

DRAFT  
FOR DISCUSSION ONLY

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

---

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

---

For March 6-8, 2009 Drafting Committee Meeting

*Without Prefatory Note and With Preliminary Comments*

Copyright © 2009  
By  
NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

---

*The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.*

February 26, 2009

**DRAFTING COMMITTEE ON MILITARY SERVICES AND OVERSEAS CIVILIAN  
ABSENTEE VOTERS ACT**

The Committee appointed by and representing the National Conference of  
Commissioners on Uniform State Laws in drafting this Act consists of the following individuals:

STEVE WILBORN, 306 Tower Dr., Shelbyville, KY 40065, *Chair*

TERRY J. CARE, 2300 W. Sahara, Suite 1000, Las Vegas, NV 89102

STEPHEN T. DRAFFIN, South Carolina Legislative Council, P.O. Box 11489, Columbia, SC  
29211

BARRY C. HAWKINS, 300 Atlantic St., Stamford, CT 06901

LYLE W. HILLYARD, 595 S. Riverwood Parkway, Suite 100, Logan, UT 84321

CLAIRE LEVY, House District 13, 3172 Redstone Rd., Boulder, CO 80305

LUKE MESSER, One American Square, Suite 2900, Indianapolis, IN 46282

SUSAN KELLY NICHOLS, North Carolina Department of Justice, P.O. Box 629, Raleigh, NC  
27602-0629

RALPH G. THOMPSON, 315 NW 39<sup>th</sup> St., Oklahoma City, OK 73118

NORA WINKELMAN, Legal Counsel's Office, Room 620 Main Capitol, Harrisburg, PA  
17120

STEVEN F. HUEFNER, Moritz College of Law, The Ohio State University, 55 West 12<sup>th</sup> Ave.,  
Columbus, OH 43210, *Reporter*

**EX OFFICIO**

MARTHA LEE WALTERS, Oregon Supreme Court, 1163 State St., Salem, OR 97301-2563,  
*President*

JACK DAVIES, 1201 Yale Place, Unit #2004, Minneapolis, MN 55403-1961, *Division Chair*

**AMERICAN BAR ASSOCIATION ADVISORS**

JOHN DEWITT ALTENBURG, 2101 L St. NW, Suite 1001, Washington, DC 20037-1526,  
*ABA Advisor*

JOHN C. KEENEY, JR., 555 13<sup>th</sup> St. NW, Suite 10W-206, Washington, DC 20004-1109, *ABA  
Advisor*

**EXECUTIVE DIRECTOR**

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:  
NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS  
111 N. Wabash Ave., Suite 1010  
Chicago, Illinois 60602  
312/450-6600  
[www.nccusl.org](http://www.nccusl.org)

---

*Support for this project was provided by a grant from The Pew Charitable Trusts' "Make Voting Work" project. The views expressed are those of the drafting committee and do not necessarily reflect the view of Make Voting Work or The Pew Charitable Trusts.*

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

## **TABLE OF CONTENTS**

### **[ARTICLE] 1**

#### **GENERAL PROVISIONS**

SECTION 101. SHORT TITLE .....	1
SECTION 102. DEFINITIONS.....	1
SECTION 103. ROLE OF [STATE’S CHIEF ELECTIONS AUTHORITY].....	4
SECTION 104. EMERGENCY POWERS.....	5
SECTION 105. SUPERSEDING OF OTHER PROVISIONS.....	6

### **[ARTICLE] 2**

#### **VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROVISIONS**

SECTION 201. ELIGIBILITY TO VOTE .....	7
SECTION 202. REGISTRATION AND [ABSENTEE BALLOT] APPLICATION.....	8
SECTION 203. STANDING REQUESTS FOR [ABSENTEE BALLOTS] .....	8
[SECTION 204. UPDATING ADDRESSES/COORDINATION WITH FEDS. ?] .....	9

### **[ARTICLE] 3**

#### **DEADLINES**

SECTION 301. APPLICATIONS FOR [ABSENTEE BALLOTS]. .....	10
SECTION 302. TRANSMISSION OF UNVOTED BALLOTS.....	10
SECTION 303. CASTING OF BALLOTS. ....	11
SECTION 304. RECEIPT OF VOTED BALLOTS.....	12

### **[ARTICLE] 4**

#### **USE OF ELECTRONIC TRANSMISSION METHODS**

SECTION 401. ELECTRONIC TRANSMISSION OF REGISTRATION AND [ABSENTEE BALLOT] APPLICATIONS. ....	13
SECTION 402. ELECTRONIC TRANSMISSION OF UNVOTED BALLOTS AND OTHER VOTING MATERIALS.....	13
SECTION 403. CONFIRMATION OF RECEIPT OF APPLICATIONS AND VOTED BALLOTS.....	13

### **[ARTICLE] 5**

#### **WRITE-IN ABSENTEE BALLOT PROVISIONS**

SECTION 501. STATE AND LOCAL ELECTION BALLOT LISTING .....	15
SECTION 502. ACCEPTANCE OF FEDERAL WRITE-IN ABSENTEE BALLOT .....	15

### **[ARTICLE] 6**

#### **BURDEN REDUCTION PROVISIONS**

SECTION 601. AUTHENTICATION REQUIREMENTS .....	17
--	----

SECTION 602. NON-ESSENTIAL REQUIREMENTS. ....	17
---	----

**[ARTICLE] 7**  
**ENFORCEMENT**

SECTION 701. ISSUANCE OF INJUNCTIONS .....	19
--	----

**[ARTICLE] 8**  
**MISCELLANEOUS PROVISIONS**

SECTION 801. APPLICATION AND CONSTRUCTION .....	20
SECTION 802. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. ....	20
SECTION 803. EFFECT ON OTHER STATE AND LOCAL LAWS. ....	20
SECTION 804. REPEALS .....	20
SECTION 805. EFFECTIVE DATE.....	21

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

2                                   **[ARTICLE] 1**

3                                   **GENERAL PROVISIONS**

4           **SECTION 101. SHORT TITLE.** This [act] may be cited as the Military Services and  
5 Overseas Civilian Absentee Voters Act.

6           **SECTION 102. DEFINITIONS.** In this [act]:

7           (1) “absent uniformed services voter” means:

8                           (A) a member of a uniformed service on active duty who, by reason of such active  
9 duty, is absent from the place of residence where the member is otherwise qualified to vote;

10                          (B) a member of the merchant marine who, by reason of service in the merchant  
11 marine, is absent from the place of residence where the member is otherwise qualified to vote;

12 and

13                          (C) a spouse or dependent of a member referred to in subparagraph (A) or (B)  
14 who, by reason of the active duty or service of the member, is absent from the place of residence  
15 where the spouse or dependent is otherwise qualified to vote;

16           (2) “covered election” means any general, special, primary, or runoff election for federal,  
17 state, or local government offices [or ballot measures] conducted according to the procedures of  
18 [reference election title or other relevant portions of state code];

19           (3) “member of the merchant marine” means an individual (other than a member of a  
20 uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the  
21 inland waterways):

22                          (A) employed as an officer or crew member of a vessel documented under the  
23 laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag

1 registry under charter to or control of the United States; or

2 (B) enrolled with the United States for employment or training for employment,  
3 or maintained by the United States for emergency relief service, as an officer or crew member of  
4 any such vessel;

5 (4) “overseas voter” means:

6 **OPTION 1:**

7 (A) an absent uniformed services voter who, by reason of active duty or service is  
8 absent from the United States on the date of the election involved;

9 (B) a person who resides outside the United States and is qualified to vote in this  
10 State;

11 (C) a person who resides outside the United States but otherwise would be  
12 qualified to vote in this State, if this State was the last place in which the person resided before  
13 leaving the United States; and

14 (D) a United States citizen born outside the United States who resides outside the  
15 United States but is not included in subsections (A), (B), or (C) above, and who would be  
16 qualified to vote if a resident of this State, if this State was the last place in the United States in  
17 which one of the citizen’s parents [resided/was qualified to vote];

18 **END OPTION 1**

19 **OPTION 2**

20 [including below a new definition of “domicile” for this option]:

21 (A) an absent uniformed services voter who, by reason of active duty or service is  
22 absent from the United States on the date of the election involved;  
23

24 (B) a person who resides outside the United States and is qualified to vote in the  
25

1 last place in which the person was domiciled before leaving the United States;

2 (C) a person who resides outside the United States and but for such residence  
3 would be qualified to vote in the last place in which the person was domiciled before leaving the  
4 United States; and

5 (D) a United States citizen born outside of the United States who resides outside  
6 the United States but is not included in subsections (A), (B), or (C) above, and who would be  
7 qualified to vote if domiciled in the last place in the United States in which one of the citizen's  
8 parents was domiciled;

9 (5) "domicile" means the place where the person's habitation is fixed, and to which,  
10 whenever the person is absent, the person has the intention of returning[, unless a federal court  
11 construes the term "domicile" as used in the UOCAVA to mean something else, in which case it  
12 takes the meaning given to it for purposes of the UOCAVA];

## 13 **END OPTION 2**

14 [(5)][(6)] "uniformed services" means the Army, Navy, Air Force, Marine Corps, and  
15 Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps  
16 of the National Oceanic and Atmospheric Administration; and

17 [(6)][(7)] "United States", where used in the territorial sense, means the several states, the  
18 District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and  
19 American Samoa.

## 20 **Reporter's Comment**

21  
22 In accordance with the drafting committee's tentative decision at the February meeting in  
23 Portland, this Act defines the phrase "absent uniformed services voter" exactly as defined in the  
24 Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. § 1973ff-6(1).  
25 In turn, terms (3), [(5)][(6)], and [(6)][(7)] of the definitional section of this Act are necessary to  
26 complete this borrowing of the UOCAVA definition of "absent uniformed services voter."  
27

1 The drafting committee also concluded to rely upon the UOCAVA definitions of  
2 “overseas voter,” to the extent possible, but was concerned about the use of the phrase  
3 “domiciled” in those definitions. This draft presents the drafting committee with two options,  
4 one that significantly departs from the UOCAVA definition of this term in an effort to tailor it to  
5 a uniform state act, and a second that continues to rely upon the UOCAVA definition while also  
6 adding a definition of “domicile.” An alternative would be to define “domiciled” instead as  
7 something along the lines of “having a physical presence in a particular place and a concurrent  
8 intention to make that place one’s home.”  
9

10 The drafting committee continues to work to expand the UOCAVA definition of  
11 “overseas voter” to include United States citizens who have never resided in the United States,  
12 but who would be eligible to vote if they did reside in the United States. This is the purpose of  
13 subsection (D) of the definition of “overseas voter.” However, because this group of voters has  
14 no direct tie to any particular state, some device is needed to align them with a particular  
15 jurisdiction. For this purpose, the definition uses the last United States residence or domicile of a  
16 parent of the voter to establish the state in which a voter would vote. The study committee left  
17 unresolved the question of whether this voter should be able to participate in all elections in this  
18 state, or only federal (or even only Presidential) elections.  
19

20 For discussion purposes, this draft no longer limits the participation of these “stateless”  
21 voters to only elections for federal offices. Upon further research, it appears that less than half of  
22 those sixteen states that already statutorily enfranchise these voters limit their participation to  
23 federal elections. But how to enfranchise these voters, and for what elections, remain live issues  
24 before the drafting committee.  
25  
26

### 27 **SECTION 103. ROLE OF [STATE’S CHIEF ELECTIONS AUTHORITY].**

28 (a) The [state’s chief elections authority] is responsible for implementing this [act], [but  
29 may delegate all or some of the associated duties, including duties that this [act] specifically  
30 assigns to the [state’s chief elections authority], to other state or local officials.

31 (b) The [state’s chief elections authority] is responsible for providing information  
32 regarding voter registration procedures and absentee ballot procedures to be used by absent  
33 uniformed services voters and overseas voters with respect to covered elections to all absent  
34 uniformed services voters and overseas voters who wish to register to vote or vote in any  
35 jurisdiction in the State. The [state’s chief elections authority] may delegate this responsibility  
36 only to the state office designated in compliance with the Uniformed and Overseas Citizens



1 Absentee Voting Act, 42 U.S.C. section 1973ff-1(b)(1).

2 (c) The [state's chief elections authority] is responsible for developing standard absentee  
3 voting materials, including privacy envelopes, transmission envelopes, authentication materials,  
4 and voting instructions, for use in conjunction with the [absentee ballot] of any jurisdiction  
5 within the State.

6 (d) The [state's chief elections authority] shall also serve as the chief state official  
7 responsible for implementing the State's responsibilities under the Uniformed and Overseas  
8 Citizens Absentee Voting Act, 42 U.S.C. section 1973ff *et seq.*

#### 9 **Reporter's Comment**

10  
11 Each state will need to supply the appropriate title for its chief elections authority,  
12 whether it is the Secretary of State, State Board of Elections, or other official or entity. The  
13 expectation is that this authority in turn will delegate its duties at least in part to the same office  
14 that the state has designated to fulfill the UOCAVA requirement that the state designate a state  
15 office to facilitate the state's compliance with the UOCAVA. Other duties may naturally  
16 devolve to local election officials, depending on how the state has structured its election  
17 processes generally.  
18

19 **SECTION 104. EMERGENCY POWERS.** If an international, national, or local  
20 emergency or other situation arises that makes substantial compliance with this [act] or the  
21 Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, as  
22 confirmed by an official declaration by the U.S. Department of State that a state of emergency,  
23 civil unrest, war, or other exigency exists in a foreign country such that a travel warning is  
24 issued, or by an official declaration by [the Governor] that a state of emergency exists in this  
25 State, or by the existence of an armed conflict involving United States Armed Forces, or  
26 mobilization of those forces, including state National Guard and Reserve component members  
27 residing in this State, [the state's chief elections authority] may prescribe, by emergency orders  
28 or rules, such special procedures or requirements as may be necessary to facilitate absentee

1 voting by those absent uniformed services voters or overseas voters directly affected who are  
2 eligible to vote in this State.

### 3 **Reporter's Comment**

4  
5 The starting point for this section was language from the Federal Voting Assistance  
6 Program, which recommends providing states with authority to adjust UOCAVA voting  
7 processes in the event of an emergency. As of 2008, eighteen states had provided some form of  
8 emergency authority to their chief elections official. In accordance with the drafting committee's  
9 discussions in Portland, this draft refines the FVAP language to restrict this emergency authority  
10 to circumstances in which either the U.S. State Department or the state Governor have declared  
11 an emergency, or to times of armed conflict.  
12

13 **SECTION 105. SUPERSEDING OF OTHER PROVISIONS.** The provisions of this  
14 [act] setting out dates, timelines, or deadlines for the submission of a voter registration or  
15 [absentee ballot] application, or the casting, receipt, or counting of an [absentee ballot], to the  
16 extent that they conflict with other provisions of state law, shall supersede and override those  
17 other provisions of state law.  
18

1 [ARTICLE] 2

2 VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROVISIONS

3 SECTION 201. ELIGIBILITY TO VOTE.

4 (a) If the place of residence from which an absent uniformed services voter is absent by  
5 reason of active duty in the uniformed services or service in the merchant marine is within this  
6 State, the voter may register to vote and apply for an [absentee ballot] in this State for all covered  
7 elections.

8 (b) If the last place in which an overseas voter resided before leaving the United States is  
9 within this State, the voter may register to vote and apply for an [absentee ballot] in this State for  
10 all covered elections.

11 (c) In the case of an overseas voter who has never resided in the United States, if  
12 [OPTION A: a parent of the overseas voter is eligible to register to vote in this State/OPTION B:  
13 the last place in which a parent of the overseas voter resided before leaving the United States is  
14 within this State], and the voter has not previously registered to vote in any other state, the voter  
15 may register to vote and apply for an [absentee ballot] in this State.

16 (d) A voter eligible to register to vote under this section shall use the address of the  
17 voter's last place of residence in this State, or, in the case of a voter eligible under subsection (c),  
18 the address of the last place of residence in this State of the voter's parent.

19 **Reporter's Comment**

20  
21 Because the definitions in section 102 track the UOCAVA definitions, they alone do not  
22 determine whether an absent uniformed services voter or overseas voter is eligible to vote in any  
23 particular state under its version of the uniform Act. Section 201 therefore makes their eligibility  
24 to vote depend on their ties to the enacting state.

25  
26 This version of section 201 is drafted to follow "option 1" of the definition of "overseas  
27 voter." If something closer to "option 2" is used, this section should be revised accordingly.  
28

**SECTION 202. REGISTRATION AND [ABSENTEE BALLOT] APPLICATION.**

(a) For any covered election, an absent uniformed services voter or an overseas voter eligible to register to vote under section 201 may use the Federal Post Card Application, as prescribed under the UOCAVA, 42 U.S.C. section 1973ff(b)(2), to register to vote and to request an [absentee ballot] simultaneously.

(b) If an absent uniformed services voter or an overseas voter is already registered to vote in this State, the voter may apply for an [absentee ballot] using either the regular absentee ballot application in use in the voter's jurisdiction, or the Federal Post Card Application described in subsection (a).

(c) To receive the protections of this [act], an absent uniformed services voter or an overseas voter must use the Federal Post Card Application [or the electronic equivalent of this application accepted by the State?] or a Federal Write-in Absentee Ballot.

### Reporter's Comment

The drafting committee may wish to consider how best to rely on the Federal Post Card Application while not complicating a state's ability to develop and use Internet-based methods of accepting voter registration and absentee ballot applications that may not strictly speaking be Federal Post Card Applications.

If the uniform act permits “stateless children” to vote only for candidates for federal office, then some method is needed to distinguish these voters from other overseas voters. Because the current Federal Post Card Application does not require overseas voters to declare whether or not they have previously lived in the United States, one option would be to require, those voters who have not previously lived in the United States to declare this at the time of registration in the portion of the Federal Post Card Application designated for additional information for specific states.

**SECTION 203. STANDING REQUESTS FOR [ABSENTEE BALLOTS].**

(a) If an absent uniformed services voter or overseas voter submits a Federal Post Card Form application, as prescribed under the UOCAVA, 42 U.S.C. section 1973ff(b)(2), and

1 requests that the application be considered an application for an [absentee ballot] for all  
2 subsequent elections for the time period permitted under federal law. [including any runoff  
3 elections that may occur as a result of the outcome of such general elections (legislative note:  
4 only for states with run-offs)], the State shall provide an [absentee ballot] to the voter for each  
5 subsequent covered election, as provided in section 302, for the period required under federal  
6 law, or any longer period elsewhere provided under state law.

7 (b) Subsection (a) does not apply for any election held after the voter notifies the State  
8 that the voter no longer wishes to be registered to vote in this State or after election officials  
9 determine that the voter has registered to vote in another state.

10 **[SECTION 204. UPDATING ADDRESSES/COORDINATION WITH FEDS.?)**

11 **[?mandate the collection of email addresses of these voters?]**  
12

1 **[ARTICLE] 3**

2 **DEADLINES**

3 **SECTION 301. APPLICATIONS FOR [ABSENTEE BALLOTS].** A Federal Post

4 Card Application requesting an [absentee ballot] may be submitted [up to 365 days/at any time]  
5 prior to the election for which it is submitted. An otherwise valid application for an [absentee  
6 ballot] from an absent uniformed services voter or an overseas voter is timely if received by the  
7 later of (a) the 30<sup>th</sup> day before the election, or (b) the last date for other voters in the State to  
8 apply for an [absentee ballot] for the election. [consider making this uniform?]

9 **SECTION 302. TRANSMISSION OF UNVOTED BALLOTS.**

10 (a) For all covered elections, the official charged with preparing and distributing ballots  
11 and election materials in each jurisdiction shall prepare as many [absentee ballots] as may be  
12 necessary as soon as possible after receiving the information concerning candidates [and ballot  
13 measures] to be voted on at an election.

14 **OPTION 1**

15 (b) No later than the \_\_\_\_ day before the election, local election officials shall transmit by  
16 facsimile, email, or Internet transmission, as designated by the voter, an unvoted [absentee  
17 ballot] and related balloting materials to any absent uniformed services voter or overseas voter  
18 who by that date has submitted a valid Federal Post Card Application requesting electronic  
19 transmission of absentee balloting materials.

20 **END OPTION 1**

21 **OPTION 2**

22 (b) (1) No later than the \_\_\_\_ day before the election, jurisdictions not authorized to  
23 transmit or not capable of transmitting absentee balloting materials, including unvoted [absentee

1 ballots], to the voter electronically, by facsimile, email, or Internet connection, as designated by  
2 the voter, shall physically send unvoted [absentee ballots] and related balloting materials to any  
3 absent uniformed services voter or overseas voter who by that date has submitted a valid Federal  
4 Post Card Application for an [absentee ballot].

5 (b) (2) No later than the \_\_\_\_ day before the election, jurisdictions authorized to transmit  
6 and capable of transmitting absentee balloting materials, including unvoted [absentee ballots], to  
7 the voter electronically, by facsimile, email, or Internet connection, as designated by the voter,  
8 shall transmit them to any absent uniformed services voter or overseas voter who by that date has  
9 submitted a valid Federal Post Card Application requesting electronic transmission of absentee  
10 balloting materials.

## 11 **END OPTION 2**

12 (c) With respect to absent uniformed services voters or overseas voters whose Federal  
13 Post Card Applications arrive after the jurisdiction has begun transmitting absentee balloting  
14 materials to voters, the official charged with distributing ballots and election materials shall  
15 transmit to these voters their absentee balloting materials [as promptly as possible/within three  
16 days of receiving the application].

17 **SECTION 303. CASTING OF BALLOTS.** To be valid, an [absentee ballot] from an  
18 absent uniformed services voter or overseas voter must be [cast/marked and  
19 sealed/submitted/transmitted by the voter] no later than 11:59 p.m. local time (in the place where  
20 the voter is completing the ballot) on the day before the day of the election. If at the time of  
21 completing the balloting materials the voter has affirmed under penalty of perjury, as provided in  
22 section 601, that the [absentee ballot] was timely [cast/marked and sealed/  
23 submitted/transmitted,] the ballot may not be rejected on the basis that it lacks a postmark

1 showing that it was cast before the day of the election.

2 **SECTION 304. RECEIPT OF VOTED BALLOTS.**

3 **OPTION 1**

4 A valid [absentee ballot] cast by an absent uniformed services voter or an overseas voter  
5 must be counted if the appropriate state or local elections official receives it by [noon/the close  
6 of business] on the 10<sup>th</sup> [business ??] day after the day of the election.

7 **END OPTION 1**

8 **OPTION 2**

9 (a) If by the \_\_\_ day before the election [absentee ballots] have been transmitted to all  
10 absent uniformed services voters and overseas voters who have by then requested them, a valid  
11 [absentee ballot] cast by an absent uniformed services voter or an overseas voter must be  
12 received by the appropriate state or local elections official by election day in order to be counted.

13 (b) If by the \_\_\_ day before the election [absentee ballots] have not been transmitted to  
14 all absent uniformed services voters and overseas voters who have by then requested them, a  
15 valid [absentee ballot] cast by an absent uniformed services voter or an overseas voter must be  
16 counted if the appropriate state or local elections official receives it by [noon/the close of  
17 business] on the 10<sup>th</sup> [business??] day after the day of the election.

18 **END OPTION 2**



1 **[ARTICLE] 4**

2 **USE OF ELECTRONIC TRANSMISSION METHODS**

3 **SECTION 401. ELECTRONIC TRANSMISSION OF REGISTRATION AND**

4 **[ABSENTEE BALLOT] APPLICATIONS.** In addition to any other method of registering to  
5 vote or applying for an [absentee ballot], an absent uniformed services voter or an overseas voter  
6 may submit a Federal Post Card Application by facsimile, email, or Internet transmission, in the  
7 manner directed by the [state's chief elections officer], which appropriately protects the integrity  
8 of the transmission and the privacy of personal data contained in the application.

9 **SECTION 402. ELECTRONIC TRANSMISSION OF UNVOTED BALLOTS AND**

10 **OTHER VOTING MATERIALS.** Either directly or in coordination with the [state's chief  
11 elections authority], local election jurisdictions shall use facsimile, email, or Internet  
12 transmission, as chosen by the voter and in the manner directed by the [state's chief elections  
13 officer], to transmit unvoted [absentee ballots] and related balloting materials to those absent  
14 uniformed services voters and overseas voters who have requested to receive them electronically.  
15 [When reasonably possible, local election jurisdictions that maintain a presence on the Internet  
16 shall make available on their Internet site downloadable versions of [absentee ballots] and voting  
17 instructions for absent uniformed services voters and overseas voters, as well as the most  
18 updated state and local election ballot listing, as required under section 501.]

19 **SECTION 403. CONFIRMATION OF RECEIPT OF APPLICATIONS AND**

20 **VOTED BALLOTS.** The [state's chief elections authority], in coordination with local election  
21 jurisdictions, shall develop an electronic system by which absent uniformed services voters and  
22 overseas voters may determine, either by telephone or Internet access, whether their Federal Post  
23 Card Application has been received and accepted, and whether their [absentee ballot] has been

1 received [and counted?].

2

1 [ARTICLE] 5

2 WRITE-IN ABSENTEE BALLOT PROVISIONS

3 SECTION 501. STATE AND LOCAL ELECTION BALLOT LISTING.

4 (a) No later than 180 days before a covered election, the official in each jurisdiction  
5 charged with printing and distributing ballots and election materials shall prepare a state and  
6 local election ballot listing for that jurisdiction, to be used in conjunction with the Federal Write-  
7 in Absentee Ballot identified in section 502. The state and local election ballot listing shall  
8 contain a list of all of the state and local offices [and ballot measures] that the official expects to  
9 be before the voters in that jurisdiction on the date of the election, with specific instructions for  
10 how a voter is to write in on the Federal Write-in Absentee Ballot the voter's choice for each  
11 office to be filled [and ballot measure to be contested].

12 (b) An absent uniformed services voter or an overseas voter may request, not earlier than  
13 180 days before a covered election, a copy of the state and local election ballot listing, which  
14 shall be delivered to the voter by facsimile, email, Internet transmission, or regular mail, as the  
15 voter requests.

16 (c) As soon as regular [absentee ballots] are printed, and no later than the date when  
17 regular [absentee ballots] are required to be transmitted to absentee voters, the official charged  
18 with preparing a state and local election ballot listing shall update the listing with the certified  
19 candidates [and text of ballot measures] for each race.

20 SECTION 502. ACCEPTANCE OF FEDERAL WRITE-IN ABSENTEE  
21 BALLOT.

22 (a) In any covered election, an absent uniformed services voter or an overseas voter may  
23 use the Federal Write-In Absentee Ballot approved under the UOCAVA, 42 U.S.C. section

1973ff, if the voter affirms that: (1) the voter submitted a Federal Post Card Application requesting an [absentee ballot] in time to be received by the later of (a) the 30<sup>th</sup> day before the election, or (b) the last date for other voters in the State to apply for an [absentee ballot] for the election; and (2) the voter has not received the requested [absentee ballot].

(b) In any covered election, an absent uniformed services voter or an overseas voter may use the Federal Write-In Absentee Ballot transmission envelope's voter declaration as a request for registration and an application for an [absentee ballot] simultaneous with the submission of the Federal Write-In Absentee Ballot. The request for registration and application for an [absentee ballot] shall be accepted if: (1) it is received by the later of (a) the 30<sup>th</sup> day before the election, or (b) the State's last day for registering to vote; and (2) the voter is otherwise eligible to vote in the jurisdiction to which the request is submitted.

1 [ARTICLE] 6

2 BURDEN REDUCTION PROVISIONS

3 SECTION 601. AUTHENTICATION REQUIREMENTS.

4 (a) To assist in the authentication of the eligibility and accuracy of a voter registration  
5 application, [absentee ballot] application, and completed [absentee ballot] of an absent  
6 uniformed services voter or an overseas voter, the voter shall execute a declaration, such as the  
7 UOCAVA affirmation prescribed under 42 U.S.C. section 1973ff(b)(7), affirming that a material  
8 misstatement of fact in the completion of such a document may constitute grounds for a  
9 conviction for perjury under the laws of the United States and this State. The [state’s chief  
10 elections authority] shall ensure that an appropriate form for the execution of this declaration,  
11 including the date of its execution, is a prominent part of each document for which this  
12 declaration is required.

13 (b) No notarization or authentication requirement other than the declaration specified in  
14 subsection (a) may be required for the execution of any document under this [act].

15 Reporter’s Comment

16  
17 The affirmation currently prescribed by the Federal Voting Assistance Program may not  
18 quite capture everything that the drafting committee desires, in that by omitting the phrase  
19 “under the laws of the United States and this State” the form of this affirmation may not  
20 completely comport with the form recommended in the ULC’s Uniform Unsworn Foreign  
21 Declarations Act. In addition, the committee may conclude that states with their own Internet-  
22 based registration systems may wish to rely on those systems, rather than the Federal Post Card  
23 Application, in which case the state may also need to incorporate its own affirmation into its  
24 electronic registration system.  
25

26 SECTION 602. NON-ESSENTIAL REQUIREMENTS. Elements of the absentee  
27 balloting process not essential to identifying the identity and eligibility of the voter shall not be  
28 enforced to deprive an absent uniformed services voter or an overseas voter of the opportunity to

1 cast a valid ballot. Any abbreviation, misspelling, or other minor variation in the form of the  
2 name of a candidate or a political party shall be disregarded in determining the validity of a  
3 write-in ballot cast by an absent uniformed services voter or an overseas voter, if the intention of  
4 the voter can be ascertained.

5

**[ARTICLE] 7**

## ENFORCEMENT

**SECTION 701. ISSUANCE OF INJUNCTIONS.** The courts of this State have

jurisdiction to issue injunctions or grant any other equitable relief appropriate to enforce the

provisions of this [act] upon application by any registered voter of the State or by any person

alleging eligibility to register to vote under this [act], and any registered voter of the State or any

person alleging eligibility to register to vote under this [act] has standing to seek injunctive or

any other equitable relief appropriate to enforce the provisions of this [act].

1 [ARTICLE] 8

2 MISCELLANEOUS PROVISIONS

3 SECTION 801. APPLICATION AND CONSTRUCTION.

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

6 (b) The provisions of this [act] are designed to facilitate, and should be read in harmony  
7 with, the federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act  
8 (UOCAVA, 42 U.S.C. section 1973ff *et seq.*).

9 SECTION 802. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
10 AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal  
11 Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, *et seq.*)  
12 but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or  
13 authorize electronic delivery of any of the notices described in Section 103(b) of that act (15  
14 U.S.C. Section 7003(b)).

15 SECTION 803. EFFECT ON OTHER STATE AND LOCAL LAWS. The exercise  
16 of any right under this [act] shall not by itself affect, for purposes of any state or local tax law, or  
17 other non-election provision of law where the residence or domicile is a factor, the residence or  
18 domicile of the person exercising the right.

19 SECTION 804. REPEALS.

20 The following acts and parts of acts are hereby repealed:

21 (1) .....

22 (2) .....

23 (3) .....



1           **SECTION 805. EFFECTIVE DATE.** This [act] takes effect . . . .