**Theoretical Approach**

AsPowell has noted, it is important to understand electoral designs from their inception in order to assess their overall effectiveness and decipher areas for improvement.[[1]](#footnote-1) Concerning improving the military and overseas voting experience, and the concomitant interest in technology as a solution to election problems, it is likely the issue would not have come to the forefront of debate had it not been for the controversy surrounding the 2000 Presidential Election. This suggests that temporal sequences matter in directing the larger debates concerning overseas and military absent voting, and as a natural extension, in the development of voting policy and procedures. Levi stresses the key to understanding historical events and policy output rests in the use of thick historical narrative.[[2]](#footnote-2) The use of historical narrative can shed light on the causes of current policy problems, and provide innovative policy solutions. History is incorrectly assumed to be irrelevant to current policy debates.[[3]](#footnote-3) As such, the importance of utilising historical evidence in policy making has been recognised by numerous groups.[[4]](#footnote-4)

Sequencing events through the use of historical narrative assists in explaining not only institutional change, but ‘off the equilibrium path’ behaviour such as the events of the 2000 Presidential Election.[[5]](#footnote-5) Fortuitously, the history of overseas absent voting is distinctive in that it has been driven by highly public events. This characteristic of overseas absent voting most closely resembles punctuated equilibrium theory in that policymaking alternates between periods of policy stasis to periods of policy overreaction stemming from exogenous events.[[6]](#footnote-6) As Baumgartner notes, punctuated equilibrium in public policy is characterised by long term and relatively incremental policy change followed by an outside shock that generates sharp and explosive policy change.[[7]](#footnote-7) And, as is the case with overseas absent voting, these exogenous events occur at great distances from each other, suggesting extended periods of policy stasis or equilibrium.[[8]](#footnote-8) In this regard, Rayner appropriately points out the importance of time as a significant explanatory factor in its own right, both in policy development as well as periods of policy stasis.[[9]](#footnote-9) Further, the long term equilibrium prior to a crisis is referred to as path dependent in that the trajectory of policy processes are highly contingent in origin and inertial in nature.[[10]](#footnote-10) This suggests path dependent and punctuated equilibrium processes are interlinked and dependent, and must be considered simultaneously to fully understand any policy change.

**The 1864 Presidential Election**

The 1864 Presidential Election set the precedent for all future debates concerning overseas military and civilian absent voting. Indeed, it seems Lincoln was willing to go to great lengths to ensure an election victory because his re-election in 1864 was not a given. The doubt over Lincoln’s re-election was compounded by poor 1862-63 midterm election results in which the Republicans lost 22 congressional seats.[[11]](#footnote-11) After the midterms, Lincoln and the Republicans concluded that their losses were due in part to many Republican soldiers being stationed on the battlefields of the Civil War. As a result, a strategy was devised to justify the extension of voting rights to these soldiers. This was because it was thought the soldier vote would favour Lincoln.[[12]](#footnote-12) Prior to this election, soldiers were not allowed to vote because they were away from their places of residence. However, Lincoln and the Republicans surmised that the soldiers’ condition of being away from their state of residence due to war and conscription should be considered temporary, as the residency of the soldier continued even though the soldier was not in their home state. After all, the soldier would return home after the war was over.

Lincoln and the Republicans began lobbying the states to adopt procedures to allow soldier voting by the time the 1864 Presidential Election arrived. Some state legislatures responded. However some states turned to the courts to challenge the constitutionality of soldier voting. These cases argued that state law could not regulate extra-territorial activities such as polling places outside of state boundaries.[[13]](#footnote-13) Some linked the soldier vote to racial issues, fearing that extending the franchise to absent soldiers would result in the extension of the vote to ‘negroes in the service’.[[14]](#footnote-14) These arguments were squarely lodged along party lines. As a result, soldier voting bills were uniformly supported by Republicans and uniformly opposed by Democrats.[[15]](#footnote-15)

Many courts found in favour of extending the soldier vote. However, the opinion of Ohio State Supreme Court Justice Josiah Scott provides the most relevant and emotive argument of 1864 that resonates with the rhetoric of military and overseas voting today:[[16]](#footnote-16)

The elector who temporarily leaves wife, children and ‘home’, for the defense of his state and nation, with the intention of returning when his services are no longer demanded, does not thereby lose his residence, or cease to have a fixed local habitation and a home; nor does he lose his legal rights which that residence may confer. [[17]](#footnote-17)

Only about 150,000 of the more than one million active duty soldiers were able to cast absentee ballots from the fields in the 1864 Presidential Election.[[18]](#footnote-18) Of those soldiers that were able to cast an absentee ballot, Benton states that Lincoln was the overwhelming favorite.[[19]](#footnote-19) However, the significance of the soldier vote in securing a win for Lincoln, as well as the total number of soldier votes cast, is still disputed.[[20]](#footnote-20) This type of dispute regarding the counting of absentee ballots, as well as the potential significance of absentee ballots, persists today. Interestingly, after the 1864 Election, the soldier vote legislation was repealed by the various states as it was regarded as a temporary measure to address extraordinary national circumstances. However, a standard had been set allowing absent voting that would be difficult to reverse.

**World Wars to the Cold War**

Keyssar agrees that allowing remote soldier voting in the Civil War **‘**established a precedent for loosening the link between residency requirements and participation in elections’.[[21]](#footnote-21) While the earliest laws allowing absent voting were restricted in their application to the military, civilians did not receive absent voting rights until almost a quarter of a century after the Civil War. In this instance, voting rights were extended in a piecemeal fashion on a state-by-state basis. In 1896 for example, Vermont was the first to extend intra-state absent voting to civilians.[[22]](#footnote-22) The absent voting movement was subsequently taken up by the Progressive Movement, with Kansas leading the way in 1901with an absent voting law applicable to railroad employees only.[[23]](#footnote-23) Virginia passed the most lenient absent voting law in 1916 that made it possible for ‘a Virginia voter to vote by mail in practically any part of the civilised world’.[[24]](#footnote-24) A further 15 states passed intra-state only absent voting laws applicable to civilians by 1918.[[25]](#footnote-25) This further accommodation had been largely attributed to ‘changing economic conditions of the country’ including the continued expansion of the railroads and, as Ray notes, the rise of the travelling salesman.[[26]](#footnote-26) However, by 1938, a decade after the Progressive Era, only one additional state would allow civilians to vote from outside of the United States, that being Tennessee.[[27]](#footnote-27)

By the time the United States entered World War I in 1918, approximately two million American soldiers were stationed overseas, although their involvement in WWI would only last eighteen months.[[28]](#footnote-28) Nevertheless, a midterm election was held in 1918, halfway through Woodrow Wilson’s second term as President. Prior to the 1918 Election, the Democrats held only a five seat majority in the Senate and Wilson’s margin of victory in the 1916 Presidential Election had been slim. Indeed, had Wilson not won the state of California, he would have lost the 1916 Election.[[29]](#footnote-29) As a result of Wilson’s Progressives, 18 states had enacted absent voting laws applicable to active duty military voters in time for the 1918 midterm election, with most of those state laws allowing for polling stations to be present wherever a company or regiment was located.[[30]](#footnote-30) However, on 18 May 1918, the War Department announced that while it would not conduct or supervise the taking of the service vote as was the case during the Civil War, it would cooperate with the states to facilitate their established procedures, although those procedures had to be ‘practicable’.[[31]](#footnote-31) But despite the War Department’s initial offer to facilitate the states, Adjutant General Henry Pinckney McCain later indicated that no state would be allowed to poll the soldier vote on foreign soil ‘without serious interference with military efficiency’.[[32]](#footnote-32) As such, many military personnel serving in WWI were probably disenfranchised, although the exact number is not known. As Wilson lost control of both houses of congress in that midterm, it seems likely that military votes had the potential to influence this outcome. Indeed, 24 seats in the House of Representatives were won by fewer than 1000 votes.[[33]](#footnote-33)

Between World War I and World War II, the United States did not have significant numbers of military personnel stationed overseas. As such, any focus on ensuring their voting rights was minimal. Further, the position of the military was generally apolitical, with General George C. Marshall, Army Chief of Staff from 1939 to 1945 questioning whether it was even ethical for a military officer to vote.[[34]](#footnote-34) However, once the United States became actively involved in WWII, Congress itself took up the issue of soldier voting rather than deferring to the states and passed The Soldier Voting Act of 1942.[[35]](#footnote-35) The Act was designed to guarantee military voting rights only during times of war. Military personnel were allowed to vote for president, and for congressional seats. The Act waived registration requirements and poll tax requirements if applicable, and provided for a generic federal ‘war ballot’ generated at the federal government’s expense to assist service personnel in voting. However, that Act had minimal impact as it was enacted in mid September 1942, about one month before the midterm election held on 3 November 1942.[[36]](#footnote-36) As a result, only 28,051 service votes were cast in that election out of 5,500,000 active duty service personnel.[[37]](#footnote-37)

The potential political significance of the soldier vote in the 1944 Presidential Election became increasingly apparent as the polling organisation Gallup announced that the soldier vote favoured Roosevelt by 61 percent, and could ensure Roosevelt’s re-election.[[38]](#footnote-38) As a result, political parties opportunistically changed sides concerning extending the soldier vote. Democrats pressed for more robust military voter legislation while this time, the Republicans sought to suppress the military vote.[[39]](#footnote-39) This partisan activity was not lost on the soldiers themselves:

Our friend also mentioned the soldier vote, which we all have been hearing so much about lately. If it isn’t the rawest political joke and farce I’ve ever heard of! I just have to laugh. Sure they want us to vote. Like heck they do. Someone back there is afraid we all will vote for the wrong man.[[40]](#footnote-40)

Amid extensive partisan controversy relating to the interference of the Federal Government in the states authority to determine suffrage qualifications, and the desire to offer a standardised war ballot, the 1942 Act was amended in 1944 without the support and signature of Roosevelt. While the 1942 Act required states to allow the military to vote, the amended 1944 Act only recommended that states should allow the military to vote.[[41]](#footnote-41) The Act also limited the broad use of a generic federal ballot for service personnel to only those states who failed to provide a ballot themselves. Even in the instance of states failing to provide a ballot, states had to certify the federal ballot as acceptable. In the election of 1944, only 20 states approved the federal ballot.[[42]](#footnote-42) The impact of the soldier vote in the election, or the rate of disenfranchisement, is not officially recorded. However, it is likely any soldier vote effect was minimal as Roosevelt went on to secure a comfortable win. The same Act was then amended again in 1946 and significantly noted that state action regarding soldier voting would be applicable not only in times of war but in times of peace.[[43]](#footnote-43) However, any accommodation by the states to permit or facilitate military voting would remain voluntary.

At the end of WWII, and the introduction of Truman’s policy of containment and deterrence, it was clear the U.S. would position itself as a world military power. Indeed, under Truman, the United States defense budget quadrupled in response to NSC-68.[[44]](#footnote-44) Recognising greater numbers of service personnel as a result of military escalation, in 1951, Truman asked the American Political Science Association (APSA) to study the military voting problem, as efforts to ensure military voting through the amended Soldier Voting Act of 1942 had largely been unsuccessful. APSA recognised the changing nature of global conflict and the United State’s role in that arena, stating:

In the present state of world affairs, it cannot be assumed that the problem of service voting arises only in time of war. The problem is not a temporary one. It will exist as long as large forces remain under arms; and no end of that requirement is presently in sight.[[45]](#footnote-45)

APSA completed its study in 1952 with Truman fully endorsing its recommendations. These included universal absentee registration and voting for members of the military, as well as federal employees who lived outside of the United States and members of civil service organisations that were associated with the military.[[46]](#footnote-46) The recommendations also included universal use of a federal post card application for a ballot, and the elimination of divergent state registration and residency requirements.[[47]](#footnote-47) However, southern states in particular disagreed with the APSA recommendations on racial grounds, and opposed the bill vehemently. Congress ultimately passed a watered down version of the Federal Voting Assistance Act of 1955, and changed many of APSA’s recommendations into voluntary standards that states were not required to follow.[[48]](#footnote-48)

**The Vietnam Era**

In the 1960’s, the issue of military voting continued to have a highly partisan tone, reflecting a war that was highly divisive. This divisiveness was reflected in the 1968 Presidential Election between Richard Nixon and Hubert Humphrey. Both political parties recognised the importance of the military vote in the 1968 election, as over 700,000 American troops were deployed on active duty in Southeast Asia alone.[[49]](#footnote-49) But they also directed their attention to American civilians residing abroad, as the Federal Voting Assistance Act of 1955 had been amended prior to the 1968 Election by President Johnson to include a more general provision to allow United States citizens temporarily residing outside of the U.S. voting rights.[[50]](#footnote-50) The amendment reflected Johnson’s larger aims of extending the franchise as part of his Great Society initiative. However, the timing of the amendment corresponded with Johnson’s deep unpopularity as a result of the escalation of events in Vietnam, particularly the Tet offensive launched in January 1968.[[51]](#footnote-51) The amendment was merely a recommendation however, as the states were under no obligation to facilitate the extension of voting rights to overseas citizens.[[52]](#footnote-52)

Even considering the recent 1968 amendment to the Federal Voting Assistance Act, the voluntary nature of the 1968 amendment left overseas voters subject to a myriad of state election laws that were difficult to adhere to. Irritation over this situation was compounded by the requirement for overseas Americans to pay United States income tax based on their U.S. citizenship and not their U.S. residency, as well as to pay income tax in their country of residence. The requirement to pay federal income tax, yet not being able to vote in federal elections seemed unjust and resonated with complaints of taxation without representation. This sentiment was expressed by Senator Mathias, co-author of S.95, the draft bill of The Overseas Citizens Voting Rights Act of 1975:

The purpose of the legislation which you are considering is to correct those practices and procedures which have resulted in the fact that some 750,000 American civilians residing abroad still are barred from participating in Presidential or Congressional elections. Those civilians include thousands of businessmen, as well as church officials, teachers, lawyers, accountants, engineers and other professional people serving the interests of their country abroad and subject to U.S. tax laws and the other obligations of American citizenship.[[53]](#footnote-53)

Various overseas groups including The Association of American Resident Overseas (AARO) and the Federation of American Women’s Clubs Overseas (FAWCO) joined forces to lobby congress to pass H.R. 3211 and S.95. While FAWCO had existed since 1931, AARO was formed in 1973 as a direct response to H.R. 3211 and S.95. Their campaign of sending used teabags stapled to letters to congressmen reminding them of the events of the Boston Tea Party was very effective in drumming up support for the bills.[[54]](#footnote-54) However, the Justice Department continued to question the feasibility of allowing voting from abroad. Led by current Supreme Court Justice Antonin Scalia, the Attorney General was persuaded not to support the bill.[[55]](#footnote-55) Senator Barry Goldwater (R), co-sponsor of the bill, approached White House legal counsel amicus curiae and the bill was ultimately signed by President Ford on 2 January 1976.[[56]](#footnote-56) The Overseas Citizens Voting Rights Act of 1975 was the first formal recognition of large numbers of American citizens residing abroad and their concomitant voting right.[[57]](#footnote-57) The Act guaranteed absentee registration and voting rights for American citizens outside of the United States, whether or not they maintained a U.S. residence and their intention to return to the United States was uncertain.

**The Uniformed and Overseas Citizens Absentee Voting Act of 1986**

Very little activity concerning overseas voting legislation took place between 1975 and 1986. It is interesting to note that the Republicans dominated electorally during this time, with Reagan winning landslide victories in 1980 and 1984.[[58]](#footnote-58) However, during Reagan’s second term in office, The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) was passed, replacing the Overseas Citizens Voting Rights Act of 1975.[[59]](#footnote-59) As voting from overseas was largely an acceptable practice by this time, UOCAVA was presented to the public as legislation that amended the various pieces of previous legislation in an effort to streamline processes. However, military build up accelerated sharply under Reagan’s leadership, with a focus on ending the Cold War.[[60]](#footnote-60) This increase was also driven by the Iran hostage crisis of 1979 and the Soviet Union’s invasion of Afghanistan the same year.[[61]](#footnote-61) Further, the importance of securing an election victory in the 1988 Presidential Election was surely a factor, as Republican popularity was eroding during the later years of Reagan’s presidency due to the Iran Contra affair.[[62]](#footnote-62) While George H.W. Bush won the Presidential Election in 1988, the margin of victory was significantly reduced compared to the Republican boom years of 1980 and 1984. The erosion of Republican support continued as Bush Sr. would only serve one term as President, loosing decisively to Bill Clinton in 1992.

Subsequent to the Act, Reagan’s Executive Order 12642 dated 8 June 1988 appointed the Secretary of Defense, or his designee, responsible for carrying out the federal functions outlined under UOCAVA.[[63]](#footnote-63) The Department of Defense then established the Federal Voting Assistance Program (FVAP) to facilitate these processes for voters covered under UOCAVA.

**The Help America Vote Act 2002**

In *Bush v. Hillsborough County Canvassing Board,* the United States District Court accurately foreshadowed that ‘with such focused attention comes the catalyst for legislative reform’.[[64]](#footnote-64) Attention was directed at assessing the electoral system which produced such chaos, and defining areas requiring change. At the state level, 26 states created commissions to study their election laws and administrative capacity, and to make recommendations for change.[[65]](#footnote-65) Other formal state and local government associations, including The National Association of Secretaries of State (NASS), the National Association of County Recorders, Election Officials and Clerks (NACRC), the National League of Cities (NLC), and the National Conference of State Legislatures (NCSL), began assessing the electoral process and issued reports advocating reforms.[[66]](#footnote-66) There were also three independent groups examining issues surrounding election reform including the National Commission on Federal Election Reform (NCFER), the Caltech/MIT Voting Technology Project (VTP), and the Constitution Project’s Forum on Election Reform.[[67]](#footnote-67)

NCFER was formed as the official 2000 Election investigative arm. The commission was co-chaired by former presidents Jimmy Carter and Gerald Ford. Sponsored by the University of Virginia’s Miller Center of Public Affairs and the Century Foundation, the goal of the commission was to evaluate and review issues of election reform and any subsequent policy proposals that had been generated post election 2000.[[68]](#footnote-68) Between March and June of 2001, the Commission held four public hearings across the United States with specific subject area remits. The Commission then organised two task forces to investigate the current practices in federal elections, the effects of those current practices, and the possibilities for reform. The Commission also provided the legal background regarding constitutional and federal election law where reform was most likely. The final report of NCFER was published on 31 July 2001 and contained 13 policy recommendations designed to form the legislative framework for any potential legislation:[[69]](#footnote-69)

1. Every state should adopt a system of statewide voter registration.
2. Every state should permit provisional voting by any voter who claims to be qualified to vote in that state.
3. Congress should enact legislation to hold presidential and congressional elections on a national holiday.
4. Congress should adopt legislation that simplifies and facilitates absentee voting by uniformed and overseas citizens.
5. Each state should allow for restoration of voting rights to otherwise eligible citizens who have been convicted of a felony once they have fully served their sentence, including any term of probation or parole.
6. The state and federal governments should take additional steps to assure the voting rights of all citizens and to enforce the principle of one person, one vote.
7. Each state should set a benchmark for voting systems performance, uniform in each local jurisdiction that conducts elections. The benchmark should be expressed as a percentage of residual votes (the combination of overvotes, spoiled votes and undervotes) in the contest at the top of the ballot and should take into account of deliberate decisions of voters not to make a choice.
8. The federal government should develop a comprehensive set of voting equipment system standards for the benefit of state and local election administration.
9. Each state should adopt uniform statewide standards for defining what will constitute a vote on each category of voting equipment certified for use in that state. Statewide recount, election certification, and contest procedures should take into account the timelines for selection of presidential elector.
10. News organizations should not project any presidential election results in any state so long as polls remain open elsewhere in the 48 contiguous states. If necessary, Congress and the states should consider legislation, within First Amendment limits, to protect the integrity of the electoral process.
11. The federal government, on a matching basis with the governments of the 50 states, should provide funds that will add another $300-400 million to the level of annual spending on election administration in the United States. The federal share will require a federal contribution totaling $1-2 billion spread out over two or three years to help capitalize state revolving funds that will provide long term assistance.
12. The federal responsibilities envisioned in this report should be assigned to a new agency, The Election Administration Commission.
13. Congress should enact legislation that includes federal assistance for election administration, setting forth policy objectives for the states while leaving the choice of strategies to the discretion of the states.

In fall 2002, Congress passed the Help America Vote Act (HAVA) to address many of the problems manifest in the 2000 Election, as well as those outlined in the final report of NCFER.[[70]](#footnote-70) The purpose of HAVA was:

To establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.[[71]](#footnote-71)

In constructing the bill, many issues relating to election reform unsurprisingly evoked strong partisan differences, like voter identification and federal regulation of elections. However other issues dealing with administrative practices did not. In this regard, the success of the bill was greatly enhanced by the bipartisan work of Robert Ney (R-OH), chairman of the House Committee on Administration, and ranking member Steny Hoyer (D-MD).[[72]](#footnote-72) Additionally, the bill was greatly assisted by state and local government organisations which heavily lobbied Congress due to the possibility of federal funding to improve their election systems, but also to temper the possibility of increased federal regulation and intervention in state policy.[[73]](#footnote-73) Not surprisingly Republicans supported state and local control regarding election administration with minimal federal intervention, while Democrats were concerned about protecting civil rights. Some Democrats even argued for national election standards enforceable by the Department of Justice.[[74]](#footnote-74) But this argument was not compatible with the main state centred lobbying groups noted previously in this chapter who had most influence. With a Republican majority in the House of Representatives, and a Republican president, this demand fell on barren ground. Ultimately, the bill passed largely on a bipartisan basis as Congress saw the need for bipartisan action.[[75]](#footnote-75)

The reforms contained in HAVA were intended to address issues relating to federal elections only, but as a practical matter states do not operate differently for federal, state or local elections. As such, HAVA in essence compelled the states to change their election procedures for all elections. Essentially, HAVA is a funded mandate, in that it represents a direct order from the federal government to the states, with potential civil penalties for non-compliance. However, it should be considered a modified direct order because grants are provided to the states to facilitate their compliance.[[76]](#footnote-76) Indeed, Title I of HAVA provides for $3.86 billion over three years in ‘payments to states for election improvements and replacement of punch card and lever voting machines’.[[77]](#footnote-77) This is the largest grant program in HAVA and it should be noted that states are still required to comply with HAVA regardless of their acceptance of these grants.[[78]](#footnote-78) Acceptance of the grants however introduces additional requirements for the states to establish matching funds and produce a state plan, based on HAVA stipulations, outlining how the state will use the funding to meet the statutory requirements.[[79]](#footnote-79) Section 101 authorizes block grants allocated on the basis of voting population, while Section 102 provides incentives for states to replace punch card and lever voting machines at up to $4000 per qualifying precinct.[[80]](#footnote-80) This payment system is incentive based, with the federal government funding the changes rather than simply dictating change and forcing the states to foot the bill. This was deemed a much preferable way of promoting compliance with the mandates. It supported proposal 13 of the NCFER, and bolstered states rights.[[81]](#footnote-81) However, appropriation problems plagued HAVA, making full implementation difficult.[[82]](#footnote-82)

Title II of HAVA created the Election Assistance Commission (EAC) which consists of four commissioners and three advisory boards.[[83]](#footnote-83) The EAC was primarily established to administer the grant program outlined in HAVA as well as to disseminate a range of election administration information. This information primarily takes the form of advisories directed at the states concerning best practice in all facets of election administration. It is important to note however the EAC has virtually no regulatory authority. This authority rests with the Department of Justice (DOJ).[[84]](#footnote-84) However, the importance of disseminating information can not be underscored. The EAC acts as a precursor to the development of state legislation by creating voluntary standards of best practice surrounding all areas of election administration.[[85]](#footnote-85) In short, information presented as guidelines by the EAC frequently will become state regulation, as the EAC acts as the official federal interpreter of HAVA. The production of this information is bolstered by the ability of the EAC to financially sponsor ‘official’ research and disseminate the results of that research on a large scale.[[86]](#footnote-86) To be certain, the information that the EAC produces is largely influenced by local and state election officials. However, the EAC’s influence is further strengthened by their authority to provide national certification of qualified voting systems to the states.[[87]](#footnote-87) The EAC has the authority to audit state expenditure, and in fact HAVA has a provision for repayment of funds for a state’s failure to comply.[[88]](#footnote-88) But only the Government Accountability Office (GAO) can instigate this action, but clearly informed by an EAC audit finding. Certainly the potential impact of the EAC in directing standards has not been lost on the states. While exchanges between the states and the EAC would appear mutually beneficial, at times the relationship has been acrimonious. For example, the NASS issued a statement to Congress urging it not to reauthorise funding of the EAC beyond 2006, and to defeat any legislation dictating national standards for the administration of elections.[[89]](#footnote-89) The EAC’s effectiveness has also been called into question from the start. Commissioner appointments were delayed and funding was not appropriated.[[90]](#footnote-90) Indeed, the EAC’s first meeting did not take place until March 2004, nearly 17 months after HAVA was passed.[[91]](#footnote-91)

Title III outlines the uniform election technology and administrative requirements for the states.[[92]](#footnote-92) It includes requirements that allow voters to correct vote selections before ballots are cast, and requires accommodation to facilitate voting for persons with disabilities.[[93]](#footnote-93) Title III also permits provisional ballots for voters not on any official registration list, and allows a wider variety of identification options for new voters.[[94]](#footnote-94) According to Title III, states rather than local officials are charged with maintaining a computerised statewide voter registration list.[[95]](#footnote-95) Stipulated deadlines for the states adoption of these guidelines are also given.[[96]](#footnote-96) The requirements contained in Title III are considered to be the minimum requirements expected by the states, however section 305 in Title III states significantly that ‘the specific choices on the methods of complying with the requirements of this title shall be left to the discretion of the states’.[[97]](#footnote-97) Title III left the states with little option except to comply, however there was significant scope to develop their administrative requirements beyond those expressly stated. This was counterintuitive to the intent of HAVA to promote uniformity.

Title IV of HAVA outlines enforcement procedures for failure to comply with the provisions of the act and has been criticised by the legal professions in particular as being limited in scope and largely inadequate.[[98]](#footnote-98) The United States Attorney General is authorised to initiate civil action against any state or local government that does not comply with the requirements of Title III in HAVA.[[99]](#footnote-99) In this regard, enforcement is limited to only Title III stipulations. States are also required to establish a complaints system. However, this system has been seen as weak because the states would be investigating allegations about their own actions without the benefit of an outside arbiter. Further, it is universally accepted that states lack the finance to ensure adequate enforcement of HAVA. Indeed, it is debatable that any organisation, including the EAC, has the funding available to enforce HAVA.

Title VII of HAVA deals with ‘voting rights of military members and citizens overseas’.[[100]](#footnote-100) Predominantly focused on military personnel, this section expands on existing provision for the appointment of military voting assistance officers (VAO) in each branch of the military and at each military installation. It provides guidelines to ensure the Department of Defense (DoD) postmarks overseas absentee ballots as prescribed by state election laws, and delivers ballots on time.[[101]](#footnote-101) Title VII prescribes the creation of a single state office in each state as a point of contact for distributing information regarding voter registration and absentee ballot procedures, despite this responsibility being the remit of the FVAP.[[102]](#footnote-102) Importantly, Title VII requires states to report to the EAC the number of absentee ballots transmitted and received within 90 days after the date of each regularly scheduled general election for federal office.[[103]](#footnote-103) Finally, Title VII requires states to provide overseas voters who receive rejected registration applications a reason for that rejection.[[104]](#footnote-104)

Zimmerman postulates that there has been a sharp increase in pre-emptive statutes promoting federal minimum standards since 1965 due to an overall centralisation of federal power, thereby sharply reducing the states discretionary authority.[[105]](#footnote-105) The use of pre-emptive statutes was seen as important to the Johnson administration and the initiatives of the Great Society discussed earlier. However, concerning election administration systems within the states, adoption of federal minimum standards has been presented to the states as a matter of practicality.[[106]](#footnote-106) The states have rejected that explanation and reasserted their states rights by stalling federal pre-emptive action and promoting the adoption of uniform laws at the state level. This occurred extensively after the 2000 Election. These state efforts have been facilitated by The Uniform Law Commission (ULC), which has developed uniform state legislation applicable to a range of policy areas, including election administration.

The National Conference of Commissioners on Uniform State Laws (NCCUSL), also know as The Uniform Law Commission (ULC), is in fact a product of state government. Commissioners are generally appointed by state governors with financial support coming from state appropriations based on population.[[107]](#footnote-107) Their remit is to consider state laws and ‘determine in which areas of the law uniformity is important’.[[108]](#footnote-108) These considerations are enhanced by contributions, both intellectual and financial, from private interest groups and private individuals with interest in particular policy areas being considered by the Commission. In February 2009, the Drafting Committee for the Uniform Military Services and Overseas Civilian Absentee Voters Act (UMOVA) met in Portland, Oregon to discuss and prepare the first draft of state uniform legislation regarding overseas absentee voting.[[109]](#footnote-109) Contributors to this meeting included key stakeholder groups like The Overseas Vote Foundation (OVF), American Citizens Abroad (ACA) and Operation BRAVO, a foundation seeking to improve overseas voting processes.[[110]](#footnote-110) The Pew Charitable Trusts provided financial support for the project through their program ‘Make Voting Work’.[[111]](#footnote-111)

The NCCUSL report of 18 February 2009 highlighted extensive consideration being given to determining the appropriate relationship between a uniform state act and UOCAVA. They concluded that ‘there was agreement to proceed on the working assumption that UOCAVA should be relied upon in large measure, without making the uniform act dependent upon it’.[[112]](#footnote-112) The Council of State Governments further highlighted the ability for states to act autonomously by stating that the proposed UMOVA accomplishes something that federal legislation can not:

The Act 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.[[113]](#footnote-113)

The Act was finalised in 2010 and, as of the completion of this thesis, seven states and the District of Columbia have adopted the Act and nine states have introduced the Act into their legislatures for consideration.[[114]](#footnote-114)

While the ULC was drafting uniform state legislation regarding overseas absent voters, the same key stakeholders contributing to that effort were engaged in a totally different activity to attempt to drive further legislative change in the UOCAVA policy area. This activity introduced a completely different and adversarial dynamic into the debate concerning overseas absent voting. Influenced by the book *The Democracy Index* by Heather Gerken, key stakeholder groups have attempted to codify the efficacy of state overseas election administration in order to name and shame the various states which fail to meet particular standards that are frequently defined by the key stakeholder groups themselves.[[115]](#footnote-115) The concept of indexing as a means to elicit desired policy outcomes has become so influential that Representative Steve Israel (D-NY) introduced H.R. 4033 known as The American Democracy Index Act of 2009 on 5 November 2009.[[116]](#footnote-116) The bill is designed to incorporate indexing state performance into the remit of the Election Assistance Commission, but has yet to be passed.

These indices were designed to highlight certain particular policy problems experienced by the UOCAVA voter. For example, in January 2009, The Pew Center on the States published ‘No Time to Vote: Challenges Facing America’s Overseas Military Voters’, highlighting states that do not allow sufficient time to transmit overseas absentee ballots.[[117]](#footnote-117) The OVF constructed an index reflecting the variety of state absentee voting rules based on particular administrative areas such as voter registration and balloting procedures for a UOCAVA voter.[[118]](#footnote-118) These indices have been highly effective in terms of influencing legislation primarily due to politicians, political parties and states not wanting to be seen to disenfranchise overseas military personnel. Overseas citizens have subsequently benefitted from the procedural focus on overseas military personnel. Several of the recommendations were incorporated into the MOVE Act, including Pew’s 45 day ballot transit time requirement, and OVF’s electronic Federal Write-in Absentee Ballots (FWAB).[[119]](#footnote-119) However, the impact of the MOVE Act on overseas voter turnout in the 2010 midterm election is unclear, although it appears to be less than favourable.[[120]](#footnote-120)

**Defining the Problems Faced by Overseas Voters (additional MOVE Act)**

Norris indicates that attempts at ‘constitutional engineering’ such as HAVA and the MOVE Act are based on the premise that the electoral structure, including rules and regulations, can shape voting behavior.[[121]](#footnote-121) Within this structure, legislation is formulated based on a rational choice theory of voter participation. On the simplest level, the model assumes a rational decision maker who decides to vote by weighing the perceived benefits of voting against the perceived costs of voting. Voter turnout will increase if the cost of voting is reduced. Using a rational choice theory of voter participation assists greatly in understanding the dilemma faced by the UOCAVA voter. Larocca and Klemanski disaggregate the rational choice model by considering two distinct elements in terms of the cost of voting: the number of physical trips needed to vote and the number of discreet tasks required to vote.[[122]](#footnote-122) The number of physical trips needed to vote is largely irrelevant to the overseas voter because they are absent from the normal physical environment in which elections take place. However, the number of discreet tasks required to vote is highly relevant to the UOCAVA voter. For example, voting in the continental United States is often described in terms of two discrete tasks: registering to vote and voting itself.[[123]](#footnote-123) The Overseas Vote Foundation (OVF) reports that the voting process for the UOCAVA voter is comprised of four discreet tasks, all of which are highly regulated.[[124]](#footnote-124) The description of these discrete tasks is as follows:[[125]](#footnote-125)

1. A voter must register and/or request a ballot by obtaining and filling out the required paperwork and returning it from overseas to the proper local election official (LEO) in the voter’s declared state of residence.
2. The required paperwork must arrive at the offices of the LEO in the voter’s declared state of residence before any deadlines and the LEO must accept and process that paperwork.
3. The LEO sends a ballot overseas and once the voter receives that ballot, the voter must fill it out and return it from overseas to the offices of the LEO in the voter’s declared state of residence by the appropriate deadline.
4. The LEO receives the ballot by the appropriate deadline and counts the ballot.

The most obvious problem with this set of tasks is the amount of time potentially required to complete each step, which is estimated to be anywhere from two weeks to two and one half months.[[126]](#footnote-126) Additionally, the sheer number of steps is thought to increase the cost of voting for the UOCAVA voter. This antiquated system has been criticised by the overseas community and key stakeholder groups, including the OVF, American Citizens Abroad (ACA), and Democrats Abroad (DA) to name just a few. These organisations argue that the procedure to vote from overseas is outdated and onerous, and as a result, many overseas voters are disenfranchised.

There are four major problems related to UOCAVA participation:

1. Barriers at the registration process due to divergent state regulations.
2. Problems with the timely transmission of ballots and other election materials due to inadequate postal services.
3. The compounding effect of the dispersed geographic location of the voters.
4. The challenge of mobilising a globally dispersed population like the UOCAVA population.

These problems were confirmed by respondents to the Americans Living Abroad (ALA) survey conducted as part of this thesis. Respondents were asked to identify problems they had experienced in the registration and voting process for the 2008 Presidential Election. Twenty-four percent of respondents reported some type of difficulty in completing the registration process, including not receiving registration material and receiving misinformation or no information about the registration process.[[127]](#footnote-127) Twenty percent of respondents reported some type of difficulty completing the actual voting process, including not receiving ballots on time, receiving multiple ballots, or receiving no ballots at all.[[128]](#footnote-128) The extent to which UOCAVA voters were willing to ensure their vote was received by their state LEO was also demonstrated by the extraordinary measures respondents took to ensure their ballots arrived in the United States on time, including hiring a driver to carry ballots, and paying substantial sums for international courier service. Several respondents indicated that they were refused assistance when seeking information from the U.S. Consulate or U.S. Embassy in their country of residence. Many of these findings have been confirmed by other key stakeholder groups who suggest that at least 25 percent of overseas voters are disenfranchised due to failure to comply with disparate deadlines related to registration and ballot transmission.[[129]](#footnote-129) HAVA and the MOVE Act sought to address these procedural issues that allegedly create a barrier to participation. HAVA addressed these in a more general way, and the MOVE Act offered more specific solutions to these issues.

HAVA was intended to address structural problems inherent in the voting system that were brought to the forefront as a result of the 2000 Presidential Election. These problems stemmed from the variety of state rules and regulations concerning election administration. By attempting to establish minimum standards for compliance by the states in an effort to establish some electoral uniformity, HAVA sought to avoid a repeat of the 2000 Election debacle. As noted in chapter two, most of the detail in HAVA was directed at domestic electoral issues, including the replacement of antiquated voting machines. However the creation of the Election Assistance Commission (EAC) was seen as significant by the UOCAVA community because, for the first time data collection on overseas voters would be mandated. This meant that states had to direct at least some attention to the situation of overseas voter. In terms of overseas election administration, HAVA required states to provide overseas voters who received rejected registration applications a reason for that rejection. This would allow the overseas voter to take some corrective action concerning their registration before an election. But beyond this specific requirement, HAVA was largely seen as irrelevant in terms of addressing the specific problems faced by overseas voters as the onus for change was again left largely to the discretion of the states.

In an attempt to address the problems faced by the UOCAVA community more effectively, the MOVE Act was passed in Congress in October 2009. This was touted as ‘the news story of 2009 as regards (to) military and overseas voting’.[[130]](#footnote-130) MOVE attempted to address specific barriers to overseas voter participation including registration procedures and ballot transmission times. The MOVE Act removed notarisation requirements on all election material and required states to make all registration material available electronically, including Federal Write in Absentee Ballots (FWABs) in the event an official federal ballot did not arrive to the overseas voter in time to cast.[[131]](#footnote-131) Regarding transmission of election material, the Act required states to transmit absentee ballots at least 45 days prior to an election to any overseas voter who had requested a ballot by that date.[[132]](#footnote-132) Regarding registering and requesting ballots, the MOVE Act required all UOCAVA voters to register for each election cycle, rather than every two election cycles under The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA).[[133]](#footnote-133) The MOVE Act’s new rules and regulations were applicable in the 2010 General Election unless a state submitted a waiver request, and that waiver request was accepted by the FVAP.

Incentive based theories of voter participation such as a rational choice model commonly assume that reducing administrative hurdles will boost participation.[[134]](#footnote-134) If this assumption is accepted, the cumulative effect of HAVA and the MOVE Act would be a boost in UOCAVA turnout. Indeed, many studies have correlated liberalised election rules and regulations with improved voter turnout.[[135]](#footnote-135) Given this, it seems reasonable to expect that an increase in UOCAVA voter participation should be observed since 2004. This increase should be very apparent when comparing turnout in the 2008 General Election to the 2010 General Election because of the specificity of the MOVE Act. However, as Norris points out, if the broader features of a political system remain unchanged, then tinkering with administrative procedures may produce only minimal improvement in turnout.[[136]](#footnote-136)

1. Powell, G. Bingham Jr. 2000. *Elections as Instruments of Democracy*. New Haven: Yale University Press, pp. 20-22. [↑](#footnote-ref-1)
2. Levi, Margaret. 2006. *Modeling Complex Historical Processes with Analytical Narratives*. (<http://www.yale.edu/probmeth/Levi.pdf>, 10 September 2011). [↑](#footnote-ref-2)
3. See for example History and Policy Network. 2012. *What We Do and Why*. London: King’s College London. (<http://www.historyandpolicy.org/>, 3 March 2012). [↑](#footnote-ref-3)
4. See for example Parliamentary Office of Science and Technology. 2009. *Lessons from History, Postnote Number 323*. London: The Parliamentary Office of Science and Technology. (<http://www.parliament.uk/documents/post/postpn323.pdf>, 3 March 2012), and The Coalition for Evidence Based Policy. 2012. *Increasing Government Effectiveness Through Rigorous Evidence about ‘What Works’*. Washington, D.C.: The Coalition for Evidence Based Policy. (<http://coalition4evidence.org>, 3 March 2012). [↑](#footnote-ref-4)
5. Levi, *Modeling Complex Historical Processes with Analytical Narratives.* [↑](#footnote-ref-5)
6. True, James L., Jones, Bryan D. and Baumgartner, Frank R. 2007. ‘Punctuated Equilibrium Theory: Explaining Stability and Change in Public Policy Making’, in Sabatier, Paul A. (ed.), *Theories of the Policy Process.* Boulder: Westview Press, pp. 176-177. [↑](#footnote-ref-6)
7. Givel, Michael. 2010. The Evolution of the Theoretical Foundations of Punctuated Equilibrium Theory in Public Policy. *Review of Policy Research*, 27(2), p. 188. [↑](#footnote-ref-7)
8. See Baumgartner, Frank R. and Jones, Bryan D. 2009. *Agendas and Instability in American Politics*. Chicago: The University of Chicago Press. [↑](#footnote-ref-8)
9. Rayner, Understanding Policy Change as a Historical Problem, p. 84. [↑](#footnote-ref-9)
10. Howlett, Michael and Rayner, Jeremy. 2006. Understanding the Historical Turn in the Policy Sciences: A Critique of Stochastic, Narrative, Path Dependency and Process Sequencing Models of Policy Making over Time. *Policy Sciences*, 39(1), p. 5. [↑](#footnote-ref-10)
11. Carson, Jamie L., Jenkins, Jeffrey A., Rohde, David W. and Souva, Mark A. 2001. The Impact of National Tides and District-Level Effects on Electoral Outcomes: The U.S. Congressional Elections of 1862-63. *American Journal of Political Science,* 45(4), p. 888. [↑](#footnote-ref-11)
12. Inbody, Donald S. 2009. *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel*. Ph.D. San Marcos: Texas State University, p. 83. [↑](#footnote-ref-12)
13. Horner, Jennifer. 2007. The 1864 Union Soldier Vote: Historical-Critical Perspectives on Public Space and the Public Sphere. *The Annual Meeting of the International Communication Association*. *San Francisco, CA, May 23, 2007*. Washington, D.C.: International Communication Association, p. 7. [↑](#footnote-ref-13)
14. Horner, The 1864 Union Soldier Vote: Historical-Critical Perspectives on Public Space and the Public Sphere p. 17. [↑](#footnote-ref-14)
15. Benton, Josiah H. 1915. *Voting in the Field; A Forgotten Chapter of the Civil War*. Boston: Privately Printed, p. 306. See also White, J., 2004. Canvassing the Troops: The Federal Government and the Soldiers’ Right to Vote. *Civil War History*, 50(3), p. 294, and Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel,* p. 83. [↑](#footnote-ref-15)
16. See in particular Schwarzkopf, Norman. 2000. *Statement by Retired General Norman Schwarzkopf Regarding the Denied Overseas Absentee Ballots, November 20, 2000.* (<http://thefiringline.com/forums/showthread.php?p=403626>, 10 December 2009) and Schumer, Charles. 2009. *Schumer Releases Survey Suggesting Ballots of One in Four Overseas Military Voters Went Uncounted in ’08 Election*. Press Release, May 13, 2009. (<http://schumer.senate.gov/new_website/record_print.cfm?id=312970>, 18 February 2010). [↑](#footnote-ref-16)
17. Lehman v. McBride, 15 Ohio St. 573, 1863 WL 56 (Ohio). See also Horner, The 1864 Union Soldier Vote: Historical-Critical Perspectives on Public Space and the Public Sphere, p. 14. [↑](#footnote-ref-17)
18. Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel*, p. 69. [↑](#footnote-ref-18)
19. Benton, Voting in the Field: A Forgotten Chapter of the Civil War, p. 313 and p. 319 [↑](#footnote-ref-19)
20. See for example Waugh John C. 1997. *Reelecting Lincoln: The Battle for the 1864 Presidency.* New York: Crown Publishers, p. 354, Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel,* p. 83, Martin, B.A. 1945. The Service Vote in the Elections of 1944. *The American Political Science Review,* 39(4), p. 721, and Benton, *Voting in the Field: A Forgotten Chapter of the Civil War,* p. 313 and p. 319. [↑](#footnote-ref-20)
21. Keyssar, A. 2000. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books, p. 104. [↑](#footnote-ref-21)
22. Ray, P. Orman. 1917a. Absent Voting. *The American Political Science Review*, 11(1), p. 116. [↑](#footnote-ref-22)
23. Steinbicker, Paul G. 1938. Absent Voting in the United States. *The American Political Science Review*, 32(5), p. 898. [↑](#footnote-ref-23)
24. Ray, Absent Voting, p. 117. [↑](#footnote-ref-24)
25. Ray, Absent Voting, p. 116. [↑](#footnote-ref-25)
26. Ray, P. Orman. 1917b. Absent Voting. *The American Political Science Review*, 11(2), p. 320. [↑](#footnote-ref-26)
27. Steinbicker, Absent Voting in the United States, p. 899. [↑](#footnote-ref-27)
28. Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel*, p. 86. [↑](#footnote-ref-28)
29. Leary, William M. 1967. Woodrow Wilson, Irish Americans, and the Election of 1916. *The Journal of American History*, 54(1), p. 58. [↑](#footnote-ref-29)
30. Ray, P. Orman. 1918. Military Absent-Voting Laws. *The American Political Science Review*, 12(3), p. 465. [↑](#footnote-ref-30)
31. Martin, B.A. 1945. The Service Vote in the Elections of 1944. *The American Political Science Review,* 39(4), p. 722. [↑](#footnote-ref-31)
32. Martin, The Service Vote in the Elections of 1944, p. 722. [↑](#footnote-ref-32)
33. Alvarez, Hall and Roberts, Military Voting and the Law: Procedural and Technological Solutions to the Ballot Transit Problem, p. 16. [↑](#footnote-ref-33)
34. Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel*, p. 72. [↑](#footnote-ref-34)
35. The Soldier Voting Act of 1942 (Pub. L. 712-561). [↑](#footnote-ref-35)
36. Coleman, Kevin J. 2001. *The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues.* Washington, D.C.: Congressional Research Service, p. 2. [↑](#footnote-ref-36)
37. Martin, The Service Vote in the Elections of 1944, p. 726. [↑](#footnote-ref-37)
38. Martin, The Service Vote in the Elections of 1944, p. 720. [↑](#footnote-ref-38)
39. Inbody, *Grand Army of the Republic or Grand Army of the Republicans? Political Party and Ideological Preferences of American Enlisted Personnel,* p. 75. [↑](#footnote-ref-39)
40. Maschinot, C.L. 1943. *Shipswake Newsletter*. USS Salt Lake City CA25. (<http://ussslcca25.com>, 3 March 2012). [↑](#footnote-ref-40)
41. Martin, The Service Vote in the Elections of 1944, pp. 720-732. [↑](#footnote-ref-41)
42. Martin, The Service Vote in the Elections of 1944, p. 730. [↑](#footnote-ref-42)
43. Coleman, Kevin J. 2001. *The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues*. Washington, D.C.: Congressional Research Service, p. 2. [↑](#footnote-ref-43)
44. The National Security Council. 1950. NSC-68: *United States Objectives and Programs for National Security: A Report to the President Pursuant to the President’s Directive of January 31, 1950.* (<http://www.fas.org/irp/offdocs/nsc-hst/nsc-68.htm>, 2 February 2010). [↑](#footnote-ref-44)
45. American Political Science Association. 1952. Findings and Recommendations of the Special Committee on Service Voting. *The American Political Science Review*, 46(2), p. 517. [↑](#footnote-ref-45)
46. American Political Science Association, Findings and Recommendations of the Special Committee on Service Voting, pp. 517-518. [↑](#footnote-ref-46)
47. Alvarez, Hall and Roberts, Military Voting and the Law: Procedural and Technological Solutions to the Ballot Transit Problem, p. 22. [↑](#footnote-ref-47)
48. The Federal Voting Assistance Act of 1955 (Pub. L. 296-656). [↑](#footnote-ref-48)
49. Department of Defense. 1968. *Deployment of Military Personnel by Country as of 30 September 1968*. (<http://siadapp.dmdc.osd,mil/personnel/MILITARY/hostory/309hist.htm>, 9 June 2011). [↑](#footnote-ref-49)
50. An Act to Amend the Federal Voting Assistance Act of 1955, Pub. L. no. 90-343, 69 Stat. 584 (1968). Print. [↑](#footnote-ref-50)
51. Karnow, Stanley. 1991. *Vietnam: A History*. New York: Viking Press, p. 556. [↑](#footnote-ref-51)
52. An Act to Amend the Federal Voting Assistance Act of 1955 [↑](#footnote-ref-52)
53. United States Congress. Hearing Before the Subcommittee on Elections of the Committee on House Administration, February 25, 26, March 11, 1975. *Voting Rights for U.S. Citizens Residing Abroad.* Washington, D.C.: Government Printing Office, p. 12. [↑](#footnote-ref-53)
54. Michaux, Phyllis. 2007. The Teabag Campaign of 1975 for Passage of the Overseas Citizens Absentee Voting Rights Act*. The Association of Americans Resident Overseas*. (<http://www.aaro.org/about-aaro/the-teabag-campaign>, 5 June 2011). [↑](#footnote-ref-54)
55. Michaux, The Teabag Campaign of 1975 for Passage of the Overseas Citizens Absentee Voting Rights Act*.* [↑](#footnote-ref-55)
56. Shurtz, David L. 1976. Eliminating State Bona Fide Residence Requirements: The Constitutional Question. *International School of Law Review*, 2, p. 146. [↑](#footnote-ref-56)
57. Overseas Citizens Voting Rights Act of 1975 (Pub. L. 94-203). [↑](#footnote-ref-57)
58. Leip, David. 2012. *1980 Presidential Election Results*. (<http://uselectionatlas.org/>, 3 March 2012), Leip, David. 2012. *1984 Presidential Election Results*. (<http://uselectionatlas.org/>, 3 March 2012). [↑](#footnote-ref-58)
59. The Uniformed and Overseas Citizens Absentee Voting Act of 1986. [↑](#footnote-ref-59)
60. Total overseas military deployment: (Carter presidency) 1979 - 458,424, (Reagan’s first year in office) 1981 – 501,832, (Height of Cold War struggle) 1988 - 540,588. Department of Defense. 2011. Military Personnel Historical Reports. (<http://siadapp.dmdc.osd.mil/personnel/MILITARY/history/309hist.htm>, 24 January 2012). [↑](#footnote-ref-60)
61. Bartels, Larry M. 1991. Constituency Opinion and Congressional Policy Making: The Reagan Defense Build Up. *The American Political Science Review*, 85(2), p. 457. [↑](#footnote-ref-61)
62. BBC News. 2004. Reagan’s Mixed White House Legacy. (<http://news.bbc.co.uk/1/hi/world/americas/213195.stm>, 6 June 2004). [↑](#footnote-ref-62)
63. Executive Order 12642. *Designation of the Secretary of Defense as the Presidential designee under title I of the Uniformed and Overseas Citizens Absentee Voting Act*. 53 Federal Register 21975 (8 June 1988), p. 575. [↑](#footnote-ref-63)
64. Bush v. Hillsborough County Canvassing Board, 123 F. Supp. 2d 1305 (N.D. Fla. 2000). [↑](#footnote-ref-64)
65. Liebschutz, Sarah F. and Palazzolo, Daniel J. 2005. HAVA and the States. *Publius: The Journal of Federalism*. 35(4), p. 502. [↑](#footnote-ref-65)
66. Alvarez, R. Michael and Hall, Thad E. 2005. Rational and Pluralistic Approaches to HAVA Implementation: The Cases of Georgia and California. *Publius: The Journal of Federalism*, 35(4), p. 561. [↑](#footnote-ref-66)
67. Alvarez and Hall, Rational and Pluralistic Approaches to HAVA Implementation: The Cases of Georgia and California, p. 561. [↑](#footnote-ref-67)
68. Carter, J., Ford, G.R., Cutler, L. and Michel, R. 2001. *To Assure Pride and Confidence in the Electoral Process: Report of the National Commission on Federal Election Reform.* Washington D.C.: Brookings Institution Press, p. 3. [↑](#footnote-ref-68)
69. Carter, Ford, Cutler, and Michel, *To Assure Pride and Confidence in the Electoral Process: Report of the National Commission on Federal Election Reform*, pp. 6-14. [↑](#footnote-ref-69)
70. Help America Vote Act of 2002. [↑](#footnote-ref-70)
71. Help America Vote Act of 2002. [↑](#footnote-ref-71)
72. Palazzolo, Daniel J. and McCarthy, Fiona R. 2005. State and Local Government Organisations and the Formation of the Help America Vote Act. *Publius: The Journal of Federalism*, 35(4), p. 524. [↑](#footnote-ref-72)
73. Palazzolo and McCarthy, State and Local Government Organisations and the Formation of the Help America Vote Act, p. 524. [↑](#footnote-ref-73)
74. Palazzolo and McCarthy, State and Local Government Organisations and the Formation of the Help America Vote Act, p. 524. [↑](#footnote-ref-74)
75. The bill passed in the United States House of Representatives 357-48, and in the United States Senate 92-2. See United States Senate Roll Call Votes, 107th Congress, 2nd Session, Record Vote Number 238. October 16, 2002. (<http://www.senate.gov>) and Clerk of the House of Representatives, Final Vote Results for Roll Call 462. October 10, 2002. (<http://clerk.house.gov>). [↑](#footnote-ref-75)
76. Help America Vote Act of 2002. For a discussion regarding the increasing use of federal direct orders see Zimmerman, Joseph F. 1992. *Contemporary American Federalism: The Growth of National Power*. Leicester: Leicester University Press. [↑](#footnote-ref-76)
77. Help America Vote Act of 2002. [↑](#footnote-ref-77)
78. Help America Vote Act of 2002. [↑](#footnote-ref-78)
79. Help America Vote Act of 2002. [↑](#footnote-ref-79)
80. Help America Vote Act of 2002. [↑](#footnote-ref-80)
81. Carter, Ford, Cutler, and Michel, *To Assure Pride and Confidence in the Electoral Process: Report of the National Commission on Federal Election Reform*, p. 13-14. [↑](#footnote-ref-81)
82. See for example National Association of Secretaries of State. 2006. *Make Election Reform a Reality: Support Implementation and Full Funding for HAVA*. (Press Release 20 April 2006). (<http://www.nass.org>, 3 March 2009), National Association of Secretaries of State. 2009. *Make Election Reform a Reality: Support Full Funding for HAVA.* (Press Release 17 March 2009). (<http://www.nass.org>, 25 March 2009), and Coalition for Full Funding of HAVA. 2010*. Open Letter to Congress: Honor Commitment to Election Reform, Support Full Funding for HAVA*, *2 March 2010*. ([www.nass.org](http://www.nass.org), 5 May 2010). [↑](#footnote-ref-82)
83. Help America Vote Act of 2002. [↑](#footnote-ref-83)
84. Help America Vote Act of 2002. [↑](#footnote-ref-84)
85. Montjoy, Robert S. and Chapin, Douglas M. 2005. The U.S. Election Assistance Commission: What Role in the Administration of Elections? *Publius: The Journal of Federalism*, 35(4), p. 628. [↑](#footnote-ref-85)
86. Help America Vote Act of 2002. [↑](#footnote-ref-86)
87. Help America Vote Act of 2002. [↑](#footnote-ref-87)
88. Help America Vote Act of 2002. [↑](#footnote-ref-88)
89. National Association of Secretaries of State. 2005. *NASS Position on Funding and Authorization of the U.S. Election Assistance Commission*. (Press Release 6 February 2005). (<http://www.nass.org>, 3 March 2009). National Association of Secretaries of State. 2005. *New Election Reform Legislation Would Undermine Progress and Interfere With States Rights*. (Press Release 6 February 2005). (<http://www.nass.org>, 3 March 2009). [↑](#footnote-ref-89)
90. Montjoy and Chapin, The U.S. Election Assistance Commission: What Role in the Administration of Elections? pp. 628-629. [↑](#footnote-ref-90)
91. Montjoy and Chapin, The U.S. Election Assistance Commission: What Role in the Administration of Elections? pp. 628-629. [↑](#footnote-ref-91)
92. Help America Vote Act of 2002. [↑](#footnote-ref-92)
93. Help America Vote Act of 2002. [↑](#footnote-ref-93)
94. Help America Vote Act of 2002. [↑](#footnote-ref-94)
95. Help America Vote Act of 2002. [↑](#footnote-ref-95)
96. Help America Vote Act of 2002. [↑](#footnote-ref-96)
97. Help America Vote Act of 2002. [↑](#footnote-ref-97)
98. See Wassom, Audra L. 2003. The Help America Vote Act of 2002 and Selected Issues in Election Law Reform. *Thurgood Marshall Law Review*, 28(2), pp. 345-386. [↑](#footnote-ref-98)
99. Help America Vote Act of 2002. [↑](#footnote-ref-99)
100. Help America Vote Act of 2002. [↑](#footnote-ref-100)
101. Help America Vote Act of 2002. [↑](#footnote-ref-101)
102. Help America Vote Act of 2002. [↑](#footnote-ref-102)
103. Help America Vote Act of 2002. [↑](#footnote-ref-103)
104. Help America Vote Act of 2002. [↑](#footnote-ref-104)
105. Zimmerman, *Contemporary American Federalism, The Growth of National Power*, p. 57. [↑](#footnote-ref-105)
106. Montjoy, Robert S. and Chapin, Douglas M. 2005. The U.S. Election Assistance Commission: What Role in the Administration of Elections? *Publius: The Journal of Federalism*, 35(4), p. 619. [↑](#footnote-ref-106)
107. Uniform Law Commission. 2009. *Financial Support for the ULC*. (<http://www.nccusl.org>, 29 September 2009). [↑](#footnote-ref-107)
108. Uniform Law Commission. 2009. *About the ULC*. (<http://www.nccusl.org>, 29 September 2009). [↑](#footnote-ref-108)
109. Huefner, Steve. 2009. Report on February 6-7 Meeting of the Drafting Committee. *National Conference of Commissioners on Uniform State Laws*. (<http://www.law.upenn.edu/bll/archives/ulc>, 6 April 2010). [↑](#footnote-ref-109)
110. Huefner, Report on February 6-7 Meeting of the Drafting Committee. [↑](#footnote-ref-110)
111. Huefner, Report on February 6-7 Meeting of the Drafting Committee. [↑](#footnote-ref-111)
112. Huefner, Report on February 6-7 Meeting of the Drafting Committee. [↑](#footnote-ref-112)
113. Southern Legislative Conference of the Council of State Governments. 2010. *Proposed Policy Position: Uniform Military and Overseas Voters Act (UMOVA).* (<http://www.nccusl.org/Shared/Docs/CSG%20SLC%20Policy%20Position%20-%20Adopted%202010-08-02.pdf>, 8 June 2011). [↑](#footnote-ref-113)
114. Adopted: Colorado, District of Columbia, North Dakota, Oklahoma, Nevada, Colorado, North Carolina and Utah. Introduced: Hawaii, Maine, Connecticut, Illinois, Tennessee, South Dakota, Pennsylvania, Virginia, and California. Available at: (<http://www.nccusl.org/Act.aspx?title=Military%20and%20Overseas%20Voters%20Act>, 3 March 2012) [↑](#footnote-ref-114)
115. Gerken, Heather. 2009. *The Democracy Index: Why Our Election System is Failing and How to Fix It*. Princeton: Princeton University Press. See also Gerken, Heather K. 2009. In Praise of Rankings*. Faculty Scholarship Series. Paper 365*. (<http://digitalcommons.law.yale.edu/fss_papers/365>, 11 March 2011) in which Gerken characterises ranking as a form of professional peer pressure. For studies that use indexing, see The Pew Center on the States. 2009. *No Time to Vote: Challenges Facing America’s Overseas Military Voters.* Washington, D.C.: The Pew Charitable Trusts and Smith, Claire. 2009. A UOCAVA State Policy Index. *OVF Research Newsletter*, 1(3). [↑](#footnote-ref-115)
116. ‘To require the Election Assistance Commission to establish an American Democracy Index to measure and improve the quality of voter access to polls and voter services in Federal elections’. The American Democracy Index Act of 2009, H.R. 4033 IH (111th). [↑](#footnote-ref-116)
117. Pew Center on the States. *No Time to Vote: Challenges Facing America’s Overseas Military Voters.* [↑](#footnote-ref-117)
118. Smith, A UOCAVA State Policy Index. [↑](#footnote-ref-118)
119. Military and Overseas Voter Empowerment Act of 2009, Subtitle H of the National Defense Authorization Act for Fiscal Year 2010. H.R. 2647, Pub. L. 111-84, 123 Stat. 2190. [↑](#footnote-ref-119)
120. See Chapter 4, section 4.5 of this thesis. [↑](#footnote-ref-120)
121. Norris, Pippa. 2004*. Electoral Engineering: Voting Rules and Political Behavior*. Cambridge: Cambridge University Press, p. 153. [↑](#footnote-ref-121)
122. Larocca, Roger and Klemanski, John S. 2011. U.S. State Election Reform and Turnout in Presidential Elections. *State Politics and Policy Quarterly*, 11(1), p. 81. [↑](#footnote-ref-122)
123. See for example Rugeley, Cynthia and Jackson, Robert A. 2009. Getting on the Rolls: Analyzing the Effects of Lowered Barriers on Voter Registration. *State Politics and Policy Quarterly*, 9(1), p. 57, Larocca and Klemanski, U.S. State Election Reform and Turnout in Presidential Elections, p. 82, and Timpone, Richard J. 1998. Structure, Behavior, and Voter Turnout in the United States. *The American Political Science Review*, 92(1), p. 147. [↑](#footnote-ref-123)
124. Smith, Claire. 2009. It’s in the Mail: Surveying UOCAVA Voters and Barriers to Overseas Voting. *Overseas Vote Foundation*. ([www.overseasvotefoundation.org](http://www.overseasvotefoundation.org), 5 January 2010), p. 6-7. [↑](#footnote-ref-124)
125. Smith, It’s in the Mail: Surveying UOCAVA Voters and Barriers to Overseas Voting, p. 6-7. [↑](#footnote-ref-125)
126. The Pew Center on the States. 2009. *No Time to Vote: Challenges Facing America’s Overseas Military Voters.* Washington D.C.: The Pew Charitable Trusts, p. 40. [↑](#footnote-ref-126)
127. See ALA Survey Frequencies at Appendix D, Question 30. [↑](#footnote-ref-127)
128. See ALA Survey Frequencies at Appendix C, Question 39. [↑](#footnote-ref-128)
129. See for example Schumer, Charles. 2009. *Schumer Releases Survey Suggesting Ballots of One in Four Overseas Military Voters Went Uncounted in ’08 Election*. Press Release, 13 May 2009. (<http://schumer.senate.gov/new_website/record_print.cfm?id=312970>, 18 February 2010), The Pew Center on the States, *No Time to Vote: Challenges Facing America’s Overseas Military Voters*, Smith, It’s in the Mail: Surveying UOCAVA Voters and Barriers to Overseas Voting, and United States Election Assistance Commission. 2009. *Uniformed and Overseas Citizens Absentee Voters Act: Survey Findings, November 2009*. Washington, D.C.: United States Election Assistance Commission. [↑](#footnote-ref-129)
130. Whitmer, Claire. 2010. *What the MOVE Act Means For You*. Overseas Vote Foundation. (<https://www.overseasvotefoundation.org/node/282>, 24 July 2011). [↑](#footnote-ref-130)
131. National Association of Secretaries of State. 2009. *NASS Summary of the Military and Overseas Voter Empowerment Act (MOVE Act)*. Press Release, November 2009. (<http://www.nass.org>, 10 December 2009). [↑](#footnote-ref-131)
132. Military and Overseas Voter Empowerment Act of 2009, Subtitle H of the National Defense Authorization Act for Fiscal Year 2010. H.R. 2647, Pub. L. 111-84, 123 Stat. 2190. [↑](#footnote-ref-132)
133. Military and Overseas Voter Empowerment Act of 2009. [↑](#footnote-ref-133)
134. Norris, *Electoral Engineering: Voting Rules and Political Behavior*, p. 172. [↑](#footnote-ref-134)
135. Norris, *Electoral Engineering: Voting Rules and Political Behavior*, pp. 171-173. See also Wolfinger, Raymond E. and Rosenstone, Steven J. 1980. *Who Votes?* New Haven: Yale University Press, p. 86, Mitchell, Glenn E. and Wlezien, Christopher. 1995. The Impact of Legal Constraints on Voter Registration, Turnout and the Composition of the American Electorate. *Political Behavior*, 17(2), p. 191, and James, Toby. 2010. Electoral Administration and Voter Turnout: Towards an International Public Policy Continuum. *Representation*, 46(4), p. 382. [↑](#footnote-ref-135)
136. Norris, *Electoral Engineering: Voting Rules and Political Behavior*, pp. 171-173. [↑](#footnote-ref-136)