

AN ACT

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RELATING TO ELECTIONS; ELIMINATING CERTAIN RESTRICTIONS ON ABSENT
UNIFORMED SERVICE VOTERS AND OVERSEAS VOTERS; ALLOWING
ELECTRONIC TRANSMISSION FOR VOTER REGISTRATION AND REQUESTS FOR
AND VOTING BY ABSENTEE BALLOTS BY FEDERAL QUALIFIED ELECTORS AND
OVERSEAS VOTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Election Code is enacted to read:

"WRITE-IN ABSENTEE BALLOTS--FEDERAL QUALIFIED ELECTORS AND
OVERSEAS VOTERS.--

A. A federal qualified elector or overseas voter residing outside the
United States may request a special write-in federal or state absentee ballot, as
appropriate, if:

(1) the person submits with the request a statement that due to
military or other contingencies that preclude normal delivery of mail, the person cannot
vote on an absentee ballot during the normal absentee voting period; and

(2) the request is made between ninety and one hundred
eighty days before the election.

B. The county clerk shall determine the type of write-in absentee ballot
for which the voter is eligible and send the ballot to the voter if the conditions of
Paragraphs (1) and (2) of Subsection A of this section are met."

Section 2. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section
66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--
CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS AND OVERSEAS
VOTERS--LATE REGISTRATION.--

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A. For qualified electors other than federal qualified electors or
overseas voters, the following provisions shall apply:

(1) the county clerk shall receive certificates of registration at
all times during normal working hours, except that he shall close registration at
5:00 p.m. on the twenty-eighth day immediately preceding any election at which the
registration books are to be furnished to the precinct board;

(2) registration shall be reopened on the Monday following the
election;

(3) for purposes of a municipal or school election, the
registration period for those precincts within the municipality or school district is closed
at 5:00 p.m. on the twenty-eighth day immediately preceding the municipal or school
election and is opened again on the Monday following the election;

(4) during the period when registration is closed, the county
clerk shall receive certificates of registration and other documents pertaining thereto
but shall not file the certificate of registration in the registration book until the Monday
following the election, at which time a voter identification card shall be mailed to the
registrant at the address shown on the certificate of registration;

(5) when the twenty-eighth day prior to any election referred to
in this section is a Saturday, Sunday or legal holiday, registration shall be closed at
5:00 p.m. of the next succeeding regular business day for the office of the county
clerk; and

(6) the county clerk shall accept for filing any certificate of registration that is hand delivered before 5:00 p.m. on the Friday immediately following the close of registration. The county clerk shall accept for filing any mailed certificate of registration postmarked not less than twenty-eight days prior to any election referred to in this section. The county clerk shall accept for filing any certificate of registration accepted at a state agency designated pursuant to Section 1-4-5.2 NMSA 1978 not later than twenty-eight days prior to any election.

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B. For federal qualified electors and overseas voters, the county clerk shall accept a certificate of registration by electronic transmission from a voter qualified to apply for and vote by absentee ballot in the county if the transmission is received before 5:00 p.m. on the Friday immediately preceding the election."

Section 3. Section 1-6-4.1 NMSA 1978 (being Laws 1987, Chapter 327, Section 9, as amended) is amended to read:

"1-6-4.1. FEDERAL AND STATE WRITE-IN ABSENTEE BALLOT FOR OVERSEAS VOTERS IN GENERAL ELECTIONS FOR STATE OR FEDERAL OFFICES.--

A. Except as provided in Subsection C of this section, a federal or state write-in absentee ballot for federal or state offices in a general election shall be processed in the same manner as provided by law for other absentee ballots.

B. In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party, in which case the ballot shall be counted for all candidates of that political party for federal or state office. Any abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining

the validity of the ballot if the intention of the overseas voter can be ascertained.

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C. A federal or state write-in absentee ballot of an overseas voter shall not be counted if:

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(1) the ballot is submitted from any location in the United States;

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(2) the application of the overseas voter for an absentee ballot is received by the county clerk less than thirty days before the election unless the application is electronically transmitted to the clerk; or

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(3) the absentee ballot of the overseas voter is received by the county clerk later than 7:00 p.m. on election day.

D. A federal qualified elector or overseas voter may transmit, and the county clerk shall accept, an absentee ballot by electronic transmission if:

(1) the voter signs an affidavit waiving the right of secrecy of voter's ballot;

(2) the voter transmits the affidavit with the absentee ballot; and

(3) the transmission of the absentee ballot and affidavit are received by the county clerk no later than 7:00 p.m. on election day."

Section 4. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended by Laws 2001, Chapter 49, Section 1 and by Laws 2001, Chapter 58, Section 1) is amended to read:

"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--MARKING AND DELIVERY OF BALLOT IN PERSON.--

A. The county clerk shall mark each completed absentee ballot

application with the date and time of receipt in the clerk's office and enter the required information in the absentee ballot register. The county clerk shall then determine if the applicant is a voter, an absent uniformed services voter or an overseas voter.

B. If the applicant has no valid certificate of registration on file in the county and he is not a federal qualified elector or if the applicant states he is a federal qualified elector but his application indicates he is not a federal qualified elector, no absentee ballot shall be issued and the county clerk shall mark the application "rejected" and file the application in a separate file from those accepted.

C. The county clerk shall notify in writing each applicant of the fact of acceptance or rejection of his application and, if rejected, shall explain why the application was rejected.

D. If the county clerk finds that the applicant is a voter or a federal qualified elector, the county clerk shall mark the application "accepted" and deliver an absentee ballot to the voter in the county clerk's office or mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. Acceptance of an application of a federal qualified elector constitutes registration for the election in which the ballot is to be cast. Acceptance of an application from an overseas voter who is not an absent uniformed services voter constitutes a request for changing information on the certificate of registration of any such voter. No absent voter shall be permitted to change his party affiliation during those periods when change of party affiliation is prohibited by the Election Code. Upon delivery of an absentee ballot to a voter in the county clerk's office or mailing of an absentee ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the signature roster next to the name of the voter who has been provided or mailed an

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absentee ballot.

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E. If an application for an absentee ballot is delivered in person to the county clerk and is accepted, the county clerk shall provide the voter an absentee ballot and it shall be marked by the applicant in a voting booth of a type prescribed by the secretary of state, sealed in the proper envelopes and otherwise properly executed and returned to the county clerk or his authorized representative before the voter leaves the office of the county clerk. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code other than is provided in this subsection. It shall be unlawful to solicit votes, display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office. Absentee ballots may be marked in person during the regular hours and days of business at the county clerk's office from 8:00 a.m. on the fortieth day preceding the election up until 5:00 p.m. on the Saturday immediately prior to the date of the election. In marking the absentee ballot, the voter may be assisted by one person of the voter's choice.

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F. Commencing with the twentieth day prior to an election, an absent voter may vote in person, on an electronic voting machine at the county clerk's office or at an alternate location established by the county clerk; provided, a county clerk may allow an absent voter to vote on an electronic voting machine beginning on the fortieth day before an election. In class A counties, the county clerk shall establish not less than four alternate locations as a convenience to the voters. Absentee voting may be done at the county clerk's office or an alternate location during the regular

hours of business from 8:00 a.m. on the twentieth day prior to the election until 5:00 p.m. on the Saturday immediately prior to the election. The county clerk shall ensure that procedures established for processing an absent voter application and for voting by absentee ballot are complied with at each alternate location.

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G. Absentee ballots shall be airmailed or, if so requested, electronically transmitted to applicants temporarily domiciled inside or outside the continental limits of the United States not later than on the Friday immediately prior to the date of the election.

H. No absentee ballot shall be delivered or mailed by the county clerk to any person other than the applicant for such ballot.

I. The secretary of state and each county clerk shall make reasonable efforts to publicize and inform voters of the times and locations for absentee voting."

Section 5. Section 1-6-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 133, as amended) is amended to read:

"1-6-7. FORM OF ABSENTEE BALLOT.--As soon as candidates and questions to be voted upon have been determined for each election, the county clerk shall procure a supply of suitable absentee ballots. The absentee ballots shall be numbered and shall be, as nearly as possible, in the same form as prescribed by the secretary of state for emergency ballots. However, to reduce weight and bulk for transport of absentee ballots, the size and weight of the paper for envelopes, ballots and instructions shall be reduced as much as possible. Absentee ballots shall be printed at least forty-five days prior to the date of a primary election and forty-nine days prior to the date of a general election. Absentee ballots for any other election shall be printed at least thirty-five days prior to the date of the election."

Section 6. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MANNER OF VOTING.--

A. A person voting pursuant to the Absent Voter Act shall secretly mark his absentee ballot in the manner provided in the Election Code for marking emergency paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope, which shall include an affirmation by the voter under penalty of perjury that the facts stated in the form are true.

B. Federal qualified electors and overseas voters shall either deliver or mail the official mailing envelope or electronically transmit the absentee ballot to the county clerk of their county of residence or deliver it to a person designated by federal authority to receive executed ballots for transmission to the county clerk of the county of residence or former residence as the case may be. Voters shall either deliver or mail the official mailing envelope to the county clerk of their county of residence."

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