



November 6, 2009

NASS Summary of the Military and Overseas Voter Empowerment Act (MOVE Act)

Passed by Congress on October 22nd, 2009

The President signed the bill on Wednesday, October 28, 2009

I. PROVISIONS CONCERNING STATES

A. Clarification of State Responsibilities (Sec. 576)

- States may delegate the responsibilities under the Act to jurisdictions within the State.

B. Transmitting Voter Registration Applications & Absentee Ballot Applications (Sec. 577)

- States must establish procedures that allow UOCAVA voters to request voter registration applications and absentee ballot applications by mail or electronically for general, special, primary, and runoff elections for Federal office. The procedures must include a means for the voter to designate how they want to receive the application – by mail or electronically.
- The State must transmit the voter registration application or absentee ballot application based on the preference selected by the voter. If the voter does not indicate a preference, the application must be delivered in accordance with State law. In the absence of any relevant State law, the application must be delivered by mail.
- To the extent practicable, the procedures must : (1) protect the security and integrity of the voter registration and absentee ballot application request process and (2) protect the privacy of the identity and personal data of the UOCAVA when the voter requests or is sent a voter registration application or absentee ballot application.
- **The above provisions apply with respect to the November 2010 General Election.**

C. Designating a Means of Electronic Communication (Sec. 577)

- Each State must designate at least one means of electronic communication for the following purposes: (1) for use by UOCAVA voters to request voter registration applications and absentee ballot applications; (2) for use by the States to send voter registration and absentee ballot applications to voters; and (3) for providing UOCAVA voters with election and voting information.
- In addition to the means of electronic communication designated by the State, the State may provide a means of electronic communication for jurisdictions within the State to communicate with UOCAVA voters.
- The State must include the designated means of electronic communication on all information and instructional materials that accompany balloting materials sent by the State to UOCAVA voters.
- **The above provisions apply with respect to the November 2010 General Election.**

D. Transmitting Blank Ballots (Sec. 578)

- The States must develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically for general, special, primary, and runoff elections for Federal office.
- The procedures must include a means for the voter to designate how they want to receive the blank ballot – by mail or electronically. The State must transmit the ballot based on the preference

selected by the voter. If the voter does not indicate a preference, the ballot must be delivered in accordance with State law. In the absence of any relevant State law, the ballot must be delivered by mail.

- To the extent practicable, the procedures must : (1) protect the security and integrity of absentee ballots and (2) protect the privacy of the identity and personal data of the UOCAVA voter throughout the transmission process
- **The above provisions apply with respect to the November 2010 General Election.**

E. Ballot Tracking Mechanism (Sec. 580(h))

- Each Chief State Election Official must work with local jurisdictions to develop a free access system that allows a UOCAVA voter to determine whether his/her absentee ballot was received by the appropriate State Election Official.
- **The above provision applies with respect to the November 2010 General Election.**

F. Accepting UOCAVA Ballot Materials (Sec. 581(a) & 582)

- Expands the use of the Federal Write-In Absentee Ballot (FWAB) to include all special, primary, and runoff elections for Federal office. **This requirement goes into effect on December 31, 2010.**
- Prohibits States from refusing to accept and process an otherwise valid voter registration application, absentee ballot application, voted ballot, or FWAB from an overseas voter due to notarization requirements, paper type, weight and size, or envelope type, weight and size. **These provisions apply with respect to the November 2010 General Election.**

G. Single Application for Multiple Elections (Sec. 585)

- Removes the UOCAVA requirement that a single absentee ballot request serve as a request to receive absentee ballots through the subsequent two Federal election cycles.

H. Ballot Transmittal Time (Sec. 579)

- Absentee ballots must be sent at least 45 days before the election to any UOCAVA voter who has submitted a request by that date. **Note:** In 2010, 45 days before the November 2nd Election is Saturday, September 18th.
- If the request is received less than 45 days before the election, the ballot may be sent in accordance with State law and, if practicable, in an expedited manner.
- A State may request a waiver from the 45 day transit time provision if the Chief State Election Official determines that the State cannot meet the requirements due to undue hardship. The undue hardship must be one of the following: (1) the date of the State primary; (2) a delay in generating ballots due to a legal contest; or (3) the State constitution prohibits the state from complying with the time frame requirements.
- The waiver request must include: (1) a recognition that the purpose of the 45 day transit time is to allow UOCAVA voters enough time to vote in Federal elections; (2) an explanation of why the State cannot meet the requirement; (3) the number of days prior to Federal elections that the State requires absentee ballots be sent to UOCAVA voters; and (4) a comprehensive plan to ensure that overseas voters are able to receive and submit an absentee ballot in time for it to be counted.
- If the undue hardship is based on either the State primary date or the State constitution, the waiver request must be submitted no later than 90 days before the upcoming election. **Note:** In 2010, 90 days before the November 2nd Election is Wednesday, August 4th. After consulting with the Attorney

General, the Department of Defense must grant the waiver request if the comprehensive plan is deemed sufficient. The Department of Defense must approve or deny a waiver request based on the State primary date or State constitution no later than 65 days before the Election. **Note:** In 2010, 65 days before the November 2nd Election is Sunday, August 29th.

- If a State requests a waiver based on a delay in generating ballots due to a legal contest, the request must be submitted as soon as practicable. The Department of Defense must approve or deny the request no later than 5 days after the waiver request is received.
- If a waiver request is granted, it is valid only for the Election for which the request was submitted.
- **The above provisions apply with respect to the November 2010 General Election.**

I. Runoff Election Plan (Sec. 579(b))

- If a State holds a runoff election, it must have a written plan to make absentee ballots available to UOCAVA voters with sufficient time to vote.
- **The above provision applies with respect to the November 2010 General Election.**

J. Requirements Payments (Sec. 588)

- Amends the Help America Vote Act (HAVA) by authorizing the appropriation of “such sums as necessary” for FY 2010 and beyond as requirements payments to the States specifically for implementing the MOVE Act. Any funds appropriated under this provision may only be used to carry out the requirements of the MOVE Act.
- Nothing in the MOVE Act prohibits the States from using existing HAVA funds (or those authorized by a future appropriations bill) to implement the MOVE Act.
- If a State receives a FY 2010 requirements payment specifically authorized for implementation of the MOVE Act, it has until the last day of the 2011 fiscal year to comply with the 5% match requirement.
- States must amend their State plans to indicate how they will comply with the requirements of the MOVE Act.

II. PROVISIONS CONCERNING THE DEPARTMENT OF DEFENSE/FVAP

A. Election Official Database (Sec. 577(e)(4))

- The Federal Voting Assistance Program (FVAP) must maintain a public online database that includes state contact information for Federal elections, including the single State office designated under UOCAVA and the designated means of electronic communication that each State has established to communicate with UOCAVA voters.
- **The above provision applies with respect to the November 2010 General Election.**

B. Ballot Collection/Delivery (Sec. 580)

- The Department of Defense must establish procedures for collecting and delivering the absentee ballots of voters who are overseas by reason of active duty or service. The procedures only apply to regularly scheduled general elections for Federal office.
- The Department of Defense must utilize the United States Postal Service expedited delivery service for mailing voted absentee ballots to the appropriate election official in time to be counted.
- The expedited service must be available for any ballot collected before noon on the seventh day preceding the date of the election. **Note:** In 2010, the seventh day before the general election is

Tuesday, October 26th. If the Department of Defense determines that that this deadline is not sufficient for timely delivery due to remoteness of location or other factors, the Department may establish an earlier deadline for those locations.

- No postage is required on the absentee ballots collected and delivered under these procedures.
- The ballots collected under these procedures are postmarked as of the date they are mailed.
- The Department of Defense must inform and educate uniformed service voters about the ballot collection and delivery procedures.
- The Department of Defense must take action to: (1) ensure the privacy of voters who cast ballots at Department of Defense locations or facilities and (2) protect the privacy of absentee ballots when the ballots are in the control or possession of the Department.
- **The above provisions apply with respect to the November 2010 General Election.**

C. Voter Registration Outreach (Sec. 583)

- The Federal Voting Assistance Program (FVAP) must develop online portals to inform absent uniformed service voters about voter registration and absentee ballot procedures.
- FVAP must establish a program to provide absent uniformed service voters with voter registration information and resources through the military Global Network. The information must be provided 90, 60, and 30 days prior to each Federal election.
- No later than 180 days after the MOVE Act is enacted, the Secretaries of each military department must designate an office on each installation to provide voter registration and absentee ballot information to uniformed service members and their family members. The Department of Defense must inform absent uniformed service members of the assistance available at the designated offices.
- The Secretary of Defense may authorize the Secretaries of the military departments to designate offices on military installations as voter registration agencies under the National Voter Registration Act.
- **The above provisions apply with respect to the November 2010 General Election.**

D. Reporting (Sec. 584 & 586)

- The Department of Defense must work with the Election Assistance Commission (EAC) and the Chief Election Official in each State to develop standards for the States to report on the number of ballots transmitted and received and other data as the Department determines appropriate.
- No later than 180 days after enactment of the MOVE Act, the Department of Defense must submit to Congress a report on (1) the status of implementing the ballot collection and delivery procedures; (2) an assessment of the effectiveness of the Voting Assistance Officer Program; and (3) a description of steps taken towards implementation of voter registration assistance on military installations.
- No later than March 31st of each year, the Department of Defense must submit to Congress a report containing: (1) an assessment of FVAP activities; (2) an assessment of voter registration and participation by absent uniformed service voter; (3) an assessment of voter registration and participation by overseas voters not affiliated with the uniformed services; (4) a description of the cooperation between States and the Federal Government; (5) a description of voter registration assistance programs implemented by each military department; (6) the number of absent uniformed service voters who utilized voter registration assistance provided at military installations; and (7) in the case of a report submitted in the years following a regularly scheduled Federal election, a

description of the procedures used to collect and deliver absentee ballots for expedited service, including the number of ballots collected and delivered, and the number of ballots which were not delivered by the time the polls closed on Election Day.

- **The above provisions apply with respect to the November 2010 General Election.**

E. Utilizing Technology (Sec. 581(b) & 589)

- Requires that the Department of Defense utilize technology to implement a system that allows a UOCAVA voter to enter his/her address or other information relevant to the local election jurisdiction and receive a list of all candidates for Federal office in that jurisdiction. The voter must also be able to print the FWAB with instructions for submitting it to the appropriate State election office, and the mailing address of the single State office designated under UOCAVA. **This provision must be implemented by December 31st, 2011.**
- The Department of Defense may establish pilot programs to test technology that assists UOCAVA voters. Issues to be considered for any pilot program include: the secure electronic transmittal of voting materials; information security techniques; utilizing vote stations at military bases; and document delivery and upload systems.
- The Department of Defense must submit a report to Congress on the outcomes of any pilot program and recommendations for any additional programs.
- The EAC and the National Institute of Standards and Technology (NIST) must provide the Department of Defense with standards to support the pilot program(s). The standards must be in accordance with the electronic absentee voting guidelines established under the 2005 National Defense Authorization Act (which delayed the implementation of an electronic voting demonstration project until the EAC developed guidelines).
- If the EAC has not established electronic absentee voting guidelines required under the 2005 NDAA within 180 days of the enactment of the MOVE Act, the EAC must submit to Congress a report containing: (1) the reasons the guidelines have not been established by that date; (2) a detailed timeline for the establishment of the guidelines; and (3) a detailed explanation of the EAC's actions in establishing the guidelines since the date of enactment of the 2005 NDAA.