

1 **MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Military Services and
3 Overseas Civilian Absentee Voters Act.

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

5 (1) “Absent uniformed services voter” means:

6 (A) a member of a uniformed service described in definition (5)(A) of this
7 section, on active duty, who, ~~by reason of such service,~~ is absent from the place ~~of residence~~
8 where the member is otherwise qualified to vote; or

9 (B) a member of a uniformed service described in definition (5)(B) of this section
10 who, while in service, is absent from the place where the member is otherwise qualified to vote;
11 or

12 (C) a member of a uniformed service described in definition (5)(C) of
13 this section, in activated status, who is absent from the place where the member is otherwise
14 qualified to vote; or

15 (D) a spouse or dependent of a member referred to in subparagraphs (A) through
16 (C) who, ~~by reason of the service of the member,~~ is absent from the place ~~of residence~~ where the
17 spouse or dependent is otherwise qualified to vote.

18 (2) “Dependent” means a person recognized as a dependent by the applicable uniformed
19 service.

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

21 (A) a Federal Write-In Absentee Ballot described in section 11; or

22 (B) a ballot specifically prepared or distributed for the use of absent uniformed
23 services voters or overseas voters in accordance with this [act]; or

1 (C) any ballot cast by an absent uniformed services voter or overseas voter in
2 accordance with this [act].

3 ~~(4) “(2) “Covered election” means any general, special, or primary election, including any~~
4 ~~runoff election, for federal, state, or local government office [or a ballot measure] conducted~~
5 ~~according to the procedure of [reference election title or other relevant portion of state code].~~

6 ~~——(3) “Overseas voter” means a United States citizen, other than an absent~~
7 ~~uniformed services voter, who is outside the United States and who~~ qualifies under section 5.

8 ~~(5)——(A) is qualified to vote in this state;~~

9 ~~——(B) would be eligible to vote in this state, if this state was the last place in which~~
10 ~~the citizen was eligible to vote, or, if the person had been of voting age, would have been eligible~~
11 ~~to vote, before leaving the United States; or~~

12 ~~——(C) in the case of a citizen who was born outside the United States and who is not~~
13 ~~included in subparagraph (A) or (B), would be eligible to vote in this state if a resident of this~~
14 ~~state and if this state was the last place in the United States in which a parent or legal guardian of~~
15 ~~the citizen was eligible to vote.~~

16 ~~——(4) “Uniformed services” means:~~

17 ~~(A) the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marines,~~
18 both active and reserve components of the Army, Navy, Air Force, Marine
19 Corps, and Coast National Guard of the United States;

20 ~~(B) the Merchant Marines,~~ the commissioned corps of the Public Health Service,
21 and the commissioned corps of the National Oceanic and Atmospheric Administration of the
22 United States; and

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

1 ~~(6—(5)~~ “United States”, where used in the territorial sense, means the several states,
2 the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or
3 insular possession subject to the jurisdiction of the United States.

4 **Reporter’s Comment**

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6 The Act’s definition of the terms “absent uniformed services voter” and “overseas voter”
7 builds upon the definitions of these same terms in the Uniformed and Overseas Citizens
8 Absentee Voting Act (“UOCAVA”), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions
9 and ~~expands~~particularizes them to cover members of the National Guard and, in section 5, to
10 U.S. citizens born abroad who have not established a voting residency in the United States.
11 However, unlike in the UOCAVA, the Act’s coverage of absent uniformed services voters is
12 based on a voter’s status as an active member of one of the defined services, whether or not that
13 service is the reason that the voter is absent from the place of voting. The definition of “absent
14 uniformed services voter” does not specify that the place where the voter is qualified to vote be
15 in the enacting state because that would create a problem for a spouse (or dependent) who is
16 eligible to vote in this state but whose uniformed service member is eligible in another state. An
17 absent uniformed services voter still must meet an enacting state’s eligibility requirements
18 (including residency in that state) in order to vote in that statean enacting state. The Act also
19 adds, in definition (3)(c), a class of voter not covered under UOCAVA, namely U.S. citizens
20 born abroad who have never resided in the United States, but who would be eligible to vote if
21 they did reside in the United States. Because this group of voters has no direct tie to any
22 particular state, some device is needed to align them with a particular jurisdiction. For this
23 purpose, the definition uses the last state in which a parent of the voter was eligible to vote. The
24 draft permits these voters to participate in all covered elections, which is the approach taken by
25 most of the sixteen states that already statutorily enfranchise these voters.

26
27 ~~Because these voters lack a connection with a particular state, the drafting committee~~
28 ~~considered limiting the participation of these voters to only federal elections. As a policy matter,~~
29 ~~the committee was divided over whether to impose such a limitation. These voters clearly have~~
30 ~~interests in U.S. policy and governance, and in order to have representation in Congress~~
31 ~~concerning federal issues they must be affiliated with a particular state. Many observer groups~~
32 ~~indicated that what mattered most to these voters was the chance to participate in federal~~
33 ~~elections, and that these voters likely would not turn out in high numbers for purely state and~~
34 ~~local elections even if they were eligible to participate in those elections, but that in those cases~~
35 ~~in which individual voters did have particular interests in state and local elections they should be~~
36 ~~able to participate.~~
37

38 **SECTION 3. ELECTIONS COVERED.** The voting procedures provided under this
39 [act] apply to drafting committee also took note of the following elections:

40 (a) any general, special, [presidential preference,] or primary election[, including any

1 runoff election,] for federal office;

2 (b) any general, special, [recall,] or primary election[, including any runoff election,] for
3 statewide or state legislative office [or state ballot measure];

4 (c) any general, special, [recall,] or primary election[, including any runoff election,] for
5 local government office [or local ballot measure] conducted according to fact that limiting the
6 procedure of [reference election title or other relevant portion] participation of [state code] [for
7 which absentee voting or voting by mail is available for other voters].

8 **Legislative Note:** The bracketed language who have never lived in subsections (a), (b),
9 the United States to federal elections likely would create some additional burdens on state and
10 (c) pertaining to presidential preference, recall, and runoff local elections officials to classify
11 and segregate these voters and state or local ballot measures is only for states with such
12 elections or measures. treat them differently from other voters, including creating special ballots
13 for them. If these voters are allowed to participate in only federal elections, other sections of the
14 Act also would need modification to effectuate this limitation and ensure that states properly
15 identify and segregate these voters.

16 **SECTION 3. ROLE OF [STATE'S CHIEF ELECTION AUTHORITY].**

17 ~~—— (a) [The state's chief election authority] shall implement this [act].~~

18 ~~—— (b) [The state's chief election authority] shall serve as the chief state official responsible~~
19 ~~for implementing the state's responsibilities under the Uniformed and Overseas Citizens~~
20 ~~Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.~~

21 ~~(c) [The state's chief election authority] shall make available information regarding voter~~
22 ~~registration procedures and absentee voting procedures under this [act] to all absent uniformed~~
23 ~~services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the~~
24 ~~state. [The state's chief election authority] may delegate this responsibility only to the state~~
25 ~~office designated in compliance with the Uniformed and Overseas Citizens Absentee Voting Act,~~
26 ~~42 U.S.C. Section 1973ff-1(b)(1).~~

27 ~~—— (d) [The state's chief election authority] shall develop standardized absentee voting~~

1 ~~materials, including privacy envelopes or their electronic equivalent, transmission envelopes or~~
2 ~~their electronic equivalent, authentication materials, and voting instructions, to be used in~~
3 ~~conjunction with the [absentee ballot] of any absent uniformed services voter or overseas voter~~
4 ~~voting in any jurisdiction within the state.~~

5 **Reporter's Comment**

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7 The first category of elections delineated in this section is the only category covered by
8 the UOCAVA. However, even for these elections, this Act provides additional accommodations
9 to military and overseas voters that are not provided under the UOCAVA. The second and third
10 categories of state and local elections extend the Act's accommodations to non-federal elections
11 not within the UOCAVA scope. These two categories are distinguished primarily to permit an
12 enacting state more easily to consider providing different accommodations to military and
13 overseas voters depending on the type of election.

14 15 16 **SECTION 4. ROLE OF [STATE'S CHIEF ELECTION AUTHORITY].**

17 [The state's chief election authority]:

18 (a) is the chief state official responsible for implementing this [act];

19 (b) is the chief state official responsible for implementing the state's responsibilities
20 under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et
21 seq.;

22 (c) shall make information regarding voter registration procedures and military-overseas
23 balloting procedures under this [act] available to all absent uniformed services voters and
24 overseas voters who wish to register to vote or vote in any jurisdiction in the state. [The state's
25 chief election authority] may delegate this responsibility only to the state office designated in
26 compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section
27 1973ff-1(b)(1).

28 (d) shall develop standardized absentee voting materials, including privacy and
29 transmission envelopes and their electronic equivalents, authentication materials, and voting

1 instructions, to be used in conjunction with the military-overseas ballot of any absent uniformed
2 services voter or overseas voter voting in any jurisdiction within the state, and to the extent
3 reasonably possible shall do so in coordination with other states.

4 **Reporter's Comment**

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6 Each state will need to supply the appropriate title for its chief elections authority,
7 whether it is the Secretary of State, head or director of State Board of Elections, or other official
8 or entity. Where this authority is an organization, rather than an individual, the phrase "chief
9 state official" in subsections (a) and (b) may also merit alternative phrasing. The expectation is
10 that this authority in turn will delegate its duties at least in part to the same office that the state
11 has designated to fulfill the UOCAVA requirement that the state designate a state office to
12 facilitate the state's compliance with the UOCAVA. Other duties may naturally devolve to local
13 election officials, depending on how the state has structured its election processes generally.

14 In most states, the implementing authority specified in subsection (a) presumably already
15 includes authority to promulgate rules according to the existing rulemaking procedures of the
16 state. States in which this rulemaking authority is not already established may wish to include
17 additional language establishing authority to make rules to implement this Act.
18

19 The requirement that states develop "standardized" voting materials is not meant to
20 require statewide uniformity in voting processes where such uniformity does not already exist.
21 Thus, in states using different voting systems in different jurisdictions around the state,
22 "standardized" voting materials may include one standard for jurisdictions using one system, and
23 another standard for jurisdictions using another system. Nevertheless, the state's chief elections
24 authority should work with local election officials to simplify and standardize as much as
25 possible the materials provided to voters, including developing standard identifying labels and
26 other markings on such materials to expedite their handling.
27

28 The "electronic equivalent" of privacy envelopes and transmission envelopes means at a
29 minimum a template or instructions to accompany the electronic delivery ~~to the voter~~ of an
30 unvoted ballot that assist the voter to prepare and use appropriate envelopes to return the voter's
31 marked ballot if the voter is returning the ballot physically through the mail. If a state is
32 allowing a voter to return a marked ballot electronically, the state should employ digital
33 encryption or other security measures to provide comparable protection of the secrecy of the
34 marked ballot.
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38 **SECTION 5. OVERSEAS VOTERS'~~4.~~ ELIGIBILITY TO VOTE.**

39 (a) An overseas~~If the place of residence from which an absent uniformed services~~ voter is
40 eligible to vote ~~absent because of service in the uniformed services is with~~in this state, ~~and~~ if the

1 voter expects to be absent from that place on the date of a covered election, the voter may
2 register to vote and apply for an [absentee ballot] in this state for that election.

3 ~~—— (b) If the~~ last place where ~~the an overseas~~ voter was, or if then of voting age would have
4 been, eligible to vote before leaving the United States is within this state.

5 (b) An overseas voter who was born outside the United States and who is not included in
6 subparagraph (a) is eligible to, ~~and if the voter expects to be absent from that place on the date~~
7 ~~of a covered election, the voter may register to vote and apply for an [absentee ballot] in this~~
8 state ~~for that election.~~

9 ~~—— (c) In the case of an overseas voter defined in section 2(3)(C), if the last place where a~~
10 parent or guardian of the voter was, or under this [act] would have been, eligible to vote before
11 leaving the United States is within this state, and if the voter ~~expects to be absent from that place~~
12 ~~on the date of a covered election, the voter may register to vote and apply for an [absentee ballot]~~
13 ~~in this state, provided the voter~~ has not previously registered to vote in any other state.

14 (c) An overseas ~~—— (d) A~~ voter who is eligible to ~~register to vote in~~ under this
15 ~~statesection~~ shall register to vote using, and be assigned to the voting [precinct/district] of, use the
16 address of the voter's last place of residence in this state, or, in the case of a voter eligible under
17 subsection (be), the address of the voter's parent's or guardian's last place of residence in this
18 state.

19 **Reporter's Comment**

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21 ~~—— Because the definitions in Section 2 largely track the UOCAVA definitions, they alone~~
22 ~~do not determine whether an absent uniformed services voter or overseas voter is eligible to vote~~
23 ~~in any particular state that has adopted the uniform Act. Section 6 therefore makes their~~
24 ~~eligibility to vote depend on their ties to the enacting state.~~

25 26 ~~—— SECTION 5. FORM OF REGISTRATION AND [ABSENTEE BALLOT]~~

1 **APPLICATION.**

2 **ALTERNATIVE 1**

3 ~~——(a) For any covered election, an absent uniformed services voter or an overseas voter~~
4 ~~eligible to register to vote under Section 6 may use, and the state shall give effect to, a Federal~~
5 ~~Post Card Application, as prescribed under the Uniformed and Overseas Citizens Absentee~~
6 ~~Voting Act, 42 U.S.C. Section 1973ff(b)(2), or its electronic equivalent, to register to vote and to~~
7 ~~request an [absentee ballot] simultaneously.~~

8 ~~(b) If an absent uniformed services voter or an overseas voter is already registered to vote~~
9 ~~in this state, the voter may apply for an [absentee ballot] for any covered election using either the~~
10 ~~regular [absentee ballot] application in use in the voter's jurisdiction, or the Federal Post Card~~
11 ~~Application or its electronic equivalent. [The state's chief election authority] shall ensure that~~
12 ~~each jurisdiction's regular [absentee ballot] application requires the applicant to supply sufficient~~
13 ~~information for election officials to determine whether the applicant is an absent uniformed~~
14 ~~services voter or an overseas voter. [The state's chief election authority] shall use best efforts to~~
15 ~~minimize the information necessary, standardize its collection, and streamline the [absentee~~
16 ~~ballot] application process.~~

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18 **ALTERNATIVE 2**

19 ~~To receive the protection of this [act], an absent uniformed services voter or an overseas~~
20 ~~voter must apply for an [absentee ballot] using the Federal Post Card Application, as prescribed~~
21 ~~under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section~~
22 ~~1973ff(b)(2), or its electronic equivalent, or complete a Federal Write-In Absentee Ballot as a~~
23 ~~simultaneous [absentee ballot] application.~~

1 **~~END OF ALTERNATIVES~~**

2 **Reporter's Comment**

3
4 This section builds upon the UOCAVA definition of "overseas voter" and extends it to
5 U.S. citizens abroad who have never resided in one of the fifty states for purposes of establishing
6 a voting residency. This section also assigns to the voter an address in the state to be used as the
7 voter registration address. The section makes no distinction between voters temporarily overseas
8 and voters permanently overseas, although other provisions of an enacting state's existing law
9 may do so and may limit the elections in which voters permanently overseas can vote. Without
10 such distinctions elsewhere in existing state law, this Act would enable all overseas voters to
11 vote in all elections covered in section 3.

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13
14 ~~The drafting committee continues to consider how best to rely on the Federal Post Card~~
15 ~~Application while not complicating a state's ability to develop and use Internet-based and other~~
16 ~~methods of accepting voter registration and absentee ballot applications that are not Federal Post~~
17 ~~Card Applications. Alternatively, option 2 would limit the protections of the Act to voters who~~
18 ~~used the FPCA, because its use immediately identifies for local election officials the special~~
19 ~~status of the voter.~~

20
21 ~~If the uniform act permits voters who have never lived in the U.S. to vote only for~~
22 ~~candidates for federal office, then some method would be needed to further distinguish these~~
23 ~~voters from other overseas voters. The current Federal Post Card Application does not require~~
24 ~~overseas voters to declare whether or not they have previously lived in the United States. One~~
25 ~~option would be to require those voters who have not previously lived in the United States to~~
26 ~~declare this at the time of registration in the portion of the Federal Post Card Application~~
27 ~~designated for additional information for specific states.~~

28
29 **SECTION 6. FORMELECTRONIC TRANSMISSION OF REGISTRATION AND**
30 **[ABSENTEE BALLOT] APPLICATION FOR MILITARY-OVERSEAS BALLOT.**

31 ~~_____ (a) For, In addition to any election to which this [act] applies other method of registering~~
32 ~~to vote or applying for an [absentee ballot], an absent uniformed services voter or an overseas~~
33 ~~voter may use, submit a Federal Post Card Application or other application by electronic~~
34 ~~transmission, in a manner directed by [the state's chief election authority], which protects the~~
35 ~~integrity of the transmission and the state shall give effect to, privacy of the voter's identity and~~
36 ~~other personal data contained in the application.~~

~~1 **[SECTION 7. STANDING REQUEST FOR [ABSENTEE BALLOT].**~~

~~2 **(a) If an absent uniformed services voter or overseas voter submits** a Federal Post Card
3 Application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, 42
4 U.S.C. Section 1973ff(b)(2), or its electronic equivalent, to apply to register to vote and to
5 request a military-overseas ballot simultaneously.~~

~~6 **(b) If an absent uniformed services voter or an overseas voter is already registered to vote**
7 in this state, the voter may apply for a military-overseas ballot for any election to which this [act]
8 applies using either the regular and requests that the application be considered an application for
9 an [absentee ballot] application in use in the voter's jurisdiction for all subsequent elections for
10 the time period permitted under [cite to state statute on traditional absentee ballots], or the
11 Federal Post Card Application or its electronic equivalent.~~

~~12 **(c) [The state's chief election authority] shall ensure that when federal law[, including**
13 any runoff elections that may occur as a jurisdiction receives a regular result of the outcome of
14 such elections], election officials shall provide an [absentee ballot] application appearing to be
15 from an absent uniformed services voter or an overseas voter, the jurisdiction seeks to collect
16 sufficient information, by forwarding to the voter a Federal Post Card Application or otherwise,
17 to confirm whether the applicant is an absent uniformed services voter or an overseas voter, and
18 whether the voter desires to receive a military-overseas ballot electronically. [The state's chief
19 to the voter for each subsequent covered election authority] shall use reasonable efforts to
20 minimize the information necessary, standardize its collection, and streamline the military-
21 overseas ballot application process. , as provided in Section 10, for at least the period required
22 under federal law, or any longer period provided under the law of this state other than this [act].~~

~~23 **[(d) Nothing in this [act] precludes a voter from voting under the state's traditional**~~

absentee voting process prescribed in [cite to state statute providing traditional absentee voting].]

~~———— (b) Subsection (a) does not apply to any election held after an election official determines that a voter is no longer eligible to vote in this state. Nothing in this section prevents an election official from removing a voter from the rolls of registered voters in this state under any program or method permitted under Section 8 of the National Voter Registration Act of 1993.]~~

~~**Legislative Note:** The bracketed language in subsection (a) pertaining to runoff elections is only for states with runoff elections.~~

Reporter's Comment

This section is designed to encourage the use of the Federal Post Card Application while yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit states to develop alternative forms if they wish. However, the section is not intended to require states or local election jurisdictions to revise their existing forms, or to prepare new forms for voters covered under this Act. Instead, to the extent that a state's existing forms do not collect sufficient information to properly classify overseas and military voters, this section invites the state to ask voters who use the state forms to also complete the FPCA as a supplement.

SECTION 7. ELECTRONIC TRANSMISSION OF REGISTRATION AND APPLICATION FOR MILITARY-OVERSEAS BALLOT. [The state's chief election authority] shall establish an electronic transmission method by which an absent uniformed services voter or an overseas voter may submit a Federal Post Card Application, as described in section 6(a), or other registration or military-overseas ballot application to the appropriate election officials. These voters may choose to use either the electronic transmission method, or any other method of registering to vote or applying for a ballot available for their voting jurisdiction.

Reporter's Comment

The electronic transmission method established under this section should be designed to protect the integrity of the transmission and the privacy of the voter's personal data contained in the transmission. To a similar end, the recent amendments to UOCAVA include provisions requiring that "to the extent practicable," electronic transmission methods "shall ensure that the

1 privacy of the identity and other personal data of an absent uniformed services voter or overseas
2 voter is protected” and also shall “protect the security and integrity of the transmission.”
3
4

5 ~~———This section is only a default rule concerning whether voters covered under the Act can~~
6 ~~request to automatically receive voting materials for all future elections, at least for the period~~
7 ~~(currently two federal election cycles) for which UOCAVA voters can now ask to receive voting~~
8 ~~materials for all federal elections. Some members of the drafting committee would omit this~~
9 ~~section, largely out of reservations about the burden on local elections officials of automatically~~
10 ~~sending absentee voting materials for every election to all voters covered under the Act, when~~
11 ~~many of the covered voters may have little interest in nonfederal elections, and the “returned as-~~
12 ~~undeliverable” rate on voting materials sent to UOCAVA voters for subsequent elections has~~
13 ~~been high. Other committee members thought it best to include this section given that federal~~
14 ~~law now requires states to provide this option to UOCAVA voters for all federal elections, and~~
15 ~~voters might therefore reasonably expect to be receiving voting materials for all elections.~~
16

17 ~~In light of this lack of agreement in the committee, the section is presented to the~~
18 ~~Conference as a bracketed section. One option would be to let each enacting state make its own~~
19 ~~determination about whether to include or omit this section, depending on its evaluation of the~~
20 ~~cost and burden. Omitting the section would have no impact on other portions of the Act.~~
21 ~~Another option would be to draft the section to permit individual voters to opt out of receiving~~
22 ~~voting materials for subsequent elections involving only state or local, and not federal, races.~~
23

24 **SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-**
25 **OVERSEAS[~~ABSENTEE~~ BALLOT].** An application for a military-overseas ballot under this
26 [act]from an absent uniformed services voter or an overseas voter for an [absentee ballot] is
27 timely if received by any time prior to [the later of the 15th30th day before the next election or
28 the last day for other voters in the state to apply for an [absentee ballot] for the next election].
29 The application is effective for any run-off election necessary to conclude the election for which
30 the application was submitted. An application for a military-overseas ballot for a primary
31 election also is effective as an application for a military-overseas ballot for the ensuing general
32 election.

33 Reporter’s Comment

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35 Many states accept regular absentee ballot applications up until just a few days before an
36 election, or later. Because military and overseas voters can use electronic transmission methods

1 both to request and to receive blank ballots, this section allows them to take advantage of an
2 application deadline close to the election.
3
4

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

6 (a) For all ~~covered~~ elections to which this [act] applies, no later than 45 days before the
7 election, the official charged with preparing and distributing ballots and ~~balloting~~ election
8 materials in each jurisdiction shall ~~prepare a sufficient number of [absentee ballots] as soon as~~
9 ~~possible after receiving information concerning candidates [and ballot measures] to be voted on~~
10 ~~at the election, and shall immediately~~ transmit ~~[absentee ballots]~~ and ~~related~~ balloting materials
11 to all absent uniformed services voters and overseas voters who by that date have submitted a
12 valid military-overseas ballot application.

13 (b) Absent uniformed services voters ~~or and~~ overseas voters who have requested to receive
14 ballots and balloting materials by electronic transmission may choose either facsimile
15 transmission or electronic mail delivery, or Internet delivery if offered by the voter's jurisdiction.
16 Local ~~applied for them.~~

17 ~~—— (b) No later than [] days before an election, local~~ election officials, with the
18 assistance, as appropriate, of [the state's chief election authority], shall transmit ballots and
19 balloting materials to the voter using the make available by either facsimile or other electronic
20 means chosen by, ~~as requested by the voter,~~ ~~an unvoted [absentee ballot] and related balloting~~
21 ~~materials to any absent uniformed services voter or overseas voter who by that date has~~
22 ~~submitted a valid [absentee ballot] application requesting electronic transmission of [absentee~~
23 ~~balloting] materials.~~

24 (c) When ~~an [absentee ballot]~~ application ~~from~~ of an absent uniformed services voter or
25 overseas voter arrives after the jurisdiction has begun transmitting ballots and ~~[absentee balloting]~~

1 materials to voters, the official charged with distributing ballots and ~~balloting~~election materials
2 shall transmit ~~these~~the [absentee balloting] materials to the voter within two working days, as
3 soon as possible.

4 ~~—— (d) A local election jurisdiction that maintains an Internet site shall make available on the~~
5 ~~Internet site downloadable versions of [absentee ballots] and voting instructions for absent~~
6 ~~uniformed services voters and overseas voters, as well as the most updated state and local~~
7 ~~election listing required by Section 17.~~

8 **SECTION 10. TIMELY CASTING OF BALLOT.** For the military-overseas
9 ballot~~[an absentee ballot]~~ of an absent uniformed services voter or overseas voter to be valid, the
10 voter must have submitted the ~~[absentee ballot]~~ for mailing[, electronic transmission,] or other
11 authorized means of delivery no later than 12:01 a11:59 p.m. (measured in the place where the
12 voter completes the ballot) on the ~~day before the date of the election. If, at the time of~~
13 ~~completing the balloting materials, the voter has affirmed under penalty of perjury, as provided~~
14 ~~in Section 18, that the [absentee ballot] was timely submitted, the ballot may not be rejected on~~
15 ~~the basis that it lacks a postmark showing that it was submitted before the day of the election.~~

Reporter's Comment

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19 Requiring that the ballot be completed by one minute after midnight local time on
20 Election Day ensures that no voter anywhere in the world will be able to cast a vote with
21 knowledge of the early returns of the jurisdiction whose ballot the voter is voting.
22

SECTION 11. ACCEPTANCE OF FEDERAL WRITE-IN ABSENTEE BALLOT.

23
24 (a) Election officials shall permit ~~In a covered election, an~~ absent uniformed services
25 voters and ~~voter or an~~ overseas voters to ~~voter may~~ use the Federal Write-In Absentee Ballot, in
26 accordance with the provisions of ~~approved under~~ the Uniformed and Overseas Citizens

Absentee Voting Act, 42 U.S.C. Section 1973ff, to vote for all offices [and ballot measures] in an election to which this [act] applies.~~if the voter affirms that:~~

(b) Election officials shall permit~~(1) the voter submitted a Federal Post Card Application or other application requesting an [absentee ballot] in time to be received by [the later of the 30th day before the election or the last date for other voters in the adopting state to apply for an absentee ballot for the election]; and~~

~~(2) the voter has not received the requested [absentee ballot].~~

~~———— (b) In a covered election, an~~ absent uniformed services voters and~~voter or an~~ overseas voters to~~voter may~~ use the Federal Write-In Absentee Ballot transmission envelope's voter declaration as a request for registration and an application for a military-overseas ballot~~an [absentee ballot]~~ simultaneous with the submission of the Federal Write-In Absentee Ballot, if the . The request is [received by the later of the 15th day before the election or the last day for other voters in the state to apply for an [absentee ballot] for that election].

Reporter's Comment

Subsection (b) permits the Federal Write-In Absentee Ballot to be used as a simultaneous voter registration and ballot application, as well as a ballot, using the same deadline that section 8 uses for applying for a military-overseas~~an [absentee ballot, not a state's registration deadline. Voters may use the FWAB as a simultaneous voter registration only] must be accepted if they have already attempted to register (and affirming this on the FWAB). Because of the difficulties of registering from abroad, these registration applications occasionally go astray, and as an accommodation this provision permits the FWAB to serve as a back-up registration even after a state's regular registration deadline. This section still requires that the FWAB arrive by the state deadline for requesting a ballot in order to function as a simultaneous registration and request for a ballot.~~

÷

~~(1) it is received by [the later of the 30th day before the election, or the adopting state's last day for registering to vote]; and~~

~~(2) the voter has otherwise met the requirements necessary to demonstrate that the voter is eligible to register to vote in the jurisdiction to which the request is submitted.~~

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(b) If, at the time of completing a military-overseas ballot and balloting materials, the voter has affirmed under penalty of perjury, as provided in Section 13, that the ballot was timely mailed, the ballot may not be rejected on the basis that it has no postmark or a late postmark.

Reporter's Comment

The bracketed language in subsection (a) is intended to capture 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 this event, giving election officials that day to process them before making their return or certification—~~In light of occasional controversies about when election officials have “received” absentee ballots, some additional clarification of this term may be worth considering.~~

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 REQUIREMENTS.

(a) Each ~~voter registration application, [absentee ballot] application, and~~ submitted military-overseas~~[absentee ballot]~~ of an absent uniformed services voter or an overseas voter must include or be accompanied by a single declaration for the voter to ~~sign~~execute

1 acknowledging that a material misstatement of fact in completing the document may be grounds
2 for a conviction ~~offer~~ perjury under the laws of the United States and this state.

3 (b) The declaration must read substantially as follows:

4 “I swear or affirm, under penalty of perjury, that:

5 1. I am a member of the Uniformed Services s or an eligible spouse or dependent of
6 such a member, or a U.S. citizen residing~~who on the date of the election for which this is~~
7 ~~submitted expects to be~~ outside the U.S., and

8 2. I am a U.S. citizen, at least 18 years of age (or will be by the day of the
9 election), eligible to vote in the requested jurisdiction, and

10 3. I have not [been convicted of a felony or other disqualifying offense or] been
11 adjudicated mentally incompetent, or if so, my voting rights have been reinstated, and

12 4. I am not registering, requesting a ballot, or voting in any other jurisdiction in
13 the U.S., and

14 5. I have voted and sealed this ballot in private and have not allowed any person
15 to observe the marking of this ballot, except for a person authorized to assist me under
16 state or federal law, and I have not been influenced, and

17 6. My signature and the date ~~listed~~ below indicate when I completed this
18 document, and I have voted my ballot before 12:01 a.m. on the date of the election for
19 which it is submitted, and

20 7~~6~~. The information on this document is true and complete to the best of my
21 knowledge.

22 I understand that a material misstatement of fact in completing this document may be
23 grounds for conviction of perjury under the laws of the United States and [state].

Signature_____ Date_____

Printed Name_____”

~~(c) The declaration accompanying a submitted [absentee ballot] shall also contain an additional point reading substantially as follows:~~

~~“I have voted and sealed this ballot in private and have not allowed any person to observe the marking of this ballot, except for those authorized to assist voters under state or Federal law, and I have not been improperly influenced in the marking of this ballot.”~~

(b) [The state’s chief election authority] shall ensure that an appropriate form for the execution of the declaration specified in subsection (ba), including the date of its execution, is a prominent part of each ~~document or, in the case of a voted ballot, each~~ transmission envelope, for which this declaration is required.

~~(d) No e) A~~ notarization is required for the execution of any document under this [act].
~~No or~~ authentication requirement other than the declaration specified in subsection (ba), or the declaration on the Federal Post Card Application and Federal Write-In Absentee Ballot, may ~~not~~ be required for the execution of any document under this [act].

Reporter’s Comment

[The declaration language closely tracks the language of the Federal Write-In Absentee Ballot declaration. Adding to the Act’s declaration the language “I have voted my ballot before 12:01 a.m. on the date of the election” may be problematic because it is not on the FWAB, and likely could not be on the FWAB because of states that accept FWABs cast on Election Day.]

SECTION 14. CONFIRMATION OF RECEIPT OF APPLICATION AND VOTED BALLOT. [The state’s chief election authority], in coordination with a local election jurisdiction, shall ~~implement~~develop an electronic free-access system by which an absent uniformed services voter or overseas voter may determine, either by telephone, electronic mail,

1 or Internet access, whether the voter's Federal Post Card Application or other registration and
2 ~~military-overseas[absentee ballot]~~ application has been received and accepted, and whether the
3 voter's ~~military-overseas[absentee ballot]~~ has been received and its current status.

4 **SECTION 15. COLLECTION OF VOTERS' ELECTRONIC MAIL ADDRESSES.**

5 ~~(a) The local election jurisdiction in which—A voter registration and [absentee ballot]~~
6 ~~application form must ask~~ an absent uniformed services voter ~~or~~ overseas voter registers to
7 vote must request that the voter ~~to~~ provide an individual electronic mail address. An individual
8 electronic mail address provided by an absent uniformed services voter or overseas voter is
9 exempt from disclosure under the public records laws of this state and shall not become part of
10 the publicly available voting registration data file or ~~or local~~ election management system.
11 Election officials ~~official~~ may not release a voter's ~~an individual~~ electronic mail addresses
12 ~~address provided on the form~~ to any third party, and may use the voter's electronic mail address
13 provided ~~on the form~~ only for the purpose of communicating with the voter about the voting
14 process, including transmitting military-overseas ballots and election materials if the voter has
15 requested electronic transmission, and confirming the present address of the voter. A request for
16 ~~A form requesting~~ an individual electronic mail address under this section must clearly
17 describe the sole purpose for which the electronic mail address will be used, and that any
18 other use or disclosure is prohibited ~~by law~~.

19 [(b) An absent uniformed services voter or overseas voter who provides an electronic
20 mail address may request that the voter's application for a military-overseas ballot be considered
21 a standing request for electronic delivery of a ballot for all elections held during the 365 days
22 following the date of the application, or through the end of the federal election cycle during
23 which the voter submits the application, whichever is longer], including for any runoff elections

1 that may occur as a result of the outcome of such elections]. Election officials shall provide a
2 military-overseas ballot to a voter who makes such a request for each election to which this
3 request is applicable.

4 (c) Subsection (b) does not apply to any election held after a voter has been removed
5 from the rolls of registered voters in this state under any program or method permitted under
6 Section 8 of the National Voter Registration Act of 1993.]

7 *Legislative Note: The bracketed language in subsection (b) pertaining to runoff elections is only*
8 *for states with runoff elections.*

9 **Reporter's Comment**

10
11 Subsection (a) facilitates the collection of voter e-mail addresses, but depends on assuring
12 voters that their addresses will not become available for the use of political campaigns and
13 marketers. Subsection (b) then ties a voter's ability to make a standing request for a military-
14 absentee ballot to the voter's provision of an e-mail address. This approach is intended to reduce
15 the large quantity of election material that was returned as undeliverable when sent out in
16 hardcopy to an outdated physical address under the UOCAVA provision that permitted voters to
17 make a standing request for absentee ballots for two federal election cycles.
18

19 **SECTION 16. PUBLICATION~~PREPARATION~~ OF ELECTION**

20 **NOTICE~~LISTING~~.**

21 (a) No later than ~~100~~180 days before a regularly held~~covered~~ election to which this [act]
22 applies, and, -or-as soon as practicable in the case of an election not regularly held~~a special or~~
23 ~~runoff election~~, the official in each jurisdiction charged with printing and distributing ballots and
24 ~~balloting election~~ material shall prepare an election notice~~listing~~ for that jurisdiction, to be used in
25 conjunction with the Federal Write-in Absentee Ballot ~~described~~~~identified~~ in Section ~~11.46~~. The
26 election notice~~listing~~ must contain a list of all of the federal, state, and local offices [and ballot
27 measures] that as of that date the official expects to be on the ballot in the jurisdiction on the date
28 of the election. The notice also ~~listing~~ must contain specific instructions for how a voter is to

1 indicate on the Federal Write-in Absentee Ballot the voter's choice for each office to be filled
2 [and for each ballot measure to be contested].

3 (b) An absent uniformed services voter or an overseas voter may request a copy of the
4 election ~~noticelisting~~, which shall be delivered to the voter by facsimile, electronic mail, ~~Internet~~
5 ~~transmission~~, or regular mail, as the voter requests.

6 (c) As soon as ~~[ballot stylesregular [absentee ballots]~~ are ~~certified~~~~printed~~, and no later
7 than the date when ~~regular~~[absentee ballots] are required to be transmitted to absentee voters
8 ~~under [cite to traditional absentee voter authorization]~~, the official charged with preparing the
9 election ~~noticelisting~~ shall update the ~~notice~~~~listing~~ with the certified candidates for each office
10 [and the text of ballot measures], and shall make the updated ~~noticelisting~~ publicly available.

11 ~~(d) A local election jurisdiction that maintains an Internet site shall use reasonable efforts~~
12 ~~to make updated versions of its election notices regularly available on its Internet site.~~

13 Reporter's Comment

14
15 ~~The bracketed language "[ballot styles are certified]" in the first line of subsection (c) is~~
16 ~~intended to capture the event by which time the candidates (and issues, when applicable) on the~~
17 ~~upcoming ballot are finalized. This section ensures that election jurisdictions facilitate voting by~~
18 ~~making the candidate names readily and quickly available to overseas and military voters.~~
19

20 **SECTION 17. NONESSENTIAL REQUIREMENTS.** ~~S. A mistake.~~ ~~Mistake~~ or
21 omission in the ~~completion~~~~execution~~ of any document under this [act] ~~or a failure to satisfy~~ ~~and~~ a
22 nonessential requirement, such as paper ~~or envelope~~ size and weight, that does not prevent
23 identifying or determining the eligibility of an absent uniformed services voter or an overseas
24 voter does not invalidate the document. If the intention of the voter is ~~clearly~~-discernable ~~under~~
25 ~~this state's uniform voter intention standards (as required by the Help America Vote Act, 42~~
26 ~~U.S.C. § 15481(a)(6)), an abbreviation, misspelling, or other minor variation in the form of the~~

1 name of a candidate or a political party must be accepted as a valid vote in any write-in ballot
2 authorized by this Act [or in any vote for a write-in candidate on a regular ballot].

3 **[SECTION 18. EXIGENT CIRCUMSTANCES. EMERGENCY POWER.** If an
4 international, national, state, or local emergency or other situation arises that makes substantial
5 compliance with this [act] or the Uniformed and Overseas Citizens Absentee Voting Act, 42
6 U.S.C. Section 1973ff et seq., impossible or impracticable, as confirmed by ~~an official~~
7 ~~declaration by [the governor] that a state of emergency exists, or by~~ the existence of armed
8 conflict involving United States Armed Forces or the mobilization of those forces, including
9 State National Guard and Reserve component members of this state, or by the occurrence of a
10 natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a
11 foreign country, or by an official declaration by the governor that a state of emergency exists, the
12 governor directly, or by delegation to [the state's chief election authority], may prescribe, by
13 emergency order or rule, a special procedure or requirement as may be necessary to facilitate
14 ~~absentee~~ voting by those absent uniformed services voters or overseas voters directly affected
15 who are eligible to vote in this state. [The state's chief election authority] shall take reasonable
16 steps to provide absent uniformed services voters and overseas voters with timely notice of any
17 special procedure or requirement prescribed under this section.]

18 **Reporter's Comment**

19
20 The starting point for this section was language from the Federal Voting Assistance
21 Program, which ~~has recommended~~ ~~recommends~~ providing states with authority to adjust
22 UOCAVA voting processes in the event of an emergency. As of 2008, eighteen states had
23 provided some form of emergency authority to their chief elections official.

24 [This section is bracketed to reflect the drafting committee's current division about
25 whether to include it, to exclude it and instead focus on the possibility of judicial intervention in
26 exigent circumstances, or to include it but only as a bracketed section in the final draft for each
27 state to consider depending on what that state's existing general emergency powers are.]
28

1 **SECTION 19. ISSUANCE OF INJUNCTION OR OTHER EQUITABLE RELIEF.**

2 On application by any registered voter of ~~this the state, or~~ by any person alleging to be a
3 registered voter of this state or to be eligible under this [act]~~eligibility~~ to register to vote ~~in under~~
4 this state, or by any election official in the state~~act~~, the courts of this state may issue an
5 injunction or grant other equitable relief appropriate to enforce this [act].

6 **SECTION 20. SUPERSESION OF OTHER LAW.** A provision of this [act] setting

7 out a date, timeline, or deadline for the submission of a voter registration or military-
8 overseas~~absentee ballot~~ application, or for the casting, receipt, or counting of a military-
9 overseas ballot~~an absentee ballot~~, to the extent that it conflicts with other state law,
10 supersedes~~shall supersede~~ the other state law.

11 **SECTION 21. APPLICATION AND CONSTRUCTION.**

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

14 (b) This [act] is designed to facilitate, and ~~should~~must be read in harmony with, the
15 Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.

16 **SECTION 22. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
17 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal
18 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,
19 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
20 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
21 U.S.C. Section 7003(b).

22 **[SECTION 23. EFFECT ON OTHER STATE AND LOCAL LAWS.** For purposes
23 of any provision of a state or local tax law or other nonelection law in which the residence or

1 | domicile of a person is a factor, the exercise of any right under this [act] ~~may~~shall not be used
2 | ~~to by itself~~ affect the residence or domicile of the person exercising the right.]

3 | **[SECTION 24. REPEALS.**

4 | The following are repealed:

5 | (1)

6 | (2)

7 | (3)]

8 | **SECTION 25. EFFECTIVE DATE.** This [act] takes effect