

D R A F T
FOR DISCUSSION ONLY

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*

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ON UNIFORM STATE LAWS

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~~February 18, 2010~~

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MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT

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MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT

PREFATORY NOTE

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

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

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

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

officials, the U.S. military, and non-governmental voting assistance groups to give standard advice to these voters.

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

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

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

SECTION 1. SHORT TITLE. This [act] may be cited as the Military Services and

Overseas Civilian Absentee Voters Act.

SECTION 2. DEFINITIONS. In this [act]:

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

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

(B) a member of a uniformed service described in ~~paragraph (6)~~(B) who is, while

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1 in service, absent from the place where the member is otherwise qualified to vote;
2 (C) a member of a uniformed service described in paragraph (6)(C) who is in
3 activated status and absent from the place where the member is otherwise qualified to vote; or
4 (D) a spouse or dependent of a member referred to in paragraphs (1)(A) through
5 (C) who is absent from the place where the spouse or dependent is otherwise qualified to vote.

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6 (2) "Dependent" means a person recognized as a dependent by the applicable uniformed
7 service.

8 (3) "Military-overseas ballot" means:

9 (A) a federal write-in absentee ballot described in Section 11;
10 (B) a ballot specifically prepared or distributed for the use of an absent uniformed
11 service voter or overseas voter in accordance with this [act]; or
12 (C) a ballot cast by an absent uniformed service voter or overseas voter in
13 accordance with this [act].

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14 (4) "Overseas voter" means a United States citizen who is outside the United States and
15 qualifies under Section 5.

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

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19 (6) "Uniformed service" means:

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

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

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1 United States; and

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

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

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6 Reporter’s Comment

7
8 The Act’s definition of the terms “absent uniformed service voter” and “overseas voter”
9 builds upon the definitions of these same terms in the Uniformed and Overseas Citizens
10 Absentee Voting Act (“UOCAVA”), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions
11 and expands them to cover members of the National Guard and, in Section 5, to U.S. citizens
12 born abroad who have not established a voting residency in the United States. However, unlike
13 in the UOCAVA, the Act’s coverage of absent uniformed service voters is based on a voter’s
14 status as an active member of one of the defined services, whether or not that service is the
15 reason that the voter is absent from the place of voting. The definition of “absent uniformed
16 service voter” does not specify that the place where the voter is qualified to vote be in the
17 enacting state because that would create a problem for a spouse (or dependent) who is eligible to
18 vote in this state but whose uniformed service member is eligible in another state. An absent
19 uniformed service voter still must meet an enacting state’s eligibility requirements (including
20 residency in that state) in order to vote in that state.
21

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

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

24 federal office;

25 (2) a general, special, [recall,] [or] primary [or runoff] election for statewide or state

26 legislative office [or state ballot measure]; and

27 (3) a general, special, [recall,] [or] primary [or runoff] election for local government

28 office [or local ballot measure] conducted under [insert relevant state law] [for which

29 absentee voting or voting by mail is available for other voters].

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30 **Legislative Note:** The bracketed language in subsections (1), (2), and (3) pertaining to
31 presidential preference, recall, and runoff elections and state or local ballot measures is only for
32 states with such elections or measures. In subsection (3) the bracketed reference to “relevant

state law” refers to the portion of the state election code (or equivalent state statute) that governs the conduct of local elections, to the extent that an enacting state wishes to include local elections in the coverage of this Act.

Reporter’s Comment

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

SECTION 4. ROLE OF [SECRETARY OF STATE].

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

(b) The [Secretary of State] shall make information regarding voter registration procedures and military-overseas balloting procedures under this [act] available to all absent uniformed service voters and overseas voters who wish to register to vote or vote in any jurisdiction in this state. The [Secretary of State] may delegate this responsibility only to the state office designated in compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff-1(b)(1).

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

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[The state’s chief election authority]:

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(b) is the chief state official responsible for implementing

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Reporter's Comment

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

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

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

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

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SECTION 5. OVERSEAS VOTER’S ELIGIBILITY TO VOTE.

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

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

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(1) the last place where a parent or guardian of the voter was, or under this [act]

would have been, eligible to vote before leaving the United States is within this state, and

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

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

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Reporter's Comment

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

SECTION 6. FORM OF REGISTRATION AND APPLICATION FOR

MILITARY-OVERSEAS BALLOT.

(a) For any election to which this [act] applies, an absent uniformed service voter or an overseas voter may use a federal post card application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff(b)(2), or its electronic equivalent, to apply to register to vote and simultaneously to request a military-overseas ballot.

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

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1	(c) The [Secretary of State] shall ensure that when a jurisdiction receives a regular	Deleted: [
2	[absentee ballot] application appearing to be from an absent uniformed <u>service</u> voter or an	Deleted: state's chief election authority
3	overseas voter, the jurisdiction seeks to collect sufficient information, by forwarding to the voter	Deleted: services
4	a <u>federal post card application</u> or otherwise, to confirm whether the applicant is an absent	Deleted: Federal Post Card Application
5	uniformed <u>service</u> voter or an overseas voter, and whether the voter desires to receive a military-	Deleted: services
6	overseas ballot electronically. The [Secretary of State] shall use reasonable efforts to minimize	Deleted: [
7	the information necessary, standardize its collection, and streamline the military-overseas ballot	Deleted: state's chief election authority
8	application process.	
9	[(d) This [act] <u>does not preclude</u> a voter from voting under <u>insert state law on regular</u>	Deleted: Nothing in this
10	absentee voting.]	Deleted: precludes
11		Deleted: the state's traditional
12	Reporter's Comment	Deleted: process prescribed in [cite to state statute providing traditional absentee voting]
13	This section is designed to encourage the use of the <u>federal post card application</u> while	Deleted: Federal Post Card Application
14	yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit	
15	states to develop alternative forms if they wish. However, the section is not intended to require	
16	states or local election jurisdictions to revise their existing forms, or to prepare new forms for	
17	voters covered under this Act. Instead, to the extent that a state's existing forms do not collect	
18	sufficient information to properly classify overseas and military voters, this section invites the	
19	state to ask voters who use the state forms to also complete the FPCA as a supplement.	
20		
21		
22	SECTION 7. ELECTRONIC TRANSMISSION OF REGISTRATION AND	
23	APPLICATION FOR MILITARY-OVERSEAS BALLOT. The [Secretary of State] shall	Deleted: [
24	establish an electronic transmission method by which an absent uniformed <u>service</u> voter or an	Deleted: state's chief election authority
25	overseas voter may submit a <u>federal post card application</u> , as described in <u>Section</u> 6(a), or other	Deleted: services
26	registration or military-overseas ballot application to the appropriate election official. <u>The voter</u>	Deleted: Federal Post Card Application
27	may <u>use the electronic transmission method</u> or any other method <u>to register</u> to vote or <u>apply</u> for a	Deleted: section
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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 privacy of the identity and other personal data of an absent uniformed services voter or overseas voter is protected" and also shall "protect the security and integrity of the transmission."

SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-

OVERSEAS BALLOT. An application for a military-overseas ballot under this [act] is timely

if received by [the later of the 15th day before the next election or the last day for other voters in

~~this~~ state to apply for an [absentee ballot] for the next election]. ~~[The application is effective for~~

~~a runoff election necessary to conclude the election for which the application was submitted.]~~

An application for a military-overseas ballot for a primary election ~~is~~ effective as an application

for a military-overseas ballot for the ~~next~~ general election.

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

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Reporter's Comment

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

SECTION 9. TRANSMISSION OF UNVOTED BALLOTS.

(a) For all elections to which this [act] applies, ~~not~~ later than 45 days before the election,

the official charged with ~~distributing a ballot~~ and balloting materials in each jurisdiction shall

transmit ballots and balloting materials to all absent uniformed ~~service~~ voters and overseas voters

who by that date ~~submit~~ a valid military-overseas ballot application.

(b) ~~An absent~~ uniformed ~~service voter~~ or overseas ~~voter~~ who ~~requests a ballot~~ and

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1 balloting materials by electronic transmission may choose ~~facsimile transmission or electronic~~
2 mail delivery, or, ~~if offered by the voter's jurisdiction, Internet delivery. The official charged,~~
3 with ~~distributing a ballot and balloting materials in each jurisdiction~~, shall transmit ~~the ballot~~ and
4 balloting materials to the voter using the means chosen by the voter.
5 (c) ~~If~~ a ballot application from an absent uniformed ~~service~~ voter or overseas voter arrives
6 after the jurisdiction ~~begins~~, transmitting ballots and balloting materials to voters, the official
7 charged with distributing ~~a ballot~~ and balloting materials shall transmit ~~them~~ to the voter ~~not later~~
8 ~~than~~ two ~~business~~ days ~~after the application arrives~~.
9 **SECTION 10. TIMELY CASTING OF BALLOT.** For the military-overseas ballot ~~to~~
10 be valid, the voter must ~~submit~~ the ballot for mailing[, electronic transmission,] or other
11 authorized means of delivery ~~not~~ later than 12:01 a.m., ~~measured in the place where the voter~~
12 completes the ballot, ~~on the date of the election~~.

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Reporter's Comment

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

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

21 (a) ~~An~~ absent uniformed ~~service voter~~ and overseas ~~voter may~~ use the ~~federal write-in~~
22 ~~absentee ballot~~ in accordance with the Uniformed and Overseas Citizens Absentee Voting Act,
23 42 U.S.C. Section 1973ff, to vote for all offices [and ballot measures] in an election to which this
24 [act] applies.

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25 (b) ~~An~~ absent uniformed ~~service voter or~~ overseas ~~voter may~~ use the ~~declaration on the~~
26 ~~federal write-in absentee ballot~~ transmission ~~envelope~~ as a request for registration and an

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1 application for a military-overseas ballot simultaneous~~ly~~ with the submission of the ~~federal~~
2 ~~write-in absentee ballot~~, if the request is received by ~~[the later of the 15th day before the election~~
3 or the last day for other voters in the state to apply for an [absentee ballot] for that election].

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Reporter's Comment

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5
6 Subsection (b) permits the ~~federal write-in absentee ballot~~ to be used as a voter
7 simultaneous registration and ballot application, as well as a ballot, using the same deadline that
8 section 8 uses for applying for a military-overseas ballot, not a state's registration deadline.
9 Voters may use the FWAB as a simultaneous voter registration only if they have already
10 attempted to register (and ~~affirm~~ this on the FWAB). Because of the difficulties of registering
11 from abroad, these registration applications occasionally go astray, and as an accommodation
12 this provision permits the FWAB to serve as a back-up registration even after a state's regular
13 registration deadline. This section still requires that the FWAB arrive by the state deadline for
14 requesting a ballot in order to function as a simultaneous registration and request for a ballot.

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SECTION 12. RECEIPT OF VOTED BALLOT.

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16
17 ~~(a)~~ A valid military-overseas ballot cast ~~in accordance~~ with ~~Section~~ 10 must be counted if
18 it has been delivered to the address that the appropriate state or local election office has specified
19 by the end of business the day ~~before~~ the latest deadline for ~~completing~~ the ~~[insert name of~~ local
20 canvass or tabulation that creates the final official results].

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Deleted: by an absent uniformed services voter or an overseas voter in conformance

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21 (b) If, at the time of completing a military-overseas ballot and balloting materials, the
22 voter has affirmed under penalty of perjury, ~~pursuant to~~ Section 13, that the ballot was timely
23 submitted, the ballot may not be rejected on the basis that it has no postmark or a late postmark.

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

Reporter's Comment

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27
28 The bracketed language in subsection (a) is intended to capture the event when local
29 election officials complete or certify their official counting of ballots, by whatever name that
30 event is known in the state. Even those ballots of overseas and military voters that arrive after
31 election day can and must be included in these official results if local election officials have
32 received them by the day before this event, giving election officials that day to process them
33 before making their return or certification.
34
35

1 The Act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late
2 postmark) in light of the fact that many pieces of military mail enter the postal system through
3 delivery to a mail clerk in a remote location without a postmark, and are only postmarked some
4 days later when they reach a more established facility.
5

6 **SECTION 13. DECLARATION.**

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

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

12 "I swear or affirm, under penalty of perjury, that:

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

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

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

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

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

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

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Deleted: of an absent uniformed
services voter or an overseas voter

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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].

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

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 [Secretary of State], in coordination with local election officials, shall implement an electronic free-access system by which an absent uniformed service voter or

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1	overseas voter may determine by telephone, electronic mail, or Internet access, whether the	Deleted: , either
2	voter's federal post card application or other registration or military-overseas ballot application	Deleted: Federal Post Card Application
3	has been received and accepted and whether the voter's military-overseas ballot has been	Deleted: and
4	received and the current status of the ballot .	Deleted: ,
5	SECTION 15. USE OF VOTER'S ELECTRONIC MAIL ADDRESS.	Deleted: its
6	[(a)] The local election jurisdiction in which an absent uniformed service voter or	Deleted: COLLECTION
7	overseas voter registers to vote shall request that the voter provide an individual electronic mail	Deleted: VOTERS'
8	address. An individual electronic mail address provided by an absent uniformed service voter or	Deleted: ES
9	overseas voter is exempt from disclosure under the [public records laws of this state] and shall	Deleted: services
10	not become part of the publicly available voting registration data file or election management	Deleted: must
11	system. An election official may not release a voter's electronic mail address to a third party.	Deleted: services
12	An election official may use the address only to confirm the present address of the voter and to	Deleted: Election officials
13	communicate with the voter about the voting process, including transmitting military-overseas	Deleted: addresses
14	ballots and election materials if the voter has requested electronic transmission. A request for an	Deleted: any
15	individual electronic mail address under this section must describe the purpose for which the	Deleted: , and
16	electronic mail address will be used and that any other use or disclosure is prohibited.	Deleted: voter's electronic mail address provided
17	[(b)] An absent uniformed service voter or overseas voter who provides an electronic mail	Deleted: for the purpose of communicating
18	address may request that the voter's application for a military-overseas ballot be considered a	Deleted: , and confirming the present address of the voter
19	standing request for electronic delivery of a ballot for all elections held during the 365 days	Deleted: clearly
20	following the date of the application, or through the completion of the next federal general	Deleted: sole
21	election after the voter submits the application, whichever is longer[, including for any runoff	Deleted: ,
22	elections that may occur as a result of the outcome of such elections]. An election official shall	Deleted: services
23	provide a military-overseas ballot to a voter who makes the request for each election to which the	Deleted: end

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request is applicable.

(c) Subsection (b) does not apply to any election held after a voter has been removed

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 (b) pertaining to runoff elections is only for states with runoff elections.

Reporter's Comment

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

SECTION 16. PUBLICATION OF ELECTION NOTICE.

(a) Not later than 100 days before a regularly ~~scheduled~~ election to which this [act]

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applies, and as soon as practicable in the case of an election not regularly ~~scheduled~~, the official

Deleted: held

in each jurisdiction charged with printing and distributing ballots and balloting material shall

prepare an election notice for that jurisdiction, to be used in conjunction with the ~~federal write-in~~

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~~absentee ballot~~ described in Section 11. The election notice must contain a list of all of the

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federal, state, and local offices [and ballot measures] that as of that date the official expects to be

on the ballot on the date of the election. The notice also must contain specific instructions for

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how a voter is to indicate on the ~~federal write-in absentee ballot~~ the voter's choice for each office

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to be filled [and for each ballot measure to be contested].

(b) An absent uniformed ~~service~~ voter or an overseas voter may request a copy of the

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election notice, which ~~must be sent~~ to the voter by facsimile, electronic mail, or regular mail, as

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1 the voter requests.

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

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7 (d) A local election jurisdiction that maintains an Internet website shall use reasonable
8 efforts to make updated versions of its election notices regularly available on its Internet
9 website.

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

13 Reporter’s Comment

14
15
16 This section ensures that election jurisdictions facilitate voting by making candidate
17 names readily and quickly available to overseas and military voters.

Deleted: The bracketed language
“[ballot styles are certified]” in the first
line of subsection (c) is intended to
capture the event by which time the
candidates (and issues, when applicable)
on the upcoming ballot are finalized.

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18
19 **SECTION 17. NONESSENTIAL REQUIREMENTS.** A voter’s mistake or omission
20 in the completion of any document under this [act] or a failure to satisfy a nonessential
21 requirement, such as paper or envelope size and weight, that does not prevent determining the
22 eligibility of an absent uniformed service voter or an overseas voter does not invalidate the
23 document. If the intention of the voter is discernable under this state’s uniform voter intention
24 standards as required by the Help America Vote Act, 42 U.S.C. Section 15481(a)(6), an
25 abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a
26 political party must be accepted as a valid vote in any write-in ballot authorized by this [act], or
27 in any vote for a write-in candidate on a regular ballot].

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[SECTION 18. EXIGENT CIRCUMSTANCES. If the Governor determines an international, national, state, or local emergency or other situation exists, that makes substantial compliance with this [act] or the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq., impossible or impracticable, the Governor [directly, or by delegation to the [Secretary of State], may establish, by emergency order or rule, a special procedure or requirement to facilitate voting by eligible uniformed service voters or overseas voters directly affected. The [Secretary of State] shall take reasonable steps to provide absent uniformed service voters and overseas voters with timely notice of any special procedure or requirement prescribed under this section.]

Reporter's Comment

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

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

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

SECTION 19. ISSUANCE OF INJUNCTION OR OTHER EQUITABLE RELIEF.

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

(1) a registered voter of this state;

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Deleted: existence of armed conflict involving United States Armed Forces or the mobilization of those forces, including State National Guard and Reserve component members of this state, or by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of emergency exists, the governor

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Deleted: who are eligible to vote in this state. [The state's chief election authority

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(2) ~~a~~ person alleging to be a registered voter of this state or to be eligible under this [act]

2

to register to vote in this state; or

3

(3) ~~an~~ election official in ~~this~~ state.

4

SECTION 20. EFFECT ON OTHER STATE AND LOCAL LAWS. The exercise

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of any right under this [act] may not be used to affect the residence or domicile of the person

6

exercising the right under a state or local law in which the resident or domicile of a person is a

7

factor other than an election law.

8

SECTION 21. HARMONIZATION WITH FEDERAL LAW. This [act] must be

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construed in harmony with the Uniformed and Overseas Citizens Absentee Voting Act, 42

10

U.S.C. Section 1973ff, et seq., as amended.

11

SECTION 22. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In

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applying and construing this uniform act, consideration must be given to the need to promote

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uniformity of the law with respect to its subject matter among states that enact it.

14

SECTION 23. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND

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

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

17

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

18

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

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

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SECTION 24. REPEALS.

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The following are repealed:

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(1)

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(2)

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Deleted: , the courts of this state may issue an injunction or grant other equitable relief appropriate to enforce this [act].

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Deleted: SUPERSESSON OF OTHER LAW. A provision of this [act] setting out a date, timeline, or deadline for the submission of a voter registration or military-overseas ballot application, or for the casting, receipt, or counting of a military-overseas ballot, to the extent that it conflicts with other state law, supersedes the other state

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(a)

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

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Deleted: [SECTION 23. EFFECT ON OTHER STATE AND LOCAL LAWS. For purposes of any provision of a state or local tax law or other nonelection law in which the residence or domicile of a person is a factor, the exercise of any right under this [act] may not be used to affect the residence or domicile of the person exercising the right.] ¶

1 (3)]

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