

D R A F T
FOR APPROVAL

UNIFORM MILITARY AND OVERSEAS VOTERS ACT

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UNIFORM MILITARY AND OVERSEAS VOTERS ACT

WITH PREFATORY NOTE AND REPORTER'S COMMENTS

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM MILITARY AND OVERSEAS VOTERS ACT

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UNIFORM MILITARY AND OVERSEAS VOTERS ACT

PREFATORY NOTE

Some five million military personnel and overseas civilians face a variety of legal and logistical obstacles to participating in American elections. These problems persist notwithstanding repeated congressional efforts, as well as various state efforts, to facilitate these voters' ability to vote, most prominently the enactment of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), and its amendment with the Military and Overseas Voter Empowerment Act of 2009 (MOVE). The obstacles include: difficulties in registering to vote from abroad; ballots or ballot applications that never arrive; frequent changes of address; slow mail delivery times to and from overseas citizens, especially military personnel; failures to complete absentee voting materials properly, including noncompliance with notarization or verification requirements that can be difficult to meet abroad; and difficulties in obtaining information about issues and candidates.

Data from the 2006 federal midterm election provide concrete evidence of the problems that these voters have recently faced. In 2006 U.S. military personnel were slightly more likely to have registered to vote than the general U.S. population (87% vs. 83%), yet the voter participation rate among the military was about half that of the general population (roughly 20% vs. roughly 40%). Furthermore, in 2006 only 25% of overseas and military voters who requested an absentee ballot completed and returned one, compared to 85% of all voters who requested an absentee ballot. Meanwhile, more than one in five ballots cast by military service members were rejected.

Although some of these figures were substantially improved during the high-interest 2008 presidential election, the overall picture remains troubling. In 2008, roughly two-thirds of those overseas and military voters who requested a ballot returned it, and the rejection rate for those ballots dropped to under one in fifteen ballots. Yet both of these rates remain substantially worse than the comparable 2008 rates for absentee voters generally (which were a return rate of over 90%, and a ballot rejection rate of 1.7%). Meanwhile, fewer than 700,000 absentee ballots were returned by military and overseas voters in 2008, according to data collected by the U.S. Election Assistance Commission. This figure is not much different from the comparable figure for the 2006 federal midterm elections, meaning the voter participation rate among these voters remained well below 20%, despite the fact that among voters generally the 2008 election produced an overall voter participation rate of over 61%, the largest in four decades. Without additional reforms to the voting processes for military and overseas voters, their ability to participate in American elections likely will continue to suffer.

Strong popular support exists among the American public to make voting much easier and more reliable for these voters than it has been. A 2008 public opinion survey conducted for the Pew Center on the States found "strong universal support . . . across age, regional, and party lines" for the idea that military and overseas voters should be able to participate in elections "back home." A variety of stakeholders who participated in the ULC drafting process for this Act were overwhelmingly of a similar disposition.

In important part, the obstacles that overseas and military voters face can be traced to the fact that American elections are conducted at the state and local levels under procedures that often vary dramatically by jurisdiction. This lack of uniformity complicates any federal effort, such as the UOCAVA, to assist these voters to surmount the other major obstacles that they face. For instance, while some states permit overseas absentee ballots to arrive up to ten days after Election Day, other states require that all absentee ballots, including those from overseas, be received by Election Day. Meanwhile, some states permit overseas and military voters to request, and in a smaller number of cases also to cast, an absentee ballot electronically, but other states require transmission by regular mail. Some states require a notary or other witness to vouch for the absentee voter's execution of the absentee ballot affirmation. These and other variations across states both complicate the procedures developed under the UOCAVA to help overseas and military voters, and make it difficult for consular officials, the U.S. military, and non-governmental voting assistance groups to give standard advice to these voters.

In confronting these problems, this act has two independent purposes that can only be achieved through uniform state legislation. The first is to extend to state elections the assistance and protections for military and overseas voters currently found in federal law, which covers only biennial federal elections. The second is to bring greater uniformity to the military and overseas voting processes, which the several states will continue to have primary responsibility for administering, in both federal and non-federal elections. In addition to these two primary purposes, many provisions of the act also enhance the assistance and protections provided to military and overseas voters, wherever this can be done without compromising the integrity of the voting process or imposing inappropriately on election officials.

Critical to both enhancing and bringing uniformity to the voting process for military and overseas voters is establishing adequate time for this group of voters to request, receive, and return a ballot. Directly related to the amount of time needed to accomplish these voting processes is the extent to which electronic transmission mechanisms are employed. The act requires that electronic transmission methods be available for purposes of requesting and receiving unvoted ballots, but does not require the use of electronic means for transmitting voted ballots. This is because no consensus yet exists on the question of whether and how electronic voting can occur securely and privately. However, using electronic transmission methods for just those steps in the absentee voting process prior to the casting of a ballot (such as registering to vote, requesting an absentee ballot, and receiving a blank ballot) can alone dramatically reduce the time required to permit these voters to vote successfully.

Without uniform state legislation, military and overseas voters will continue to confront a panoply of diverging voting requirements, notwithstanding the important role that UOCAVA has played in facilitating military and overseas voting in federal elections for more than two decades, and the additional enhancements that the MOVE Act of 2009 will provide. Accordingly, this act should be widely adopted both to simplify the voting process for these voters, and to extend similar protections to state elections not covered by existing federal law.

1 **UNIFORM MILITARY AND OVERSEAS VOTERS ACT**

2
3 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Military and

4 Overseas Voters Act.

5 **SECTION 2. DEFINITIONS.** In this [act]:

6 (1) “Covered voter” means:

7 (A) a uniformed-service voter or an overseas voter who is registered to vote in
8 this state;

9 (B) a uniformed-service voter defined in paragraph (7)(A) whose voting residence
10 is in this state and who otherwise satisfies this state’s voter eligibility requirements;

11 (C) an overseas voter who, before leaving the United States, was last eligible to
12 vote in this state and, except for a state residency requirement, otherwise satisfies this state’s
13 voter eligibility requirements;

14 (D) an overseas voter who, before leaving the United States, would have been last
15 eligible to vote in this state had the voter then been of voting age and, except for a state residency
16 requirement, otherwise satisfies this state’s voter eligibility requirements; or

17 (E) an overseas voter who was born outside the United States, is not described in
18 subparagraph (C) or (D), and, except for a state residency requirement, otherwise satisfies this
19 state’s voter eligibility requirements, if:

20 (i) the last place where a parent or legal guardian of the voter was, or
21 under this [act] would have been, eligible to vote before leaving the United States is within this
22 state; and

23 (ii) the voter has not previously registered to vote in any other state.

24 (2) “Dependent” means an individual recognized as a dependent by the applicable

1 uniformed service.

2 (3) “Military-overseas ballot” means:

3 (A) a federal write-in absentee ballot described in the Uniformed and Overseas
4 Citizens Absentee Voting Act, section 103, 42 U.S.C. Section 1973ff-2;

5 (B) a ballot specifically prepared or distributed for use by a covered voter in
6 accordance with this [act]; or

7 (C) a ballot cast by a covered voter in accordance with this [act].

8 (4) “Overseas voter” means a United States citizen who is outside the United States.

9 (5) “State” means a state of the United States, the District of Columbia, Puerto Rico, the
10 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
11 the United States.

12 (6) “Uniformed service” means:

13 (A) active and reserve components of the Army, Navy, Air Force, Marine Corps,
14 and Coast Guard of the United States;

15 (B) the Merchant Marine, the commissioned corps of the Public Health Service,
16 and the commissioned corps of the National Oceanic and Atmospheric Administration of the
17 United States; and

18 (C) the National Guard and state militia units.

19 (7) “Uniformed-service voter” means an individual who is qualified to vote and is:

20 (A) a member of the active or reserve components of the Army, Navy, Air Force,
21 Marine Corps, or Coast Guard of the United States who is on active duty;

22 (B) a member of the Merchant Marine, the commissioned corps of the Public
23 Health Service, or the commissioned corps of the National Oceanic and Atmospheric

Administration of the United States;

(C) a member of the National Guard or state militia unit who is on activated status; or

(D) a spouse or dependent of a member referred to in this paragraph.

(8) “United States”, used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Reporter’s Comment

The act’s definition of the term “covered voter” builds upon the definitions of “absent uniformed service voter” and “overseas voter” in the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions and expands them to cover members of the National Guard. However, unlike in the UOCAVA, the act’s coverage of uniformed service voters is based on a voter’s status as an active member of one of the defined services, whether or not the voter is absent from the place of voting. The definition of “uniformed service voter” does not specify that the place where the voter is qualified to vote be in the enacting state because that would create a problem for a spouse (or dependent) who is eligible to vote in this state but whose uniformed service member is eligible in another state. A uniformed service voter still must meet an enacting state’s eligibility requirements (including residency in that state) in order to vote in that state.

The definition of “covered voter,” in paragraph (1)(E), also extends the act’s coverage to U.S. citizens born abroad who have not established a voting residency in the United States. Although UOCAVA makes no provision for these citizens, seventeen states already permit these citizens to participate in at least some elections, if their parents are eligible to vote in that state (or in some cases if they are a spouse or dependent of a person eligible to vote in that state). These states include: Arizona, Colorado, Delaware (federal offices only), Georgia, Hawaii, Iowa, Massachusetts, Michigan, Nebraska, New York (federal offices only), North Dakota (federal offices only), Oklahoma, Rhode Island (federal offices only), Tennessee, Washington, West Virginia, and Wisconsin (federal offices only).

The definition makes no distinction between overseas voters merely traveling abroad, voters temporarily living overseas, and voters permanently residing overseas. Other provisions of an enacting state’s existing law may do so, however, and may limit the elections in which voters permanently overseas can vote. Without such distinctions elsewhere in existing state law, this act would enable all overseas voters to vote in all elections covered in section 3. Because the act does not require that overseas voters “reside” abroad, it facilitates voting by a wide variety of U.S. citizens, including missionaries, students abroad, and even tourists who because of health or other unanticipated problems or events may have extended their time out of the

1 United States beyond their original plans, but for whom a state’s regular absentee balloting
2 process may be difficult to use.
3

4 **SECTION 3. ELECTIONS COVERED.** The voting procedures in this [act] apply to:

5 (1) a general, special, [presidential preference,] [or] primary [, or runoff] election for
6 federal office;

7 (2) a general, special, [recall,] [or] primary [, or runoff] election for statewide or state
8 legislative office or state ballot measure; and

9 (3) a general, special, [recall,] [or] primary [, or runoff] election for local government
10 office or local ballot measure conducted under [insert relevant state law] [for which absentee
11 voting or voting by mail is available for other voters].

12 ***Legislative Note:** The bracketed language in paragraphs (1), (2), and (3) pertaining to*
13 *presidential preference, recall, and runoff elections is only for states with such elections. In*
14 *paragraph (3) the bracketed reference to “relevant state law” refers to the portion of the state*
15 *election code or equivalent state statute that governs the conduct of local elections, to the extent*
16 *that an enacting state wishes to include local elections in the coverage of this act.*
17

18 **Reporter’s Comment**

19
20 The first category of elections delineated in this section is the only category covered by
21 the UOCAVA. However, even for these elections, this act provides additional accommodations
22 to military and overseas voters that are not provided under the UOCAVA. The second and third
23 categories of state and local elections extend the act’s accommodations to non-federal elections
24 not within the UOCAVA scope. These two categories are distinguished primarily to permit an
25 enacting state more easily to consider providing different accommodations to military and
26 overseas voters depending on the type of election.
27

28
29 **SECTION 4. ROLE OF [SECRETARY OF STATE].**

30 (a) The [Secretary of State] is the state official responsible for implementing this [act]
31 and the state’s responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act,
32 42 U.S.C. Section 1973ff et seq.

33 (b) The [Secretary of State] shall make available to covered voters information regarding

1 voter registration procedures for covered voters and procedures for casting military-overseas
2 ballots. The [Secretary of State] may delegate the responsibility under this subsection only to the
3 state office designated in compliance with the Uniformed and Overseas Citizens Absentee
4 Voting Act, section 102(b)(1), 42 U.S.C. Section 1973ff-1(b)(1).

5 (c) The [Secretary of State] shall establish an electronic transmission system through
6 which covered voters may apply for and receive documents and other information under this
7 [act].

8 (d) The [Secretary of State] shall develop standardized absentee-voting materials,
9 including privacy and transmission envelopes and their electronic equivalents, authentication
10 materials, and voting instructions, to be used with the military-overseas ballot of a voter voting
11 in any jurisdiction in this state and, to the extent reasonably possible, shall do so in coordination
12 with other states.

13 (e) The [Secretary of State] shall prescribe the form and content of a declaration for use
14 by a covered voter to swear or affirm specific representations pertaining to the voter's identity,
15 eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-
16 military ballot. The declaration must be based on the declaration prescribed to accompany a
17 federal write-in absentee ballot under the Uniformed and Overseas Citizens Absentee Voting
18 Act, section 103, 42 U.S.C. Section 1973ff-2, as modified to be consistent with this [act]. The
19 [Secretary of State] shall ensure that a form for the execution of the declaration, including an
20 indication of the date of execution of the declaration, is a prominent part of all balloting
21 materials for which the declaration is required.

22 **Reporter's Comment**

23
24 Each state will need to supply the appropriate title for its chief elections authority,
25 whether it is the Secretary of State, head or director of State Board of Elections, or other official

1 or entity. Where this authority is an organization, rather than an individual, the phrase “state
2 official” in subsection (a) may also merit alternative phrasing. The expectation is that this
3 authority in turn will delegate its duties at least in part to the same office that the state has
4 designated to fulfill the UOCAVA requirement that the state designate a state office to facilitate
5 the state’s compliance with the UOCAVA. Other duties may naturally devolve to local election
6 officials, depending on how the state has structured its election processes generally.
7

8 In most states, the implementing authority specified in subsection (a) presumably already
9 has authority to promulgate rules according to the existing rulemaking procedures of the state.
10 States in which this rulemaking authority is not already established may wish to include
11 additional language establishing authority to make rules to implement this act.
12

13 The requirement that states develop “standardized” voting materials is not meant to
14 require statewide uniformity in voting processes where such uniformity does not already exist.
15 Thus, in states using different voting systems in different jurisdictions around the state,
16 “standardized” voting materials may include one standard for jurisdictions using one system, and
17 another standard for jurisdictions using another system. Nevertheless, the state’s chief elections
18 authority should work with local election officials to simplify and standardize as much as
19 possible the materials provided to voters, including developing standard identifying labels and
20 other markings on such materials to expedite their handling. Such standardization is critical
21 primarily because it will simplify the voting experiences of covered voters and enable a variety
22 of support groups to provide more effective assistance to these voters as a group. Greater
23 uniformity also should ease administrative duties and facilitate future reforms to the voting
24 process.
25

26 The “electronic equivalent” of privacy envelopes and transmission envelopes means at a
27 minimum a template or instructions to accompany the electronic delivery of an unvoted ballot
28 that assist the voter to prepare and use appropriate envelopes to return the voter’s marked ballot
29 if the voter is returning the ballot physically through the mail. If a state is allowing a voter to
30 return a marked ballot electronically, the state should employ digital encryption or other security
31 measures to provide comparable protection of the secrecy of the marked ballot.
32

33 The electronic transmission method established under subsection (c) should be designed
34 to protect the integrity of the transmission and the privacy of the voter’s personal data contained
35 in the transmission. To a similar end, the recent amendments to UOCAVA include provisions
36 requiring that “to the extent practicable,” electronic transmission methods “shall ensure that the
37 privacy of the identity and other personal data of an absent uniformed services voter or overseas
38 voter is protected” and also shall “protect the security and integrity of the transmission.”
39

40 **SECTION 5. OVERSEAS VOTER’S REGISTRATION ADDRESS.** In registering
41 to vote, an overseas voter who is eligible to vote in this state shall use and must be assigned to
42 the voting [precinct] [district] of the address of the last place of residence of the voter in this

1 state[, or, in the case of a voter described by Section 2(1)(E), the address of the last place of
2 residence in this state of the parent or legal guardian of the voter]. If that address is no longer a
3 recognized residential address, the voter must be assigned an address for voting purposes.

4 **Reporter's Comment**

5
6 This section assigns to the voter an address in the state to be used as the voter registration
7 address.
8

9 10 **SECTION 6. METHODS OF REGISTERING TO VOTE.**

11 (a) In addition to any other approved method of registering to vote, a covered voter may
12 use a federal post-card application, as prescribed under the Uniformed and Overseas Citizens
13 Absentee Voting Act, section 101(b)(2), 42 U.S.C. Section 1973ff(b)(2), or the application's
14 electronic equivalent, to apply to register to vote.

15 (b) A covered voter may use the declaration accompanying the federal write-in absentee
16 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
17 103, 42 U.S.C. Section 1973ff-2, to apply to register to vote simultaneously with the submission
18 of the federal write-in absentee ballot[, if the declaration is received by [insert this state's voter
19 registration deadline for that election]]. [If the declaration is received after that date, it must be
20 treated as an application to register to vote for subsequent elections.]

21 (c) The [Secretary of State] shall ensure that the electronic transmission system described
22 in Section 4(c) is capable of accepting both a federal post-card application and any other
23 approved registration application to the appropriate election official electronically. The voter
24 may use the electronic transmission system or any other approved method to register to vote.

25 **Reporter's Comment**

26
27 Both this section and Section 7 are designed to encourage the use of the federal post-card
28 application while yet allowing military and overseas voters to use a state's pre-existing voter

1 forms, and to permit states to develop alternative forms if they wish. However, the sections are
2 not intended to require states or local election jurisdictions to revise their existing forms, or to
3 prepare new forms for voters covered under this act. Instead, to the extent that a state's existing
4 forms do not collect sufficient information to properly classify overseas and military voters,
5 section 7(e) requires voters who use the state forms to affirmatively indicate their status as a
6 covered voter.
7

8 **SECTION 7. METHODS OF APPLYING FOR MILITARY-OVERSEAS**

9 **BALLOT.**

10 (a) A covered voter who is registered to vote in this state may apply for a military-
11 overseas ballot using either the regular [absentee ballot] application in use in the voter's
12 jurisdiction under [reference state law on regular absentee ballots] or the federal post-card
13 application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act,
14 section 101(b)(2), 42 U.S.C. Section 1973ff(b)(2), or the application's electronic equivalent.

15 (b) A covered voter who is not registered to vote in this state may use the federal post-
16 card application or the application's electronic equivalent to apply to register to vote and
17 simultaneously to apply for a military-overseas ballot.

18 (c) The [Secretary of State] shall ensure that the electronic transmission system described
19 in Section 4(c) is capable of accepting the submission of both a federal post-card application and
20 any other approved military-overseas ballot application to the appropriate election official
21 electronically. The voter may use the electronic transmission system or any other approved
22 method to apply for a military-overseas ballot.

23 (d) A covered voter may use the declaration accompanying the federal write-in absentee
24 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
25 103, 42 U.S.C. Section 1973ff-2, as an application for a military-overseas ballot simultaneously
26 with the submission of the federal write-in absentee ballot, if the declaration is received by the

1 appropriate election official by [the later of the fifth day before the election or the last day for
2 other voters in this state to apply for an [absentee ballot] for that election].

3 (e) To receive the benefits of this [act], a covered voter must inform the appropriate
4 election official that the voter is a covered voter. Methods of informing the appropriate election
5 official that a voter is a covered voter include:

6 (1) the use of a federal post-card application or federal write-in absentee ballot;

7 (2) the use of an overseas address on an approved voter registration application or
8 ballot application; and

9 (3) the inclusion on an approved voter registration application or ballot
10 application of other information sufficient to identify the voter as a covered voter.

11 [(f) This [act] does not preclude a covered voter from voting under [insert state law on
12 regular absentee voting].]

13 **Reporter's Comment**

14
15 Both this section and section 6 are designed to encourage the use of the federal post-card
16 application while yet allowing military and overseas voters to use a state's pre-existing voter
17 forms, and to permit states to develop alternative forms if they wish. However, the sections are
18 not intended to require states or local election jurisdictions to revise their existing forms, or to
19 prepare new forms for voters covered under this act. Instead, to the extent that a state's existing
20 forms do not collect sufficient information to properly classify overseas and military voters,
21 section 7(e) requires voters who use the state forms to affirmatively indicate their status as a
22 covered voter.
23

24 **SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-**
25 **OVERSEAS BALLOT.** An application for a military-overseas ballot is timely if received by
26 [the later of the fifth day before the election or the last day otherwise provided by law]. An
27 application for a military-overseas ballot for a primary election, whether or not timely, is
28 effective as an application for a military-overseas ballot for the general election. [An application

1 for a military-overseas ballot is effective for a runoff election necessary to conclude the election
2 for which the application was submitted.]

3 **Legislative Note:** *The bracketed language about a runoff election is only for states with runoff*
4 *elections.*

6 **Reporter's Comment**

7
8 Many states accept regular absentee ballot applications up until just a few days before an
9 election, or later. Because military and overseas voters can use electronic transmission methods
10 both to request and to receive blank ballots, this section allows them to take advantage of an
11 application deadline close to the election.
12

13 **SECTION 9. TRANSMISSION OF UNVOTED BALLOTS.**

14 (a) For all covered elections for which this state has not received a waiver pursuant to the
15 Military and Overseas Voter Empowerment Act, section 579, 42 U.S.C. 1973ff-1(g)(2), not later
16 than 45 days before the election or, if the 45th day before the election is a weekend or holiday,
17 not later than the business day preceding the 45th day, the election official in each jurisdiction
18 charged with distributing a ballot and balloting materials shall transmit ballots and balloting
19 materials to all covered voters who by that date submit a valid military-overseas ballot
20 application.

21 (b) A covered voter who requests a ballot and balloting materials by electronic
22 transmission may choose facsimile transmission or electronic mail delivery, or, if offered by the
23 voter's jurisdiction, Internet delivery. The covered voter shall inform the appropriate election
24 official in the voter's jurisdiction of the voter's chosen means of transmission. The election
25 official in each jurisdiction charged with distributing a ballot and balloting materials shall
26 transmit the ballot and balloting materials to the voter using the means of transmission chosen by
27 the voter.

28 (c) If a ballot application from a covered voter arrives after the jurisdiction begins

1 transmitting ballots and balloting materials to voters, the official charged with distributing a
2 ballot and balloting materials shall transmit them to the voter not later than two business days
3 after the application arrives.

4 **SECTION 10. TIMELY CASTING OF BALLOT.** To be valid a military-overseas
5 ballot must be received by the appropriate local election official no later than the close of the
6 polls, or the voter must submit the ballot for mailing[, electronic transmission,] or other
7 authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the
8 ballot, on the date of the election.

9 **Reporter's Comment**

10
11 Requiring that the ballot be completed by 12:01 a.m. local time on Election Day ensures
12 that no voter anywhere in the world will be able to cast a vote with knowledge of the election
13 night returns of the jurisdiction whose ballot the voter is voting. Also allowing a valid ballot to
14 be received by local officials through the close of the polls will increase the voting time available
15 in circumstances when facsimile or other electronic transmission of voted ballots is permitted.
16

17 **SECTION 11. FEDERAL WRITE-IN ABSENTEE BALLOT.** A covered voter may
18 use the federal write-in absentee ballot, in accordance with the Uniformed and Overseas Citizens
19 Absentee Voting Act, section 103, 42 U.S.C. Section 1973ff-2, to vote for all offices and ballot
20 measures in a covered election.

21 **SECTION 12. RECEIPT OF VOTED BALLOT.**

22 (a) A valid military-overseas ballot cast in accordance with Section 10 must be counted if
23 it is delivered to the address that the appropriate state or local election office has specified by the
24 end of business on the business day before [the latest deadline for completing the county canvass
25 or other local tabulation used to determine the final official results].

26 (b) If, at the time of completing a military-overseas ballot and balloting materials, the
27 voter has affirmed under penalty of perjury, pursuant to Section 13, that the ballot was timely

submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

Legislative Note: *Enacting states will need to ensure that the perjury laws of the enacting state cover the affirmation made by the voter under this section.*

Reporter's Comment

The bracketed language in subsection (a) is intended to capture the deadline for the event when local election officials complete or certify their official counting of ballots, by whatever name that event is known in the state. Even those ballots of overseas and military voters that arrive after election day can and must be included in these official results if local election officials have received them by the day before the deadline for this event, giving local election officials that day to process them before making their return or certification.

The Act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late postmark) in light of the fact that many pieces of military mail enter the postal system through delivery to a mail clerk in a remote location without a postmark, and are only postmarked some days later when they reach a more established facility.

SECTION 13. DECLARATION. Each submitted military-overseas ballot must include or be accompanied by a declaration signed by the voter declaring that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States and this state.

Legislative Note: *Enacting states will need to ensure that the perjury laws of the enacting state cover the declaration made by the voter under this section.*

SECTION 14. CONFIRMATION OF RECEIPT OF APPLICATION AND VOTED BALLOT. The [Secretary of State], in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet access whether:

(1) the voter's federal post-card application or other registration or military-overseas ballot application has been received and accepted; and

(2) the voter's military-overseas ballot has been received and the current status of the ballot.

SECTION 15. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.

(a) The local election official shall request an electronic-mail address from each covered voter who registers to vote after [the effective date of this [act]]. An electronic-mail address provided by a covered voter is exempt from disclosure under [the public records laws of this state] and may not become part of the publicly available voting registration data file or election management system. An election official may not release a voter's electronic-mail address to a third party. An election official may use the address only to communicate with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location, as needed. A request for an electronic-mail address under this section must describe the purpose for which the electronic-mail address will be used and state that any other use or disclosure is prohibited.

(b) A covered voter who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies[, including for any runoff elections that occur as a result of such elections]. An election official shall provide a military-overseas ballot to a voter who makes a request for each election to which the request is applicable. A covered voter entitled to receive a military-overseas ballot for a primary election under this subsection is also entitled to receive a military-overseas ballot for the general election.

Legislative Notes: *In connection with the bracketed language in subsection (a) concerning public records laws, some states require that exceptions to these laws also be specified in the*

1 *public records law itself. In subsection (b), the bracketed language pertaining to runoff elections*
2 *is only for states with runoff elections.*

3 4 **Reporter's Comment**

5
6 Subsection (a) facilitates the collection of voter e-mail addresses, but depends on assuring
7 voters that their e-mail addresses will not become available for the use of political campaigns
8 and marketers. Subsection (b) then ties a voter's ability to make a standing request for a
9 military-absentee ballot to the voter's provision of an e-mail address. This approach is intended
10 to reduce the large quantity of election material that was returned as undeliverable when sent out
11 in hardcopy to an outdated physical address under the UOCAVA provision that permitted voters
12 to make a standing request for absentee ballots for two federal election cycles.
13

14 **SECTION 16. PUBLICATION OF ELECTION NOTICE.**

15 (a) Not later than 100 days before a regularly scheduled election to which this [act]
16 applies, and as soon as practicable in the case of an election not regularly scheduled, an official
17 in each jurisdiction charged with printing and distributing ballots and balloting material shall
18 prepare an election notice for that jurisdiction, to be used in conjunction with the federal write-in
19 absentee ballot described in Section 11. The election notice must contain a list of all of the ballot
20 measures and federal, state, and local offices that as of that date the official expects to be on the
21 ballot on the date of the election. The notice also must contain specific instructions for how a
22 voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be
23 filled and for each ballot measure to be contested.

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

27 (c) As soon as [ballot styles are certified], and not later than the date ballots are required
28 to be transmitted to voters under [insert state law on regular absentee voter authorization], the
29 official charged with preparing the election notice shall update the notice with the certified

1 candidates for each office and ballot measure questions and make the updated notice publicly
2 available.

3 (d) A local election jurisdiction that maintains an Internet website shall make updated
4 versions of its election notices regularly available on the website.

5 ***Legislative Note:*** *The bracketed language “[ballot styles are certified]” in subsection (c) is*
6 *intended to cover the event when the final ballot for candidates (and issues, when applicable) is*
7 *available.*

8 9 **Reporter’s Comment**

10
11 This section ensures that election jurisdictions facilitate voting by making candidate
12 names readily and quickly available to overseas and military voters, thereby permitting voters
13 who have not received the printed ballot to make the most effective use of the federal write-in
14 absentee ballot.
15

16 **SECTION 17. NONESSENTIAL REQUIREMENTS.**

17 (a) If a voter’s mistake or omission in the completion of a document under this [act] does
18 not prevent determining whether a covered voter is eligible to vote, the mistake or omission does
19 not invalidate the document. Failure to satisfy a nonessential requirement, such as using paper or
20 envelopes of a specified size or weight, does not invalidate a document submitted under this
21 [act]. In any write-in ballot authorized by this [act] [or in any vote for a write-in candidate on a
22 regular ballot], if the intention of the voter is discernable under this state’s uniform definition of
23 what constitutes a vote, as required by the Help America Vote Act, 42 U.S.C. Section
24 15481(a)(6), an abbreviation, misspelling, or other minor variation in the form of the name of a
25 candidate or a political party must be accepted as a valid vote.

26 (b) Notarization is not required for the execution of a document under this [act]. An
27 authentication, other than the declaration specified in section 13 or the declaration on the federal
28 post-card application and federal write-in absentee ballot, is not required for execution of a

document under this [act]. The declaration and any information in the declaration may be compared against information on file to ascertain the validity of the document.

SECTION 18. ISSUANCE OF INJUNCTION OR OTHER EQUITABLE RELIEF.

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this [act] on application by:

(1) a covered voter alleging a grievance under this [act]; or

(2) an election official in this state.

Reporter's Comment

In addition to providing an enforcement mechanism for other provisions of this act, this section would also empower courts to adopt emergency rules or procedures in the event that exigent circumstances otherwise make compliance with the act impossible or impracticable.

SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In

applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Reporter's Comment

The act also should be construed in harmony with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.

SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND

NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal

Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,

but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or

authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15

U.S.C. Section 7003(b).

1 **[SECTION 21. REPEALS.**

2 The following are repealed:

3 (1)

4 (2)

5 (3)]

6 **SECTION 22. EFFECTIVE DATE.** This [act] takes effect