

# Democracy from Afar

## States Show Progress on Military and Overseas Voting

Significant changes in state laws since the passage of the federal 2009 Military and Overseas Voter Empowerment (MOVE) Act have greatly improved the ability of Americans abroad to vote and have their votes counted. These reforms finally begin to address the many challenges these voters have faced for decades.

Nearly 60 years ago, President Harry Truman urged Congress to ensure members of the military serving abroad could “enjoy the rights they are being asked to fight to preserve.” His words acknowledged a troubling problem: Millions of military personnel overseas could not be sure their votes counted in elections back home.

To assess the extent of this problem, the Pew Center on the States issued *No Time to Vote: Challenges Facing America’s Overseas Military Voters* in January 2009, the first comprehensive analysis of the time military personnel serving overseas needed to request, receive, and return

ballots. The report showed that, decades after President Truman’s challenge, 25 states and the District of Columbia still did not provide enough time for them to cast ballots and have their votes counted.



**47** STATES AND THE DISTRICT OF COLUMBIA

enacted laws protecting military and overseas voters in 2010 and 2011

Pew identified the major contributing factors and recommended key changes.

Action by states since Congress passed the landmark MOVE Act in October 2009, adopting many of Pew's recommendations, has resulted in some of the most important improvements since the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) was passed in 1986.

During the 2010 and 2011 legislative sessions alone, 47 states and the District of Columbia enacted related laws, often incorporating Pew's recommendations from *No Time to Vote*, and allowing for:



**Enough time to vote**



**Electronic transmission of unvoted ballots**



**Elimination of notarization or witness requirements**



**Expanded use of Federal Write-in Absentee Ballots (FWABs)**

Six states adopted a model law drafted and promoted by the Uniform Law Commission and Pew in order to remove other obstacles and streamline military and overseas absentee voting in state and local elections.

In addition, many states are working with Pew and other partners to implement new technology and online tools that will improve access to voting information for Americans abroad as well as those at home.

## Obstacles That Military and Overseas Voters Faced

For uniformed service members, their spouses and dependents, and overseas civilians, the right to vote in federal elections is supposed to be protected under UOCAVA. But they have faced hurdles at each step in the voting process. Compared with the general public, members of the armed forces were almost twice as likely to experience registration problems in the 2008 election.<sup>1</sup> Based on a survey of seven states by the Congressional Research Service, an average of 27.95 percent of military and overseas ballots in the 2008 elections were rejected or returned as undeliverable or lost.<sup>2</sup> A national study by the Election Assistance Commission found nearly 6 percent of UOCAVA ballots were rejected in 2008, compared to 2 percent of absentee ballots cast by voters in the U.S.<sup>3</sup> In 2010, the rejection rate for UOCAVA voters was slightly higher, at 7 percent.<sup>4</sup>

In 2007, Pew began to examine the obstacles facing these voters. In many states, the election system still relied on antiquated methods and did not leverage technology that has significantly enhanced other aspects of our lives. Outdated registration systems and inconsistent access to voting information, combined with a patchwork of state laws and absentee-ballot procedures, meant states often

failed to provide adequate time, information, or delivery of materials. Too many of those defending and representing our democracy at a distance were unable to vote.

officials, private sector technology leaders, and coalitions of overseas citizens around the world to create an influential base of support for change.

After publishing *No Time to Vote*, Pew brought together election officials, policy makers, military service organizations, retired flag and general officers, federal

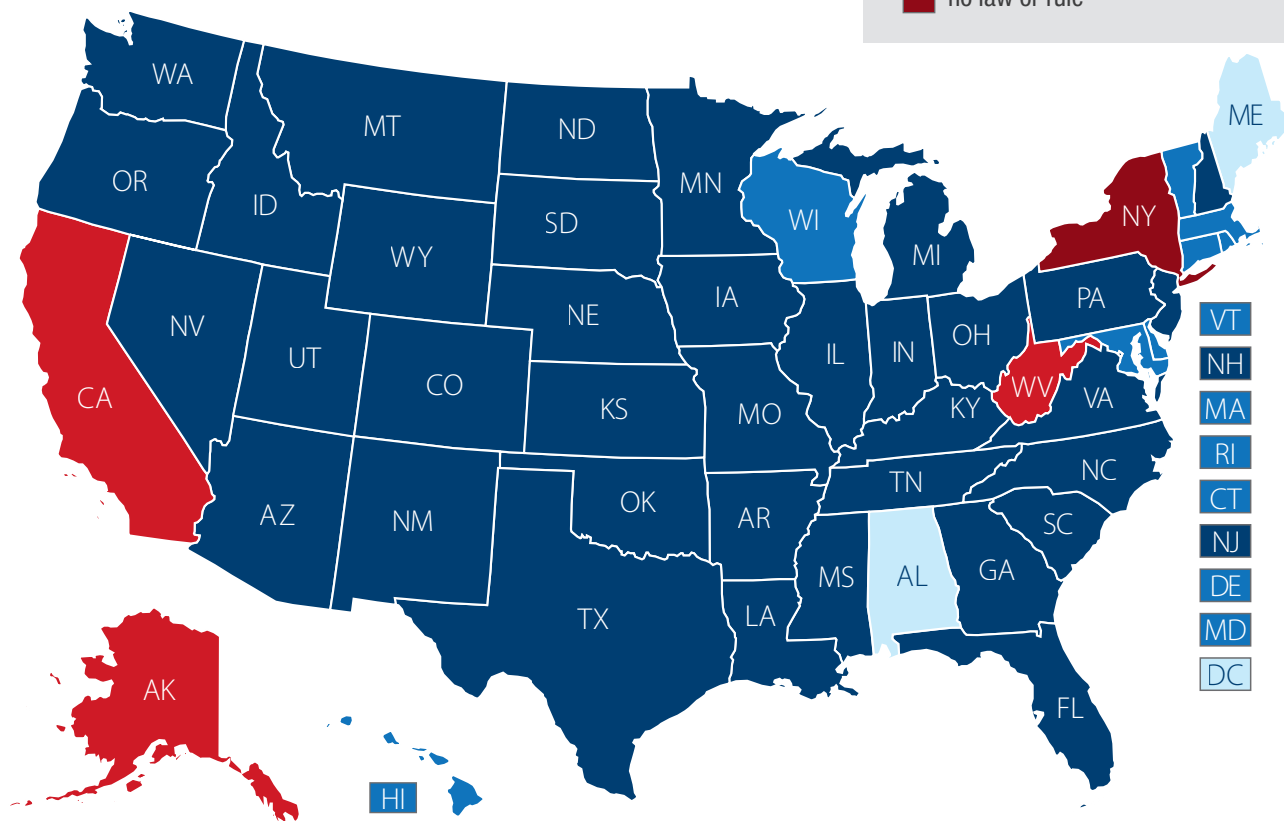
## The MOVE Act Mandates Reforms

The MOVE legislation covers all federal elections and includes a number of

# Enough Time to Vote

**States with requirements in state law or code to send out ballots to military and overseas voters at least 45 days before an election.**

- state law in place
- primary date changed
- administrative code in place
- no law or rule, sends out at least 45 days before an election in practice
- no law or rule



NOTES: Massachusetts: State law was amended in 2011 to change the primary date for the 2012 election to allow for 45-day transmittal time. Alaska, California, and West Virginia currently meet the MOVE Act's 45-day requirement in practice. They do not explicitly require 45-day transmission time in state law. New York was denied a waiver from this requirement for the 2012 election.

recommendations consistent with *No Time to Vote*, including:

- Mandating that absentee ballots for federal elections be sent at least 45 days in advance.<sup>5</sup>
- Requiring electronic transmission of voting materials, including unvoted absentee ballots and registration materials, upon request.
- Eliminating the requirement for notarizing military and overseas ballots.<sup>6</sup>
- Expanding acceptance of the Federal Write-in Absentee Ballot (as a backup measure) for federal elections.<sup>7</sup>

## States Respond: Improvements Since the MOVE Act

In slightly more than two years since the MOVE Act became law, states have made significant progress in responding to, and going beyond, the federal mandate. Joint efforts in 2010 and 2011 by the Alliance for Military and Overseas Voting Rights, the Department of Defense-State Liaison Office, the Federal Voting Assistance Program, Pew, the Uniform Law Commission, and others helped lead to laws being enacted in 47 states and the District of Columbia.

### **Forty-five-day transmittal time before Election Day**

Overall, 38 states and the District now have state laws or rules meeting or exceeding MOVE Act requirements to send out ballots to military and overseas voters at least 45 days before an election. Eight additional states changed their primary dates to accommodate the requirement. Most of these mandates were enacted recently, with 32 states and the District changing or expanding laws in 2010 and 2011.

### **Electronic transmission of unvoted ballots**

All states and the District now have laws or rules in place to meet MOVE requirements to allow electronic transmission of unvoted ballots to military and overseas voters. Thirty-one states and the District changed or expanded laws in 2010 and 2011 to comply with this provision.

### **Eliminating notarization or witness requirements**

While the MOVE Act only mandates states do away with the need for notary verification on ballots, Pew recommends eliminating onerous witness requirements as well. Forty-six states and the District currently do not call for either for

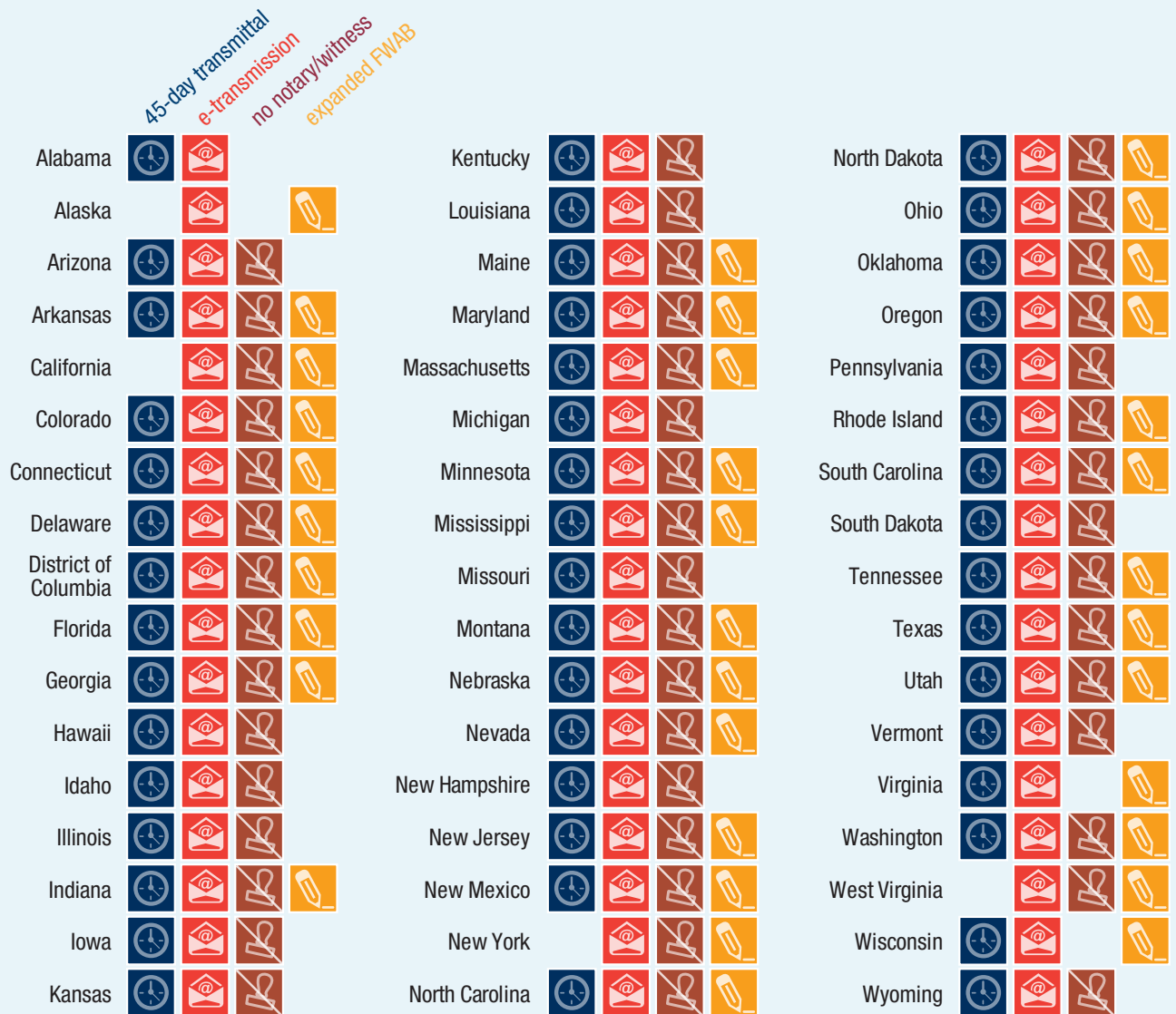


# Four Key Reforms

This chart shows four major improvements that states have implemented by law or code. These states: (1) require at least 45-day transmittal time of ballots to military and overseas voters, (2) allow electronic transmission of unvoted blank ballots to this population, (3) do not have witness or notary requirements, and (4) allow Federal Write-in Absentee Ballots (FWABs) to be used in state and local elections.

**45-day minimum transmittal time**  **e-transmission of blank ballots** 

**no notary/witness requirement**  **expanded FWAB use for state/local elections** 



NOTES: Massachusetts: State law was amended in 2011 to change the primary date for the 2012 election to allow for 45-day transmittal time. Alaska, California, and West Virginia currently meet the MOVE Act's 45-day requirement in practice. They do not explicitly require 45-day transmission time in state law. New York was denied a waiver from this requirement for the 2012 election.

their military and overseas voters. This total includes states that took action during their 2010 and 2011 legislative sessions: Mississippi abolished the notary requirement, while residents of Louisiana, North Carolina, and South Carolina are no longer obligated to include witnesses on their absentee votes.

### **Expanded use of Federal Write-in Absentee Ballots**

The MOVE Act requires states to allow Federal Write-in Absentee Ballots for federal elections. Thirty-four states and the District have gone well beyond this, and now have laws or rules that mandate FWABs be used as a backup ballot for all elections, including state and local. Additionally, 24 states have provided for simultaneous use of the FWAB as registration, ballot request, and/or a voted ballot, further streamlining the process.

### **Uniform Law Commission Adopts Model State Legislation**

While the MOVE Act focused on federal elections, corresponding policies that addressed the same issues for state elections were lacking. Pew brought this need to the attention of the Uniform Law Commission, which was established in 1892 to help states standardize and streamline their laws. In response, the Commission drafted and, in July 2010,

adopted the Uniform Military and Overseas Voters Act (UMOVA), a model law that implements federal requirements on military and overseas voting and expands protections to state and local elections.

The Uniform Law Commission and other partners led efforts across the nation in 2011 to pass UMOVA legislation in Colorado, Nevada, North Carolina, North Dakota, Oklahoma, and Utah. UMOVA also influenced much of the reform legislation passed by several states. The commission and others will continue to make adoption of the model law in more states a priority in 2012.

### **Harnessing 21st Century Technology to Ensure Voting Access**

In addition to helping states remove obstacles and streamline the voting process, Pew has promoted 21st century technology that assists the individual voter.

#### **Online tools**

In 2008, Pew joined with the Overseas Vote Foundation to provide convenient online tools, including the Federal Post Card Application and FWAB for military and overseas voters, and also to expand the FWAB's use as a back-up measure. In 2008, 4.75 million visitors (1.25 million in October alone) used the online services available at [www.overseasvotefoundation.org](http://www.overseasvotefoundation.org).<sup>8</sup>

## BIPARTISAN ACTION PASSES REFORMS IN MAJOR MILITARY STATES

Since the MOVE Act passed and the Uniform Law Commission adopted UMOVA, Pew has worked with states that have a significant military presence to implement and expand key provisions. In 2010, Pew worked with several states, including Florida, Georgia, and Virginia, to enact bipartisan reforms. In 2011, the following states worked with Pew to pass bipartisan legislation that included many of the needed reforms:

### North Carolina

With the fifth-largest population of military personnel in the nation, according to data from the Defense Manpower Data Center, North Carolina was one of the first states to adopt UMOVA with **HB514**. The law mandates absentee ballots be sent 45 to 60 days before an election, provides for electronic transmission of unmarked absentee ballots, accepts FWABs for all elections and simultaneously as a ballot application, and eliminates the witness requirement on ballots from military and overseas voters.

### South Carolina

**S404** extended protections by requiring that absentee ballots for all elections be sent to overseas voters at least 45 days in advance and transmitted electronically at the voter's request. It also allowed the FWABs use in all elections and eliminated the state's witness requirement on military and overseas absentee ballots.

### Tennessee

**HB1081/SB 875** expanded the use of the FWAB by requiring its acceptance for all elections and allowing it to be used simultaneously for both voter registration and an absentee ballot request. Before this legislation, Tennessee already had 45-day and electronic transmission requirements.

### Texas

Home to the nation's largest military population, Texas, through **SB100**, provided that absentee ballots be sent at least 45 days before all federal and many state and local elections, required electronic transmission of unvoted absentee ballots, and mandated use of FWABs for many state elections and local elections.

### Voting information

Pew's Voting Information Project (VIP) was developed in partnership with state and local election offices and leading technology companies. It enables voters, including military personnel and civilians abroad, to use search engines, social media, mobile applications, and online news sites to get answers to questions about the voting process. VIP is designed to make official voting information, such as polling locations, registration instructions, and candidate and issue information on the ballot available through the online information sources used by millions of Americans. These data and software applications can include a tool developed by Google that will customize an FWAB based on a voter's address.

### Upgrading voter registration

Pew is working with states to upgrade their registration systems to improve accuracy of voter records, streamline processes, and save money, while enhancing the integrity of the rolls. This effort was developed in partnership with state and local election officials, academics, and technology specialists across the nation. It builds on existing initiatives in some jurisdictions and applies proven approaches in place in the private sector and other areas of government to modernize voter registration. A more accurate system will

better serve all voters, particularly highly mobile groups such as military and overseas citizens.

### Conclusion: Implementation Will Be Key

Since Pew and its partners began documenting problems faced by military and overseas voters, leading to passage of the MOVE Act and development of UMOVA, states have passed laws to comply with or surpass those measures.

Implementing and enforcing these new laws and the MOVE Act will be critical to reforms' success. Data from the Federal Voting Assistance Program post-election surveys, as well as the Election Assistance Commission's UOCAVA Survey, will help to assess the effectiveness of these changes and identify other reforms that might be needed. As more states adopt UMOVA, the uniformity of military and overseas voting laws across states will further clarify and simplify the process for these voters and the voting-assistance officers charged with administering the laws.

Pew will continue to encourage improvements in the process by supporting efforts to collect accurate data, to provide better information to voters, and to upgrade states' registration systems.



## Methodology/Endnotes

Our research credits states for having these measures in place when they are written in state law or administrative code. We do not credit states that may practice these measures, but do not have them institutionalized in law or code. Data were collected by examining state laws, legislation, and administrative codes. In addition, state election officials were e-mailed and given an opportunity to respond to findings in October 2011–January 2012.

1 “Cooperative Congressional Election Study,” (Washington D.C.: Pew Charitable Trusts Content, 2008).

2 “Information for the Upcoming Senate Rules and Administration Committee Hearing on the Uniformed

and Overseas Absentee Voting Act” (Congressional Research Service, May 11, 2009).

3 Election Assistance Commission, “The 2008 Election Administration and Voting Survey,” (2009) and Election Assistance Commission, “Uniformed and Overseas Citizens Absentee Voting Act Survey Findings,” (2009).

4 Election Assistance Commission, “Uniformed and Overseas Citizens Absentee Voting Act Survey Observations,” (2011).

5 *No Time to Vote* recommended 45-day transit time for ballots.

6 *No Time to Vote* recommended eliminating both notary and witness requirements.

7 *No Time to Vote* recommended allowing FWABs to be accepted for all elections.

8 Overseas Vote Foundation, “Overseas Vote Foundation Predicts Unprecedented Overseas and Military Voter Participation,” Oct. 27, 2008.

## Contact Us

We welcome your advice and participation in our efforts to improve the elections process for military and overseas voters—and for all Americans. For more information on Pew’s Election Initiatives, please visit [www.pewcenteronthestates.org](http://www.pewcenteronthestates.org) or contact:

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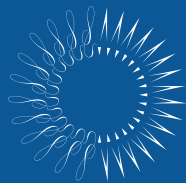
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Pew's Elections Initiatives supports innovative research and partnerships to achieve the highest standards of accuracy, cost-effectiveness, convenience, and security in America's system of election administration.

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