

Vote by Mail Model Legislation

Part 1: No-excuse Mail Voting

[Comment: For states which currently restrict mail-in voting to certain classes of voters, statutory language delineating these restrictions should be replaced with a general affirmation of the right of all eligible voters to vote by mail.]

§1. *The vote by mail ballot shall be available to any registered [voter | elector].*

Part 2: Permanent Vote by Mail Applications

§2. *Application for Permanent Vote by Mail Status*

A. *Permanent vote by mail ballot status shall be available to any registered [voter | elector]. The application for permanent vote by mail status shall be in writing or by facsimile using a form furnished by the designated election official, in the form of a letter, or in electronic format through a secure Internet site if such a system is made available by the [Chief State Elections Official or Body]. The application shall contain the following information: applicant's printed name; signature; residence address; mailing address if ballot is to be mailed to the [voter | elector]; and date of birth.*

B. *The application for permanent vote by mail status shall be filed with the designated election official of the political subdivision in which the applicant resides or is entitled to vote. Applications may be filed at any time, except that applications for a [voter | elector] to be mailed a vote by mail ballot for the next election shall be filed no later than the close of business on the seventh day before the election, and applications filed the day before or the day of an election shall not be processed until one day after the election.*

[Comment: One benefit of permanent vote by mail is the reduction in applications needing to be processed, and the reduction of the seasonal wave of applications. However, once ballots can no longer be mailed in time to arrive before election day (seven days) applicants by necessity must pick up their ballots in person. Additionally, no applications can be processed in the busy day before the election, and voters choosing to vote on election day may do so at the polls.]

C. *The [Chief State Elections Official or Body] shall:*

1. *(a) Produce and distribute an application form for [voters | electors] to request permanent vote by mail status. This requirement may be satisfied by incorporating a question regarding whether or not a [voter | elector] wishes to continually receive their ballots by mail on the current application for a [mail | absentee] ballot pursuant to _____. (b) Distributed such forms to all locations where voter registration forms are made available by elections officials including state and local government agencies.*

2. *Incorporate a question ascertaining whether or not a [voter | elector] wishes to continually receive their ballots by mail on the application for voter registration pursuant to*

_____. 3. Include an application for permanent vote by mail status in any voter guide or sample ballot mailed to voters.

D. Upon receipt of an application for permanent vote by mail status, the designated election official shall process the application in the same manner as an application for a [mail | absentee] ballot, except as provided in this subsection (D).

1. If it is determined that the applicant is an eligible [voter | elector] the designated election official shall add the applicants name and identifying information on a the list of vote by mail voters pursuant to _____.

2. If it cannot be determined that the applicant is an eligible [voter | elector] a letter shall be sent to the applicant detailing why the application is not accepted and what steps the applicant can take to resolve any deficiency.

Part 3: Maintenance of Vote by Mail Voter List

§3. Vote by Mail Voter List

A. The designated election official shall keep a list of names, and precinct numbers of eligible [voters | electors] applying for [mail | absentee] ballots and permanent vote by mail status placed on the list pursuant to _____, together with the date on which the application was made, the date mail ballots were sent or delivered, and the date ballots were returned for every individual on the list. If a mail ballot is not returned by the voter or if it is rejected, that fact shall be noted on the list. The list shall be updated at least twice per week, and shall be available to the public in the same manner as voter registration lists, except that in the period between the time that mail ballots are sent to voters and election day the list shall be updated daily and shall be available to the public in electronic format in addition to being available in the same manner as voter registration lists.

[Comment: Daily updating and access to the vote by mail list when ballots have been mailed is important in helping conserve candidate resources by removing people who have already voted from their targets list.]

B. An [voter | elector] whose name appears on the list as a permanent vote by mail voter shall remain on the list and shall be mailed a [mail | absentee] ballot for each election.

C. A [voter | elector] shall be deleted from the permanent vote by mail voter list if:

1. The eligible [voter | elector] notifies the designated election official that she or he no longer wishes to vote by mail ballot.
2. The mail ballot sent to the [voter | elector] is returned as undeliverable.
3. The elector has been designated "inactive" pursuant to _____.

Part 4: Mail Ballot Procedures

§4. [Mail | Absentee] ballots shall be delivered in the same manner to [voters | electors] regardless of whether they have requested a [mail | absentee] ballot for a single election or they are a permanent vote by mail voter.

§5. *Replacement Ballots*

A. *The designated election official may issue a replacement [mail | absentee] ballot if an [voter | elector] applied for a mail-in ballot but did not receive it or if the [voter | elector] spoiled the [mail | absentee] ballot. An affidavit completed by either the elector or the designated election official shall give the reason for requesting a replacement [mail | absentee] ballot and shall state that the original [mail | absentee] ballot was not received or was spoiled, that the individual has not voted, and that the individual does not intend to vote at the election except by voting the replacement [mail | absentee] ballot. The vote by mail voter record shall have the notation "Replacement Issued" entered to indicate the original [mail | absentee] ballot was not received or was spoiled. The first ballot returned by the [voter | elector] shall be considered the [voter's | elector's] official ballot.*

§6. *Return of Mail Ballots*

A. *A voter who has received a [mail | absentee] ballot may return such ballot to the designated election official through the United States Post Office or through a private commercial carrier.*

B. *A voter who has received a [mail | absentee] ballot may return their ballot to any polling place in the county on election day or to the office of the designated election official on or before election day.*

C. *1. A voter who has received a [mail | absentee] ballot but who has spoiled that ballot or who for any other reason wishes to vote in person may surrender their mail ballot at their appropriate polling location and then cast a regular ballot at that time.*

2. A voter who either never received a [mail | absentee] ballot that they had requested or who for any other reason is not in possession of their mail ballot may vote in their polling place by provisional ballot. Such provisional ballot shall only be counted if no mail ballot is received from said voter by the close of polls on election day.

D. *Upon receipt of [mail | absentee] ballots returned as undeliverable the designated election official shall consult the United States Postal Service Change of Address Directory to determine if a new address is available for the [voter | elector]. If it is determined that such an address does exist, the designated election official shall mail a notice to the [voter | elector] at the new address listed informing her or him that their ballot has been returned as undeliverable. Included in the notice shall be a change of address voter registration form as well as a [mail | absentee] ballot application.*

§7. *Canvas and Certification*

A. *[Mail | Absentee] ballots shall be canvassed and certified in the same manner regardless of whether the voter requested a [mail | absentee] ballot for a single election or they are a permanent vote by mail [voter | elector].*

B. Upon certification of every election the designated election official shall report to the [Chief State Elections Official or Body] the number of ballots cast by mail, and the number of [mail | absentee] ballots requested, counted, and rejected. The [Chief State Elections Official or Body] shall make this information available to the public both in raw form and aggregated for the entire state.

[Comment: Data on use of mail voting will help researchers assess the efficiency and effectiveness of our voting systems.]

§8. *Voter Verification*

A. The [Chief State Elections Official or Body] shall maintain a capability for providing [voters | electors], upon request, with information on whether the [mail | absentee] ballot cast by the [voter | elector] was received by the designated election official, and if received, whether their vote was counted. This system shall provide this information through the website of the [Chief State Elections Official or Body] and through telephonic means.