

AN ACT

RELATING TO ELECTIONS; LIMITING THE LOCATION WHERE ABSENTEE
BALLOTS MAY BE HAND DELIVERED.

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

Section 1. Section 1-6-5 NMSA 1978 (being Laws 1969,
Chapter 240, Section 131, as amended by Laws 1993, Chapter
314, Section 43 and also by Laws 1993, Chapter 316, Section
43) 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 applicant is determined to be a voter or a federal qualified elector, the county clerk shall mark the application "accepted" and hand deliver within the 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 or mailing of an absentee ballot to any 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 person who has been sent an absentee ballot.

E. If an application for an absentee ballot is delivered in person to the county clerk and is accepted, the county clerk shall deliver the absentee ballot and it shall

be marked by the applicant in a voting booth of a type prescribed by the secretary of state in the courthouse, sealed in the proper envelopes and otherwise properly executed and returned to the county clerk or his authorized representative before the applicant 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 own choice upon the execution with the county clerk of an affidavit for assistance stating that the voter meets at least one of the conditions for receiving such assistance as is set forth by the provisions of Section 1-12-12 NMSA 1978.

F. Absentee ballots shall be air mailed 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.

G. No absentee ballot shall be delivered or mailed to any person other than the applicant for such ballot.

H. 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."

Section 2. Section 3-9-4 NMSA 1978 (being Laws 1973, Chapter 375, Section 3, as amended) is amended to read:

"3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--ACCEPTANCE.--

A. Application by a federal qualified elector or federal voter shall be made on the federal postcard application form to the municipal clerk.

B. The municipal clerk shall prescribe the form of the absentee ballot application.

C. Upon receipt of a properly completed and delivered application for an absentee ballot, the municipal clerk shall contact the county clerk to determine if the applicant is a qualified elector of the municipality.

D. The municipal clerk shall reject an absentee ballot application for any of the following reasons:

(1) the application does not set forth the applicant's full name and address;

(2) the application is not signed by the applicant; or

(3) the applicant:

(a) has no valid affidavit of registration on file with the county clerk and is not a federal qualified elector or federal voter; or

(b) has a valid affidavit of registration on file with the county clerk, but is not a resident of the municipality; or

(c) is a federal qualified elector or federal voter, but is not entitled to vote in the municipal election; and

(d) cannot comply with Subparagraph (a), (b) or (c) of this paragraph pursuant to Subsection C of Section 3-8-40 NMSA 1978.

E. If the municipal clerk rejects the absentee ballot application pursuant to Subsection D of this section,

then the municipal clerk shall refuse to issue an absentee ballot and shall mark the application "rejected" and enter "rejected" in the absentee ballot register and file the application in a separate file. The municipal clerk shall, within twenty-four hours of rejection of the application, notify the applicant in writing by certified mail, return receipt requested, by telephone or in person of the reasons for rejection of the application. In addition, if the application is incomplete, the clerk shall mail immediately a new application for absentee ballot. Notwithstanding any provisions of this section to the contrary, the only method of notification pursuant to rejection of an absentee ballot under the provisions of Paragraph (3) of Subsection D of this section shall be by certified mail, return receipt requested. The person whose application has been rejected shall have ten days from receipt of notice to appeal or show cause why the application should be accepted.

F. If the application for absentee ballot is accepted, the municipal clerk shall:

- (1) mark the application "accepted";
- (2) enter the required information in the absentee ballot register; and
- (3) issue to the applicant an absentee ballot.

G. The municipal clerk shall hand deliver within

the clerk's office or mail an absentee ballot to any qualified elector, federal qualified elector or federal voter whose application for an absentee ballot has been accepted. The municipal clerk shall notify the county clerk who shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. Names of individuals which have been labeled "absentee ballot" shall appear on a separate list called the "absentee voter list". This list shall be submitted to the municipal clerk by the county clerk in the same manner as provided in Subsection B of Section 3-8-7 NMSA 1978.

H. It is the duty of the municipal clerk to verify the signature roster and absentee voter list to ensure that all names of individuals who have been issued absentee ballots have been labeled "absentee ballot" on the signature roster and their names listed on the absentee voter list. If not, then the municipal clerk shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. The municipal clerk shall then enter the name and all required information on the absentee voter list.

I. If the application for an absentee ballot is delivered in person to the municipal clerk during regular hours and days of business and is accepted, the municipal

clerk shall deliver the absentee ballot and it shall be marked by the applicant in a voting booth in the municipal clerk's office, sealed in the proper envelopes and otherwise properly executed and returned to the municipal clerk or the clerk's authorized representative before the applicant leaves the office of the municipal clerk. Absentee ballots may be cast in person at the municipal clerk's office until 5:00 p.m. on the Thursday immediately prior to the date of election.

J. The act of marking the absentee ballot in the office of the municipal clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the municipal clerk a polling place subject to the requirements of a polling place in the Municipal Election Code other than is provided in this subsection. During the period of time between the date a person may first apply in person for an absentee ballot and the final date for such application and marking of the ballot in the office of the municipal clerk, it is unlawful to solicit votes or display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office.

K. Absentee ballots shall be air mailed to federal qualified electors and federal voters whose applications have been accepted not earlier than thirty-five

days prior to the election and not later than 5:00 p.m. on the Thursday immediately prior to the date of the election.

L. Absentee ballots shall be mailed to voters whose applications have been approved not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on Thursday immediately prior to the date of the election.

M. No absentee ballot shall be delivered or mailed to any person other than the applicant for such ballot."
