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HOUSE BILL 349

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

INTRODUCED BY

Kandy Cordova

AN ACT

**RELATING TO ELECTIONS; ALLOWING IN-PERSON ABSENTEE VOTING ON
ELECTRONIC VOTING MACHINES UP TO 5:00 P. M. THE SATURDAY
PRECEDING ELECTION DAY.**

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) 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.**

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

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

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

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1 of an absentee ballot to a voter in the county clerk's office
2 or mailing of an absentee ballot to an applicant who is a
3 voter, an appropriate designation shall be made on the
4 signature line of the signature roster next to the name of the
5 voter who has been provided or mailed an absentee ballot.

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

22 Absentee ballots may be marked in person during the regular
23 hours and days of business at the county clerk's office from
24 8:00 a. m. on the fortieth day preceding the election up until
25 5:00 p. m. on the Saturday immediately prior to the date of the

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1 election. In marking the absentee ballot, the voter may be
2 assisted by one person of the voter's choice.

3 F. Commencing with the twentieth day prior to an
4 election, an absent voter may vote in person at the county
5 clerk's office or on an electronic voting machine at an
6 alternate location established by the county clerk. In class
7 A counties, the county clerk shall establish not less than
8 four alternate locations as a convenience to the voters.
9 Absentee voting may be done at the county clerk's office or an
10 alternate location during the regular hours of business from
11 8:00 a.m. on the twentieth day prior to the election until
12 5:00 p.m. on [~~Thursday~~] the Saturday immediately prior to the
13 election. The county clerk shall ensure that procedures
14 established for processing an absent voter application and for
15 voting by absentee ballot are complied with at each
16 alternative location.

17 G. Absentee ballots shall be air mailed to
18 applicants temporarily domiciled inside or outside the
19 continental limits of the United States not later than on the
20 Thursday immediately prior to the date of the election.

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

24 I. The county clerk shall accept and process with
25 respect to a primary or general election for any federal

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

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