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S.1415, the “Military and Overseas Voter Empowerment Act”

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WEDNESDAY, JULY 15, 2009

United States Senate,
Committee on Rules and Administration,
Washington, D.C.

The Committee met, pursuant to notice, at 9:36 a.m., in Room 301, Russell Senate Office Building, Hon. Charles E. Schumer, Chairman of the committee presiding.

Senators Present: Schumer, Nelson, Pryor, Udall, Bennett, Cochran, Chambliss, and Roberts.

Staff Present: Jean Bordewich, Staff Director; Jason Abel, Chief Counsel; Veronica Gillespie, Elections Counsel; Adam Ambrogi, Counsel; Carole Blessington, Assistant to the Staff Director; Sonia Gill, Counsel; Lauryn Bruck, Professional Staff; Lynden Armstrong, Chief Clerk; Justin Perkins, Staff Assistant; Mary Suit Jones, Republican Staff Director; Shaun Parkin, Republican Deputy Staff Director; Paul Vinovich, Republican Chief Counsel; Michael Merrell, Republican Counsel; Abbie Platt, Republican Professional Staff; and Rachel Creviston, Republican Professional Staff.

OPENING STATEMENT OF CHAIRMAN SCHUMER

Chairman Schumer. The hearing will come to order. As you know we need seven to actually vote on amendments. We have six; we have at least two more members on their way so we will begin the opening statements. Hopefully they will be here, and we will do that. Maybe we can get the 10 to vote. If not, we will do it off of the floor.

First I want to thank all of my colleagues for coming. Particularly my friend, our Ranking Member Bob Bennett, and he has really worked hard. He had some problems with the bill and our staffs worked together and we have worked it all out. And I want to thank him for his dedication to helping men and women who serve overseas in our

31 Armed Forces exercise their franchise.

32 The two real guiding forces behind this are here today. Saxby Chambliss, an
33 original co-sponsor of this bill, member of the Armed Services Committee who has
34 shared our commitment to ensuring that Americans serve overseas can participate fully
35 in the electoral process and he worked hard with everybody and I thank Saxby and his
36 staff.

37 And the other person who was really instrumental in this is Ben Nelson, who is
38 Chairman of the Armed Services Subcommittee on Personnel and Readiness. He has
39 helped craft this legislation into shape. And he and Saxby should we pass it out of this
40 committee, we might be able to add it to the DoD Authorization Bill given their
41 leadership on that committee.

42 I also want to thank John Cornyn. He is not on this committee but he has been a
43 strong and committed advocate for military voters. He has previously introduced
44 legislation to help military voters and we appreciate his interest in the bill we are
45 considering today.

46 On May 13 of this year the Rules Committee held a hearing on the obstacles
47 faced by military and overseas voters. We released a survey commissioned from the
48 Congressional Research Service, which had very troubling news and that was that one in
49 four ballots requested by troops deployed overseas went uncounted in the 2008
50 election.

51 Studies from previous elections show that military and overseas voters have one
52 of the lowest levels of turnout of all groups. But not because they do not want to vote.
53 Our soldiers want to vote. But it is because it is hard for them to vote. It is hard for
54 them to register. Only 65 percent of U.S. military personnel are registered compared
55 to up to 84 percent of the population as a whole.

56 And then the voting process is rather cumbersome, because you need an
57 absentee ballot which is cumbersome in itself and you need two mail systems to get
58 them there; military mail and then U.S. Postal Service. And so, that is why the
59 numbers are so much lower -- not for lack of desire.

60 We have found that potential military and overseas voters often do not know
61 where to register, or the ways they can request an absentee ballot. The states mail
62 out the paper ballots without enough time for them to be received and returned by
63 mail. Sometimes the ballot gets there after the election is over and certainly after the
64 expiration date of when you can send in the absentee ballot.

65 And then far too many returned ballots are thrown out for technicalities that are
66 not election related; being on the wrong paper, not being notarized. Now how does
67 somebody in Fallujah go find a notary for his or her absentee ballot? So it is
68 unacceptable and we are trying to change that.

69 In an age of instantaneous global communications there is no reason not to use
70 the technology to help members of the military, their families, and other Americans
71 living, working and volunteering in foreign countries from exercising their right to vote.
72 And that is what we would say here.

73 What we are marrying is the desire to vote with new technology. That is all.
74 We are not changing any of the rules, we are just making it quicker and easier. If you
75 have e-mail and if you have fax machines, why not use them?

76 If the Department of Defense can get tanks, high tech equipment, and food to
77 the front lines of combat we can figure out a way to deliver an election ballot as well.
78 And we believe that this cannot wait. Senators Chambliss and Nelson and I have
79 introduced this legislation to overturn the barriers military and oversea voters
80 encounter as they fight for our freedom and serve our nation away from home. We
81 have received input from a number of groups and senators and worked to incorporate
82 their comments and concerns, so I think this is a strong bipartisan bill.

83 And I hope it will pass out of this committee without opposition.

84 So S.1415 will amend the 1986 Uniformed and Overseas Citizen Absentee voting
85 Act and bring it into the 21st Century. Will use the internet and other methods to
86 speed up the process for voters outside the U.S., make sure their votes count. It is an
87 urgent priority and I hope we can move it quickly. And with that let me turn it over to
88 our Ranking Member Bennett.

89

90 **OPENING STATEMENT OF SENATOR BENNETT**

91 **Senator Bennett.** Thank you very much Mr. Chairman not only for your
92 opening remarks, but for the way in which you and your staff have approached this.

93 As is the case with every piece of legislation there is always some tension among
94 people who focus on the details and to perhaps oversimplify, but I think to put it in
95 context we have has a little tension between what I would call the activist community
96 that want to make sure that everybody gets to vote and then the election administrator
97 community, the people who actually do the work who say, "Well, that is a good idea but
98 it will not work for these following reasons".

99 And I want to thank you for the way in which you and Senator Cornyn have
100 worked together, as he has put forward his efforts. I worked with your staff and with
101 Senator Chambliss and we put together an amendment the summary of which I would
102 like to submit for the record.

103 **Chairman Schumer.** Without objection.

104 [The information of Senator Bennett follows:]

105 **Senator Bennett.** And it goes through all of the details, in every case it is an
106 attempt to reconcile the tension that I described.

107 We want to get all of the folks in the military to vote, but at the same time we do
108 not want to put undue burdens on the people who actually run the machinery. And it
109 is my understanding that we have pretty well resolved all of the issues and all of the
110 tensions and I want to thank you for offering the amendment that will take care of
111 Senator Cornyn's concerns and for your willingness to accept the amendment I will offer
112 that will take care of the other concerns that were worked out with Senator Chambliss
113 and I believe with those two amendments it can indeed come out of the committee with
114 unanimous support and I will be happy to serve as a co-sponsor when it goes the floor
115 under those conditions.

116 So without going into any more details about the items in my amendment, I
117 simply repeat my gratitude to you and your staff and the others who have worked so
118 hard on it and congratulate you and Senator Nelson and Senator Chambliss for your
119 leadership in calling this to our attention and moving this forward.

120 [The prepared statement of Senator Bennett follows:]

121 **Chairman Schumer.** Thank you Senator Bennett. Senator Nelson.

122

123 **OPENING STATEMENT OF SENATOR NELSON**

124 Senator Nelson. Thank you Mr. Chairman. It is truly, as the Ranking Member
125 has indicated and you have as well, that it has been a pleasure to work as
126 collaboratively as we have on this legislation. It is consistent with how Senator
127 Chambliss and I have worked on personnel issues under the Armed Services Committee
128 to try to help our men and women in uniform and their families. But in this particular
129 case, assuring the right to vote is followed by the capability of achieving that right.

130 It is hard to register, hard to vote, hard to count votes. All the difficulties are
131 clear and navigating through these difficult areas is not always that easy, but what this
132 process has proven is that when we work together we can get things done and we can
133 overcome those obstacles.

134 So for the men and women in uniform we are all please that their right to vote
135 will be further honored by this legislation and I am very anxious to see it come to the
136 floor. Very anxious to see it get the kind of commitment and support that I know it will
137 get.

138 And thank you for your particular leadership Mr. Chairman and so graciously
139 sharing the gratitude and the accolades, because I know where a lot of the work was
140 done that was with your staff and our staffs. So thank you.

141 Chairman Schumer. Well, thank you Senator Nelson and without you and
142 Senator Chambliss this would not have happened. So thank you.

143 Senator Cochran, do you want to make a statement?

144

145 **OPENING STATEMENT OF SENATOR COCHRAN**

146 **Senator Cochran.** Mr. Chairman, I have a statement, and I would ask
147 unanimous consent that it be made a part of the record.

148 **Chairman Schumer.** Without objection.

149 [The prepared statement of Senator Cochran follows:]

150 **Chairman Schumer.** Senator Pryor, do you wish to say anything, opening?

151

152

OPENING STATEMENT OF SENATOR PRYOR

153 **Senator Pryor.** I don't, but I do want to thank all of the people who have
154 worked so hard on this. I'd like to be added as a co-sponsor if I am not already. But--

155 **Chairman Schumer.** You are already.

156 **Senator Pryor.** Unfortunately, Mr. Chairman I have got to leave in about 10
157 minutes to hear a Commerce--

158 **Chairman Schumer.** Okay. We are going to move quickly to do the
159 amendments. Just let me call on Senator Chambliss, Senator Udall for brief statements
160 and I think we can get this done before 10 o'clock.

161

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OPENING STATEMENT OF SENATOR CHAMBLISS

163 **Senator Chambliss.** Thank you Mr. Chairman and let me just echo the
164 sentiments that you have stated, and Senator Bennett and Senator Nelson have stated
165 with reference to the work on this. I mean, this is the way this body is supposed to
166 work in my mind. We have an issue we needed a solution to and we found a common
167 solution through conversation, negotiation, and being common sense senators and
168 trying to make sure the men and women that are out there giving us the right to vote in
169 free and open elections also have the right to vote and I just can-not say enough about
170 the cooperative attitude of the Chairman and the Ranking Member.

171 As we have been through this, I understand now why Senator Schumer gets so
172 many things done because when he and I would talk about an issue he would come up
173 to me three times during the day to make sure that I had done what I was supposed to
174 do. And I am very appreciative of that.

175 **Chairman Schumer.** There's a word for it in New York. We call it "nudge."

176 **Senator Chambliss.** Senator Nelson has been my good friend since I came to
177 this body and I was Chairman of the Personnel Committee. I worked very closely with
178 him. Now that he is Chairman, we continue to work very closely together and your
179 commitment to this has just been unbelievable and I appreciate it as always.

180 Senator Cornyn who is not a member has had a bill on this issue for a couple of
181 years and Senator Cornyn has just been a great colleague to work with on this. Again,
182 we all had a common goal. I want to also just put in a good word for my Secretary of
183 State Karen Handel who we stayed in touch with on this issue because we are putting
184 some things in here that I frankly thought some of the states might not like.

185 We have a large military presence in Georgia, as do a number of you in your
186 states, and Karen has been very supportive of what we are doing and as a result I think
187 we are going to get some widespread national support on this from outside groups.
188 We already have, but it is going to continue to grow. So Mr. Chairman, thank you. I
189 look forward to bringing these amendments up, getting it concluded, and bringing it to
190 the floor.

191 **Chairman Schumer.** Thank you Senator Chambliss. Senator Udall.

192

193

OPENING STATEMENT OF SENATOR UDALL

194 **Senator Udall.** Thank you Senator Schumer and I really appreciate all of the
195 work of all the senators on this bill. I cannot think of anything more important than
196 having the military have the right to vote when they are serving overseas and I would
197 like to be added as a co-sponsor.

198 **Chairman Schumer.** Without objection.

199 **Senator Udall.** Thank you.

200 **Chairman Schumer.** Okay, thank you. Let us move to the amendments. As
201 was mentioned, Senator Cornyn has been a champion on this issue and has some
202 amendments that we have all worked out. Senator Chambliss, Senator Nelson,
203 Senator Bennett and I have all agreed to his suggestions and I am going to offer these
204 amendments for consideration.

205 They are Schumer Amendments 1 through 3, but they are Senator Cornyn's
206 amendments and as I said he has been a leader on the issue.

207 Amendment 1 expands on the procedures that DoD should use in consultation
208 with the U.S. Postal Service to ensure ballots get delivered through expedited mail.

209 Amendment 2 expands voter registration services on DoD installation and enhances the

210 VAO Program and FVAP Office. Amendment 3 is simply a terminology change.

211 All of these amendments I think have both Senator Bennett and my support so
212 do I have a motion that these three amendments suggested by Senator Cornyn in which
213 I now offer be adopted?

214 **Senator Udall.** So moved

215 **Chairman Schumer.** Is there a second?

216 **Senator Pryor.** Second

217 **Chairman Schumer.** Okay. Those in favor say aye.

218 [Chorus of ayes.]

219 **Chairman Schumer.** Opposed, nay.

220 [No response.]

221 **Chairman Schumer.** The ayes have it and the amendments are adopted. Now
222 we have some amendments that Senator Bennett will offer as well.

223 **Senator Bennett.** Thank you.

224 **Chairman Schumer.** This is the last bunch of amendments and then we will
225 wait for final passage to get 10 off the floor.

226 **Senator Bennett.** Thank you, Mr. Chairman. My amendment is a summary of
227 revisions. I have it here, a summary of the revisions made by the Bennett Amendment.
228 There are 10 particular items here. Given the amount of time, well I can get through
229 these 10 in a hurry.

230 Clarification regarding the delegation of state responsibility is number one.
231 Number two, amendment to remove specific technologies from the bill. Number
232 three, an amendment to clarify that the states are not required to place contact
233 information directly on the ballots. That's a privacy issue.

234 Number four, an amendment to clarify that the states are not limited to only one
235 point of contact. Number five, an amendment to improve privacy protections and
236 number six amendment to add security protections. Number seven, an amendment to
237 improve the requirement for time to vote. Number eight, amendment to the waiver
238 provision with respect to the ballot transmission deadline. Number nine, amendment
239 to repeal the UOCAVA Requirement that a single ballot application be valid for

240 subsequent elections. And number ten, and amendment to clarify the HAVA
241 requirement that payments remain available.

242 Now all have been cleared by the various senators and I offer the amendment in
243 the hope that it can be adopted.

244 **Chairman Schumer.** All right. Is there a second?

245 **Senator Chambliss.** Second

246 **Chairman Schumer.** All in favor say aye.

247 [Chorus of ayes.]

248 **Chairman Schumer.** Opposed, nay.

249 [No response.]

250 **Chairman Schumer.** The ayes have it and the amendments are adopted and I
251 would ask unanimous consent that Senator Bennett be added as a co-sponsor as well.

252 I think that is it. I do not think we are close to 10. Senator Pryor has a
253 previous commitment, we all do. Sorry. Since a quorum is not present we cannot
254 vote on final passage. In order to have a motion to vote when we reconvene, is there
255 a motion to report the bill as amended?

256 **Senator Bennett.** So moved

257 **Chairman Schumer.** Is there a second?

258 **Senator Nelson.** Second

259 **Chairman Schumer.** Great. Okay, since we do not have 10 we will convene
260 off of the floor and the committee is in recess subject to call of the Chair. Thank you
261 all for coming. And more importantly, for everyone's good work on this amendment.

262 [Recess.]

263 **Senators Present:** Schumer, Inouye, Feinstein, Durbin, Nelson, Murray, Udall,
264 Warner, Bennett, Hutchison, Chambliss, and Alexander.

265 **Chairman Schumer.** The Committee will come to order. There is a pending
266 motion to report S. 1415 as amended. Unless there is a request for a recorded vote,
267 the vote will be by voice.

268 **Senator Alexander.** Mr. Chairman, I ask unanimous consent that I be added as a
269 co-sponsor.

270 **Chairman Schumer.** Without objection. Does everyone present here want to
271 be a co-sponsor?

272 [Chorus of “yes”]

273 **Chairman Schumer.** Ok, without objection, you all are added. Now, on to the
274 motion. Those in favor, say aye.

275 [Chorus of ayes.]

276 **Chairman Schumer.** Those opposed, say nay.

277 [No response.]

278 **Chairman Schumer.** The ayes have it, and S. 1415 as amended is ordered
279 reported.

280 To conclude, I’d like to first thank my friend, Ranking Member Bennett, for his
281 leadership and steadfast support of our military.

282 I would also like to thank Senators Saxby Chambliss and Ben Nelson, who were
283 original co-sponsors with me of this bipartisan bill. Their continued dedication to finding
284 a solution to the problems facing our military and overseas voters is invaluable and
285 appreciated.

286 I’d like to thank the Senators who are here for this meeting for their participation
287 and attendance, which made this mark up possible.

288 Finally, I want to acknowledge some of those who have already sent letters of
289 support for S. 1415, including Operation Bravo Foundation, the Overseas Vote
290 Foundation, Federation of Women’s Clubs Overseas, and Eric Eversole, a witness at an
291 earlier Rules Committee hearing who served as an attorney in the voting section of the
292 Justice Department. I also want to thank the Pew Center on the States for their
293 research in the “No Time to Vote Study,” and their support on this issue.

294 I appreciate all of your efforts to take action on this urgent issue – we will keep working
295 together until we get this done.

296 We’ll keep the record open for five days if any member has a statement for the
297 record.

298 The Committee is adjourned subject to the call of the Chair.

299 [Whereupon, at 12:55 p.m., the committee was adjourned.]