

Chapter 16 Uniform Military and Overseas Voters Act

Part 1 General Provisions

20A-16-101 Title.

This chapter is known as "Uniform Military and Overseas Voters Act."

Enacted by Chapter 327, 2011 General Session

20A-16-102 Definitions.

As used in this chapter:

- (1) "Covered voter" means:
 - (a) a uniformed-service voter or an overseas voter who is registered to vote in the state; or
 - (b) a uniformed-service voter whose voting residence is in the state and who otherwise satisfies the state's voter eligibility requirements.
- (2) "Dependent" means an individual recognized as a dependent by a uniformed service.
- (3) "Federal postcard application" means the application prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 101(b)(2), 42 U.S.C. Sec. 1973ff(b)(2).
- (4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 103, 42 U.S.C. Sec. 1973ff-2.
- (5) "Military-overseas ballot" means:
 - (a) a federal write-in absentee ballot;
 - (b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or
 - (c) a ballot cast by a covered voter in accordance with this chapter.
- (6) "Overseas voter" means a United States citizen who is outside the United States.
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (8) "Uniformed service" means:
 - (a) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
 - (b) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
 - (c) the National Guard.
- (9) "Uniformed-service voter" means an individual who is qualified to vote and is:
 - (a) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
 - (b) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
 - (c) a member on activated status of the National Guard; or
 - (d) a spouse or dependent of a member referred to in Subsections (9)(a) through (c).

- (10) "United States" means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Enacted by Chapter 327, 2011 General Session

20A-16-103 Application to elections.

The voting procedures in this chapter apply to an election authorized by this title.

Enacted by Chapter 327, 2011 General Session

Part 2
Administration of Military and Overseas Voting

20A-16-201 Duties of lieutenant governor.

The lieutenant governor shall:

- (1) implement this chapter and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Sec. 1973ff et seq.;
- (2) make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots;
- (3) establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information under this chapter;
- (4)
 - (a) develop standardized absentee-voting materials, including privacy and transmission envelopes and electronic equivalents of the envelopes, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the state; and
 - (b) to the extent reasonably possible, coordinate with other states on the development required by Subsection (4)(a); and
- (5) prescribe the form and content of a declaration:
 - (a) for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot;
 - (b) that is based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter; and
 - (c) that is a prominent part of all balloting materials for which the declaration is required, including an indication of the date of execution of the declaration.

Enacted by Chapter 327, 2011 General Session

20A-16-202 Report on absentee ballots.

- (1) Not later than 60 days after each regular general election, each county clerk shall submit a report to the lieutenant governor indicating:
 - (a) the number of ballots sent to covered voters; and
 - (b) the number of ballots returned by covered voters that were counted.

- (2) Not later than 90 days after each regular general election, the lieutenant governor shall submit a statewide report to the Election Assistance Commission that includes the information required by Subsection (1).

Renumbered and Amended by Chapter 327, 2011 General Session

Part 3 Voter Registration

20A-16-301 Overseas voter's registration address.

In registering to vote, an overseas voter who is eligible to vote in the state shall:

- (1) use and be assigned to the voting precinct of the address of the last place of residence of the voter in the state; or
- (2) if the address described in Subsection (1) is no longer a recognized residential address, be assigned an address for voting purposes.

Enacted by Chapter 327, 2011 General Session

20A-16-302 Methods of registering to vote.

- (1) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application or the application's electronic equivalent.
- (2)
 - (a) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the Thursday immediately before the election.
 - (b) If the declaration is received after the Thursday immediately before the election, the declaration shall be treated as an application to register to vote for subsequent elections.
- (3)
 - (a) The lieutenant governor shall ensure that the electronic transmission system described in Subsection 20A-16-201(3) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official.
 - (b) The voter may use the electronic transmission system or any other approved method to register to vote.

Amended by Chapter 198, 2013 General Session

Part 4 Voting and Ballots

20A-16-401 Methods of applying for military-overseas ballots.

- (1) A covered voter who is registered to vote in the state may apply for a military-overseas ballot using:
 - (a) an absentee ballot application under Section 20A-3-304; or
 - (b)
 - (i) the federal postcard application; or

- (ii) the federal postcard application's electronic equivalent.
- (2) A covered voter who is not registered to vote in this state may use a federal postcard application or the federal postcard application's electronic equivalent to apply simultaneously to register to vote under Section 20A-16-302 and for a military-overseas ballot.
- (3)
 - (a) The lieutenant governor shall ensure that the electronic transmission system described in Subsection 20A-16-201(3) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official.
 - (b) The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.
- (4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the Thursday immediately before the election.
- (5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter by:
 - (a) the use of a federal postcard application or federal write-in absentee ballot;
 - (b) the use of an overseas address on an approved voter registration application or ballot application; or
 - (c) the inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.
- (6) This chapter does not preclude a covered voter from voting under Chapter 3, Part 3, Absentee Voting.

Amended by Chapter 198, 2013 General Session

20A-16-402 Timeliness and scope of application for military-overseas ballot.

- (1) An application for a military-overseas ballot is timely if received by the Thursday immediately before the election.
- (2) An application for a military-overseas ballot for a regular primary election or municipal primary election, whether or not timely, is effective as an application for a military-overseas ballot for the regular general election or municipal general election.

Amended by Chapter 198, 2013 General Session

20A-16-403 Transmission of unvoted ballots.

- (1) For an election for which the state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act, Sec. 579, 42 U.S.C. 1973ff-1(g)(2), not later than 45 days before the election or, notwithstanding Section 20A-1-401, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.
- (2)
 - (a) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose:
 - (i) facsimile transmission;

- (ii) email delivery; or
- (iii) if offered by the voter's jurisdiction, Internet delivery.
- (b) The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.
- (3) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives.

Enacted by Chapter 327, 2011 General Session

20A-16-404 Timely casting of ballot.

Except as provided by Section 20A-1-308, to be valid, a military-overseas ballot shall be:

- (1) received by the appropriate election officer not later than the close of the polls; or
- (2) submitted for mailing, electronic transmission, or other authorized means of delivery not later than 12:01 a.m., at the place where the voter completes the ballot, on the date of the election.

Amended by Chapter 219, 2013 General Session

20A-16-405 Federal write-in absentee ballot.

A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot propositions in an election.

Enacted by Chapter 327, 2011 General Session

20A-16-406 Disposition of ballot by county clerk.

- (1) Upon receipt by the county clerk of the envelope containing a military-overseas ballot, the county clerk shall:
 - (a) enclose the unopened envelope containing the ballot and the written application of the covered voter in a larger envelope;
 - (b) securely seal and endorse it with:
 - (i) the name or number of the proper voting precinct;
 - (ii) the name and official title of the clerk; and
 - (iii) the words: "This envelope contains an absentee voter's official Utah election ballot to be voted at ____ (Insert Name and Number) precinct, in ____ (Insert Name) county, and may be opened on election day at the polls while the polls are open."; and
 - (c) safely keep the envelope in the county clerk's office until the envelope is delivered by the county clerk to the proper election judges.
- (2)
 - (a) When reasonably possible, the county clerk shall deliver or mail all military-overseas voter ballot envelopes to the appropriate voting precinct election judges so that the ballots may be processed on election day.
 - (b) If the clerk is unable to determine the voting precinct to which the ballot should be sent or when valid ballots are received too late to deliver to the election judges on election day, the clerk shall keep them in a safe place until delivery can be made as required by Section 20A-3-309.

Amended by Chapter 369, 2012 General Session

20A-16-407 Duty of election judges.

- (1)
 - (a) Voting precinct election judges shall open envelopes containing military-overseas ballots that are in the judges' custody on election day at the polling places during the time the polls are open as provided in this subsection.
 - (b) The election judges shall:
 - (i) first, open the outer envelope only; and
 - (ii) compare the signature of the covered voter on the application with the signature on the registration and voting certificate.
- (2)
 - (a) The judges shall register the covered voter to vote if the voter is not already registered if the judges find that:
 - (i) the registration and voting certificate appears to be executed in proper form and contains information qualifying the covered voter to be registered as a voter; and
 - (ii) the signatures on the certificate and the application correspond, where a comparison is required.
 - (b) If the election judges determine that the registration and voting certificate is insufficient or that the signatures do not correspond, they shall:
 - (i) disallow the registration; and
 - (ii) without opening the ballot envelope, mark across the face of the envelope "Rejected as defective because of _____ ." with the reason for the rejection placed in the blank.
 - (c) When a covered voter's name is entered upon the registration books, the voter is considered to be registered and the registration and voting certificate, signed and sworn to by the covered voter on the back of the ballot envelope, together with the covered voter's name upon the registration books, constitute the covered voter's registration record.
 - (d) Nothing in this title may abridge the right of the covered voter to be registered as provided in this section.
- (3)
 - (a) After registering the voter, the judges shall carefully open the ballot envelope so as not to destroy the information printed on it if they find that:
 - (i) the registration and voting certificate is sufficient; and
 - (ii) the signatures on the certificate and the application correspond, where a comparison is required.
 - (b) The election judges shall:
 - (i) remove the ballot from the envelope without unfolding it or permitting it to be opened or examined;
 - (ii) initial the stub in the same manner as for other ballots;
 - (iii) deposit the ballot in the proper ballot box; and
 - (iv) mark the official register and pollbook to show that the voter has voted.
 - (c) If the election judges determine that the registration and voting certificate is insufficient or that the signatures do not correspond, they shall:
 - (i) disallow the vote; and
 - (ii) without opening the ballot envelope, mark across the face of the envelope "Rejected as defective because of _____ ." with the reason for the rejection placed in the blank.
- (4) The election judges shall deposit the envelope, when the ballot is voted, and the envelope with its contents unopened, when the absent vote is rejected, in the ballot box containing the ballots.

- (5) The county clerk shall retain and preserve the envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Renumbered and Amended by Chapter 327, 2011 General Session
Amended by Chapter 366, 2011 General Session

20A-16-408 Receipt of voted ballot.

- (1) Except as provided by Section 20A-1-308, a valid military-overseas ballot cast in accordance with Section 20A-16-404 shall be counted if the military-overseas ballot is delivered by the end of business on the business day before the latest deadline for completing the canvass to the address that the appropriate state or local election office has specified.
- (2) If, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty of perjury as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters, that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

Amended by Chapter 219, 2013 General Session

20A-16-409 Declaration.

A military-overseas ballot shall include or be accompanied by:

- (1) a declaration signed by a covered voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or Title 76, Chapter 8, Part 5, Falsification in Official Matters; and
- (2) the following statement if the military-overseas ballot is electronically transmitted: "I understand that by electronically transmitting my voted ballot I am voluntarily waiving my right to a secret ballot. Signature of voter _____ Date _____".

Enacted by Chapter 327, 2011 General Session

20A-16-410 Confirmation of receipt of application and voted ballot.

The lieutenant governor, in coordination with an election officer, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet:

- (1) whether the voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted;
- (2) whether the voter's military-overseas ballot has been received; and
- (3) the current status of the ballot.

Enacted by Chapter 327, 2011 General Session

**Part 5
Miscellaneous**

20A-16-501 Use of voter's email address.

- (1) An election officer shall request an email address from each covered voter who registers to vote after January 1, 2012.

- (2) An email address provided by a covered voter:
 - (a) is a private record under Section 63G-2-302; and
 - (b) may be used only for official communication with the covered voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location.
- (3) The request for an email address shall:
 - (a) describe the purposes for which the email address may be used; and
 - (b) include a statement that any other use or disclosure of the email address is prohibited.
- (4)
 - (a) A covered voter who provides an email address may request that the covered voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the covered voter specifies.
 - (b) An election official shall provide a military-overseas ballot to a covered voter who makes a standing request for each election to which the request is applicable.
 - (c) A covered voter who is entitled to receive a military-overseas ballot for a primary election under this Subsection (4) is entitled to receive a military-overseas ballot for the general election.

Enacted by Chapter 327, 2011 General Session

20A-16-502 Publication of election notice.

- (1) At least 100 days before an election, other than a statewide special election or local special election, and as soon as practicable before a statewide special election or local special election, the election officer shall prepare an election notice for the election officer's jurisdiction, to be used in conjunction with a federal write-in absentee ballot.
- (2) The election notice must contain:
 - (a) a list of all of the ballot propositions and federal, state, and local offices that as of that date the election officer expects to be on the ballot on the date of the election; and
 - (b) specific instructions for how a covered voter is to indicate on the federal write-in absentee ballot the covered voter's choice for each office to be filled and for each ballot proposition to be contested.
- (3)
 - (a) A covered voter may request a copy of an election notice.
 - (b) The election officer shall send the notice to the covered voter by facsimile, email, or regular mail, as the covered voter requests.
- (4) As soon as the ballot is certified, and not later than the date ballots are required to be transmitted to voters under Chapter 3, Part 3, Absentee Voting, the election officer charged with preparing the election notice under Subsection (1) shall update the notice with the certified candidates for each office and ballot propositions and make the updated notice publicly available.
- (5) A political subdivision that maintains a website shall make the election notice prepared under this section and updated versions of the election notice regularly available on the website.

Amended by Chapter 369, 2012 General Session

20A-16-503 Prohibition of nonsubstantive requirements.

- (1)
 - (a) If a covered voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document.
 - (b) Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter.
 - (c) In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on a regular ballot, if the intention of the covered voter is discernable under this state's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party is a valid vote.
- (2)
 - (a) Notarization is not required for the execution of a document under this chapter.
 - (b)
 - (i) An authentication, other than the declaration specified in Section 20A-16-409 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter.
 - (ii) The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

Enacted by Chapter 327, 2011 General Session

20A-16-504 Equitable relief.

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this chapter on application by:

- (1) a covered voter alleging a grievance under this chapter; or
- (2) an election officer.

Enacted by Chapter 327, 2011 General Session

20A-16-505 Uniformity of application and construction.

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

Enacted by Chapter 327, 2011 General Session

20A-16-506 Relation to Electronic Signatures in Global and National Commerce Act.

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

Enacted by Chapter 327, 2011 General Session