

INTRODUCTION AND HISTORY OF UOCAVA AND MOVE ACT

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Does the Uniformed Overseas Citizens Absentee Voting Act Help?

History:

Origins go back as far as 1864, when Pres. Lincoln issued an order to allow military members to return home to cast a ballot if they could not vote absentee.

1918, US soldiers could not vote on foreign soil (France) “without serious interference with military efficiency”, War Department announced it would not conduct or supervise the taking of the service vote. Legislation was introduced but not acted upon.

The first federal absentee voting law was the 1942 Soldier Voting Act, (P.L. 77-712, amended in 1944), guaranteed the right to vote in federal elections [Presidential electors, Senate and House candidates] to members of the Armed Forces who were absent from their places of residence during wartime. This was the first use of a postage-free, federal post card application (FPCA). It had almost no impact at all in helping Armed Forces voters because it was enacted in September, just weeks before the November general elections. Just 28,000 of 5 million soldiers voted that year.

Federal Voting Assistance Act of 1955 (P.L. 84-296) – recommended but did not guarantee absentee voting.

Overseas Citizens Voting Rights Act of 1975 (P.L. 94-203, both 1955 and 1975 laws amended in 1978 to improve procedures).

Uniformed and Overseas Citizens Absentee Voting Act of 1986

Description: An act to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas. Enacted by the 99th United States Congress.

Law is administered by Sec. Of Defense, delegated to the director of the Federal Voting Assistance Program (FVAP) at the Dept. of Defense. It was modified by:

National Defense Authorization Act for FY2002 (P.L. 107-107)

Help America Vote Act of 2002 (P.L. 107-252)

Ronald W. Reagan Defense Authorization Act for FY2005 (P.L. 108-375)

John Warner National Defense Authorization Act for FY2007 (P.L. 109-364)

National Defense Authorization Act (NDAA) for FY2010 (P.L. 111-84) on October 28, 2009

It included an amendment (S. Amdt. 1764) that contained the provisions of S. 1415, the Military and Overseas Voter Empowerment Act (the MOVE Act 2009).

Most of the revisions were to help encourage more participation by UOCAVA voters.

Well intentioned laws often have unintended consequences.

Anything new requires training and practice to make it work well.

“You must inspect to get the results you expect.” The challenge is getting the States' election workers trained and cooperating with the laws/rules.

“Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.” John Adams

2004 Election – Learning curve; the law requires:

“Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.”

EAC designated an electronic mailbox to receive the States’ responses to the UOCAVA survey. By the January 31, 2005 closing date, only two States had returned their responses to EAC. EAC staff sent follow up e-mails to the non-responsive States. By June 10, 2005, a majority of States had submitted their responses to the survey.

Total unreturned (and unaccounted for) mail in ballots including all 50 states and territories (no response received from territories) was 197,265 ballots.

2006 Election – More learning curve, this time on off-year election, so probably lower turnout.

For over one-third of the UOCAVA ballots that were cast, as well as counted, it was not possible to determine whether they came from domestic military, overseas military or overseas citizens.

Too many local election authorities continue to fail to track the precise number of ballots they mailed or transmitted to their domestic military, overseas military, and overseas citizens, as required by HAVA. The quality of information regarding UOCAVA ballots is low, making it impossible to sufficiently monitor compliance with HAVA mandates.

992,034 ballots were requested; 333,179 ballots were cast and counted. Where did the other ballots go? States accounting and differentiating in types of voters and ballots returned were not consistent, so data is confusing at best. The numbers do not add up.

2008 Election – the learning curve continues, but tracking of the source of ballots requested remained inconsistent. This time nearly all states were able to provide data concerning the UOCAVA ballots transmitted by type of voter.

989,208 ballots were requested over the 55 states, territories and District of Columbia. About half of ballots transmitted (480,757, 48.6%) were sent to members of the uniformed services. About 37.9% were sent to civilians living overseas. Of the 25 states that reported >10,000 ballots requested, eight (8) reported sending more ballots to civilians voters than uniformed services voters: Colorado, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, and Virginia.

Problems:

FPCA ensures absentee ballots are sent for the next TWO federal elections, potential for fraud or for ballot to be returned as undeliverable. FPCA should be for only the next primary and associated federal election. It would save much \$ and limit the possibility of many of those undeliverable ballots being used fraudulently (ballot harvesting).

States' participation and documentation varied widely. Not consistently applied. Lots of ballots not returned, potential for fraud; no way to tell why ballots were not returned; no way of knowing where the extra ballots ended up.

Other than the "honor system" and the threat of prosecution for false statements, there is no way to ensure that overseas civilians registering to vote (FPCA) are actual U.S. Citizens and therefore eligible to vote.

Non-citizens are allowed to join the uniformed services, then, as soon as the end of bootcamp, are allowed to apply for citizenship. Having a Military ID card does not ensure U.S. Citizenship.

Must separate military and civilian UOCAVA voters' registrations. Must require both military and civilian UOCAVA voters provide proof of citizenship.

Some Possible Solutions:

More training on how to account for ballots sent, received and counted.

Possible helps: recruit federal election workers from all the states to tally UOCAVA votes sent and train them to help their own states' elections workers document UOCAVA ballots sent and received. Might be better received by the States, with the Federal government not interfering with elections (Constitutionally relegated to the States).

BAR codes on UOCAVA Ballot envelopes to automate the process of counting ballots sent, received and counted (without compromising voters' secret ballots). Bar codes have been used by commercial firms for many years to make sure their products are delivered to the correct customers. This is part of the Executive Order from 03/31/26.

Eliminate the automatic mailing of UOCAVA ballots for the next two Federal election cycles. Require an FPCA for each Federal Election, probably eliminating many if not most ballots returned as undeliverable because of voters moving from the last address. A similar problem exists in Texas; a proposed solution will be part of EIPNC's legislative priorities for the next Texas Legislative Session (2027).

Who qualifies:

U.S. Citizens who are active members of the Uniformed Services, Merchant Marine, the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration, their eligible family members and U.S. Citizens residing outside the United States. This act provides the legal basis for these citizens' absentee voting requirements for federal offices.

Application Requirements:

Federal Post Card Application (FPCA) should be submitted. The FPCA acts as both voter registration and request for an absentee ballot. Uniformed Service members are encouraged to submit a new FPCA every year and when they move. [FVAP.gov]