is unavailable to certify the returns of any
 4 election, such member shall be replaced by a substitute member
 5 of the Cabinet as determined by the Director of the Division
 6 of Elections. ~~If the county returns are not received by the~~
 7 ~~Department of State by 5 p.m. of the seventh day following an~~
 8 ~~election, all missing counties shall be ignored, and the~~
 9 ~~results shown by the returns on file shall be certified.~~

10 Section 13. Subsection (1) of section 102.112, Florida
 11 Statutes, is amended to read:

12 102.112 Deadline for submission of county returns to
 13 the Department of State; penalties.--

14 (1) The county canvassing board or a majority thereof
 15 shall file the county returns for the election of a federal or
 16 state officer with the Department of State immediately after
 17 certification of the election results. Returns must be filed
 18 by 5 p.m. on the 7th day following the first primary, and by 5
 19 p.m. on the 11th day following the general election, and by 3
 20 p.m. on the 3rd day following the second primary. If the
 21 returns are not received by the department by the time
 22 specified, such returns may be ignored and the results on file
 23 at that time may be certified by the department.

24 Section 14. This act shall take effect January 1,
 25 2002.

26
 27

28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause

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1 and insert in lieu thereof:

2 A bill to be entitled
3 An act relating to elections; creating the
4 "Military and Overseas Voter Protection Act;"
5 providing definitions; stating legislative
6 intent; providing for registration of certain
7 recently discharged or separated military
8 personnel and family members; requiring the
9 Department of State to adopt rules specifying
10 eligibility; providing a state write-in
11 absentee ballot for overseas voters; providing
12 for absentee ballots for overseas voters;
13 providing for advance ballots; providing for
14 absentee ballot requests and voting via
15 electronic transmission by overseas voters
16 under certain circumstances; directing the
17 promulgation of emergency rules to facilitate
18 voting by overseas voters; providing a
19 presumption that absentee ballots were mailed
20 on the date stated on the outside of the
21 absentee return envelopes of absentee voters;
22 authorizing the Elections Canvassing Commission
23 to adopt emergency rules during crises to
24 facilitate absentee voting; amending s. 101.62,
25 F.S., to conform, amending s. 101.64, F.S.;
26 modifying absentee ballot certificates;
27 amending s. 101.65, F.S.; modifying
28 instructions to absentee voters; amending s.
29 102.112, F.S.; extending the deadline for
30 submission of county returns to the Department
31 of State; amending s. 102.111, F.S.; providing

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an effective date.