

D R A F T

FOR DISCUSSION ONLY

UNIFORM MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For March 12 – 14, 2010 Drafting Committee Meeting

*With Prefatory Note and Reporter's Comments;
Includes Style Committee Changes*

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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February 19, 2010

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

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

3
4 **PREFATORY NOTE**
5

6 Approximately six million military personnel and overseas civilians face a variety of
7 legal and logistical obstacles to participating in American elections, notwithstanding repeated
8 congressional efforts – most prominently the enactment of the Uniformed and Overseas Citizens
9 Absentee Voting Act of 1986 (UOCAVA), and its amendment with the Military and Overseas
10 Voter Empowerment Act of 2009 (MOVE) – as well as various state efforts to facilitate these
11 voters’ ability to vote. These obstacles include difficulties in registering to vote from abroad;
12 ballots or ballot applications that never arrive; frequent changes of address; incredibly slow mail
13 delivery times to and from overseas citizens, especially military personnel; failures to complete
14 absentee voting materials properly, including noncompliance with notarization or verification
15 requirements that can be difficult to meet abroad; and difficulties in obtaining information about
16 candidates.
17

18 As evidence of the problems that these voters face, figures from the 2006 federal election
19 indicated that although U.S. military personnel were slightly more likely to have registered to
20 vote than the general U.S. population (87% vs. 83%), the voter participation rate among the
21 military was about half that of the general population (roughly 20% vs. roughly 40%), meaning
22 that more than one million service members did not vote. Furthermore, in 2006 only 25% of
23 military voters who requested an absentee ballot completed and returned one (compared to 85%
24 of all voters who requested an absentee ballot). Meanwhile, more than 20% of military
25 personnel who did return a ballot had their ballot rejected. [Although the figures were less stark
26 during the high-interest 2008 presidential election, that and other recent elections reflect a similar
27 pattern.]
28

29 There is strong popular support among the American public for the idea that voting
30 should be much easier and more reliable than it is for these voters. A 2008 public opinion survey
31 conducted for the Pew Center on the States found “strong universal support . . . across age,
32 regional, and party lines” for the idea that military and overseas voters should be able to
33 participate in elections “back home.” A variety of stakeholders who participated in the ULC
34 drafting process for this Act were overwhelmingly of a similar disposition.
35

36 In important part, the obstacles that overseas and military voters face can be traced to the
37 fact that American elections are conducted at the state and local levels under procedures that
38 often vary dramatically by jurisdiction. This lack of uniformity complicates any federal effort,
39 such as the UOCAVA, to assist these voters to surmount the other primary obstacles that they
40 face. For instance, while some states permit overseas absentee ballots to arrive up to ten days
41 after Election Day and still be counted, other states require that all absentee ballots, including
42 those from overseas, be received by Election Day. Meanwhile, some states permit overseas and
43 military voters to request, and in a smaller number of cases also to cast, an absentee ballot
44 electronically, but other states require transmission by regular mail. A minority of states requires
45 a notary or other witness to vouch for the absentee voter’s execution of the absentee ballot
46 affirmation. These and other variations across states both complicate the procedures developed

1 under the UOCAVA to help overseas and military voters, and make it difficult for consular
2 officials, the U.S. military, and non-governmental voting assistance groups to give standard
3 advice to these voters.
4

5 In confronting these problems, this Act has two independent purposes that can only be
6 achieved through uniform state legislation. The first is to extend to state elections the assistance
7 and protections for military and overseas voters currently found in federal law, which covers
8 only biennial federal elections. The second is to bring greater uniformity to the military and
9 overseas voting processes, which the several states will continue to have primary responsibility
10 for administering, in both federal and non-federal elections. In addition to these two primary
11 purposes, many provisions of the Act also enhance the assistance and protections provided to
12 military and overseas voters, wherever this can be done without compromising the integrity of
13 the voting process or imposing inappropriately on election officials.
14

15 Critical to both enhancing and bringing uniformity to the voting process for military
16 and overseas voters is establishing adequate time for this group of voters to request, receive, and
17 return a ballot. Directly related to the amount of time needed to accomplish these voting
18 processes is the extent to which electronic transmission mechanisms are employed. The Act
19 requires that electronic transmission methods be available for purposes of requesting and
20 receiving unvoted ballots, but does not require the use of electronic means for transmitting voted
21 ballots. This is because no consensus yet exists on the question of whether and how electronic
22 voting can occur securely and privately. However, using electronic transmission methods for
23 just those steps in the absentee voting process prior to the casting of a ballot (such as registering
24 to vote, requesting an absentee ballot, and receiving a blank ballot) can alone dramatically reduce
25 the time required to permit these voters to vote successfully.
26

27 Without uniform state legislation, military and overseas voters will continue to confront
28 a panoply of diverging voting requirements, notwithstanding the important role that UOCAVA
29 has played in facilitating military and overseas voting in federal elections for more than two
30 decades, and the additional enhancements that the MOVE Act of 2009 will provide.
31 Accordingly, this Act should be widely adopted both to simplify the voting process for these
32 voters, and to extend similar protections to state elections not covered by existing federal law.
33

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

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

5 Services and Overseas Civilian Absentee Voters Act.

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

7 (1) “Absent uniformed service voter” means:

8 (A) a member of a uniformed service described in paragraph (6)(A) who is on
9 active duty and absent from the place where the member is otherwise qualified to vote;

10 (B) a member of a uniformed service described in paragraph (6)(B) who is, while
11 in service, absent from the place where the member is otherwise qualified to vote;

12 (C) a member of a uniformed service described in paragraph (6)(C) who is in
13 activated status and absent from the place where the member is otherwise qualified to vote; or

14 (D) a spouse or dependent of a member referred to in paragraphs (1)(A) through
15 (C) who is absent from the place where the spouse or dependent is otherwise qualified to vote.

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

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

19 (A) a federal write-in absentee ballot described in Section 11;

20 (B) a ballot specifically prepared or distributed for the use of an absent uniformed
21 service voter or overseas voter in accordance with this [act]; or

22 (C) a ballot cast by an absent uniformed service voter or overseas voter in
23 accordance with this [act].

24 (4) “Overseas voter” means a United States citizen who is outside the United States and
25 qualifies under Section 5.

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

4 (6) “Uniformed service” means:

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

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

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

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

14 **Reporter’s Comment**

15
16 The Act’s definition of the terms “absent uniformed service voter” and “overseas voter”
17 builds upon the definitions of these same terms in the Uniformed and Overseas Citizens
18 Absentee Voting Act (“UOCAVA”), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions
19 and expands them to cover members of the National Guard and, in Section 5, to U.S. citizens
20 born abroad who have not established a voting residency in the United States. However, unlike
21 in the UOCAVA, the Act’s coverage of absent uniformed service voters is based on a voter’s
22 status as an active member of one of the defined services, whether or not that service is the
23 reason that the voter is absent from the place of voting. The definition of “absent uniformed
24 service voter” does not specify that the place where the voter is qualified to vote be in the
25 enacting state because that would create a problem for a spouse (or dependent) who is eligible to
26 vote in this state but whose uniformed service member is eligible in another state. An absent
27 uniformed service voter still must meet an enacting state’s eligibility requirements (including
28 residency in that state) in order to vote in that state.
29

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

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

1 federal office;

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

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

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

13 14 **Reporter’s Comment**

15
16 The first category of elections delineated in this section is the only category covered by
17 the UOCAVA. However, even for these elections, this Act provides additional accommodations
18 to military and overseas voters that are not provided under the UOCAVA. The second and third
19 categories of state and local elections extend the Act’s accommodations to non-federal elections
20 not within the UOCAVA scope. These two categories are distinguished primarily to permit an
21 enacting state more easily to consider providing different accommodations to military and
22 overseas voters depending on the type of election.

23 24 25 **SECTION 4. ROLE OF [SECRETARY OF STATE].**

26 (a) The [Secretary of State] is the state official responsible for implementing this [act]
27 and the state’s responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act,
28 42 U.S.C. Section 1973ff, et seq.

29 (b) The [Secretary of State] shall make information regarding voter registration
30 procedures and military-overseas balloting procedures under this [act] available to all absent
31 uniformed service voters and overseas voters who wish to register to vote or vote in any
32 jurisdiction in this state. The [Secretary of State] may delegate this responsibility only to the

1 state office designated in compliance with the Uniformed and Overseas Citizens Absentee
2 Voting Act, 42 U.S.C. Section 1973ff-1(b)(1).

3 (c) The [Secretary of State] shall develop standardized absentee voting materials,
4 including privacy and transmission envelopes and their electronic equivalents, authentication
5 materials, and voting instructions, to be used in conjunction with the military-overseas ballot of a
6 voter voting in any jurisdiction within this state and, to the extent reasonably possible, shall do so
7 in coordination with other states.

8 **Reporter's Comment**

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

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

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

32
33 The "electronic equivalent" of privacy envelopes and transmission envelopes means at a
34 minimum a template or instructions to accompany the electronic delivery of an unvoted ballot
35 that assist the voter to prepare and use appropriate envelopes to return the voter's marked ballot
36 if the voter is returning the ballot physically through the mail. If a state is allowing a voter to
37 return a marked ballot electronically, the state should employ digital encryption or other security
38 measures to provide comparable protection of the secrecy of the marked ballot.

1 **SECTION 5. OVERSEAS VOTER’S ELIGIBILITY TO VOTE.**

2 (a) An overseas voter is eligible to vote in this state if the last place where the voter was,
3 or if then of voting age would have been, eligible to vote before leaving the United States is
4 within this state.

5 (b) An overseas voter who was born outside the United States and is not described in
6 subsection (a) is eligible to vote in this state if:

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

9 (2) the voter has not previously registered to vote in any other state.

10 (c) In registering to vote, an overseas voter who is eligible to vote in this state shall use,
11 and be assigned to the voting [precinct] [district] of, the address of the last place of residence of
12 the voter in this state, or, in the case of a voter eligible under subsection (b), the address of the
13 last place of residence in this state of the parent or guardian of the voter.

14 **Reporter’s Comment**

15
16 This section builds upon the UOCAVA definition of “overseas voter” and extends it to
17 U.S. citizens abroad who have never resided in one of the fifty states for purposes of establishing
18 a voting residency. This section also assigns to the voter an address in the state to be used as the
19 voter registration address. The section makes no distinction between voters temporarily overseas
20 and voters permanently overseas, although other provisions of an enacting state’s existing law
21 may do so and may limit the elections in which voters permanently overseas can vote. Without
22 such distinctions elsewhere in existing state law, this Act would enable all overseas voters to
23 vote in all elections covered in section 3.

24
25
26 **SECTION 6. FORM OF REGISTRATION AND APPLICATION FOR**
27 **MILITARY-OVERSEAS BALLOT.**

28 (a) For any election to which this [act] applies, an absent uniformed service voter or an
29 overseas voter may use a federal post card application, as prescribed under the Uniformed and

1 Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff(b)(2), or its electronic
2 equivalent, to apply to register to vote and simultaneously to request a military-overseas ballot.

3 (b) If an absent uniformed service voter or an overseas voter is registered to vote in this
4 state, the voter may apply for a military-overseas ballot for any election to which this [act]
5 applies using the regular [absentee ballot] application in use in the voter's jurisdiction under
6 [insert state law on regular absentee ballots] or the federal post card application or its electronic
7 equivalent.

8 (c) The [Secretary of State] shall ensure that when a jurisdiction receives a regular
9 [absentee ballot] application appearing to be from an absent uniformed service voter or an
10 overseas voter, the jurisdiction seeks to collect sufficient information, by forwarding to the voter
11 a federal post card application or otherwise, to confirm whether the applicant is an absent
12 uniformed service voter or an overseas voter, and whether the voter desires to receive a military-
13 overseas ballot electronically. The [Secretary of State] shall use reasonable efforts to minimize
14 the information necessary, standardize its collection, and streamline the military-overseas ballot
15 application process.

16 [(d) This [act] does not preclude a voter from voting under [insert state law on regular
17 absentee voting.]

18 **Reporter's Comment**

19
20 This section is designed to encourage the use of the federal post card application while
21 yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit
22 states to develop alternative forms if they wish. However, the section is not intended to require
23 states or local election jurisdictions to revise their existing forms, or to prepare new forms for
24 voters covered under this Act. Instead, to the extent that a state's existing forms do not collect
25 sufficient information to properly classify overseas and military voters, this section invites the
26 state to ask voters who use the state forms to also complete the FPCA as a supplement.
27
28
29

1 **SECTION 7. ELECTRONIC TRANSMISSION OF REGISTRATION AND**

2 **APPLICATION FOR MILITARY-OVERSEAS BALLOT.** The [Secretary of State] shall
3 establish an electronic transmission method by which an absent uniformed service voter or an
4 overseas voter may submit a federal post card application, as described in Section 6(a), or other
5 registration or military-overseas ballot application to the appropriate election official. The voter
6 may use the electronic transmission method or any other method to register to vote or apply for a
7 ballot.

8 **Reporter’s Comment**
9

10 The electronic transmission method established under this section should be designed to
11 protect the integrity of the transmission and the privacy of the voter’s personal data contained in
12 the transmission. To a similar end, the recent amendments to UOCAVA include provisions
13 requiring that “to the extent practicable,” electronic transmission methods “shall ensure that the
14 privacy of the identity and other personal data of an absent uniformed services voter or overseas
15 voter is protected” and also shall “protect the security and integrity of the transmission.”
16
17

18 **SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-**

19 **OVERSEAS BALLOT.** An application for a military-overseas ballot under this [act] is timely
20 if received by [the later of the 15th day before the next election or the last day for other voters in
21 this state to apply for an [absentee ballot] for the next election]. [The application is effective for
22 a runoff election necessary to conclude the election for which the application was submitted.]
23 An application for a military-overseas ballot for a primary election is effective as an application
24 for a military-overseas ballot for the next general election.

25 ***Legislative Note:** The bracketed language about a runoff election is only for states with runoff*
26 *elections.*
27

28 **Reporter’s Comment**
29

30 Many states accept regular absentee ballot applications up until just a few days before an
31 election, or later. Because military and overseas voters can use electronic transmission methods
32 both to request and to receive blank ballots, this section allows them to take advantage of an

1 application deadline close to the election.
2
3

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

5 (a) For all elections to which this [act] applies, not later than 45 days before the election,
6 the official charged with distributing a ballot and balloting materials in each jurisdiction shall
7 transmit ballots and balloting materials to all absent uniformed service voters and overseas voters
8 who by that date submit a valid military-overseas ballot application.

9 (b) An absent uniformed service voter or overseas voter who requests a ballot and
10 balloting materials by electronic transmission may choose facsimile transmission or electronic
11 mail delivery, or, if offered by the voter's jurisdiction, Internet delivery. The official charged
12 with distributing a ballot and balloting materials in each jurisdiction shall transmit the ballot and
13 balloting materials to the voter using the means chosen by the voter.

14 (c) If a ballot application from an absent uniformed service voter or overseas voter arrives
15 after the jurisdiction begins transmitting ballots and balloting materials to voters, the official
16 charged with distributing a ballot and balloting materials shall transmit them to the voter not later
17 than two business days after the application arrives.

18 **SECTION 10. TIMELY CASTING OF BALLOT.** For the military-overseas ballot to
19 be valid, the voter must submit the ballot for mailing[, electronic transmission,] or other
20 authorized means of delivery not later than 12:01 a.m., measured in the place where the voter
21 completes the ballot, on the date of the election.

22 **Reporter's Comment**
23

24 Requiring that the ballot be completed by one minute after midnight local time on
25 Election Day ensures that no voter anywhere in the world will be able to cast a vote with
26 knowledge of the election night returns of the jurisdiction whose ballot the voter is voting.
27

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

(a) An absent uniformed service voter and overseas voter may use the federal write-in absentee ballot, in accordance with 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.

(b) An absent uniformed service voter or overseas voter may use the declaration on the federal write-in absentee ballot transmission envelope as a request for registration and an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if 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 voter simultaneous registration and ballot application, as well as a ballot, using the same deadline that section 8 uses for applying for a military-overseas ballot, not a state's registration deadline. Voters may use the FWAB as a simultaneous voter registration only if they have already attempted to register (and affirm 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.

SECTION 12. RECEIPT OF VOTED BALLOT.

(a) A valid military-overseas ballot cast in accordance with Section 10 must be counted if it has been delivered to the address that the appropriate state or local election office has specified by the end of business the day before the latest deadline for completing the [insert name of local canvass or tabulation that creates the final official results].

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

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

Legislative Note: *Enacting states will need to ensure that the perjury laws of the enacting state include unsworn declarations.*

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.

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.

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

(b) The declaration must read substantially as follows:

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

1. I am a member of the uniformed services, an eligible spouse or dependent of such a member, or a United States citizen residing outside the United States,

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

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

4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States,

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

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

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

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

Signature

Date _____

Printed Name”

(c) The [Secretary of State] shall ensure that an appropriate form for the execution of the declaration specified in subsection (b), including the date of its execution, is a prominent part of each ballot transmission envelope for which this declaration is required.

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

1 **Legislative Note:** *Enacting states will need to ensure that the perjury laws of the enacting state*
2 *include unsworn declarations.*

3 **Reporter's Comment**
4

5 [The declaration language closely tracks the language of the federal write-in absentee
6 ballot declaration. Adding to the Act's declaration the language "I have voted my ballot before
7 12:01 a.m. on the date of the election" may be problematic because it is not on the FWAB, and
8 likely could not be on the FWAB because of states that accept FWABs cast on Election Day.]
9

10 **SECTION 14. CONFIRMATION OF RECEIPT OF APPLICATION AND**

11 **VOTED BALLOT.** The [Secretary of State], in coordination with local election officials, shall
12 implement an electronic free-access system by which an absent uniformed service voter or
13 overseas voter may determine by telephone, electronic mail, or Internet access, whether the
14 voter's federal post card application or other registration or military-overseas ballot application
15 has been received and accepted and whether the voter's military-overseas ballot has been
16 received and the current status of the ballot.

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

18 [(a)] The local election jurisdiction in which an absent uniformed service voter or
19 overseas voter registers to vote shall request that the voter provide an individual electronic mail
20 address. An individual electronic mail address provided by an absent uniformed service voter or
21 overseas voter is exempt from disclosure under the [public records laws of this state] and shall
22 not become part of the publicly available voting registration data file or election management
23 system. An election official may not release a voter's electronic mail address to a third party.
24 An election official may use the address only to confirm the present address of the voter and to
25 communicate with the voter about the voting process, including transmitting military-overseas
26 ballots and election materials if the voter has requested electronic transmission. A request for an
27 individual electronic mail address under this section must describe the purpose for which the

1 electronic mail address will be used and that any other use or disclosure is prohibited.

2 [(b) An absent uniformed service voter or overseas voter who provides an electronic mail
3 address may request that the voter's application for a military-overseas ballot be considered a
4 standing request for electronic delivery of a ballot for all elections held during the 365 days
5 following the date of the application, or through the completion of the next federal general
6 election after the voter submits the application, whichever is longer[, including for any runoff
7 elections that may occur as a result of the outcome of such elections]. An election official shall
8 provide a military-overseas ballot to a voter who makes the request for each election to which the
9 request is applicable.

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

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

15 **Reporter's Comment**

16
17
18 Subsection (a) facilitates the collection of voter e-mail addresses, but depends on assuring
19 voters that their addresses will not become available for the use of political campaigns and
20 marketers. Subsection (b) then ties a voter's ability to make a standing request for a military-
21 absentee ballot to the voter's provision of an e-mail address. This approach is intended to reduce
22 the large quantity of election material that was returned as undeliverable when sent out in
23 hardcopy to an outdated physical address under the UOCAVA provision that permitted voters to
24 make a standing request for absentee ballots for two federal election cycles.
25

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

27 (a) Not later than 100 days before a regularly scheduled election to which this [act]
28 applies, and as soon as practicable in the case of an election not regularly scheduled, the official
29 in each jurisdiction charged with printing and distributing ballots and balloting material shall

1 prepare an election notice for that jurisdiction, to be used in conjunction with the federal write-in
2 absentee ballot described in Section 11. The election notice must contain a list of all of the
3 federal, state, and local offices [and ballot measures] that as of that date the official expects to be
4 on the ballot on the date of the election. The notice also must contain specific instructions for
5 how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office
6 to be filled [and for each ballot measure to be contested].

7 (b) An absent uniformed service voter or an overseas voter may request a copy of the
8 election notice, which must be sent to the voter by facsimile, electronic mail, or regular mail, as
9 the voter requests.

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

15 (d) A local election jurisdiction that maintains an Internet website shall {use reasonable
16 efforts to} make updated versions of its election notices regularly available on its Internet
17 website.

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

21 **Reporter's Comment**

22
23
24 This section ensures that election jurisdictions facilitate voting by making candidate
25 names readily and quickly available to overseas and military voters.
26

27 **SECTION 17. NONESSENTIAL REQUIREMENTS.** A voter's mistake or omission

1 in the completion of any document under this [act] or a failure to satisfy a nonessential
2 requirement, such as paper or envelope size and weight, that does not prevent determining the
3 eligibility of an absent uniformed service voter or an overseas voter does not invalidate the
4 document. If the intention of the voter is discernable under this state's uniform voter intention
5 standards as required by the Help America Vote Act, 42 U.S.C. Section 15481(a)(6), an
6 abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a
7 political party must be accepted as a valid vote in any write-in ballot authorized by this [act] [or
8 in any vote for a write-in candidate on a regular ballot].

9 **[SECTION 18. EXIGENT CIRCUMSTANCES.** If the Governor determines an
10 international, national, state, or local emergency or other situation exists that makes substantial
11 compliance with this [act] or the Uniformed and Overseas Citizens Absentee Voting Act, 42
12 U.S.C. Section 1973ff et seq., impossible or impracticable, the Governor [directly or by
13 delegation to the [Secretary of State], may establish, by emergency order or rule, a special
14 procedure or requirement to facilitate voting by eligible uniformed service voters or overseas
15 voters directly affected. The [Secretary of State] shall take reasonable steps to provide absent
16 uniformed service voters and overseas voters with timely notice of any special procedure or
17 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 providing states with authority to adjust UOCAVA voting
22 processes in the event of an emergency. As of 2008, eighteen states had provided some form of
23 emergency authority to their chief elections official.
24

25 The drafting committee anticipates that exigent circumstances under this section could
26 exist as a result of armed conflict involving United States Armed Forces or the mobilization of
27 those forces, including State National Guard and Reserve component members of this state, or by
28 the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or
29 other exigency in a foreign country, or by an official declaration by the governor that a state of

1 emergency exists.

2
3 [This section is bracketed to reflect the drafting committee's current division about
4 whether to include it, to exclude it and instead focus on the possibility of judicial intervention in
5 exigent circumstances, or to include it but only as a bracketed section in the final draft for each
6 state to consider depending on what that state's existing general emergency powers are.]
7

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

9 The court may issue an injunction or grant other equitable relief appropriate to enforce this [act]
10 on application by:

11 (1) a registered voter of this state;

12 (2) a person alleging to be a registered voter of this state or to be eligible under this [act]
13 to register to vote in this state; or

14 (3) an election official in this state.

15 **SECTION 20. EFFECT ON OTHER STATE AND LOCAL LAWS.** The exercise of
16 any right under this [act] may not be used to affect the residence or domicile of the person
17 exercising the right under a state or local law in which the resident or domicile of a person is a
18 factor other than an election law.

19 **SECTION 21. HARMONIZATION WITH FEDERAL LAW.** This [act] must be
20 construed in harmony with the Uniformed and Overseas Citizens Absentee Voting Act, 42
21 U.S.C. Section 1973ff, et seq., as amended.

22 **SECTION 22. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
23 applying and construing this uniform act, consideration must be given to the need to promote
24 uniformity of the law with respect to its subject matter among states that enact it.

25 **SECTION 23. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
26 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal

1 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,
2 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
3 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
4 U.S.C. Section 7003(b).

5 **[SECTION 24. REPEALS.**

6 The following are repealed:

7 (1)

8 (2)

9 (3)]

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