



**LEGISLATIVE  
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# LEGISLATIVE GUIDE

*Legal Services Division*



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Legislative Guides, prepared in an objective and nonpartisan manner, provide a general survey of a particular area of the law and are intended for use primarily by members of the Iowa General Assembly and their staffs. Legislative Guides are updated periodically to reflect changes in the law. The reader is cautioned against using information contained in a Legislative Guide to draw conclusions as to the legality of a particular behavior or set of circumstances.

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## ELECTIONS: VOTE-BY-MAIL

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## I. Introduction

The broad structures of election law and the minute details involved in conducting elections can directly and indirectly shape the contours of electoral participation. With such implications, legislatures often engage in the difficult task of balancing the public policy interests of protecting the fundamental right to vote and preserving the integrity of the electoral process. Election law in the United States operates under a dual structure of both federal and state regulation. This dual structure complicates the conduct of elections as the federal government may require voter registration and election administration processes for a ballot which includes a federal office while individual states may require different processes related to state and local elections.

As an example of potential complications that arise under this dual structure, in 2013 the United States Supreme Court found that the State of Arizona was preempted from requiring proof of United States citizenship by applicants submitting federal voter registration forms.<sup>1</sup> In response to this ruling, election officials in Arizona and Kansas are implementing a dual structure of voter registration whereby a person seeking to register to vote using a state form is required to provide proof of United States citizenship, while a person seeking to register using a federal form is not required to provide such proof.<sup>2</sup> The Internet site for the office of the Arizona Secretary of State notes that individuals “may apply to register to vote in elections for Federal office using the Federal Voter Registration Form,” and further states that “[i]n using the Federal Form, applicants are not required to provide proof of citizenship in order to register to vote in elections for Federal office.”<sup>3</sup> Since the case was decided, the secretaries of state for both states have filed suit against the United States Elections Assistance Commission to compel changes to the federal voter registration form.<sup>4</sup>

This Guide provides historical background on the development of vote-by-mail elections from World War I to recent absentee vote-by-mail and universal-mail-delivery initiatives at the state and federal levels. The Guide includes descriptions of absentee voting by mail in Iowa and of absentee voting and vote-by-mail provisions and absentee voting status in other states.

Unless otherwise noted, references in this Legislative Guide to the Iowa Code are to the 2015 Iowa Code. This Guide is not intended to identify issues for consideration by the

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<sup>1</sup> Arizona v. The Inter Tribal Council of Arizona, Inc. 133 S.Ct. 2247 (2013). The federal National Voter Registration Act (NVRA) mandates that states accept and use a federal voter registration form for the purpose of registering voters for federal elections. 42 U.S.C. §1973gg-4(a)(1).

<sup>2</sup> For information on the voter registration requirements for Arizona, see Voter Registration and Education, <http://www.azsos.gov/election/VoterRegistration.htm> (last visited July 1, 2014). For information on the voter registration requirements for Kansas, see Voter Registration Kit, available at <http://www.govoterid.com/pdf/Kansas-Voter-Registration-Kit.pdf> (last visited July 1, 2014). See also Kansas Secretary of State, Federal Services Voting (Aug. 25, 2014) [https://www.kssos.org/elections/elections\\_registration\\_federal.html](https://www.kssos.org/elections/elections_registration_federal.html) (last visited Sept. 2, 2014).

<sup>3</sup> See How to Register to Vote, <http://www.azsos.gov/election/VoterRegistration.htm#How> (last visited Sept. 2, 2014).

<sup>4</sup> For a summary of the court filing see Kansas and Arizona Sue Election Assistance Commission, [http://www.kssos.org/other/news\\_releases/PR\\_2013/NR\\_2013-08-21\\_KS\\_and\\_AZ\\_sue\\_EAC.pdf](http://www.kssos.org/other/news_releases/PR_2013/NR_2013-08-21_KS_and_AZ_sue_EAC.pdf) (last visited Sept. 2, 2014).



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General Assembly, and nothing contained in this Guide should be interpreted as advocating a particular course of action with respect to election law in this state.

### A. Historical Background

**United Kingdom — Military Voters.** In the aftermath of World War I the United Kingdom — the first nation to do so on a national level — began to allow certain voters to vote by mail in limited form, and on a temporary basis, through the passage of the Representation of the People Act of 1918. The Act required that certain naval and military voters as well as certain merchant seamen, pilots, and fishermen be allowed to vote absentee in upcoming parliamentary elections through the mail or, in some cases, through the appointment of a proxy voter.<sup>5</sup> The practical importance of this change, addressing the real experiences of military voters deployed abroad during wartime and occupations that involve long absences from home, is, however, not well remembered today. While the temporary nature of the provision may in part explain why this change has been largely forgotten, it is likely that the provision has simply been overshadowed by other provisions within the Act itself. The Representation of the People Act of 1918 is more often remembered today for expanding the electorate by abolishing the real property ownership qualification for men at least 21 years of age and for granting limited suffrage to women at least 30 years of age who meet certain other specified qualifications.<sup>6</sup> The vote-by-mail provision in the Act only addressed a logistical issue ahead of parliamentary elections at the end of World War I, at a time when it was clear that the election would shape the political future of the United Kingdom following the conflict. Furthermore, the provision did not extend the right to vote by mail to most nonmilitary voters, and the concept of universal mail delivery was not featured in the legislation.

The British law, by allowing naval and military service members to vote as absent electors while stationed on foreign soil, would later be replicated on the national level in the United States to provide new voting methods that allowed members of the armed forces to participate in the electoral process while serving away from their residences. These new voting methods attempt to accommodate the full participation of military personnel in the electoral process despite the logistical challenges that are posed by military service.

Toward the end of World War II, the Representation of the People Act of 1945 again extended the right to vote by mail to members of the British military on a temporary basis.<sup>7</sup> It was not, however, until the passage of the Representation of the People Act of 1948 that the United Kingdom expanded the right to vote by mail to individuals who were in hospitals or were otherwise unable to vote at their designated polling place due to physical incapacity

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<sup>5</sup> Representation of the People Act of 1918, §23, United Kingdom, *available at* [http://www.archive.org/stream/representationof00gearich/representationof00gearich\\_djvu.txt](http://www.archive.org/stream/representationof00gearich/representationof00gearich_djvu.txt) (last visited July 2, 2014).

<sup>6</sup> Representation of the People Act of 1918, §4.

<sup>7</sup> Representation of the People Act of 1945, Division III. A description of the divisions of the Act *available at* [http://hansard.millbanksystems.com/commons/1945/mar/09/parliamentary-elections#S5CV0408P0\\_19450309\\_HOC\\_91](http://hansard.millbanksystems.com/commons/1945/mar/09/parliamentary-elections#S5CV0408P0_19450309_HOC_91) (last visited September 2, 2014).



or because the nature of their occupation prohibited their appearance at their designated polling place on election day.<sup>8</sup> The 1948 Act also made these provisions permanent.<sup>9</sup>

**United States Approaches.** Early vote-by-mail provisions adopted in the United States represented piecemeal attempts by state legislatures to address the local needs of a broad electorate, including individuals who would be outside of their respective counties for any reason on election day. Iowa, for example, began to allow absentee vote-by-mail voting as early as 1915, years before the United Kingdom's national legislation.<sup>10</sup> The experience of absentee voting by mail in elections for federal office in the United States was first developed as a means to extend the right to cast ballots to members of the armed forces and citizens otherwise unable to vote at a designated polling place on election day. Only recently has universal mail delivery been implemented in a few states.

On the federal level, the United States Congress has acted to extend the right to vote by mail through the passage of the Soldier Voting Act of 1942,<sup>11</sup> the Federal Voting Assistance Act of 1955,<sup>12</sup> the Overseas Citizens Voting Rights Act of 1975,<sup>13</sup> and ultimately through passage of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA)<sup>14</sup> and the Military and Overseas Voter Empowerment Act (MOVE), which amends UOCAVA and was enacted in 2009 as Subtitle H of the National Defense Authorization Act for Fiscal Year 2010.<sup>15</sup> Through the adoption of this legislation, absentee voting by mail in federal elections today allows for various groups of citizens to vote in elections while abroad, including members of the armed forces and their spouses, missionaries, students studying abroad, and individuals who work overseas.<sup>16</sup>

## **B. Federal Law: The Uniformed and Overseas Citizens Absentee Voting Act and the Military and Overseas Voter Empowerment Act**

UOCAVA, which became law in August 1986, requires that, for the purposes of federal elections, the states and territories of the United States allow certain voters to register and vote by mail. As subsequently amended by the MOVE Act in 2009 and the National Defense Authorization Act of 2005, UOCAVA provides that members of the United States armed forces or merchant marines, their eligible family members, and U.S. citizens residing

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<sup>8</sup> *Id.*

<sup>9</sup> Representation of the People Act of 1948, 11 & 12, George VI, c. 61. For a historical discussion of "postal voting" in the United Kingdom, see also the comments of Member of Parliament Rear Admiral Morgan Giles in House Committee Debate from February 12, 1965, available at <http://hansard.millbanksystems.com/acts/representation-of-the-people-act-1948> (last visited September 2, 2014).

<sup>10</sup> 1915 Iowa Acts, ch. 157 available at [https://www.legis.iowa.gov/DOCS/Shelves/Acts/OCR/Iowa%20Acts%2036GA%20\(1915\).pdf](https://www.legis.iowa.gov/DOCS/Shelves/Acts/OCR/Iowa%20Acts%2036GA%20(1915).pdf) (last visited August 25, 2014).

<sup>11</sup> Pub. L. No. 712-561 (1942).

<sup>12</sup> 42 U.S.C. §§1973cc, et seq. Repealed and superseded, in part, by UOCAVA, 1973ff–1973ff-7.

<sup>13</sup> 42 U.S.C. §§1973dd, et seq. Repealed and superseded, in part, by UOCAVA, 1973ff–1973ff-7.

<sup>14</sup> 42 U.S.C. §§ 1973ff–1973ff-7.

<sup>15</sup> Pub. L. No. 111-84 (2009).

<sup>16</sup> Alvarez, R. Michael and Hall, Thad E., Military Voting and the Law: Procedural and Technological Solutions to the Ballot Transit Problem, Voting Technology Project Working Paper #53, p. 3 (March 2007), available at [http://www.vote.caltech.edu/sites/default/files/vtp\\_wp53.pdf](http://www.vote.caltech.edu/sites/default/files/vtp_wp53.pdf) (last visited September 2, 2014).



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outside of the United States are eligible to register and to vote by mail in federal elections.<sup>17</sup> The statute specifically provides coverage of all primary, general, special, and runoff elections for federal office.<sup>18</sup>

Under UOCAVA, the President of the United States was required to designate the head of a federal department to take primary responsibility for the federal functions and operation of the law.<sup>19</sup> On June 6, 1988, President Ronald Reagan signed Executive Order 12642 designating that the head of the Department of Defense, then Secretary of Defense Frank Carlucci, would hold those responsibilities under the Act.<sup>20</sup> The Secretary of Defense has continued to be responsible for the administration of these statutes, and the Federal Voting Assistance Program, through the Secretary of Defense's authorization, is charged with administering the federal portions of UOCAVA and acts as a resource to the states in implementation of the Act's requirements. The MOVE Act included four major policy changes: (1) requiring that voter registration and absentee ballot applications be made available through electronic means, (2) requiring that overseas voters reregister for each election cycle, (3) requiring that all military and overseas ballots be mailed to voters 45 days prior to an election, and (4) eliminating notarization requirements for voter registration submissions among UOCAVA voters.

The federal government requirements related to the conduct of elections for federal offices have impacted the conduct of elections for state and local offices that are placed on the same ballot as are elections for the federal offices. The program funding available through national defense appropriations legislation has also provided for continuing technological and logistical developments related to elections administration for overseas voters. As recently as September 2013, the Department of Defense, through the Federal Voting Assistance Project, provided \$10.5 million in grants to six states and various counties and county consortiums across the country for the development of online ballot delivery tools and for establishment of single points of contact for the transmission of election materials.<sup>21</sup>

### II. Absentee Vote-By-Mail in Iowa

As previously noted, absentee vote-by-mail voting provisions have been a part of Iowa law since 1915 when the state enacted legislation to “enable electors to vote at any general, special, primary, county, city, or town election, when absent or anticipating being absent on the day of such election.”<sup>22</sup> The 1915 statute provided that any elector could apply to the county auditor or city clerk to vote absentee in any such election if the nature of

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<sup>17</sup> 42 U.S.C. §1973ff-1.

<sup>18</sup> 42 U.S.C. §1973ff-1.

<sup>19</sup> 42 U.S.C. §1973ff.

<sup>20</sup> Executive Order 12642, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=35947#axzz2iiMT8t9c> (last visited September 2, 2014).

<sup>21</sup> These grants were distributed pursuant to the Effective Absentee Systems for Elections 2 (EASE 2) research grant program, available at <http://www.fvap.gov/eo/grants/ease-2> (last visited September 2, 2014).

<sup>22</sup> 1915 Iowa Acts, ch. 157, Title page, and §§1 and 2, available at [https://www.legis.iowa.gov/DOCS/Shelves/Acts/OCR/Iowa%20Acts%2036GA%20\(1915\).pdf](https://www.legis.iowa.gov/DOCS/Shelves/Acts/OCR/Iowa%20Acts%2036GA%20(1915).pdf) (last visited September 2, 2014).

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the elector's business would prevent him from being present in the county on the day of the election.<sup>23</sup>

The Act required that the county auditor or city clerk mail ballots, postage prepaid, to qualifying electors not more than 10 days and not less than three days before the election.<sup>24</sup> The law required the elector to mark the ballot before an officer authorized to administer oaths, but the elector was required to do so in such a manner that the officer would be unable to know how the elector had marked the ballot itself.<sup>25</sup> The 1915 statute then required that the elector fold the ballot, place the ballot in an envelope, and seal the envelope in front of the officer before mailing it by registered mail to the county auditor or city clerk who issued the ballot or deliver the completed ballot in person.<sup>26</sup> In 1915, as today, sending an item through registered mail created a custodial record for the various transfers of the mailed item.

Since that first absentee vote-by-mail statute was adopted in 1915, the state has enacted 21 amendments to make substantive and procedural changes to Iowa's absentee vote-by-mail system. Currently, Iowa Code section 53.1 provides that any registered voter may vote by absentee ballot at any election when the voter expects to be absent from the voter's precinct on election day, when the voter expects to be prevented from going to the polls on election day, or when the voter expects to be unable to go to the polls on election day. Iowa Code section 53.2 provides that any registered voter may submit a written application or may apply in person for an absentee ballot at the voter's county commissioner of elections office or at any location designated by the county commissioner. In Iowa, the county auditor is designated as the county commissioner of elections and the Secretary of State is designated as the state commissioner of elections.<sup>27</sup>

Iowa Code currently allows voting by absentee ballot at county auditor offices,<sup>28</sup> at certain satellite voting stations,<sup>29</sup> or by mail.<sup>30</sup> Iowa Code, however, provides a different structure for absentee voting by a voter who is a resident or patient in a health care facility or hospital.<sup>31</sup> Under Iowa Code section 53.22, a registered voter who is a resident or patient in a health care facility or hospital in the county in which the person is registered to vote may submit an application to receive an absentee ballot, but the ballot is required to be delivered by two special precinct election officers for primary and general elections rather than be delivered by mail. A ballot is required to be delivered by mail, however, to a registered voter who is a resident or patient in a health care facility or hospital in a county other than the county in which the person is registered to vote. In certain limited circumstances a registered voter who is a resident or patient in a health care facility or

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<sup>23</sup> 1915 Iowa Acts, ch. 157, §§1 and 2.

<sup>24</sup> 1915 Iowa Acts, ch. 157, §§4 and 5.

<sup>25</sup> 1915 Iowa Acts, ch. 157, §6.

<sup>26</sup> 1915 Iowa Acts, ch. 157, §6.

<sup>27</sup> Iowa Code §§47.1 and 47.2.

<sup>28</sup> Iowa Code §53.10.

<sup>29</sup> Iowa Code §53.11.

<sup>30</sup> Iowa Code §53.17.

<sup>31</sup> Iowa Code §53.22.



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hospital in a county other than the county in which the person is registered to vote may designate a person to deliver and return the absentee ballot.

A registered voter who wishes to apply to vote absentee may do so in person no earlier than 70 days before an election. A registered voter may also submit a written application to vote by absentee ballot more than 70 days before an election, and the application shall be retained by the county commissioner of elections and processed in the same manner as a written application received no more than 70 days before the election. A written application for an absentee ballot must be received no later than 5:00 p.m. on the Friday before the election.<sup>32</sup>

Pursuant to Iowa Code, the county commissioner of elections is required to mail an absentee ballot to an applicant within 24 hours of receiving an application and immediately after the absentee ballots are printed.<sup>33</sup> The county commissioner of elections is further required to enclose with the absentee ballot a statement that the voter or the voter's designee may mail the absentee ballot or personally deliver the absentee ballot to the commissioner's office.<sup>34</sup> If a county commissioner of elections receives an application so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner is required to also include a statement to that effect with the mailed absentee ballot.<sup>35</sup> The Secretary of State further provides absent voters with the ability to track their absentee ballot requests through the Secretary of State's Internet site.<sup>36</sup>

Absentee voting, in all of its forms, was used more widely in Iowa in the 2012 general election than at any other general election in the previous 10 years.<sup>37</sup> In Iowa, absentee voters accounted for 23.7 percent of cast ballots in the 2002 general election, 21.5 percent of ballots in 2006, and 32.0 percent in 2010. In recent presidential elections, absentee voters accounted for 30.7 percent of ballots in 2004, 35.7 percent in 2008, and 43.2 percent of ballots in 2012.

### III. The 50 States: A National Survey

#### A. Excused and No-Excuse Absentee Vote-By-Mail

Although federal legislation has provided common requirements for the conduct of federal elections, the 50 states maintain a patchwork of different vote-by-mail election policies as individual states seek to balance issues related to voter access, the integrity of elections, and election costs. As illustrated in *Table 1* below, each of the 50 states allows individual voters to cast absentee ballots by mail under at least certain circumstances. In 20 states a voter is required to provide at least one of a number of valid excuses as to why

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<sup>32</sup> Iowa Code §53.2(1).

<sup>33</sup> Iowa Code §53.8(1).

<sup>34</sup> Iowa Code §53.8(2).

<sup>35</sup> Iowa Code §53.8(2).

<sup>36</sup> See "Track Your Absentee Ballot," available at <https://sos.iowa.gov/elections/absenteeballotstatus/search.aspx> (last visited July 4, 2014).

<sup>37</sup> In Iowa, absentee voting in all of its forms includes vote-by-mail absentee voting, in-person absentee voting at county auditor offices, and in-person absentee voting at satellite voting stations.

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the voter will not be able to appear in person to vote at the polls, while another 27 states allow a voter to request to vote by mail without any excuse.

Table 1

<b>Excused and No-Excuse Absentee Vote-By-Mail<sup>38</sup></b>											
Alabama		+	Indiana		+	Nebraska	*		S. Carolina		+
Alaska	*		Iowa	*		Nevada	*		S. Dakota	*	
Arizona	*		Kansas	*		New Hampshire		+	Tennessee		+
Arkansas		+	Kentucky		+	New Jersey	*		Texas		+
California	*		Louisiana		+	New Mexico	*		Utah	*	
Colorado	-	-	Maine	*		New York		+	Vermont	*	
Connecticut		+	Maryland	*		N. Carolina	*		Virginia		+
Delaware		+	Massachusetts		+	N. Dakota	*		Washington	-	-
Florida	*		Michigan		+	Ohio	*		W. Virginia		+
Georgia	*		Minnesota	*		Oklahoma	*		Wisconsin	*	
Hawaii	*		Mississippi		+	Oregon	-	-	Wyoming	*	
Idaho	*		Missouri		+	Pennsylvania		+			
Illinois	*		Montana	*		Rhode Island		+			
<b>No Excuse Absentee Vote by Mail: 27    Excused Vote by Mail: 20</b>											
* An asterisk indicates a state that allows No-Excuse Absentee Voting by Mail.											
+ A plus indicates a state that allows Excused Absentee Voting by Mail.											
- Three states have implemented Universal Mail Delivery systems (Colorado, Oregon, and Washington).											

## B. Absentee Voting Status

Of the 27 states that allow no excuse absentee voting by mail, 21 states require that a voter request to vote absentee by mail at each separate election or on a regular basis, while six states permit permanent absentee voting status. Permanent absentee voting status provides a voter with the option to request automatic mailed delivery of absentee ballots for each subsequent federal, state, and local election.

The six states, mostly in the western United States, that currently allow a form of permanent absentee voting status to all voters are Arizona, California, Hawaii, Montana, New Jersey, and Utah.<sup>39</sup> In addition, seven states allow permanent absentee status to specific classes of voters, including Alaska, Delaware, Kansas, Massachusetts, Minnesota, Missouri, and West Virginia. Of these states, all but Alaska grant permanent absentee

<sup>38</sup> National Conference of State Legislatures (NCSL), Absentee and Early Voting, (July 1, 2014), *available at* <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#permanent> (last visited July 4, 2014).

<sup>39</sup> A form of permanent absentee voting status is also allowed in the District of Columbia. National Conference of State Legislatures (NCSL), Absentee and Early Voting, (July 1, 2014), *available at* <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#permanent> (last visited July 4, 2014).



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voting status to individuals with a permanent qualifying illness or disability, while Delaware also grants permanent absentee voting status to military and overseas voters and their families. Only Alaska grants permanent absentee voting status to voters who live in certain remote areas.<sup>40</sup>

### C. Universal Mail Delivery: Vote-By-Mail Statutes

The states of Oregon, Washington, and Colorado have enacted statutory systems that result in the near universal delivery of ballots through the mail, without the voter being required to apply for a mailed ballot.<sup>41</sup> This Guide, however, only describes the provisions in Oregon and Washington, under which universal-mail-delivery elections have been conducted prior to 2014.

#### 1. Oregon

The state of Oregon conducted its first universal-mail-delivery election, which was for a local office in 1981, and in 1996 was the first state to conduct a universal mail delivery election for a statewide election.<sup>42</sup>

Oregon has established a statutory structure requiring county election officials to mail ballots to each active elector<sup>43</sup> no earlier than 18 days before an election and no later than 14 days before the election for all elections other than primary elections. The statute also provides that the county official may mail ballots to electors outside of the state no earlier than 29 days before an election.<sup>44</sup> An elector may then either return a marked ballot through the mail, personally at the county clerk's office, or to a ballot deposit location in the elector's county designated by the county clerk.<sup>45</sup> The statute requires the Secretary of State to adopt rules to establish criteria to be followed by county election officials for designating and operating ballot deposit locations for each election. In addition to such rules, Oregon law requires that ballot deposit locations be open for at least eight hours on election day and that all such locations be open to accept absentee ballots until at least 8:00 p.m. on election day.<sup>46</sup> The election personnel at these drop-off locations may provide assistance to voters who require help in voting or casting their ballots.<sup>47</sup>

As with most states, Oregon law allows for the use of replacement ballots in instances where a mailed ballot is destroyed, spoiled, lost, or not received.<sup>48</sup> An elector is permitted

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<sup>40</sup> Id.

<sup>41</sup> Exceptions to universal mail delivery are provided to accommodate voting by persons who are homeless or others who will be unable to vote and return a ballot through regular mail delivery. See Washington Code §29A.40.050.

<sup>42</sup> Berinsky, Adam J.; Burns, Nancy; and Traugott, Michael W. Who Votes by Mail? A Dynamic Model of the Individual-Level Consequences of Voting-By-Mail Systems, p. 180, *available at* <http://web.mit.edu/berinsky/www/whovotesbymail.pdf> (last visited September 2, 2014).

<sup>43</sup> Under Oregon Statutes §247.013(6) the registration of an elector shall only be considered inactive if the county clerk has received information that the elector no longer qualifies or if the elector has not voted or changed their registration in the last five years. The county clerk is also required to mail notice to the elector of the change to inactive status.

<sup>44</sup> Oregon Statutes §254.470(2)(a),(c).

<sup>45</sup> Oregon Statutes §254.470(6).

<sup>46</sup> Oregon Statutes §254.470(1).

<sup>47</sup> Oregon Statutes §254.445.

<sup>48</sup> Oregon Statutes §§254.470(7) and 254.480.



to request a replacement ballot electronically, by telephone, in writing, in person, or by other means provided for in rule, and must complete and sign a request form in order to receive and vote a replacement ballot.<sup>49</sup> A county election official is not permitted to process a replacement ballot if the elector has not submitted a completed and signed request form.<sup>50</sup>

## 2. Washington

Since 1993, voters in Washington have been able to apply for ongoing absentee voter status for all subsequent elections.<sup>51</sup> In 2005, legislation was enacted allowing each county in Washington state to decide whether to conduct all elections by universal mail delivery.

In 2011, the Washington Code was amended to provide that “[e]ach active registered voter of the state, overseas voter, and service voter shall automatically be issued a mail ballot for each general election, special election, or primary.”<sup>52</sup> The statute further provides that “[e]ach active registered voter shall continue to receive a ballot by mail until the death or disqualification of the voter, cancellation of the voter’s registration, or placing the voter on inactive status.”<sup>53</sup> Each county auditor in the state is, with certain exceptions, required to mail ballots to each voter at least 18 days before each general, special, or primary election.<sup>54</sup> The law requires that the voter be instructed either to return the ballot to the county auditor no later than 8:00 p.m. on the day of the election or to mail the ballot to the county auditor with a postmark no later than the day of the election. The law permits military and overseas voters to return ballots via e-mail or fax.<sup>55</sup>

The law further requires that each county auditor open a voting center to allow voters to register to vote and to complete and cast ballots and to provide a ballot drop box for those voters wishing to return a completed universal mail ballot in person rather than through the mail. These voting centers are required to be open 18 days prior to an election and until at least 8:00 p.m. on the day of the election.<sup>56</sup> Under the law, a voter may request a ballot at a voting center after either signing a ballot declaration or showing valid photo identification. The election personnel at these offices may provide assistance to voters needing help in voting or casting their ballots.

## 3. Limited Universal Mail Delivery

Seventeen states provide universal mail delivery in certain local elections only, as illustrated in *Table 2* below.

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<sup>49</sup> Oregon Statutes §254.480(1).

<sup>50</sup> Oregon Statutes §254.480(5).

<sup>51</sup> 1993 Washington Laws, chapter 418.

<sup>52</sup> Washington Code §29A.40.010.

<sup>53</sup> Washington Code §29A.40.010.

<sup>54</sup> Washington Code §29A.40.070.

<sup>55</sup> Washington Code §29A.40.091.

<sup>56</sup> Washington Code §29A.40.160.



## ELECTIONS: VOTE-BY-MAIL

Table 2

<b>Limited Universal-Mail-Delivery Elections<sup>57</sup></b>									
Alabama		Hawaii	*	Massachusetts		New Mexico	*	S. Dakota	
Alaska	*	Idaho	*	Michigan		New York		Tennessee	
Arizona	*	Illinois		Minnesota	*	N. Carolina		Texas	
Arkansas	*	Indiana		Mississippi		N. Dakota	*	Utah	
California	*	Iowa		Missouri	*	Ohio		Vermont	
Colorado	-	Kansas	*	Montana	*	Oklahoma		Virginia	
Connecticut		Kentucky		Nebraska	*	Oregon	-	Washington	-
Delaware		Louisiana		Nevada	*	Pennsylvania		W. Virginia	
Florida	*	Maine		New Hampshire		Rhode Island		Wisconsin	
Georgia		Maryland	*	New Jersey	*	S. Carolina		Wyoming	
<b>States That Allow: 17   States That Do Not Allow: 30</b>									
* An asterisk indicates a state that allows Limited Universal-Mail-Delivery Elections.									
- A dash indicates states that have implemented Universal-Mail-Delivery systems for all elections.									

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<sup>57</sup> National Conference of State Legislatures (NCSL), Absentee and Early Voting, (July 1, 2014), available at <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#permanent> (last visited July 4, 2014).