



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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PEARL CITY, HAWAII 96782
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SCOTT T. NAGO
CHIEF ELECTION OFFICER

**TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 461, HD 1
RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT
February 17, 2011**

Chair Keith-Agaran and members of the House Committee on Judiciary, thank you for the opportunity to testify on House Bill No. 461, HD 1. The purpose of this bill is to expand provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 USC §§ 1973ff et seq.), concerning absentee voting by military and overseas voters.

The Office of Elections would like to point out that the State of Hawaii's laws are already in compliance with UOCAVA, including recent amendments in 2009. As background, President Barack Obama signed into law the National Defense Authorization Act for Fiscal Year 2010 on October 28, 2009. Subtitle H of that law, which may be cited as the Military and Overseas Voter Empowerment Act (MOVE), amended various parts of the UOCAVA. Among these amendments was a provision requiring states to transmit absentee ballots to uniformed and overseas voters no later than 45 days prior to a federal election. 42 USC § 1973ff-1(a)(8)(a).

Shortly after the passage of the MOVE Act, the Office of Elections promulgated administrative rules that addressed all mandatory parts of the Act. The rules went into effect on January 9, 2010. Our rules permit UOCAVA voters, among other things, to do the following: (1) utilize federal write-in absentee ballots; (2) use the federal postcard form to register to vote and to request and absentee ballot; (3) vote in person at the clerk's office; (4) request voter registration applications and absentee ballot applications by mail or electronically; and (5) receive blank ballots by mail or electronically. HAR § 3-174-22.

The only other issue was to ensure that absentee ballots for UOCAVA voters were mailed out at least forty five days prior to any election in which a federal office was on the ballot. As the State of Hawaii's Primary Election was forty five days prior to the General Election it would be impossible to mail ballots out in the required time frame, without a statutory change in the date of the election.

During the 2010 legislative session, an act was passed to change the date of the Primary Election to the second Saturday in August, beginning with the 2012 Primary Election, in order to ensure that the requirement to mail ballots to voters covered by UOCAVA at least forty five days prior to an election containing federal offices was met. Act 126, Session Laws of Hawaii 2010.

Given the short notice in relation to the passage of the MOVE Act and it being an election year, it was deemed unworkable to consider moving the 2010 Primary Election. Ultimately, a memorandum of agreement was worked out with the federal government in which the State of Hawaii agreed to pay for expedited mailing of ballots, as the earliest the ballots could be mailed out was September 24, 2010 (i.e. thirty nine days prior to the General Election and six days after the Primary Election).

At no time in our dealings with the federal government were we ever told that our statutes, administrative rules, or procedures were out of compliance with UOCAVA or the MOVE Act, other than the forty five day mailing requirements, which as noted we agreed to resolve through the use of expedited mailing.

The present bill is largely duplicative of various matters found in UOCAVA, our statutes, and administrative rules. The promulgation of a statute that has the same language as a federal law is generally unnecessary, as we are already required to comply with federal law.

One of the risks of such a practice is that the federal law at times will change and our state statutes will be inconsistent with the federal law that we attempted to copy. Another risk is that even though we may use the same language as a federal statute, a state court could interpret our state statute differently than the federal courts interpret the corresponding federal statute.

This can arise from things such as minor textual differences, different legislative histories, and judicial disagreements among the courts on how to interpret certain language. As it stands, our practice in regards to UOCAVA is based on federal case law and the U.S. Department of Justice interpretation of the law.

In regards to matters in which the bill attempts to go beyond UOCAVA we see a handful of policy decisions for the Legislature to decide.

In sections -3 and 11, the bill would apply to all state and county elections, in addition to those elections in which a federal office is on the ballot. This would mean that all county special elections would be subject to the provisions of UOCAVA including the requirement that ballots be mailed out at least forty five days prior to an election and in utilizing the federal write in absentee ballot. To the extent there are any operational issues or conflicts with county charter provisions in terms of conducting special elections we would defer to the counties.

In section -8, the bill would require ballot applications to be accepted for covered voters up five days prior to the election as opposed to seven days for non-covered voters.

In section -9, the bill would require ballots to be mailed out 46 days as opposed to 45 days prior to our Primary Election under federal law. Additionally, to the extent the federal law were to reduce the ballot transit time due to changes in technology or postal service, this state provision would require that ballots continue to be mailed out in this time frame.

In sections -10 and -12, the bill provides that ballots could be mailed as late as 12:01 a.m. on the day of the election and still be counted regardless of when they are received. This is a major policy change from the current law which requires that absentee ballots be received by the close of polls. HRS § 15-9. This would create two categories of absentee voters, some who have to have their ballots returned by the close of polls and those who have an indeterminate amount of time for the ballot to be received by election officials. It could also raise issues as to when the elections would be considered to be finally completed.

Thank you for the opportunity to testify on House Bill No. 461, HD 1.

BERNICE K.N. MAU
City Clerk

COMMENTS ON HB 461 HD1
RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT
Committee on Judiciary
Rm. 325
2:00 p.m. February 17, 2011

Chair Keith-Agaran and Committee Members:

We wholeheartedly support improving the accessibility of election services for our uniformed and overseas voters. However, we respectfully inform the Committee that this measure creates inconsistencies within Hawaii's election laws and additional requirements beyond what was enacted by Congress in the federal Military and Overseas Voters Empowerment (MOVE) Act.

We are unaware of whether the additional requirements were intentional, but suspect that this measure may have been based upon model legislation developed shortly after the federal MOVE Act was enacted. We maintain that this bill is not necessary and that Hawaii's election laws adequately enfranchise uniformed and overseas voters. Sections of the bill appear to be intended for States whose election laws still contain stringent and restrictive practices relating to uniformed and overseas voters. Also, to accommodate the bill in its current form, the Revised Charter of the City and County of Honolulu may have to be amended.

However, we are providing a proposed draft for the companion measure in the Senate Judiciary Committee in the event that the committee desires to forward this legislation. The proposed draft maintains the additional requirements, corrects the technical inconsistencies, and eliminates unnecessary or redundant provisions.

We provide the following examples to illustrate the inconsistencies and unnecessary provisions contained within:

- Chapter 15, Hawaii Revised Statutes allows local residents a seven (7) day deadline to request an absentee ballot. Provisions on page 10 create a five (5) day deadline for the voters covered under this act.
- Provisions on page 12 specify that a ballot cast by a covered voter shall be counted if mailed by the close of business on the day prior to the election. This requirement appears to be out of concert with HRS 15-9 that stipulates receipt of the ballot by election day to be counted. The section also stipulates that an absentee ballot may not be rejected for lacking or illegible postmarks. If the intent of the provision is to create

a bifurcated absentee ballot deadline, it will have the effect of delaying the finality of the Hawaii's election results.

- Section 17 prohibits notarization requirements for the declarations on election documents. Hawaii law does not require any such notarizations.

We are most willing to work with the Legislature to ensure that the bill's provisions are harmonious with existing Hawaii election law. However, we maintain that the measure is not be necessary in light of Hawaii's progressive laws and practices governing uniformed and overseas voters.

Thank you for the opportunity to comment on this matter.

Report Title:

Military and Overseas Voters Act

Description:

Enacts Uniformed Military and Overseas Voters Act to ensure ability of members of the military and others eligible voters who are overseas to participate in all elections for federal, state, and local offices. Authorizes election materials to be transmitted by electronic transmission system established by the Chief Election Officer.



A BILL FOR AN ACT

RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **UNIFORM MILITARY AND OVERSEAS VOTERS ACT**

6 § -1 **Short title.** This chapter may be cited as the
7 Uniform Military and Overseas Voters Act.

8 § -2 **Definitions.** In this chapter:

9 "Covered voter" means:

10 (1) A uniformed-service voter or an overseas voter who is
11 registered to vote in this State;

12 (2) A uniformed-service voter defined in paragraph (1) of
13 that definition whose voting residence is in this State and who
14 otherwise satisfies this State's voter eligibility requirements;



1 (3) An overseas voter who, before leaving the United
2 States, was last eligible to vote in this State and, except for a
3 state residency requirement, otherwise satisfies this State's
4 voter eligibility requirements;

5 (4) An overseas voter who, before leaving the United
6 States, would have been last eligible to vote in this State had
7 the voter then been of voting age and, except for a state
8 residency requirement, otherwise satisfies this State's voter
9 eligibility requirements; or

10 (5) An overseas voter who was born outside the United
11 States, is not described in paragraph (3) or (4), and, except for
12 a state residency requirement, otherwise satisfies this State's
13 voter eligibility requirements, if:

14 (A) The last place where a parent or legal guardian of
15 the voter was, or under this chapter would have been, eligible to
16 vote before leaving the United States is within this State; and

17 (B) The voter has not previously registered to vote in
18 any other state.

19 "Dependent" means an individual recognized as a dependent by
20 a uniformed service.

1 "Federal postcard application" means the application
2 prescribed under section 101(b)(2) of the Uniformed and Overseas
3 Citizens Absentee Voting Act, 42 U.S.C. section 1973ff(b)(2).

4 "Federal write-in absentee ballot" means the ballot
5 described in section 103 of the Uniformed and Overseas Citizens
6 Absentee Voting Act, 42 U.S.C. section 1973ff-2.

7 "Military-overseas ballot" means:

8 (1) A federal write-in absentee ballot;

9 (2) A ballot specifically prepared or distributed for use
10 by a covered voter in accordance with this chapter; or

11 (3) A ballot cast by a covered voter in accordance with
12 this chapter.

13 "Overseas voter" means a United States citizen who is
14 outside the United States.

15 "State" means a state of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of
18 the United States.

19 "Uniformed service" means:



1 (1) Active and reserve components of the Army, Navy, Air
2 Force, Marine Corps, or Coast Guard of the United States;

3 (2) The Merchant Marine, the commissioned corps of the
4 Public Health Service, or the commissioned corps of the National
5 Oceanic and Atmospheric Administration of the United States; or

6 (3) The National Guard and state militia.

7 "Uniformed-service voter" means an individual who is
8 qualified to vote and is:

9 (1) A member of the active or reserve components of the
10 Army, Navy, Air Force, Marine Corps, or Coast Guard of the United
11 States who is on active duty;

12 (2) A member of the Merchant Marine, the commissioned corps
13 of the Public Health Service, or the commissioned corps of the
14 National Oceanic and Atmospheric Administration of the United
15 States;

16 (3) A member on activated status of the National Guard or
17 state militia; or

18 (4) A spouse or dependent of a member referred to in this
19 definition.



1 "United States", used in the territorial sense, means the
2 several states, the District of Columbia, Puerto Rico, the United
3 States Virgin Islands, and any territory or insular possession
4 subject to the jurisdiction of the United States.

5 § -3 **Elections covered.** The voting procedures in this
6 chapter apply to:

7 (1) A general, special, or primary election for federal
8 office;

9 (2) A general, special, or primary election for statewide
10 or state legislative office or state ballot measure; and

11 (3) A general, special, recall, primary, or runoff election
12 for local government office or local ballot measure conducted
13 under section 11-91.5 for which absentee voting or voting by mail
14 is available for other voters.

15 § -4 **Role of chief election officer.** (a) The chief
16 election officer shall be the state official responsible for
17 implementing this chapter and the State's responsibilities under
18 the Uniformed and Overseas Citizens Absentee Voting Act, 42
19 U.S.C. section 1973ff et seq.



1 (b) The chief election officer shall establish an
2 electronic transmission system through which a covered voter may
3 apply for and receive voter registration materials, military-
4 overseas ballots, and other information under this chapter.

5 (c) The chief election officer shall develop standardized
6 absentee-voting materials, including privacy and transmission
7 envelopes and their electronic equivalents, authentication
8 materials, and voting instructions, to be used with the military-
9 overseas ballot of a voter authorized to vote in any jurisdiction
10 in this State; and

11 § -5 **Overseas voter's registration address.** In
12 registering to vote, an overseas voter who is eligible to vote in
13 this State shall use and be assigned to the voting precinct of
14 the address of the last place of residence of the voter in this
15 State, or, in the case of a voter described by paragraph (5) of
16 the definition of "covered voter," the address of the last place
17 of residence in this State of the parent or legal guardian of the
18 voter. If that address is no longer a recognized residential
19 address, the voter shall be assigned an address for voting
20 purposes.



1 **§ -6 Methods of registering to vote.** (a) To apply to
2 register to vote, in addition to any other approved method, a
3 covered voter may use a federal postcard application, or the
4 application's electronic equivalent.

5 (b) A covered voter may use the declaration accompanying a
6 federal write-in absentee ballot to apply to register to vote
7 simultaneously with the submission of the federal write-in
8 absentee ballot, if the declaration is received not later than
9 thirty days prior to the election pursuant to section 11-16.

10 (c) The chief election officer shall ensure that the
11 electronic transmission system described in section -4(c) is
12 capable of accepting both a federal postcard application and any
13 other approved electronic registration application sent to the
14 appropriate election official. The voter may use the electronic
15 transmission system or any other approved method to register to
16 vote.

17 **§ -7 Methods of applying for military-overseas ballot.**

18 (a) A covered voter who is registered to vote in this State may
19 apply for a military-overseas ballot using the regular absentee
20 ballot application in use in the voter's jurisdiction under

1 section 15-4 or the federal postcard application or the
2 application's electronic equivalent as appropriate.

3 (b) The chief election officer shall ensure that the
4 electronic transmission system described in section -4(b) is
5 capable of accepting the submission of both a federal postcard
6 application and any other approved electronic military-overseas
7 ballot application sent to the appropriate election official.
8 The voter may use the electronic transmission system or any other
9 approved method to apply for a military-overseas ballot.

10 (c) A covered voter may use the declaration accompanying a
11 federal write-in absentee ballot as an application for
12 a military-overseas ballot simultaneously with the
13 submission of the federal write-in absentee ballot, if
14 the declaration is received by the appropriate
15 election official by the seventh day before the
16 election.

17 **§ -8 Transmission of unvoted ballots.** (a) Not later
18 than forty-five days before the election or, if the forty-fifth
19 day before the election is a weekend or holiday, not later than
20 the business day preceding the forty-fifth day, the election
21 official in each jurisdiction charged with distributing a ballot



1 and balloting materials shall transmit a ballot and balloting
2 materials to all covered voters who by that date submit a valid
3 military-overseas ballot application.

4 (b) A covered voter who requests that a ballot and
5 balloting materials be sent to the voter by electronic
6 transmission may choose facsimile transmission or electronic mail
7 delivery, or, if offered by the voter's jurisdiction, internet
8 delivery. The election official in each jurisdiction charged
9 with distributing a ballot and balloting materials shall transmit
10 the ballot and balloting materials to the voter using the means
11 of transmission chosen by the voter.

12 § -9 **Federal write-in absentee ballot.** A covered voter may
13 use a federal write-in absentee ballot to vote for all offices
14 and ballot measures in an election described in section -3.

15 § -10 **Publication of election notice.** (a) As soon as
16 practicable before an elections, an official in each jurisdiction
17 charged with printing ballots and balloting material shall
18 prepare an election notice for that jurisdiction, to be used in
19 conjunction with a federal write-in absentee ballot. The
20 election notice must contain a list of all of the ballot measures
21 and federal, state, and local offices that as of that date the



1 official expects to be on the ballot on the date of the
2 election. The notice also must contain specific instructions for
3 how a voter is to indicate on the federal write-in absentee
4 ballot the voter's choice for each office to be filled and for
5 each ballot measure to be contested.

6 (b) A covered voter may request a copy of an election
7 notice. The official charged with preparing the election notice
8 shall send the notice to the voter by facsimile, electronic mail,
9 or regular mail, as the voter requests.

10 (c) As soon as ballot styles are finalized pursuant to
11 section 11-119, and not later than the date ballots are required
12 to be transmitted to voters under section 15-4, the official
13 charged with preparing the election notice under subsection (a)
14 shall update the notice with the certified candidates for each
15 office and ballot measure questions and make the updated notice
16 publicly available.

17 (d) A local election jurisdiction that maintains an
18 internet website shall make the election notice prepared under
19 subsection (a) and updated versions of the election notice
20 regularly available on the website.



1 **§ -11 Prohibition of nonsubstantive requirements.** If a
2 voter's mistake or omission in the completion of a document under
3 this chapter does not prevent determining whether a covered voter
4 is eligible to vote, the mistake or omission shall not invalidate
5 the document. Failure to satisfy a nonsubstantive requirement,
6 such as using paper or envelopes of a specified size or weight,
7 shall not invalidate a document submitted under this chapter. In
8 a write-in ballot authorized by this chapter if the intention of
9 the voter is discernible under this State's uniform definition of
10 what constitutes a vote, an abbreviation, misspelling, or other
11 minor variation in the form of the name of a candidate or a
12 political party shall be accepted as a valid vote.

13 **§ -12 Relation to electronic signatures in global and**
14 **national commerce act.** This chapter modifies, limits, and
15 supersedes the Electronic Signatures in Global and National
16 Commerce Act, 15 U.S.C. section 7001 et seq., but does not
17 modify, limit, or supersede section 101(c) of that act, 15 U.S.C.
18 section 7001(c), or authorize electronic delivery of any of the
19 notices described in section 103(b) of that act, 15 U.S.C.
20 section 7003(b)."

21 SECTION 2. Section 15-3.5 is repealed:

1 ~~" [§15-3.5] Federal write-in absentee ballot.~~
2 ~~Notwithstanding the provisions of this chapter and chapters 11~~
3 ~~and 16, the federal write-in absentee ballot for overseas voters~~
4 ~~in general elections for federal office which must be prescribed~~
5 ~~under section 1973ff of title 42, United States Code, as amended,~~
6 ~~may be used in general elections for federal offices.]"~~

7 SECTION 3. This Act shall take effect on July 1, 2011.





OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

TESTIMONY OF

JEFFREY T. KUWADA, COUNTY CLERK, COUNTY OF MAUI

TO THE HOUSE COMMITTEE ON JUDICIARY

ON HOUSE BILL NO. 461, HD 1

RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT

FEBRUARY 17, 2011

Chair Keith-Agaran and members of the House Committee Judiciary, thank you for the opportunity to testify on House Bill No. 461, HD 1 relating to the Uniform Military and Overseas Voters Act.

The Office of the County Clerk, County of Maui, has concerns and offers comments regarding this bill as written for the following reasons:

1. This measure creates inconsistencies within Hawaii election laws relating to absentee voting. For example:
 - Haw. Rev. Stat. § 15-4(a) states in part that a registered voter may request an absentee ballot "not later than 4:30 p.m. on the seventh day prior to the election." House Bill No. 461 states that requests may be "received by the fifth day before the election for that election."
 - Haw. Rev. Stat. § 15-9 states: (a) "The return envelope shall be: (1) Mailed and must be received by the clerk issuing the absentee ballot not later than the closing of the polls on any election day;". House Bill No. 461 allows covered voters to mail their ballot on the date of the election.
2. This measure would make it very difficult to meet the requirement that ballots be mailed to registered voters 45 days before a county special election. According to the County of Maui Charter (Article 3, sec.3-4), we have 60 days to prepare for a special election. The availability of nomination papers are the first 10 days (HRS §12-2.5) leaving only 5 days to have ballots printed and assembled for mail out. This measure will probably require a change to our charter to allow for more time between close of candidate filing and ballot processing

3. The measure adds statutory requirements beyond the requirements of the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 42 USC §§1973ff et seq., which concerns absentee voting by military and overseas voters.
4. Presently, Hawaii law is in full compliance with UOCAVA, including the 2009 amendments referred to as the Military and Overseas Voter Empowerment Act (MOVE). Soon after the MOVE Act became effective, the State Office of Elections promulgated administrative rules (§3-174-22) to address all mandatory requirements of the MOVE Act. The rules became effective on January 9, 2010.

Thank you for the opportunity to testify on House Bill No. 461, HD 1.

THE CHAMBER OF COMMERCE OF HAWAII
1132 Bishop Street, Suite 402
Honolulu, HI 96813

Testimony to the House Committee on Judiciary
Thursday, February 17, 2011
2:00 PM
Conference Room 325

**RE: HOUSE BILL NO. 461, HD 1, RELATING TO THE UNIFORMED MILITARY AND
OVERSEAS VOTERS ACT**

Chair Keith-Aragan, Vice Chair Rhodes, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's support of House Bill 461, Relating To The Uniformed Military and Overseas Voters Act.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce, and their families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The measure proposes to implement voting provisions for uniformed services and overseas absentee voters, as required by the Military and Overseas Voter Empowerment Act.

Voting is a basic right of every eligible American citizen. The procedures proposed in this bill would ensure that Hawaii residents serving in the military outside of Hawaii are guaranteed voting privileges in state and national elections.

For these reasons, we respectfully recommend that the proposed measure be approved for adoption.

Thank you for the opportunity to testify.

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

ON H.B. NO. 461, H.D. 1

RELATING TO THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.

BEFORE THE HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, February 17, 2011, at 2:00 p.m.
Conference Room 325, State Capitol

PERSON(S) TESTIFYING: KEVIN SUMIDA, Commissioner
Commission to Promote Uniform Legislation

WEB: <http://www.capitol.hawaii.gov/emailtestimony>

To Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

My name is Kevin Sumida and I am testifying on behalf of the Commission to Promote Uniform Legislation, which supports passage of the **UNIFORM MILITARY AND OVERSEAS VOTERS ACT (“UMOVA”)**.

Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, despite repeated congressional and state efforts to facilitate their ability to vote. These include difficulty in registering abroad, frequent address changes, slow mail delivery, ballots and ballot applications that never arrive, difficulty in obtaining information about candidates or issues, the inability to comply with notarization or verification procedures, or the voter’s failure to properly comply with non-essential requirements for absentee materials.

Unfortunately, the federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (**UOCAVA**) and Military and Overseas Voter Empowerment Act of 2009 (**MOVE**), as well as the various state efforts, have not been wholly effective in overcoming difficulties that these voters face, and the federal laws do not encompass state and local elections. Further, American elections are conducted at the state and local levels under procedures that vary dramatically by jurisdiction, and many are conducted independent of the federal elections to which UOCAVA and MOVE do apply. Lack of uniformity and consistency between jurisdictions, and lack of application of the federal statutes (and some state statutes on military and overseas voting) to state and local elections, complicate efforts to fully enfranchise these voters and represent a major impediment to their ability to vote.

At its 2010 Annual Meeting, the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission, promulgated the Uniform Military and Overseas Voters Act (UMOVA) to address these issues, with the benefit of expertise and input from a wide array of interested parties and observers. UMOVA extends to state elections the assistance and protections for military and overseas voters currently found in federal law. It seeks greater harmony for the military and overseas voting process for all covered elections, over which the states will continue to have primary administrative responsibility.

UMOVA simplifies and expands the class of covered voters and covered elections, and establishes reasonable, standard timetables for application, registration, and provision of ballots and election information for covered voters. The act implements the federal requirement of a 45-day minimum window between providing ballot materials to covered voters and the election, and expands use of the FPCA and FWAB for registration, application for materials, and voting. It settles the issue of which address to use for active-duty military and overseas voters. UMOVA requires creation of electronic transmission methods for applications and receipt of registration and balloting materials, and tracking the status of submissions. It requires ballots to be counted where non-essential requirements are not complied with, and obviates notarization requirements where the proper declaration is made under penalty of perjury. The new UMOVA uses and builds upon the key requirements of UOCAVA and MOVE, and makes these important protections and benefits applicable to federal, state, and local elections.

The National Conference of the Council of State Governments (CSG) adopted a resolution in December 2010 urging all states to adopt UMOVA. Similar resolutions in favor of UMOVA had previously been adopted by the CSG Southern Legislative Conference, with 15 member states, as well as the CSG-West, with 13 member states. The National CSG also approved UMOVA as "Suggested State Legislation," which means it is part of a compilation of legislation on topics of current interest and importance to the states.

The Act is also supported nationally by the American Bar Association's Standing Committee on Election Law and Standing Committee on Armed Forces Law.

This Act has already been introduced before the legislatures of three other states, Connecticut, North Dakota, and Oklahoma.

I am attaching to my testimony a copy of the Resolution by the Council of State Governments, supporting this proposed legislation.

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION SUPPORTING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT

Resolution Summary

Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, despite repeated congressional and state efforts to facilitate their ability to vote. These include difficulty in registering abroad, frequent address changes, slow mail delivery, ballots and ballot applications that never arrive, difficulty in obtaining information about candidates or issues, the inability to comply with notarization or verification procedures, or the voter's failure to properly comply with non-essential requirements for absentee materials. The federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) and Military and Overseas Voter Empowerment Act of 2009 (MOVE), as well as the various state efforts, have not been wholly effective in overcoming difficulties that these voters face, and the federal laws do not encompass state and local elections. Further, American elections are conducted at the state and local levels under procedures that vary dramatically by jurisdiction, and many are conducted independent of the federal elections to which UOCAVA and MOVE do apply. Lack of uniformity, and lack of application of the federal statutes to state and local elections, complicates efforts to fully enfranchise these voters.

At its 2010 Annual Meeting, the national Uniform Law Commission promulgated the Uniform Military and Overseas Voters Act (UMOVA) to address these issues. UMOVA extends to state elections the assistance and protections for military and overseas voters currently found in federal law. It seeks greater harmony for the military and overseas voting process for all covered elections, over which the states will continue to have primary administrative responsibility.

UMOVA simplifies and expands the class of covered voters and covered elections, and establishes reasonable, standard timetables for application, registration, and provision of ballots and election information for covered voters. The act implements the federal requirement of a 45-day minimum window between providing ballot materials to covered voters and the election, and expands use of the FPCA and FWAB for registration, application for materials, and voting. It settles the issue of which address to use for active-duty military and overseas voters. UMOVA requires creation of electronic transmission methods for applications and receipt of registration and balloting materials, and tracking the status of submissions. It requires ballots to be counted where non-essential requirements are not complied with, and obviates notarization requirements where the proper declaration is made under penalty of perjury. The new UMOVA uses and builds upon the key requirements of UOCAVA and MOVE, and makes these important protections and benefits applicable to federal, state, and local elections.

At the 2010 annual meetings of the Southern and Western Legislative Conferences of the Council of State Governments, those regions adopted policy positions supporting their member states' enactment of UMOVA. Both regions are supportive of the national Council of State Governments adopting a similar resolution.

This policy resolution:

- Asserts that military personnel and overseas civilians experience a wide variety of obstacles in exercising their right to vote;
- Asserts that the national Uniform Law Commission has promulgated a new uniform law to comprehensively address individual as well as systemic obstructions to military and overseas civilian voting, as a matter of state law;
- Asserts that the Southern and Western Legislative Conferences of the Council of State Governments have adopted policy positions in support of the Uniform Military and Overseas Voters Act; and
- Urges CSG member states to adopt the Uniform Military and Overseas Voters Act.

Additional Resources

- Uniform Law Commission – <http://www.nccusl.org>
- Federal Voting Assistance Program – <http://www.fvap.gov/>
- The Pew Charitable Trusts and the Pew Center On the States – http://www.pewtrusts.org/news_room_detail.aspx?id=47924

CSG Management Directives

- **Management Directive #1:** CSG will transmit a copy of this resolution to the executive and legislative leaders in each state, the National Association of Secretaries of State (NASS), the Adjutants General Association of the United States (AGAUS), the Civil Rights Division of the United States Department of Justice, and to the sponsor and co-sponsors of the Military and Overseas Voter Empowerment Act (S.1415) which was incorporated into the 2010 Defense Authorization Act and which mandated the implementation of the policies contained in UMOVA with respect to federal elections.
- **Management Directive #2:** CSG staff will post this approved resolution on CSG's Web site and make it available through its regular communication venues at the state and local level to ensure its distribution to the state government and policy community.

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION SUPPORTING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT

WHEREAS, Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, including difficulty in registering abroad, frequent address changes, slow mail delivery, ballots and ballot applications that never arrive, difficulty in obtaining information about candidates or issues, the inability to comply with notarization or verification procedures, and cumbersome non-essential requirements for absentee materials;

WHEREAS, these problems exist despite many state and federal legislative efforts to alleviate them, and the protections of the federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) and Military and Overseas Voter Empowerment (MOVE) Act of 2009 amendments extend only to federal elections;

WHEREAS, U.S. elections are conducted at the state and local levels under procedures that vary dramatically by jurisdiction, and a lack of uniformity and consistency in procedures for overseas civilians and military personnel is, in itself, a primary obstacle to many of these voters' ability to effectively exercise their right to vote;

WHEREAS, at its 119th Annual Meeting in 2010, the national Uniform Law Commission promulgated the Uniform Military and Overseas Voters Act (UMOVA) to extend application of the protections for military and overseas civilian voters currently found in federal law to state and local elections; simplify and expand the class of covered voters and covered elections; establish reasonable, standard timetables for application, registration, and provision of ballots and election information for covered voters; and to seek greater harmony within state law for the military and overseas voting process for all covered elections; and

WHEREAS, at the 2010 annual meetings of both The Council of State Governments – West and the Southern Legislative Conference of The Council of State Governments, those regions adopted policy positions supporting their member states' enactment of UMOVA.

NOW, THEREFORE BE IT RESOLVED, that The Council of State Governments urges that all member states consider and enact the 2010 Uniform Military and Overseas Voters Act (UMOVA), to help states comply with the federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) and Military and Overseas Voter Empowerment Act of 2009 (MOVE), and to extend the application of, and broaden the coverage of, the important principles

of these laws with regard to state and local elections, for the benefit and enfranchisement of our military personnel and overseas civilians.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be forwarded to the executive and legislative leaders of each state, the National Association of Secretaries of State (NASS), the Adjutants General Association of the United States (AGAUS), the Civil Rights Division of the United States Department of Justice, and to the sponsor and co-sponsors of the Military and Overseas Voter Empowerment Act (S.1415) which was incorporated into the 2010 Defense Authorization Act and which mandated the implementation of the policies contained in UMOVA with respect to federal elections.

Adopted this 6th Day of December, 2010, at CSG's 2010 National Conference in Providence, Rhode Island.

Governor M. Michael Rounds, SD
2010 CSG President

Senate President David L. Williams, KY
2010 CSG Chairman



Hawaii Chapter, MOAA
P.O. Box 1185
Kailua, Hawaii 96734-1185

**Testimony of
Thomas Smyth, President
Military Officers Association of America, Hawaii Chapter
Before the Committee on
Judiciary**

Thursday, February 17, 2011, 2:00 p.m., Room 325

HB 461 Relating to the Uniform Military and Overseas Voters Act

Chair Keith-Agaran, Vice Chair Rhoads and Committee Members

Our 400 retired and currently serving officers of the Uniformed Services support state codification of the federal law related to Military and Overseas voters.

Since Hawaii, among all the other states, has our primary election the closest to our general election, in 2010 we ran up against the federal mandate to allow 45 days for return of ballots from these voters. In fact, in the most recent analysis of overseas voting by the Pew Center on the States, Hawaii did a fairly good job of getting ballots out and back in earlier elections, in spite of the shorter time period.

Now is the opportunity to make the process permanent for federal, state and county elections. Moving the statewide federal and primary election back helps, but other factors need to be put into place to allow the Elections Officer and County Clerks the authority to act prudently. We understand that the details of the process are complex and should be based on the input from elections officials at the state and county levels who are charged with carrying out this important responsibility. We do believe this bill provides an appropriate vehicle to accomplish this goal.

Thank you for the opportunity to provide testimony.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 461 HD1
A BILL FOR AN ACT RELATING TO MILITARY AND OVERSEAS VOTERS
ACT

PRESENTATION TO THE
HOUSE COMMITTEE ON JUDICIARY

BY

MAJOR GENERAL DARRYLL D. M. WONG
INTERIM ADJUTANT GENERAL
February 17, 2011

Chair Aquino, Vice Chair Cullen, and Members of the Committee:

I am Major General Darryll D. M. Wong, Interim State Adjutant General. I am testifying on House Bill 461 HD1.

We strongly support House Bill 461 HD1. This measure allows military personnel deployed or stationed outside the United States and other overseas voters an opportunity to vote and submit their ballots for federal, state, and county office in a general, special, primary, or runoff election.

Thank you for the opportunity to provide this written testimony.