



STATE PRIMARY DATES AND IMPLICATIONS FOR TIMELY UOCAVA BALLOT TRANSMISSION

Executive Summary

The **Uniformed and Overseas Citizens Absentee Voting Act**, as amended by the **Military and Overseas Voter Empowerment Act**, requires states to transmit ballots to eligible voters no later than 45-days before a federal election. This includes the general election and any state primary for Congressional or presidential office. In many states, primaries for state offices do not occur until later in the year, leaving less time to for election officials to complete pre-election activities and finalize results ahead of the UOCAVA ballot transmission deadline.

Election officials may be unable to transmit ballots by the 45-day deadline if delays to election results or redistricting occur. In these instances, states may apply for an undue hardship waiver from the Department of Defense to avoid litigation and ensure UOCAVA voters have sufficient time to receive and return their ballot. However, undue hardship waivers are not a long-term solution. A waiver may be denied if the issue could have been foreseen when creating the state's election calendar.

When states are unable to comply with the 45-day ballot transmission deadline they may be subject to litigation, posing significant costs to states in both time and resources. However, the impacts of these violations extend far beyond state governments. Ballot transmission delays can increase administrative burdens on local election officials and increase operational costs of an election. For UOCAVA voters, missed deadlines can lead to confusion and, potentially, disenfranchisement.

To avoid ballot mailing delays and ensure UOCAVA voters have adequate time to successfully receive, mark and return their ballots, states should consider legislative action to move their primary earlier in the year. When drafting this legislation, state policymakers should:

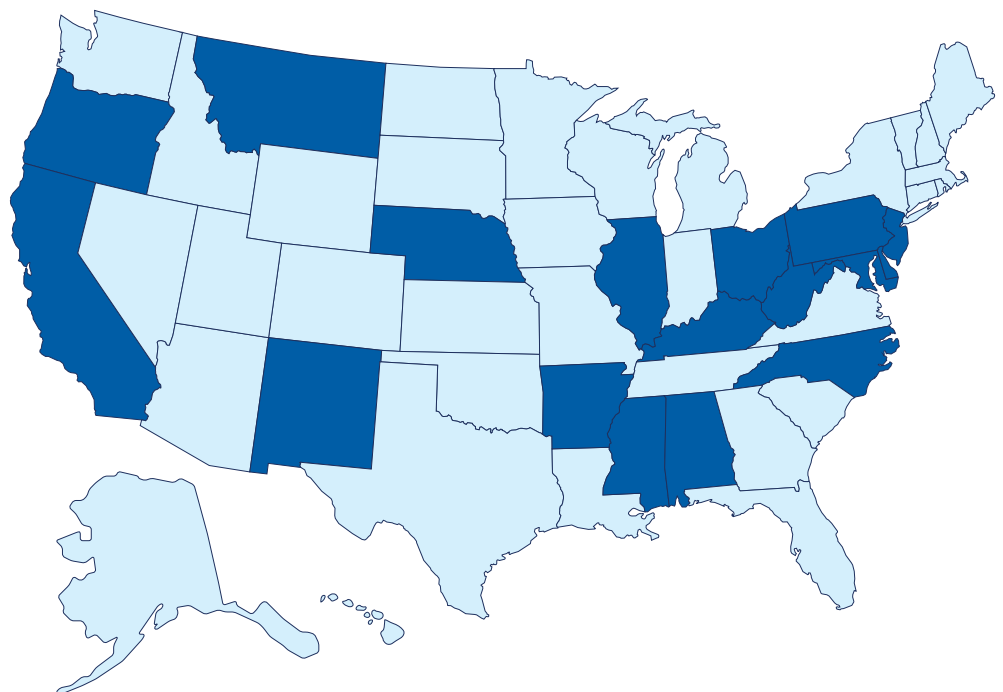
- Consider whether the proposed timeline for implementation provides election officials with sufficient time to adjust internal procedures and communicate changes to voters.
- Consider moving the state primary to coincide with those held earlier in the year.
- Highlight the fiscal impacts of later primaries on local jurisdictions and the potential cost savings of holding an earlier primary.
- Collaborate with state and local election officials to draft legislation and identify feasible timelines for implementation.
- Identify potential conflicts with other elections to avoid increasing administrative burdens on election officials.
- Identify whether conforming statutory changes are needed to avoid any unintended impacts on administrative timelines and voting procedures.

Background

States hold state and presidential primaries to determine which candidates will run for partisan offices in the general election. State primaries include races for state and local office as well as U.S. Congress, while presidential primaries only include races for president and vice president. While some states hold presidential and state primaries concurrently, others hold these elections at different points throughout an election year (Figure 1).

FIGURE 1: CONCURRENT AND SEPARATE STATE PRIMARIES (2024)

- Concurrent
- Separate



Regardless of whether a state holds concurrent or separate primaries, all ballot contests must be finalized for inclusion on general election ballots. This may pose a challenge for administrators when a federal contest appears on the ballot and results are delayed given the applicability of the **Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)**. UOCAVA was passed by Congress in 1986 to facilitate voting by military service members, their family and overseas citizens in all elections for federal office, including federal runoff elections.

UOCAVA was amended by the **Military and Overseas Voter Empowerment (MOVE) Act** in 2009 to require states to transmit absentee ballots to UOCAVA voters no fewer than 45-days before federal elections. Congress established this deadline based on a **study conducted by Pew Charitable Trusts** which found that while active-duty military voters took an average of 29 days to complete the voting process, overseas citizens took an average of 66 days. These estimates assumed limited delays to mailing processes, which frequently occur in foreign and domestic mail streams.

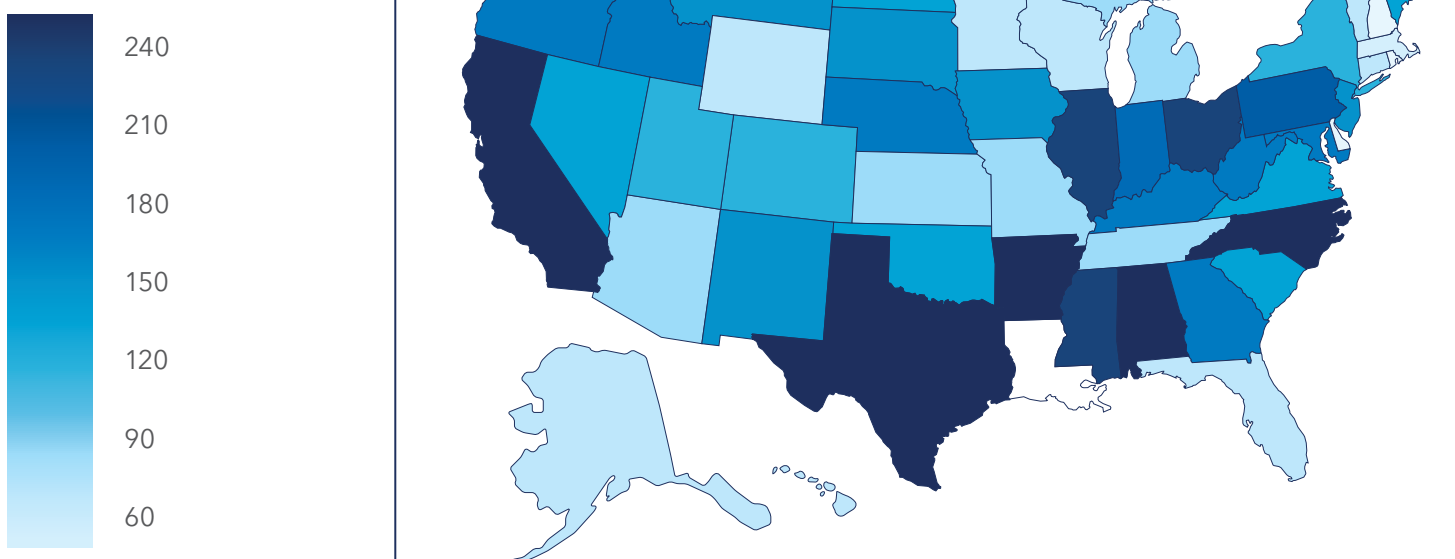
If results for any primary race are delayed, administrators may be unable to transmit general election ballots – containing races for both state and federal office – to UOCAVA voters by the 45-day deadline. Delays are more likely to occur in states that hold their state primary later in the year given that there is less time for results to be litigated and finalized prior to the mailing deadline. Presidential primaries often do not pose similar challenges given that they are held earlier in the year.

For example, Rhode Island currently holds its state primary 56 days before the November general election, giving election officials fewer than nine days to prepare, proof, print and transmit ballots to UOCAVA voters by the 45-day deadline. In contrast, the state holds its presidential primary 208 days before the election. As a result, Rhode Island has struggled to comply with the MOVE Act’s transmission deadline. In 2010, state election officials applied for and received an undue hardship waiver from the Department of Defense to remedy ballot mailing delays.

Implications of State Primary Dates on MOVE Act Compliance

As with Rhode Island, states that hold the state primary later in the year may struggle to comply with the MOVE Act’s 45-day mailing deadline. While only three states – Delaware, New Hampshire and Rhode Island – held its primary less than two months before the 2024 general election, nine states – Alaska, Connecticut, Florida, Hawaii, Massachusetts, Minnesota, Vermont, Wisconsin and Wyoming – allocated less than three months between these elections. This holds true for all nine states in each presidential election year since 2004.

FIGURE 2: NUMBER OF DAYS BETWEEN STATE PRIMARY AND GENERAL ELECTION (2024)





Department of Defense Undue Hardship Waivers

Since 2004, five states that hold their primary less than three months before the general election have applied for an undue hardship waiver from the Department of Defense. States can request an undue hardship waiver when unforeseen circumstances prevent election administrators from complying with the 45-day UOCAVA ballot transmission deadline. States are granted a waiver only for **one of three circumstances**:

1. The state's primary election date prohibits the state from complying with the transmission deadline;
2. The state has experienced a delay in generating ballots due to a legal contests; or
3. The state constitution prohibits the state from complying with the transmission deadline.

Undue hardship waivers are intended to ensure that states provide UOCAVA voters at least 45-days to receive and return their ballot, even if administrators miss the original deadline. When applying for a waiver, states not only have to show that they meet one of the above circumstances but also provide a comprehensive plan demonstrating how they will provide UOCAVA voters the required 45-days to receive and return their ballot in time to be counted.

For example, New York **applied for an undue hardship waiver** in 2016 on the grounds that a federal court order would prevent administrators in the 3rd Congressional district from transmitting ballots to UOCAVA voters 45-days ahead of the Republican primary. The court order required the election to be held on October 6 - 12 days after the UOCAVA ballot transmission deadline.

As part of the waiver application, New York's chief state election official provided a comprehensive plan proposing two potential courses of action that the state would take to ensure military and overseas citizens were able vote:

1. Election officials would mail two ballots to UOCAVA voters in the affected district. The first ballot would be transmitted by the 45-day deadline and contain all finalized ballot contests. A second ballot would be sent once the results of the congressional race were finalized and contain only the contest for the race in question.
2. The second course of action entailed preparing a set of UOCAVA congressional ballots that accounted for both possible outcomes of the October 6 primary to expedite the mailing process. The state asserted that it would also seek a court order for an eight-day extension of its ballot receipt deadline for voters in the affected district.

The Secretary of Defense subsequently **approved the waiver**, adding that New York's plan provided "sufficient time for UOCAVA voters to receive, mark, and return the ballot in time to have these ballots counted in the election" and that the application demonstrated undue hardship. The response letter highlighted the accessibility of the proposed alternative methods of ballot transmission and return as laid out in the state's plan.

Although undue hardship waivers help states avoid legal action by establishing alternative means for providing UOCAVA voters with 45-days for ballot delivery and return, they are neither a long-term nor permanent solution. In granting an undue hardship waiver, the Secretary of Defense considers whether the state has applied for waivers in years past and whether the state took subsequent action to remedy the circumstances that caused undue hardship.

More specifically, waiver applications **require states to describe** all actions taken since the MOVE Act's passage to "conform its election statutes and rules to UOCAVA's requirements and why those efforts have failed." If an undue hardship is posed by the date of a state's primary, the Secretary will also consider "whether the contest could have been foreseen and accounted for when creating the State's election calendar." To date, 12 states have applied for a total of 14 undue hardship waivers, with six of these waivers granted.

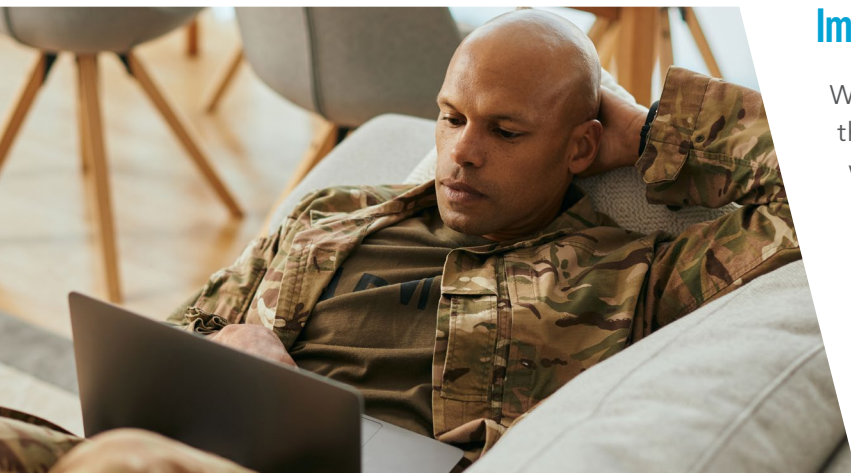
Denial of Undue Hardship Waivers and U.S. Department of Justice Complaints

If a state's undue hardship waiver is denied and election officials are unable to meet the federal mailing deadline, it may be subject to litigation. Since the MOVE Act's passage, the U.S. Department of Justice has filed complaints against seven states for failing to comply with the 45-day mailing deadline ahead of the federal general election. These states include Illinois, New Mexico, New York, Vermont, Virginia, West Virginia and Wisconsin. Additional complaints were filed against seven states - Alabama, Arizona, California, Georgia, Michigan and Wisconsin - for failing to comply with the mailing deadline ahead of a federal primary election.

Lawsuits filed for MOVE Act violations are often resolved once a temporary remedy is agreed upon and a permanent remedy for future elections is established. In states where the date of a primary has prevented administrators from complying with the MOVE Act, permanent solutions have entailed moving the date of the state's primary through legislation or court order. For example, the U.S. Department of Justice **filed a complaint** against New York for failing to carry out the terms of its undue hardship waiver for the 2010 federal general election. The District Court later entered a court order, moving the date of New York's non-presidential federal primary election. Supplemental consent decrees were subsequently issued for the 2014 and 2016 federal election cycles. More information about these cases can be found at <https://www.justice.gov/crt/cases-raising-claims-under-uniformed-and-overseas-citizen-absentee-voting-act>.

Impacts of MOVE Act Violations on Administrators and UOCAVA Voters

MOVE Act violations may result in litigation, posing significant costs to states in both time and resources. However, the impacts of these violations extend far beyond state governments. Failing to transmit UOCAVA ballots by the 45-day deadline can increase administrative burdens on local election officials and raise the operational costs of an election for local jurisdictions. For UOCAVA voters, missed deadlines can cause confusion and, in some cases, disenfranchisement. Voters who can return their ballot by mail only are particularly vulnerable to these outcomes.



Impacts on Election Administrators

When election officials cannot meet the 45-day deadline, they must take steps to remedy delays, regardless of whether they receive an undue hardship waiver. These remedial efforts often fall outside the scope of their normal duties, thereby posing a significant administrative burden on local election officials. Moreover, local administrators must undertake this work during peak election periods when their **workloads are already heightened**. Over time, this can lead to burnout and contribute to **increasing levels of turnover** among election administrators.

Additionally, state plans to remedy ballot-mailing delays often entail extending ballot receipt deadlines as well as printing and transmitting multiple ballots to voters. As a result, states not only incur additional ballot printing costs but also additional personnel costs for proofing these ballots and additional operational **costs associated for ballot postage**. In many states, these costs are **incurred by local jurisdictions**. Only in a few states, such as Alaska and Delaware, is the state primarily responsible for conducting elections and covering the full costs.

Impacts on UOCAVA Voters

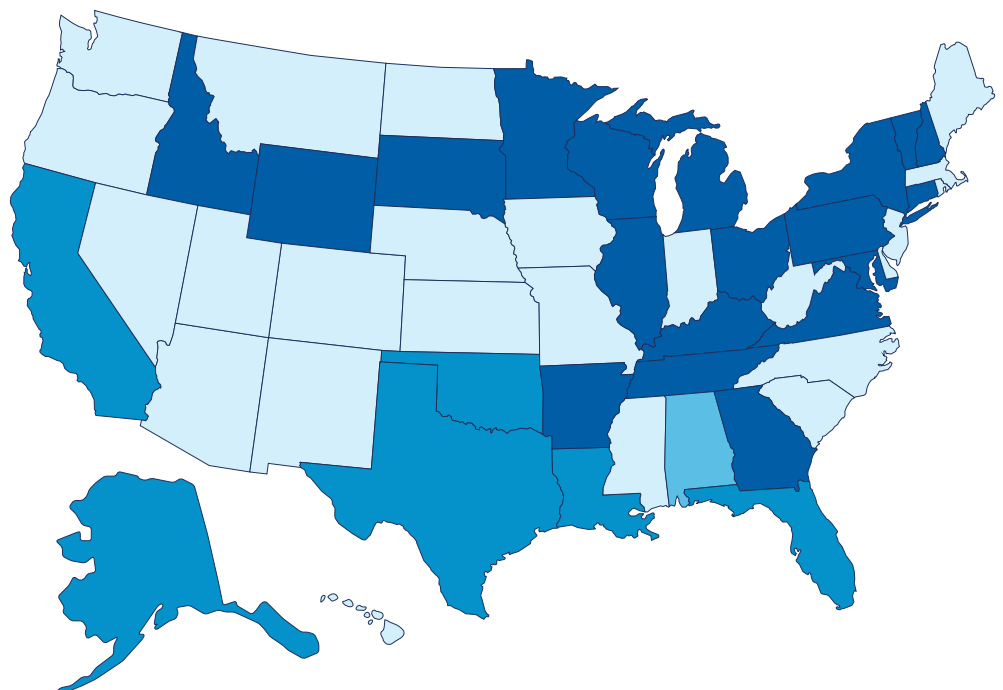
While state plans are carefully crafted and executed to remedy ballot mailing delays, they often deviate from standard voting procedures. Election administrators strive to communicate these changes promptly and effectively, but conveying procedural changes to UOCAVA voters is particularly challenging. Many military and overseas citizens are hard to reach, often living or stationed abroad in remote areas. Furthermore, changes to voting procedures aimed at mitigating mailing delays are often implemented close to an election, providing little time for officials to communicate these changes to remote voters. As a result, UOCAVA voters may not understand why they are receiving multiple ballots (e.g., ballots that contain separate contests) or may be concerned when they receive their ballot later than expected.

For UOCAVA voters, delays in ballot transmission may also impact voter success - a relationship which has been established by both legal precedent and recent research. Before the MOVE Act's passage, the topic of ballot transmission timing and voting success had been litigated in several states on the grounds that delays in ballot mailing hinder voter success. More specifically, the **Department of Justice filed complaints against** Michigan (2000), Texas (2002), Oklahoma (2002), Pennsylvania (2004), Georgia (2004), Alabama (2006, 2006), North Carolina (2006), Connecticut (2006), Tennessee (2008) and New York (2009) for failing to mail ballots to UOCAVA voters in sufficient time for them to be returned. These cases underscored the need for a uniform ballot transmission deadline ahead of the MOVE Act's passage.

Recent research has also highlighted the importance of timely ballot mailing for voter success. **Analyses of EAVS Section B Data** conducted by the Federal Voting Assistance Program have shown that even with the 45-day mailing deadline, missing the absentee ballot return deadline is the most common reason for UOCAVA ballot rejection. This finding underscores that ballot return time remains a significant barrier, preventing military and overseas citizens from successfully completing the voting process. Although several factors may contribute to this trend, delays in ballot mailing directly reduce the amount of time voters have to return their ballot once received. Although timely ballot mailing may be less critical for UOCAVA voters who can return their ballot electronically, **voters in 19 states** can return their state absentee ballot only by mail (Figure 3).

FIGURE 3: ALLOWED BALLOT RETURN METHODS FOR UOCAVA VOTERS (2024)

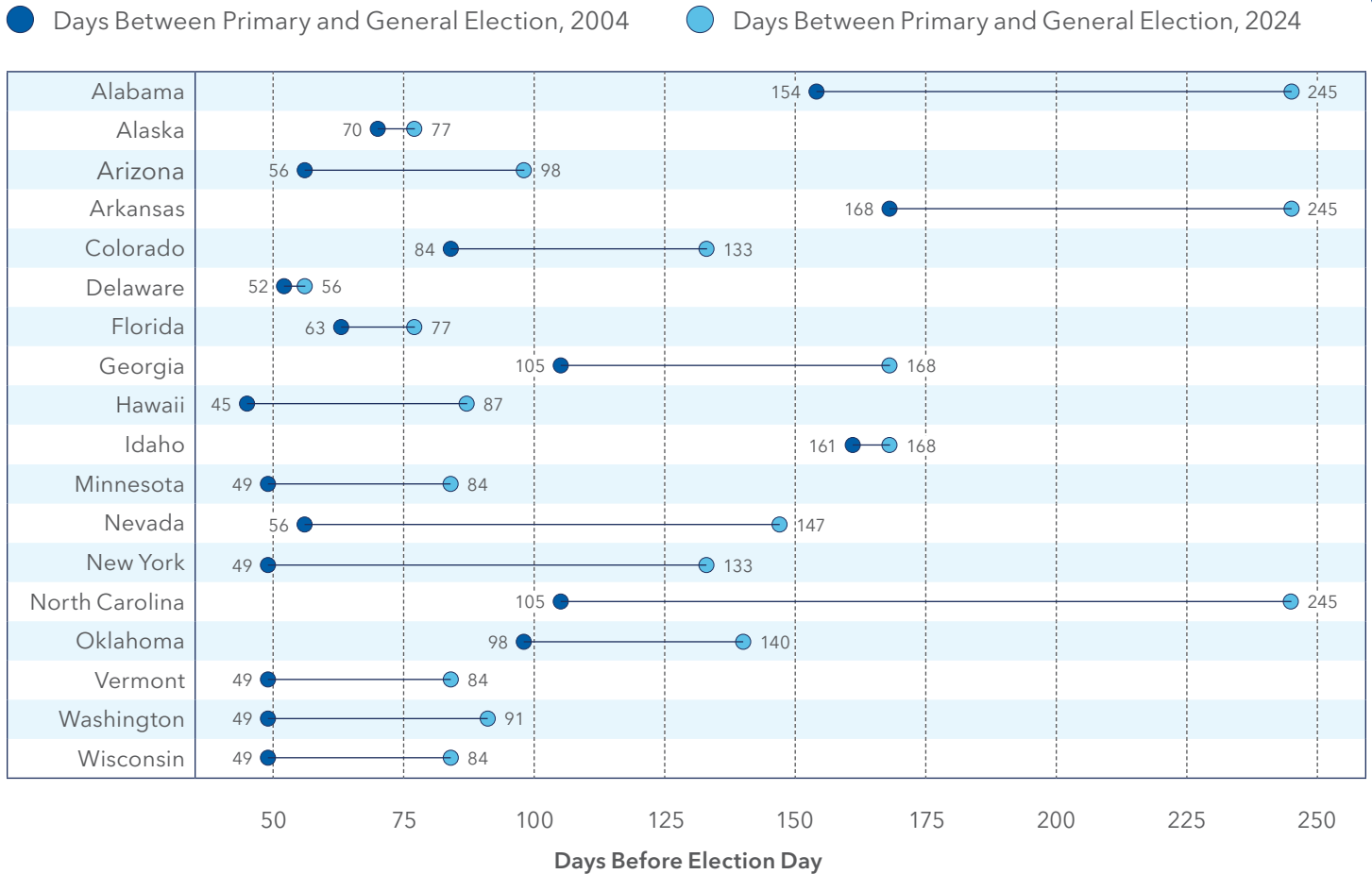
- Mail only
- Mail, fax
- Mail, online
- Mail, email or online, fax



State Legislation Mitigating UOCAVA Ballot Transmission Delays

Since the MOVE Act’s passage, states have taken legislative action to prevent UOCAVA ballot transmission delays by increasing the amount of time between the state primary and general election. As of December 2024, 18 states have enacted legislation to move the date of their state primary to earlier in the year. Of these states, Alabama, Arizona, Arkansas, Colorado, Georgia, Hawaii, Minnesota, Nevada, New York, North Carolina, Oklahoma, Vermont, Washington and Wisconsin have moved their state primary by at least 30 days (Figure 4).

FIGURE 4: CHANGE IN DAYS BETWEEN PRIMARY AND GENERAL ELECTION (2004-2024)



The passage of the MOVE Act in 2009 was a significant impetus behind changes to state primary dates as evidenced by the timing of enacted legislation and the language contained in these bills. Of the 18 states that have moved their primary, 13 did so within two years of the MOVE Act’s passage. [Appendix A](#) provides more information on these changes and enacted state legislation. Moreover, states such as Colorado, Delaware, Hawaii, Oklahoma, Washington and Wisconsin directly cited the MOVE Act or facilitating UOCAVA voting as the impetus for legislative change. For example, Delaware enacted [Senate Bill 225](#) in 2010, providing an additional four days between the primary and general election. The bill cited the MOVE Act’s 45-day deadline, noting a 35-day gap between the current candidate withdrawal deadline and the day of the primary. Bill authors also underscored the need for legislative action by highlighting that the 2010, 2020 and 2026 general elections were held only 43 days after the primary.

Legislative testimony provided in support of these bills also indicates a strong link between MOVE Act compliance and state primary dates. For example, Hawaii enacted [House Bill 2397](#) in 2010 to move the date of its primary election from the last day of September to the second Saturday of August. In [providing legislative testimony](#) for the bill, the state’s chief election officer Scott Nago said “most primary elections are exactly 45-days prior to the general election... A period of 45-days between the Primary and General Election is insufficient to finalize election results, address legal challenges, proof the contents of the General Election ballot, print the ballots, and finally mail them out in compliance with the new federal law.”

In his testimony, Nago provided a timeline for post-election processes that must be completed following the state primary but prior to the general election. The timeline indicated that election results could be challenged up to six days after the election, with dispute resolution taking an additional nine days. Moreover, Nago said an additional seven days is often required for election officials to proof the general election ballot as to candidates, ballot questions and ballot types. And lastly, the state would need up to 14 days to print ballots for the general election. In total, these processes could take up to 36 days to complete after the state primary.

Although three states – Arkansas, Georgia and North Carolina – did not move the date of their state primary in the years immediately following the MOVE Act’s passage, Department of Justice records indicate that timely UOCAVA ballot transmission was a persistent issue in Georgia even before the Act. In 2004, the Department of Justice **filed an initial complaint** against the state of Georgia to address the late mailing of absentee ballots to overseas voters in advance of the 2004 primary election. Federal judges granted preliminary relief for affected voters by extending the ballot receipt deadline in both primary and runoff elections. Georgia and the Department of Justice subsequently entered a memorandum of understanding after the state legislature enacted legislation to provide relief for UOCAVA voters in future elections.

Three years following implementation of the 45-day transmission deadline, the Department of Justice filed a **second complaint** against Georgia. The complaint alleged that previous actions taken by the state did not adequately ensure that its UOCAVA voters could participate fully in the state’s 2012 federal primary runoff election. Under Georgia’s election calendar, run off ballots for the federal primary would not be available for transmission to UOCAVA voters until after the 45-day deadline. A **summary judgement** was then issued by the U.S. District Court holding that Georgia’s electoral system violated UOCAVA. A **remedial order** was later issued that revised Georgia’s election calendar to comply with federal law.

Considerations for State Legislative Action

To avoid ballot mailing delays and ensure UOCAVA voters have adequate time to successfully receive, mark and return their ballot, states should consider legislative action to move their primary to earlier in the year. When drafting this legislation, state policymakers should consider:

- **Timelines for Implementation.** Following any change to election procedures, administrators are not only tasked with modifying internal procedures (e.g., adjusting staffing levels, training staff on procedural changes, modifying administrative timelines, etc.), but also communicating this change to the public. For example, election officials may need to educate the public about the implications of the change on voting requirements, important dates and deadlines, polling locations and more. Given that elections are highly local, decentralized activities, communicating this change takes significant time and statewide coordination. When proposing any change to election procedures, policymakers should be cognizant of these efforts and ensure administrators have adequate time to perform their duties. According to election administrators, at least one full election cycle is necessary to implement and communicate any procedural change to voters.
- **Holding Concurrent Primaries.** Delays in transmitting ballots to UOCAVA voters often arise in states that hold separate primaries for legislative, congressional, gubernatorial, statewide or presidential office. In these states, jurisdictions may incur significant costs when delays to final election results require administrators to prepare, proof, print and transmit partial ballots to UOCAVA voters in order to comply with the MOVE Act. States that hold separate primaries also incur additional costs associated with recruiting and hiring poll workers for multiple elections. To avoid ballot-mailing delays and save administrative costs, policymakers should consider moving the date of the state primary to coincide with primaries held earlier in the year when possible.
- **Highlighting Fiscal Impacts.** In most states, local jurisdictions are responsible for the costs associated with administering an election. Therefore, reduced operational and personnel costs associated with moving a primary election earlier in the year are mostly felt by local jurisdictions. However, states that have moved their primary found that doing so poses little cost to the state. For example, the Arkansas legislature enacted **Senate Bill 8** in 2015 which moved the general primary election from the second Tuesday in June to the fourth Tuesday in March preceding the general

election. In a **fiscal impact statement** prepared by the Bureau of Legislative Research, it was estimated that no state funds or revenue streams would be affected by the bill. Furthermore, when administrators are unable to comply with the MOVE Act's 45-day mailing deadline, litigation is brought against the state, not the affected jurisdiction, meaning that the costs associated with ensuing legal proceedings are incurred by the state. As such, when advocating for legislation to move a primary election earlier in the year, policymakers should highlight the net zero impact of the change on state budgets and the potential savings in legal costs associated with MOVE Act violations.

- **Collaborating with State and Local Election Officials.** State and local election officials are the foremost source of election information. They have first-hand experience administering elections and know the most effective way to address election-related issues that come before the legislature. In drafting legislation related to state primary dates, policymakers should collaborate with these officials to understand the causes of UOCAVA ballot transmission delays and discuss potential legislative solutions. Election officials can identify the potential adverse impacts of a proposed change, recommend viable alternatives and outline feasible timelines for implementation.
- **Potential Conflicts with Other Elections.** Although primaries for congressional office are held only every two years, elections for state and local offices take place at various times throughout a given year. With each election, administrators must complete dozens of administrative tasks, such as updating voter registration rolls, testing voting machines, recruiting poll workers and preparing, printing and transmitting absentee ballots to voters. While changing the date of the state primary can reduce administrative burdens on election officials, doing so may unintentionally exacerbate these burdens if policymakers do not consider the timing of other elections. When drafting legislation related to state primaries, election officials should consult their state's election calendar to identify any potential conflicts with other elections. They should also consult with election officials to determine whether the proposed change would relieve or exacerbate existing administrative burdens.
- **Necessary Conforming Changes.** Ahead of any election, administrators must adhere to strict deadlines related to candidate filings, voter registration, voting machine testing and ballot preparation. Changing the date of the state primary will require election officials to make conforming adjustments to the timing of these procedures. While some of these timelines are decided by state election officials, many are delineated in state statute. Depending on the state, administrative deadlines may be delineated in days (e.g., no later than three days before the primary) or by the date of completion (e.g., no later than the first Friday in March). If a primary is moved earlier in the year, conforming changes must be made to statutory deadlines delineated by their date of completion to avoid any unintended impacts on administrative and voting procedures. As such, when drafting legislation that moves the date of the state primary, policymakers should identify the impacts of this change on administrative procedures ascribed in statute and determine whether any conforming changes should be made to procedural deadlines.

Conclusion

The timing of state primaries plays a crucial role in ensuring compliance with the MOVE Act's 45-day ballot transmission deadline. Delays in transmitting ballots can lead to significant administrative burdens and increased operational costs and potentially disenfranchise military and overseas citizen voters. When unforeseen circumstances prevent administrators from complying with the 45-day transmission deadline, states can request an undue hardship waiver from the Department of Defense; however, this is neither a long-term nor permanent solution.

States can mitigate potential UOCAVA ballot mailing delays by taking legislative action to move their state primary earlier in the year. Throughout this process, state policymakers should consider the feasibility of implementation timelines and whether the state primary can be moved to coincide with other elections. They should also highlight the fiscal benefits of early primaries and collaborate with election officials to develop implementation timelines. It is also important for policymakers to identify potential conflicts with other elections and determine whether conforming statutory changes are necessary. These efforts will help ensure that UOCAVA voters can successfully receive, mark and return their ballot in time to be counted.

Appendix A: Enacted State Legislation (2004 - 2024)

State	Legislation	Year	Change in Days Between Primary and General Election
Alabama	House Bill 425	2011	+ 91 days
Alaska	House Bill 104	2013	+ 7 days
Arizona	Senate Bill 1074 Senate Bill 1154	2009 2019	+ 42 days
Arkansas	Senate Bill 8	2015	+ 77 days
Colorado	Senate Bill 11-189	2011	+ 49 days
Delaware	Senate Bill 225	2010	+ 4 days
Florida	Senate Bill 7066	2019	+ 14 days
Georgia	House Bill 310 Remedial Order	2013 2013	+ 63 days
Hawaii	House Bill 2397	2010	+ 42 days
Idaho	House Bill 60	2011	+ 7 days
Minnesota	Senate Floor 2251	2010	+ 35 days
Nevada	Assembly Bill 455 Senate Bill 162	2005 2009	+ 91 days
New York	Assembly Bill 9271	2011	+ 84 days
North Carolina	House Bill 1024 Senate Bill 655	2006 2020	+ 140 days
Oklahoma	House Bill 1615 Senate Bill 375	2011 2023	+ 42 days
Vermont	Senate Bill 117 Senate Bill 86	2009 2014	+ 35 days
Washington	Senate Bill 6236 Senate Bill 5171	2006 2011	+ 42 days
Wisconsin	Senate Bill 116	2011	+ 35 days