What's New For 2004?

Election Administration Handbook

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Some of the changes described in this Handbook were also effective in 2003, but because that was not a general election year, they will have a far greater impact during 2004.

In this Handbook, explanation for each topic is given with the appropriate citation to the Help America Vote Act of 2002 (HAVA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Wyoming Statutes, or to proposed rules of the Secretary of State (SOS).

Voter Registration

Virtually all the changes are required by the Help America Vote Act of 2002, P.L. 107-252, 42 U.S.C. 15301 - 15545 [referred to as HAVA]. These requirements are intended to assure that eligible people may register and vote and that those who are ineligible cannot.

What is required by HAVA?

Since January 1, 2003, HAVA has required that every individual registering to vote must provide his driver's license number, or if he has no current, valid driver's license, he must provide the last four digits of his social security number instead. If he has neither, the State will generate a unique voter identification number for him. State generation of the unique identification number will be possible following implementation of the statewide voter registration system.

HAVA, §303(a)(5)(A); W.S.22-3-103, 104

Is any identification required?

HAVA does not require the individual to show the driver's license or social security card to the registry agent, only that he provide the numbers.

In addition, Wyoming law expressly requires that the individual also produce "Acceptable Identification" and sign his full legal name to the registration oath in the presence of the registry

agent. Thus, the easy way to cover both requirements is to produce the driver's license.

W.S. 22-3-103, 104

Acceptable identification will be defined by rule.

W.S. 22-1-102(a)(xxxix); Proposed SOS Rules

Is the same required when a person registers by mail?

Yes, the same information is required when a person registers by mail, although then any person who is authorized to administer oaths may serve as the registry agent. The acceptable ID must then be shown to the registry agent, and the voter must sign the oath in the registry agent's presence. Note: The applicant is not required to send a copy of the acceptable identification with his voter registration application.

W.S. 22-3-104(e) and 117

This process could be diagramed step by step as follows:

- Provide the number of applicant's current, valid, Wyoming driver's license

OR

- State that he doesn't have a current, valid, Wyoming driver's license and provide the last four digits of his social security number

OR

- State that he doesn't have a current, valid, Wyoming driver's license or a social security number. Then a

unique voter registration number will be assigned to him.

HAVA §303(a)(5)(A); W.S. 22-3-103, 104(d)

AND

- Provide Acceptable ID

W.S. 22-3-104

AND

- Sign his full legal name to the registration oath before a registry agent.

W.S. 22-3-104 and 117

- Registration is complete upon acceptance of the completed Voter Registration Application by the County Clerk or poll worker.

W.S. 22-3-104(f)

Are there any exceptions to these ID requirements for registration?

Yes, those people using the Federal Postcard Application to register do not have to meet these requirements. Also, these individuals may request absentee ballots for each subsequent federal election in Wyoming through the next two regularly scheduled general elections with a single application.

UOCAVA, §§ 102, 104 ; 42 U.S.C. 1973ff *et seq.*

As before, registrations made using the Federal Postcard Application are temporary and are segregated from the regular Wyoming registrations. After the completion of the second

federal election cycle, they will be removed from the voter registration list if they have not already been removed in accordance with other law.

W.S. 22-3-102(d) and 117

Finally, the standard information required on each voter registration form has changed as described above, however, the design and size may vary by county as long as the forms conform to those requirements.

Voting

Is identification now required for voting?

In general, NO. Only a very few people will be required to produce identification when they vote, whether in person or by mail.

- No identification is required for a voter who registered in person.

  W.S. 22-3-118(a)

- No identification is required for a voter who registered by mail if he or she has already voted in a Wyoming election for federal office.

  W.S. 22-3-118(a)

- If a voter is challenged, an ID may be requested.

  W.S. 22-15-104

When is identification required?

Identification is necessary only when a person has registered by mail and he is voting in his first federal election in Wyoming. This is true whether he is voting in person or by mail. Elections for federal office are primary and general elections, and special elections to fill a vacancy in the Wyoming seat in the U.S. House of Representatives. Wyoming has had only one of these special elections.

What identification is necessary and are copies ever acceptable?

When a person is voting in person in his first Wyoming election for federal office after having registered by mail, he must:

- Provide a current, valid, photo ID

  OR

- Provide a copy of a current utility bill, bank statement, government check, paycheck, or other government document which shows the name and address of the voter.

HAVA §303(b)(2)(A)(i); W.S. 22-3-118(b)

When a person is voting by mail in his first Wyoming election for federal office after having registered by mail, the same rules apply except that he must provide a copy of his current, valid, photo ID or of one of the other documents named above. This copy is to be sent in with his absentee ballot.

HAVA, § 303(b)(2)(A)(ii); W.S. 22-3-118(c)

"Current, valid, photo ID" will be defined in the rules.

Are there any exemptions in this law?

The following voters are exempt from the requirement of showing an ID:

- Those entitled to vote absentee under UOCAVA, 42 U.S.C. 1973ff *et seq.*;

- Those provided an alternative to the right to vote in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. 1973-ee-1(b)(2)(B)(ii);

- Those "entitled to vote otherwise than in person under any other federal law."

HAVA, § 303(b)(3)(C); W.S. 22-3-118

How can these voters be identified?

Any uniformed services voter who is away from his Wyoming residence is a UOCAVA voter, as is any overseas voter. Their adult family members are similarly qualified as UOCAVA voters.

- Recall that "absent uniformed services voters" include all members of the military, the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration and their families.

UOCAVA, §107(1)(A) - (C) and 107(7)

- An "overseas voter" means any uniformed services voter who is absent from the United States; a person who resides outside the U.S. and is qualified to vote in the last place in which he was domiciled before leaving the U.S., or a person who resides outside the U.S. and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the U.S. (typically a dependent who came of age overseas).

UOCAVA, §107(5)(A) - (C)

Physically handicapped and elderly voters assigned to inaccessible polling places who apply in advance will be assigned to accessible polling places or will be provided with an alternative means of casting a ballot on election day.

42 U.S.C.1973ee–1(b); Proposed SOS Rules

Use and Handling of Provisional Ballots

When must provisional ballots be offered to voters?

Provisional ballots shall be offered when:

- The prospective voter has inadequate ID when attempting to register at the polls.
  W.S. 22-1-102(a)(xli)

- The prospective voter registered by mail and presents inadequate ID when voting in person in his first federal election in Wyoming.
  W.S. 22-3-118(d)

- The voter is challenged at the polls.
  W.S. 22-15-105

- The polls are kept open after 7:00 p.m. by court order or by Emergency Directive issued by the Secretary of State. All voters entering the polls after 7:00 p.m. shall cast provisional ballots only.
  HAVA, §302(c)

How are provisional ballots handled at the polls?

The provisional ballot secrecy envelope shall bear the statutory oath which must be signed by the voter before an election

judge/registry agent. After being sealed in secrecy envelopes, the provisional ballots are held apart from other ballots.

W.S. 22-15-105; Proposed SOS Rules

The voter must establish his eligibility to register or to vote by providing appropriate documentation to the county clerk no later than the close of business on the day following the election. Voters must receive instructions to that effect at the polls.

W.S. 22-3-104, 22-15-105; Proposed SOS Rules

The secrecy envelopes for provisional ballots must be numbered so that the voter can go to the Secretary of State website and determine, by means of the unique number assigned to his ballot secrecy envelope, whether or not his ballot was cast and counted in the election.

HAVA, §302 (though Wyoming is exempt);
Proposed SOS Rules

Provisional ballot envelope numbering is expected to include the county, district, precinct, and voter numbers in sequence. Instructions regarding handling of the provisional ballot envelopes will be included in the 2004 Wyoming Election Judges Handbook. The Secretary of State will provide forms and labels for the ballot envelopes for the 2004 elections.

W.S. 22-15-105; Proposed SOS Rules

Will using provisional ballots affect County Canvassing Board procedures?

The County Canvassing Board may not meet before the close of business on the day following the election if any provisional ballots have been cast in the county. Time must be allowed for the provisional voters to establish their eligibility.

W.S. 22-16-103

As appropriate, after one business day has been allowed for the provisional voters to produce documentation of their eligibility to register or to vote, the provisional ballots with copies of the documentation attached, shall be presented to the Canvassing Board.

W.S. 22-15-105, 22-16-103(c)

At its meeting, the County Canvassing Board must determine the eligibility of each prospective voter to register or to vote and order ballots cast by qualified electors to be opened and counted.

W.S. 22-16-103(c)

Confidentiality of Voter Information

What voter information is strictly confidential?

Wyoming law has become more specific about protecting personally identifiable voter information from disclosure. Election records containing social security numbers, portions of social security numbers, driver's license numbers, state generated unique voter identification numbers, birth dates, telephone numbers, and other personally identifiable information other than names, gender, addresses, and party affiliations, are not public records and shall be kept confidential.

W.S. 22-2-113

When necessary for their duties, members of the County Canvassing Boards may access the confidential voter information but shall keep it confidential.

W.S. 22-3-113(d) and 22-16-103(c)

There is more specificity regarding what is official registry information and what else may be included in the voter registration records.

W.S. 22-2-113 and 22-3-108

Are other agency records containing personally identifiable information now available to confirm the critical pieces of voter information required when registering?

In order for the contractor to be able to create this part of the computerized voter registration system, State law now authorizes the Department of Transportation; Department of Health, Office of Vital Records Services; Attorney General, Division of Criminal Investigation; and the Board of Parole to share the data essential for the Voter Registration System. That consists of names, addresses, dates of birth, driver's license numbers, dates of death, felony convictions, and restoration of rights. Other information in the databases of these agencies, such as driving records, shall NOT be available, and the voter registration system being developed will make the comparisons and report the results.

W.S. 22-3-102(e), 7-19-106

Uniformed and Overseas Citizens Absentee Voting Act

The office of the Secretary of State will provide information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed and overseas voters with respect to federal elections. They will be referred to the appropriate County Clerk's Offices for actual voter registration and absentee ballots.

HAVA, §702, UOCAVA, §102(b)

Who are UOCAVA Voters?

See **"Voting, How can these voters be identified?"** for definitions of Uniformed Services Voters and Overseas Voter. UOCAVA voters using the federal postcard application may request absentee ballots for all federal elections that year and through a second subsequent general election with one request. The 30 day voter registration cut off period does not apply to these applications for registration and absentee ballots.

UOCAVA, § 104; W.S. 22-3-117(c)

UOCAVA voters using the Federal Postcard Application shall have their names removed from the voter registration list following the second subsequent general election after registration if they have not been removed earlier for some other legal reason.

W.S. 22-3-102(d)

Secrecy envelopes for the ballots of all absent voters and their adult family members must have the oath prescribed by the Presidential Designee printed on them for the voter's signature. The envelope may also include other election information such as voting district and precinct numbers.

HAVA, §705; UOCAVA, §§101(b)(7) and 102(a)(5)

What is a federal write-in absentee ballot?

The federal write-in absentee ballot was created in order to provide a method for overseas voters to cast their ballots in general elections even when absentee ballots are slow to arrive.

The write-in absentee ballot is available only to an overseas voter, and the voter's application for a state absentee ballot must have reached the County Clerk 30 days or more before the election. Also, if a voter's state absentee ballot later arrives and is returned to the County Clerk, the voter must make "every reasonable effort" to inform the County Clerk that he has submitted two ballots. If the state ballot arrives in time to be counted, only it shall be counted.

UOCAVA, §103

Thus, federal write-in absentee ballots shall NOT be counted if :

- The ballots are submitted from anywhere in the United States;

- The application for a state absentee ballot was received less than 30 days before the election; OR

- A state absentee ballot is received on time by the clerk.

UOCAVA, §103

UOCAVA provides that voters using federal write-in ballots may designate the candidate chosen or the political party of the candidate chosen. It also requires that abbreviations, misspellings, and other minor variations in the form of the name of a candidate or political party shall be disregarded in determining the validity of the ballot if the intention of the voter can be ascertained.

UOCAVA, § 103(c).

After each regularly scheduled general election, each County Clerk shall report to the Secretary of State in the federally prescribed format, the number of absentee ballots transmitted to absent UOCAVA voters and the number of such ballots which were returned and cast in the election.

HAVA, §703

State-Based Administrative Complaint Procedures

The state-based administrative complaint procedures are required by HAVA and will be implemented by the Secretary of State. These procedures will provide uniform, non-discriminatory administrative complaint procedures under which all complaints alleging violations of Title III of HAVA may be promptly and efficiently resolved, and all complaints of merit will be appropriately remedied by the State of Wyoming.

Other kinds of complaints may be referred to the appropriate authorities. Rules and forms have been developed for the state-based administrative complaint procedures and will be promulgated as rules. Existing laws for handling election complaints are unaffected.

The subjects covered by Title III of HAVA include:

- Voting system standards
- Provisional voting
- Information requirements
- Computerized statewide voter registration system requirements
- Requirements for voters who register by mail

The complaints must be written, sworn, notarized, and filed with the Elections Division of the Office of the Secretary of State, 200 West 24th Street, Cheyenne, Wyoming 82002-0020. Other types of complaints may be referred to the appropriate authorities.

Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur may file a complaint. He should use the form provided, although complaints received in substantially the same form and meeting all the legal requirements will be accepted.

County Clerks will have the complaint forms and they will be posted on the Secretary of State's website, as will the rules providing for this procedure.

County Clerks will be notified of any complaints relating to their duties and invited to respond. People with complaints regarding county issues will be encouraged to resolve the issues directly with the appropriate County Clerk.

The administrative process for handling these complaints is not subject to the Wyoming Administrative Procedure Act. There is no right of appeal to district court.

W.S. 22-2-121(b)

Voter Information to be Posted on Election Day

In each polling place on election day when any federal offices are to be filled, the following information must be publicly posted:

- A sample ballot;
- Information regarding the date of the election and the hours during which polling places will be open;
- Instructions on how to vote, including how to cast a provisional ballot;
- Instructions (regarding identification) for voters who registered by mail and who are voting in their first Wyoming federal election;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

HAVA, §302(b)

Damaged Absentee Ballots

How may damaged absentee ballots be processed and counted?

When absentee ballots are received in such damaged condition (wrinkled, torn, bar code soiled, etc.) that the counting device rejects them but the intent of the voter is unmistakable, they may be handled and counted per rule.

W.S. 22-14-114; Proposed SOS Rules

Campaign Finance

How has the campaign finance law changed?

The law now requires the filing of Receipts and Expenditure reports after primary elections by PACs and similar entities, and it authorizes the filing of these reports by fax after primaries, as well as after general and special elections. You will recall the rest of the following:

At least 7 days before the primary, general, and any special election, every candidate, candidate's campaign committee, and political action committee must file a report of campaign receipts. The report must be current to any day from the 14th day up to the 8th day before the election.

W.S. 22-25-106(a)(i)

Every candidate, candidates campaign committee, and political action committee, whether successful or not, must file a fully itemized statement of receipts and expenditures within 10 days after any primary, general, or special election.

W.S. 22-25-106(a)(ii) and (iii)

Reports of Campaign Receipts may be filed by fax without original signatures. Reports of Campaign Receipts and Expenditures may be filed by fax so long as the properly signed original is also sent.

W.S. 22-25-107(b)

When candidates have campaign committees, must the candidates file their financial reports separately from their committees' reports?

No. The preparation of the second report would be redundant and is not required so long as the candidate and the chairman and treasurer of his campaign committee all sign the consolidated report, and the report meets the filing requirements of both types of reports.

W.S. 22-25-106

Why does the Election Code still refer to <u>Justices of the Peace</u>?

The references to Justices of the Peace have now been removed from the Election code.

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