

D R A F T

FOR DISCUSSION ONLY

MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

October 2009 Interim Draft

Without Prefatory Note and with Reporter's Comments

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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Oct. 13, 2009

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MILITARY SERVICES AND OVERSEAS CIVILIAN ABSENTEE VOTERS ACT

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

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

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

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

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

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

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

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

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

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

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

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

23 (C) any ballot cast by an absent uniformed services voter or overseas voter in

1 accordance with this [act].

2 (4) “Overseas voter” means a United States citizen who is outside the United States and
3 who qualifies under section 5.

4 (5) “Uniformed service” means:

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

7 (B) the Merchant Marines, 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 (6) “United States”, where used in the territorial sense, means the several states, the
12 District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular
13 possession subject to the jurisdiction of the United States.

14 **Reporter’s Comment**

15
16 The Act’s definition of the terms “absent uniformed services 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 services 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 services 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 services 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 provided under this
31 [act] apply to the following elections:

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

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

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

9 **Legislative Note:** *The bracketed language in subsections (a), (b), and (c) pertaining to*
10 *presidential preference, recall, and runoff elections and state or local ballot measures is only for*
11 *states with such elections or measures.*

12
13 **Reporter’s Comment**
14

15 The first category of elections delineated in this section is the only category covered by
16 the UOCAVA. However, even for these elections, this Act provides additional accommodations
17 to military and overseas voters that are not provided under the UOCAVA. The second and third
18 categories of state and local elections extend the Act’s accommodations to non-federal elections
19 not within the UOCAVA scope. These two categories are distinguished primarily to permit an
20 enacting state more easily to consider providing different accommodations to military and
21 overseas voters depending on the type of election.
22
23

24 **SECTION 4. ROLE OF [STATE’S CHIEF ELECTION AUTHORITY].** [The
25 state’s chief election authority]:

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

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

30 (c) shall make information regarding voter registration procedures and military-overseas
31 balloting procedures under this [act] available to all absent uniformed services voters and

1 overseas voters who wish to register to vote or vote in any jurisdiction in the state. [The state’s
2 chief election authority] may delegate this responsibility only to the state office designated in
3 compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section
4 1973ff-1(b)(1).

5 (d) shall develop standardized absentee voting materials, including privacy and
6 transmission envelopes and their electronic equivalents, authentication materials, and voting
7 instructions, to be used in conjunction with the military-overseas ballot of any absent uniformed
8 services voter or overseas voter voting in any jurisdiction within the state, and to the extent
9 reasonably possible shall do so in coordination with other states.

10 **Reporter’s Comment**

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

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

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

34
35 The “electronic equivalent” of privacy envelopes and transmission envelopes means at a
36 minimum a template or instructions to accompany the electronic delivery of an unvoted ballot
37 that assist the voter to prepare and use appropriate envelopes to return the voter’s marked ballot

1 if the voter is returning the ballot physically through the mail. If a state is allowing a voter to
2 return a marked ballot electronically, the state should employ digital encryption or other security
3 measures to provide comparable protection of the secrecy of the marked ballot.
4

5 **SECTION 5. OVERSEAS VOTERS' ELIGIBILITY TO VOTE.**

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

9 (b) An overseas voter who was born outside the United States and who is not included in
10 subparagraph (a) is eligible to vote in this state if the last place where a parent or guardian of the
11 voter was, or under this [act] would have been, eligible to vote before leaving the United States
12 is within this state, and if the voter has not previously registered to vote in any other state.

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

17 **Reporter's Comment**

18
19 This section builds upon the UOCAVA definition of "overseas voter" and extends it to
20 U.S. citizens abroad who have never resided in one of the fifty states for purposes of establishing
21 a voting residency. This section also assigns to the voter an address in the state to be used as the
22 voter registration address. The section makes no distinction between voters temporarily overseas
23 and voters permanently overseas, although other provisions of an enacting state's existing law
24 may do so and may limit the elections in which voters permanently overseas can vote. Without
25 such distinctions elsewhere in existing state law, this Act would enable all overseas voters to
26 vote in all elections covered in section 3.
27
28

29 **SECTION 6. FORM OF REGISTRATION AND APPLICATION FOR**
30 **MILITARY-OVERSEAS BALLOT.**

31 (a) For any election to which this [act] applies, an absent uniformed services voter or an

1 overseas voter may use, and the state shall give effect to, a Federal Post Card Application, as
2 prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section
3 1973ff(b)(2), or its electronic equivalent, to apply to register to vote and to request a military-
4 overseas ballot simultaneously.

5 (b) If an absent uniformed services voter or an overseas voter is already registered to vote
6 in this state, the voter may apply for a military-overseas ballot for any election to which this [act]
7 applies using either the regular [absentee ballot] application in use in the voter’s jurisdiction
8 under [cite to state statute on traditional absentee ballots], or the Federal Post Card Application
9 or its electronic equivalent.

10 (c) [The state’s chief election authority] shall ensure that when a jurisdiction receives a
11 regular [absentee ballot] application appearing to be from an absent uniformed services voter or
12 an overseas voter, the jurisdiction seeks to collect sufficient information, by forwarding to the
13 voter a Federal Post Card Application or otherwise, to confirm whether the applicant is an absent
14 uniformed services voter or an overseas voter, and whether the voter desires to receive a
15 military-overseas ballot electronically. [The state’s chief election authority] shall use reasonable
16 efforts to minimize the information necessary, standardize its collection, and streamline the
17 military-overseas ballot application process.

18 [(d) Nothing in this [act] precludes a voter from voting under the state’s traditional
19 absentee voting process prescribed in [cite to state statute providing traditional absentee voting].]

20 **Reporter’s Comment**
21

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

1 state to ask voters who use the state forms to also complete the FPCA as a supplement.

2
3
4 **SECTION 7. ELECTRONIC TRANSMISSION OF REGISTRATION AND**

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

12 **Reporter’s Comment**

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

20
21
22 **SECTION 8. TIMELINESS AND SCOPE OF APPLICATION FOR MILITARY-**

23 **OVERSEAS BALLOT.** An application for a military-overseas ballot under this [act] is timely
24 if received by [the later of the 15th day before the next election or the last day for other voters in
25 the state to apply for an [absentee ballot] for the next election]. The application is effective for
26 any run-off election necessary to conclude the election for which the application was submitted.
27 An application for a military-overseas ballot for a primary election also is effective as an
28 application for a military-overseas ballot for the ensuing general election.

29 **Reporter’s Comment**

30
31 Many states accept regular absentee ballot applications up until just a few days before an

1 election, or later. Because military and overseas voters can use electronic transmission methods
2 both to request and to receive blank ballots, this section allows them to take advantage of an
3 application deadline close to the election.
4

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

6 (a) For all elections to which this [act] applies, no later than 45 days before the election
7 the official charged with preparing and distributing ballots and balloting materials in each
8 jurisdiction shall transmit ballots and balloting materials to all absent uniformed services voters
9 and overseas voters who by that date have submitted a valid military-overseas ballot application.

10 (b) Absent uniformed services voters or overseas voters who have requested to receive
11 ballots and balloting materials by electronic transmission may choose either facsimile
12 transmission or electronic mail delivery, or Internet delivery if offered by the voter's jurisdiction.
13 Local election officials, with the assistance, as appropriate, of [the state's chief election
14 authority], shall transmit ballots and balloting materials to the voter using the electronic means
15 chosen by the voter.

16 (c) When a ballot application from an absent uniformed services voter or overseas voter
17 arrives after the jurisdiction has begun transmitting ballots and balloting materials to voters, the
18 official charged with distributing ballots and balloting materials shall transmit these materials to
19 the voter within two working days.

20 **SECTION 10. TIMELY CASTING OF BALLOT.** For the military-overseas ballot of
21 an absent uniformed services voter or overseas voter to be valid, the voter must have submitted
22 the ballot for mailing[, electronic transmission,] or other authorized means of delivery no later
23 than 12:01 a.m. (measured in the place where the voter completes the ballot) on the date of the
24 election.
25

1 **Reporter's Comment**

2
3 Requiring that the ballot be completed by one minute after midnight local time on
4 Election Day ensures that no voter anywhere in the world will be able to cast a vote with
5 knowledge of the early returns of the jurisdiction whose ballot the voter is voting.
6

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

8 (a) Election officials shall permit absent uniformed services voters and overseas voters to
9 use the Federal Write-In Absentee Ballot, in accordance with the provisions of the Uniformed
10 and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, to vote for all offices
11 [and ballot measures] in an election to which this [act] applies.

12 (b) Election officials shall permit absent uniformed services voters and overseas voters to
13 use the Federal Write-In Absentee Ballot transmission envelope's voter declaration as a request
14 for registration and an application for a military-overseas ballot simultaneous with the
15 submission of the Federal Write-In Absentee Ballot, if the request is [received by the later of the
16 15th day before the election or the last day for other voters in the state to apply for an [absentee
17 ballot] for that election].

18 **Reporter's Comment**

19
20 Subsection (b) permits the Federal Write-In Absentee Ballot to be used as a voter
21 simultaneous registration and ballot application, as well as a ballot, using the same deadline that
22 section 8 uses for applying for a military-overseas ballot, not a state's registration deadline.
23 Voters may use the FWAB as a simultaneous voter registration only if they have already
24 attempted to register (and affirming this on the FWAB). Because of the difficulties of registering
25 from abroad, these registration applications occasionally go astray, and as an accommodation
26 this provision permits the FWAB to serve as a back-up registration even after a state's regular
27 registration deadline. This section still requires that the FWAB arrive by the state deadline for
28 requesting a ballot in order to function as a simultaneous registration and request for a ballot.
29

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

31 (a) A valid military-overseas ballot cast by an absent uniformed services voter or an
32 overseas voter in conformance with section 10 must be counted if it has been delivered to the

1 address that the appropriate state or local election office has specified by the end of business the
2 day prior to the latest deadline for completion of the [local canvass or tabulation that creates the
3 final official results].

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

7 **Reporter's Comment**

8
9 The bracketed language in subsection (a) is intended to capture the event when local
10 election officials complete or certify their official counting of ballots, by whatever name that
11 event is known in the state. Even those ballots of overseas and military voters that arrive after
12 election day can and must be included in these official results if local election officials have
13 received them by the day before this event, giving election officials that day to process them
14 before making their return or certification.

15
16 The Act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late
17 postmark) in light of the fact that many pieces of military mail enter the postal system through
18 delivery to a mail clerk in a remote location without a postmark, and are only postmarked some
19 days later when they reach a more established facility.

20 21 **SECTION 13. DECLARATION REQUIREMENTS.**

22 (a) Each submitted military-overseas ballot of an absent uniformed services voter or an
23 overseas voter must include or be accompanied by a single declaration for the voter to sign
24 acknowledging that a material misstatement of fact in completing the document may be grounds
25 for a conviction of perjury under the laws of the United States and this state.

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

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

28 1. I am a member of the Uniformed Services or an eligible spouse or dependent of
29 such a member, or a U.S. citizen residing outside the U.S., and

30 2. I am a U.S. citizen, at least 18 years of age (or will be by the day of the

1 election), eligible to vote in the requested jurisdiction, and

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

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

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

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

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

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

16 Signature_____ Date_____

17 Printed Name_____”

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

21 (d) No notarization is required for the execution of any document under this [act]. No
22 authentication requirement other than the declaration specified in subsection (b), or the
23 declaration on the Federal Post Card Application and Federal Write-In Absentee Ballot, may be

1 required for the execution of any document under this [act].

2 **Reporter’s Comment**

3
4
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6
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8

[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.]

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

10 **VOTED BALLOT.** [The state’s chief election authority], in coordination with a local election
11 jurisdiction, shall implement an electronic free-access system by which an absent uniformed
12 services voter or overseas voter may determine, either by telephone, electronic mail, or Internet
13 access, whether the voter’s Federal Post Card Application or other registration and military-
14 overseas ballot application has been received and accepted, and whether the voter’s military-
15 overseas ballot has been received and its current status.

16 **SECTION 15. COLLECTION OF VOTERS’ ELECTRONIC MAIL ADDRESSES.**

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

1 clearly describe the sole purpose for which the electronic mail address will be used, and that any
2 other use or disclosure is prohibited.

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

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

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

16 **Reporter’s Comment**

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) No later than 100 days before a regularly held election to which this [act] applies, and
28 as soon as practicable in the case of an election not regularly held, the official in each jurisdiction
29 charged with printing and distributing ballots and balloting material shall prepare an election

1 notice for that jurisdiction, to be used in conjunction with the Federal Write-in Absentee Ballot
2 described in Section 11. The election notice must contain a list of all of the federal, state, and
3 local offices [and ballot measures] that as of that date the official expects to be on the ballot in
4 the jurisdiction 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
6 office to be filled [and for each ballot measure to be contested].

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

10 (c) As soon as [ballot styles are certified], and no later than the date when [absentee
11 ballots] are required to be transmitted to absentee voters under [cite to traditional 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 the text of ballot measures], and shall make the
14 updated notice publicly available.

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

17 **Reporter’s Comment**

18
19 The bracketed language “[ballot styles are certified]” in the first line of subsection (c) is
20 intended to capture the event by which time the candidates (and issues, when applicable) on the
21 upcoming ballot are finalized. This section ensures that election jurisdictions facilitate voting by
22 making the candidate names readily and quickly available to overseas and military voters.
23

24 **SECTION 17. NONESSENTIAL REQUIREMENTS.** A mistake or omission in the
25 completion of any document under this [act] or a failure to satisfy a nonessential requirement,
26 such as paper or envelope size and weight, that does not prevent identifying or determining the

1 eligibility of an absent uniformed services voter or an overseas voter does not invalidate the
2 document. If the intention of the voter is discernable under this state’s uniform voter intention
3 standards (as required by the Help America Vote Act, 42 U.S.C. § 15481(a)(6)), an abbreviation,
4 misspelling, or other minor variation in the form of the name of a candidate or a political party
5 must be accepted as a valid vote in any write-in ballot authorized by this Act [or in any vote for a
6 write-in candidate on a regular ballot].

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

21 **Reporter’s Comment**
22

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

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

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

7 On application by any registered voter of this state, by any person alleging to be a registered
8 voter of this state or to be eligible under this [act] to register to vote in this state, or by any
9 election official in the state, the courts of this state may issue an injunction or grant other
10 equitable relief appropriate to enforce this [act].

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

12 out a date, timeline, or deadline for the submission of a voter registration or military-overseas
13 ballot application, or for the casting, receipt, or counting of a military-overseas ballot, to the
14 extent that it conflicts with other state law, supersedes the other state law.

15 **SECTION 21. APPLICATION AND CONSTRUCTION.**

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

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

20 **SECTION 22. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
21 NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal

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

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

5 **[SECTION 24. REPEALS.**

6 The following are repealed:

- 7 (1)
- 8 (2)
- 9 (3)]

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