

AN ACT

H
B

RELATING TO ELECTIONS; CHANGING THE TIMES FOR ABSENTEE VOTING;
CHANGING REPORTING REQUIREMENTS FOR ABSENTEE BALLOT REGISTERS;
PROVIDING STANDARDS FOR VOTER ASSISTANCE; CONFORMING CERTAIN
SECTIONS OF THE ELECTION CODE TO THE REQUIREMENTS OF THE FEDERAL
HELP AMERICA VOTE ACT OF 2002; AMENDING AND ENACTING SECTIONS OF THE
ELECTION CODE.

9
8
4
P
a
g
e
1

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: Section 1.

Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended)
is amended to read:

"1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED ELECTOR-
-OVERSEAS VOTER.--

A. Application by a federal qualified elector or an overseas voter for an
absentee ballot shall be made on the official postcard form prescribed or authorized by
the federal government to the county clerk of the county of his residence.

B. Application by a voter for an absentee ballot shall be made only on
a form prescribed by the secretary of state. The form shall identify the applicant and
contain information to establish his qualification for issuance of an absentee ballot
under the Absent Voter Act; provided that on the application form for a general
election ballot there shall be no box, space or place provided for designation of the
voter's political party affiliation. The form shall allow the applicant to receive an
absentee ballot for all elections within an election cycle.

C. Each application for an absentee ballot shall be subscribed by the

applicant.

D. An application for an absentee ballot by a federal qualified elector or an overseas voter shall be accepted at any time preceding the general election."

Section 2. 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 does not have a 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, an absentee ballot shall not 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 applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who registered by mail without submitting the required identification, the county clerk shall notify the voter that he must submit with his absentee ballot a copy of a current and valid photo identification,

H
B
9
8
4
P
a
g
e
2

utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the applicant. The county clerk shall note on the absentee ballot register and signature roster that the applicant's absentee ballot must be returned with the required identification.

E. If the county clerk finds that the applicant is a voter other than a federal qualified elector or overseas voter, the county clerk shall mark the application "accepted" and, beginning twenty-eight days before the election, 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. If the county clerk finds that the applicant is a federal qualified elector or overseas voter, the county clerk shall mark the application "accepted" and beginning forty-five days before the election, 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. An absent voter shall not 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 absentee ballot.

F. 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

H
B
9
8
4
P
a
g
e
3

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 at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election. In marking the absentee ballot, the voter, pursuant to the provisions of Section 1-12-15 NMSA 1978, may be assisted by one person of the voter's choice.

H
B
9
8
4
P
a
g
e
4

G. Commencing on the third Saturday prior to an election, an absent voter may vote in person, on an electronic voting machine at an alternate location established by the county clerk. In class A counties with more than two hundred thousand registered voters, the county clerk shall establish not less than twelve alternate voting locations as a convenience to the voters. For class A counties with two hundred thousand registered voters or less, the county clerk shall establish not less than four alternate voting locations. In non-class A counties with more than ten thousand registered voters, the county clerk shall establish at least one alternate voting location. In non-class A counties with ten thousand registered voters or less,

early voting shall be conducted in the office of the county clerk or at such alternative locations as may be designated by the county clerk. Absentee voting may be done at an alternate location from 12:00 p.m. to 8:00 p.m., Tuesday through Friday, and 10:00 a.m. to 6:00 p.m. Saturday through 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.

H
B
9
8
4
P
a
9
e
5

H. Absentee ballots shall be airmailed to applicants temporarily domiciled inside or outside the continental limits of the United States not later than on the Thursday immediately prior to the date of the election.

I. An absentee ballot shall not be delivered or mailed by the county clerk to any person other than the applicant for such ballot.

J. The county clerk shall accept and process, with respect to a primary or general election for any federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter if the application is received not less than thirty days before the election. The county clerk shall also accept and process federal write-in absentee ballots from overseas voters in general elections for federal offices in accordance with the provisions of Section 103 of the federal Uniformed and Overseas Citizens Absentee Voting Act.

K. 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 3. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

"1-6-6. ABSENTEE BALLOT REGISTER.--

A. For each election, the county clerk shall keep an "absentee ballot register", in which he shall enter:

- (1) the name and address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot in the county clerk's office or at an alternate location or the mailing of an absentee ballot to the applicant;
- (5) the applicant's precinct;
- (6) whether the applicant is a voter, a federal voter, a federal qualified elector or an overseas voter;
- (7) whether the voter is required to submit identification pursuant to Section 1-6-5 NMSA 1978; and
- (8) the date and time the completed absentee ballot was received from the applicant by the county clerk or the absent voter voted early in person in the county clerk's office or at an alternate location.

B. Within twenty-four hours after receipt of a voter's application for an absentee ballot, the county clerk shall mail either the ballot, if it is within twenty-eight days of election day or a notice of rejection to the applicant.

C. The absentee ballot register is a public record open to public inspection in the county clerk's office during regular office hours. The county clerk shall have an updated absentee ballot register available for public inspection Monday through Friday during regular office hours.

D. The county clerk shall deliver to the absent voter precinct on election day a complete list of all absentee ballot applicants and early voters with

H
B
9
8
4
P
a
g
e
6

applicable information shown in the absentee ballot register for each applicant and early voter up to 6:00 p.m. on the Saturday preceding the election. The county clerk shall deliver a signature roster containing the same information as the lists to the absent voter precinct board.

H
B
9
8
4
P
a
g
e

E. The county clerk shall transmit to the secretary of state and to the county chairman of each of the major political parties in the county a complete copy of entries made in the absentee ballot register. Such transmissions shall be made once each week beginning four weeks immediately prior to the election. A final copy shall be transmitted on the Saturday immediately following the election.

F. If the county clerk has available the technology to do so, at the request of a candidate or chair of a political party of the county, the county clerk shall electronically transmit to the candidate or chair via the internet the information, when updated, on the absentee ballot register indicating voters who have requested absentee ballots, returned their absentee ballots or voted early in person."

Section 4. A new section of the Absent Voter Act is enacted to read:

"EARLY VOTING--ALTERNATIVE VOTING LOCATIONS--POLL WORKERS.--An alternate voting location shall be attended by at least two poll workers of different political parties."

Section 5. A new section of the Absent Voter Act is enacted to read:

"ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--A voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the county clerk in person or by mail."

Section 6. A new section of the Absent Voter Act is enacted to read:

"EARLY VOTING--ALTERNATE VOTING PLACES--PROCEDURES.--The

secretary of state shall adopt rules to:

A. ensure that voters have adequate access to alternate locations for early voting in each county, taking into consideration population density and travel time to the place of voting; and

B. ensure that early voters are not allowed to vote in person on election day."

Section 7. A new section of the Election Code is enacted to read:

"EARLY VOTER.--As used in the Election Code, "early voter" means a voter who votes in person before election day, and not by mail."