

**National Association of State Election Directors (NASED) Comments on Current Draft of
Uniform Military Services and Overseas Civilian Absentee Voters Act**

(3/9/10)

Sections 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, & 18:

Remove “absent” from all references to “uniformed services voter.” Some states treat all military voters the same regardless of absence. Removing this would not prevent states from reinserting it into their own law if they desire, but may encourage some states to consider expanding opportunities for voters affected by passage of legislation such as this.

Section 2:

In subsection (4) the definition refers to a section (5) deeper in the bill. The definition should be moved to the “Definitions” section (2) and section (5) should refer to the definitions. Other portions of state law might refer to a definition section. It would be cumbersome to refer to definitions only to be redirected to another section to actually find the definition. For clarity’s sake, the definition should be moved to section (2).

Section 5:

Some in the NASED membership are concerned about this section. Many states do not allow people who have never lived in the state to register and vote. However, the body agreed that the section should stay in an effort to not limit the scope of the draft. It was recommended that, should subsection (c) stay in the draft, a “failsafe” would need to be added. In some cases, voters covered under (c) may not know the old address or it may no longer exist. In such cases, provisions would need to be made for assigning a voter to an address/precinct in a standard manner. Some states now use the local county courthouse address for determining the voter’s precinct and ballot style.

Section 6:

In paragraph (a), state law should not encourage ONLY using the FPCA in order to register. Potential voters should also be encouraged to use the state’s normal voter registration application. In paragraph (b), for requesting an absentee ballot, the paragraph references both the state method and the FPCA. This should be consistent in both paragraphs.

In paragraph (c), should say, “If the jurisdiction needs to collect additional information, then the jurisdiction should correspond with the voter to collect any material information” or something similar. As it is currently written, the jurisdiction must automatically send the voter an FPCA, regardless of whether the jurisdiction needs to collect additional information. Again, the state should not be relying solely on the FPCA, as opposed to both the FPCA and the state form.

Remove paragraph (d).

Section 9:

In subsection (b) remove the word “electronic” from the last sentence. The MOVE Act requires that voters can still designate to receive ballots and ballot materials by regular mail.

Sections 10 & 12:

Address these two sections together. Remove Section 10 entirely; the reference to 12:01 am is arbitrary. Instead, create two alternate scenarios:

- If ballots are allowed to be received *after* election day, the ballot must be voted and submitted no later than the close of polls. The ballots must be received in the local elections office no later than the date already allowed in state law.
- If ballots must be received no later than close of polls on election day, then no need for clarification on how late the ballot may be voted and submitted.

Section 11:

In paragraph (b), this provision needs clarification. It is not clear what is expected of the states. The draft legislation contains no deadline for submission of an FPCA, and yet paragraph (b) of Section 11 creates a deadline for the FWAB. NASED recommends not including a deadline for the FWAB.

Section 13:

In paragraph (b), remove the oath. Instead, reference either the state’s standard absentee oath, or the oath that FVAP suggests.

In paragraph (c), take out the references to “envelope” since this might be provided on an insert or other ballot materials. Instead, just reference “ballot materials.”

In paragraph (d), remove the second sentence, “No authentication requirement other than the declaration...” because this appears to preclude states from making signature verification a requirement for counting the ballot. In many states, the signature on the declaration must match the signature in the voter registration file in order for the absentee ballot to be accepted.

Section 14:

Limit the free-access confirmation system to voted ballots received. Use language that is in MOVE. The draft could include other status options, such as ballot applications, in brackets, allowing states to expand the options at their preference.

Section 15:

In paragraph (a), clarify whether the state has to follow up with the voter if the voter chooses to not provide an email address on a form. Instead, simply require all forms to include an email field.

Paragraph (b) should not be limited to those who provide an email address. Instead, the whole paragraph should be moved to Section 8 so it applies to *all* military & overseas voters. The rolling 365 days is arbitrary. Instead, require the ballot application to apply to that *calendar* year. Eliminate the last sentence of that paragraph because it doesn't make much sense.

Paragraph (c) should allow a voter a way to cancel his/her absentee status.

Section 17:

Change "state's uniform intention standards" to "state's uniform definition of a vote." Remove the reference to "abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party" and replace with "the vote" because all of those things should be addressed in the state's uniform definition of a vote.

Section 19:

Remove this section. This creates a private right of action. Will lead to tremendous litigation, which could lead to election challenges, holding up the outcome of an election.

Section 21:

Remove paragraph (a).

Section 22:

Remove the section. It is stating that state law will modify federal law.

Section 23:

Remove this section. Most state laws already include provisions defining residence for purposes of voting, income tax, etc. These definitions are not limited to military & overseas voters, but apply to all voters in the state.