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**HOUSE BILL 933**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Kandy Cordova**

**AN ACT**

**RELATING TO ELECTIONS; CHANGING THE PROCESS BY WHICH TO  
REQUEST AN ABSENTEE BALLOT.**

**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. --**

**A. Application by a federal qualified elector 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, printed and furnished  
by the secretary of state to the county clerk of the county in  
which the voter resides. The form shall identify the**~~

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1 ~~applicant and contain information to establish his~~  
2 ~~qualification for issuance of an absentee ballot under the~~  
3 ~~Absent Voter Act; provided that on the application form for a~~  
4 ~~general election ballot there shall be no box, space or place~~  
5 ~~provided for designation of the voter's political party~~  
6 ~~affiliation.~~

7 ~~C. Each application for an absentee ballot shall~~  
8 ~~be subscribed by the applicant.]~~

9 B. A request in writing for an absentee ballot  
10 that is signed by a registered voter, which identifies the  
11 voter's registration address within the state or where a  
12 registration address can be determined by use of the county  
13 voter registration records, and that contains an address to  
14 which the ballot is to be mailed if that address is different  
15 from the registration, shall be honored by the county clerk of  
16 the county in which the voter resides."

17 Section 2. A new section of the Election Code is enacted  
18 to read:

19 "[NEW MATERIAL] TELEPHONE REQUESTS FOR ABSENTEE  
20 BALLOTS. --A registered voter may, by telephone, request an  
21 absentee ballot for himself and for any member of his  
22 immediate family. Whenever a request for an absentee ballot  
23 is made by telephone, the county clerk shall record the date  
24 on which the request was made and the name of the person  
25 making the request. The county clerk may require the person

1 making the request to identify the relationship with and the  
2 date of birth of each person for whom such a request is made.  
3 The county clerk may refuse to issue an absentee ballot in  
4 those instances where the person is either unable or unwilling  
5 to provide the date of birth information. The clerk shall  
6 inform the person making the request that those persons for  
7 whom a telephone request has been denied may request an  
8 absentee ballot by mail."

9 Section 3. Section 1-6-5 NMSA 1978 (being Laws 1969,  
10 Chapter 240, Section 131, as amended) is amended to read:

11 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--  
12 MARKING AND DELIVERY OF BALLOT IN PERSON.--

13 A. The county clerk shall mark each [completed]  
14 absentee ballot application with the date and time of receipt  
15 in the clerk's office and enter the required information in  
16 the absentee ballot register. The county clerk shall then  
17 determine if the applicant is a voter, an absent uniformed  
18 services voter or an overseas voter.

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

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

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

24           E. If an application for an absentee ballot is  
25 delivered in person to the county clerk and is accepted, the

1 county clerk shall provide the voter an absentee ballot and it  
2 shall be marked by the applicant in a voting booth of a type  
3 prescribed by the secretary of state, sealed in the proper  
4 envelopes and otherwise properly executed and returned to the  
5 county clerk or his authorized representative before the voter  
6 leaves the office of the county clerk. The act of marking the  
7 absentee ballot in the office of the county clerk shall be a  
8 convenience to the voter in the delivery of the absentee  
9 ballot and does not make the office of the county clerk a  
10 polling place subject to the requirements of a polling place  
11 in the Election Code other than is provided in this  
12 subsection. It shall be unlawful to solicit votes, display or  
13 otherwise make accessible any posters, signs or other forms of  
14 campaign literature whatsoever in the clerk's office.

15 Absentee ballots may be marked in person during the regular  
16 hours and days of business at the county clerk's office from  
17 8:00 a.m. on the fortieth day preceding the election up until  
18 5:00 p.m. on the Saturday immediately prior to the date of the  
19 election. In marking the absentee ballot, the voter may be  
20 assisted by one person of the voter's choice.

21 F. Commencing with the twentieth day prior to an  
22 election, an absent voter may vote in person at the county  
23 clerk's office or on an electronic voting machine at an  
24 alternate location established by the county clerk. In class  
25 A counties, the county clerk shall establish not less than

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1 four alternate locations as a convenience to the voters.  
2 Absentee voting may be done at the county clerk's office or an  
3 alternate location during the regular hours of business from  
4 8:00 a.m. on the twentieth day prior to the election until  
5 5:00 p.m. on Thursday immediately prior to the election. The  
6 county clerk shall ensure that procedures established for  
7 processing an absent voter application and for voting by  
8 absentee ballot are complied with at each alternative  
9 location.

10 G. Absentee ballots shall be air mailed to  
11 applicants temporarily domiciled inside or outside the  
12 continental limits of the United States not later than on the  
13 Thursday immediately prior to the date of the election.

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

17 I. The county clerk shall accept and process with  
18 respect to a primary or general election for any federal  
19 office, any otherwise valid voter registration application  
20 from an absent uniformed services voter or overseas voter if  
21 the application is received not less than thirty days before  
22 the election. The county clerk shall also accept and process  
23 federal write-in absentee ballots from overseas voters in  
24 general elections for federal offices in accordance with the  
25 provisions of Section 103 of the federal Uniformed and

. 136826. 1

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1 Overseas Citizens Absentee Voting Act.

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

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