

## Feedback on NCCUSL draft Military Services and Overseas Civilian Absentee Voters Act, draft dated October 2009

There is much that is good in the bill. However, we are concerned about the following:

1. Section 6, paragraph (c) (lines 6.10 to 6.17) requires that a voter be contacted and asked to fill out an FPCA, if a regular absentee ballot application has been received that appears that it may be from a UOCAVA voters. This will actually make it more difficult for these voters to vote by delaying their ballot being sent to them. (How long do you wait for the FPCA to be returned before sending the ballot?)

Please note, it is not possible to change the domestic absentee ballot application so that it serves both audiences, because the required information is so different, including type of voter and the oath.

Because of concerns raised about this issue, Minnesota has added a warning near the top of our regular absentee ballot application so that military and overseas voters will know not to use it. This way, they will fill out the FPCA from the beginning and get all of the associated privileges.

We would recommend that the uniform law take this approach instead.

2. The reporter's comment for section 11 states that the FWAB can serve as a simultaneous voter registration "only if they have already attempted to register", however, we don't believe that the bill language actually requires this.
3. Also in section 11, the language states that the FWAB serves as an absentee ballot application. This is ambiguous and needs further clarification. If it means that it serves as an application to have submitted the FWAB (because a ballot cannot be accepted without an application) and for future elections during the period in which an FPCA would be valid, we would support that. If however, it means that a regular UOCAVA ballot then needs to be sent to the voter for that election, we would oppose that. Most of the FWABs arrive in the last week before the election, at which point it is highly unlikely that a UOCAVA voter could receive and return a regular ballot on time. In addition, receiving a ballot for an election in which you've already voted could be confusing.
4. Several sections of the bill require late counting, which we oppose. In addition, the language in section 12 about the local canvass is confusing. At least in Minnesota, we have separate canvasses for school board, city, and county levels. The relevant county results are then compiled and canvassed at the state level. It is unclear which of these would serve as the deadline. In addition, the voter would lose all anonymity if their ballot is counted after other finalized counts for their precinct have been announced.

Furthermore, if the deadline is after some of the results have been certified, who certifies these changes to the results or do some of their votes not get counted?

5. Section 13 limits the authentication requirements that can be applied to UOCAVA voters to their signatures on the application and the voter certificate. This is problematic. As you know, you can't require a signature match for UOCAVA voters because family members are allowed to apply for a ballot on the voter's behalf. Minnesota ensures that ballots are returned by the voter who applied for them by matching identification numbers from the application to the certificate. If the numbers don't match or the voter does not have the numbers, the election officials are allowed to request additional information or to try to match the signatures. This has worked very effectively and has not led to an increase in rejected UOCAVA absentee ballots. In fact, it has worked so well that we are urging the legislature to require ID number matches instead of signature matches for domestic absentee ballots as well. This section would seem to prohibit the continuation of this practice for UOCAVA voters.
6. Section 15, paragraph (b) requires that an FPCA from a voter who provides an email be good either through the end of the federal election cycle or for 365 days, whichever is longer. The 365 day option makes no sense! This would mean that a voter who applied in October of the year would receive the general election ballot that year, as well as the primary ballot for any elections occurring the following year, but would not receive the general election ballot the following year. Since the voter automatically received the ballot for the primary, they would almost certainly expect to also receive the general election ballot, and would likely not discover that it was not going to be sent to them until it was too late.

At a maximum, the FPCA should only be good through the federal election cycle in which it is submitted.

*Prepared by Beth Fraser and Gary Poser.*