

UNIFORM MILITARY AND OVERSEAS VOTERS ACT*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-NINETEENTH YEAR
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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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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.

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

(3) “Military-overseas ballot” means:

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

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

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

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

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

(6) “Uniformed service” means:

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

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

(C) the National Guard and state militia units.

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

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

(B) a member of the Merchant Marine, the commissioned corps of the Public

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.

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

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

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

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

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

SECTION 4. ROLE OF [SECRETARY OF STATE].

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

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

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

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

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

23 **SECTION 5. OVERSEAS VOTER'S REGISTRATION ADDRESS.** In registering

1 to vote, an overseas voter who is eligible to vote in this state shall use and must be assigned to
2 the voting [precinct] [district] of the address of the last place of residence of the voter in this
3 state[, or, in the case of a voter described by Section 2(1)(E), the address of the last place of
4 residence in this state of the parent or legal guardian of the voter]. If that address is no longer a
5 recognized residential address, the voter must be assigned an address for voting purposes.

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

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

11 (b) A covered voter may use the declaration accompanying the federal write-in absentee
12 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
13 103, 42 U.S.C. Section 1973ff-2, to apply to register to vote simultaneously with the submission
14 of the federal write-in absentee ballot[, if the declaration is received by [insert this state's voter
15 registration deadline for that election]]. [If the declaration is received after that date, it must be
16 treated as an application to register to vote for subsequent elections.]

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

21 **SECTION 7. METHODS OF APPLYING FOR MILITARY-OVERSEAS** 22 **BALLOT.**

23 (a) A covered voter who is registered to vote in this state may apply for a military-

1 overseas ballot using either the regular [absentee ballot] application in use in the voter's
2 jurisdiction under [reference state law on regular absentee ballots] or the federal post-card
3 application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act,
4 section 101(b)(2), 42 U.S.C. Section 1973ff(b)(2), or the application's electronic equivalent.

5 (b) A covered voter who is not registered to vote in this state may use the federal post-
6 card application or the application's electronic equivalent simultaneously to apply to register to
7 vote under Section 6 and to apply for a military-overseas ballot.

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

13 (d) A covered voter may use the declaration accompanying the federal write-in absentee
14 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, section
15 103, 42 U.S.C. Section 1973ff-2, as an application for a military-overseas ballot simultaneously
16 with the submission of the federal write-in absentee ballot, if the declaration is received by the
17 appropriate election official by [insert the later of the fifth day before the election or the last day
18 for other voters in this state to apply for an [absentee ballot] for that election].

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

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

23 (2) the use of an overseas address on an approved voter registration application or

1 ballot application; and

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

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

6 **SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-**
7 **OVERSEAS BALLOT.** An application for a military-overseas ballot is timely if received by
8 [insert the later of the fifth day before the election or the last day otherwise provided by law].

9 An application for a military-overseas ballot for a primary election, whether or not timely, is
10 effective as an application for a military-overseas ballot for the general election. [An application
11 for a military-overseas ballot is effective for a runoff election necessary to conclude the election
12 for which the application was submitted.]

13 ***Legislative Note:** The bracketed language about a runoff election is only for states with runoff*
14 *elections.*
15

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

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

24 (b) A covered voter who requests that a ballot and balloting materials be sent to the voter

1 by electronic transmission may choose facsimile transmission or electronic mail delivery, or, if
2 offered by the voter's jurisdiction, Internet delivery. The election official in each jurisdiction
3 charged with distributing a ballot and balloting materials shall transmit the ballot and balloting
4 materials to the voter using the means of transmission chosen by the voter.

5 (c) If a ballot application from a covered voter arrives after the jurisdiction begins
6 transmitting ballots and balloting materials to voters, the official charged with distributing a
7 ballot and balloting materials shall transmit them to the voter not later than two business days
8 after the application arrives.

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

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

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

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

23 (b) If, at the time of completing a military-overseas ballot and balloting materials, the

1 voter has affirmed under penalty of perjury, pursuant to Section 13, that the ballot was timely
2 submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable
3 postmark, or no postmark.

4 ***Legislative Note:*** *Enacting states will need to ensure that the perjury laws of the enacting state*
5 *cover the affirmation made by the voter under this section.*
6

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

11 ***Legislative Note:*** *Enacting states will need to ensure that the perjury laws of the enacting state*
12 *cover the declaration made by the voter under this section.*
13

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

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

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

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

23 (a) The local election official shall request an electronic-mail address from each covered
24 voter who registers to vote after [the effective date of this [act]]. An electronic-mail address
25 provided by a covered voter shall not be publicly available and is exempt from disclosure under
26 [the public records laws of this state]. An election official may not release a voter's electronic-

1 mail address to a third party. An election official may use the address only to communicate with
2 the voter about the voting process, including transmitting military-overseas ballots and election
3 materials if the voter has requested electronic transmission, and verifying the voter's mailing
4 address and physical location, as needed. A request for an electronic-mail address under this
5 section must describe the purpose for which the electronic-mail address will be used and state
6 that any other use or disclosure is prohibited.

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

15 ***Legislative Notes:** In connection with the bracketed language in subsection (a) concerning*
16 *public records laws, some states require that exceptions to these laws also be specified in the*
17 *public records law itself. In subsection (b), the bracketed language pertaining to runoff elections*
18 *is only for states with runoff elections.*
19

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

21 (a) Not later than 100 days before a regularly scheduled election to which this [act]
22 applies, and as soon as practicable in the case of an election not regularly scheduled, an official
23 in each jurisdiction charged with printing and distributing ballots and balloting material shall
24 prepare an election notice for that jurisdiction, to be used in conjunction with the federal write-in
25 absentee ballot described in Section 11. The election notice must contain a list of all of the ballot

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

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

8 (c) As soon as [ballot styles are certified], and not later than the date ballots are required
9 to be transmitted to voters under [insert state law on regular absentee voter authorization], the
10 official charged with preparing the election notice shall update the notice with the certified
11 candidates for each office and ballot measure questions and make the updated notice publicly
12 available.

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

15 ***Legislative Note:*** The bracketed language “[ballot styles are certified]” in subsection (c) is
16 intended to cover the event when the final ballot for candidates (and issues, when applicable) is
17 available.
18

19 **SECTION 17. PROHIBITION OF NONESSENTIAL REQUIREMENTS.**

20 (a) If a voter's mistake or omission in the completion of a document under this [act] does
21 not prevent determining whether a covered voter is eligible to vote, the mistake or omission does
22 not invalidate the document. Failure to satisfy a nonessential requirement, such as using paper or
23 envelopes of a specified size or weight, does not invalidate a document submitted under this
24 [act]. In any write-in ballot authorized by this [act] [or in any vote for a write-in candidate on a
25 regular ballot], if the intention of the voter is discernable under this state's uniform definition of

1 what constitutes a vote, as required by the Help America Vote Act, 42 U.S.C. Section
2 15481(a)(6), an abbreviation, misspelling, or other minor variation in the form of the name of a
3 candidate or a political party must be accepted as a valid vote.

4 (b) Notarization is not required for the execution of a document under this [act]. An
5 authentication, other than the declaration specified in section 13 or the declaration on the federal
6 post-card application and federal write-in absentee ballot, is not required for execution of a
7 document under this [act]. The declaration and any information in the declaration may be
8 compared against information on file to ascertain the validity of the document.

9 **SECTION 18. ISSUANCE OF INJUNCTION OR OTHER EQUITABLE RELIEF.**

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

- 12 (1) a covered voter alleging a grievance under this [act]; or
13 (2) an election official in this state.

14 **SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In

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

17 **SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
18 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal
19 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,
20 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
21 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
22 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