SENATE BILL 14

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO ELECTIONS; ESTABLISHING A PROCESS FOR QUALIFIED ELECTORS AND QUALIFIED RESIDENTS WHO ARE ELIGIBLE TO VOTE TO BECOME REGISTERED TO VOTE, OR UPDATE AN EXISTING CERTIFICATE OF REGISTRATION, THROUGH AN AUTOMATIC VOTER REGISTRATION SYSTEM; DIRECTING THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT, AND OTHER AGENCIES DESIGNATED BY THE SECRETARY OF STATE, TO TRANSMIT AN ELECTRONIC RECORD TO THE SECRETARY OF STATE WHEN A PERSON DEMONSTRATES UNITED STATES CITIZENSHIP IN THE COURSE OF A TRANSACTION; REQUIRING AN OPPORTUNITY FOR A PERSON TO OPT OUT OF BEING REGISTERED TO VOTE; MAKING CONFORMING CHANGES.

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

SECTION 1. A new section of Chapter 1, Article 4 NMSA 1978 is enacted to read:

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"[NEW MATERIAL] AUTOMATIC VOTER REGISTRATION SYSTEM.--

A. A person who provides a document demonstrating United States citizenship in the course of conducting an in-person transaction to apply for or renew a driver's license or state-issued identification card shall be confirmed in a database maintained by the motor vehicle division of the taxation and revenue department as satisfying the citizenship requirement for eligibility to vote. If the person satisfies the age requirement for eligibility to vote, or the person will satisfy the age requirement for eligibility to vote before the next statewide election, the motor vehicle division of the taxation and revenue department shall electronically transmit to the secretary of state an electronic record containing the person's full name, date of birth, driver's license or state-issued identification card number, residence address, mailing address if different from residence address, county of residence, citizenship status and an electronic image of the person's signature.

B. Upon receiving an electronic record pursuant to Subsection A of this section, the secretary of state shall determine if the person is registered to vote in the state. If the person is not registered to vote, the secretary of state shall determine if the person is ineligible to register to vote for the reason that the person does not satisfy the state's voter eligibility requirements as a qualified elector or a
federal qualified elector or the person is otherwise a qualified elector but ineligible to register to vote pursuant to Section 1-4-27.1 NMSA 1978. If the person is not registered to vote and is eligible to register to vote, the secretary of state shall forward the person's electronic record to the county clerk of the county in which the person resides.

C. A county clerk shall accept an electronic record received pursuant to Subsection B of this section as a complete certificate of registration pursuant to Section 1-4-8 NMSA 1978 and shall process the certificate of registration for filing in the county register. The county clerk shall send to the person's mailing address, by nonforwardable mail, a notice that the person has been registered to vote and shall include a postage prepaid and pre-addressed return card by which the person may decline to be registered to vote. The notice provided under this subsection shall be prescribed by the secretary of state and include:

1. an explanation of the voter eligibility requirements, a statement of the penalties for registering to vote when a person is not eligible and a statement that if the person is not eligible to vote that the person should decline to register by returning the card;

2. a statement that:
   a. if the person declines to register to vote, the fact that the person has declined registration
will remain confidential and will be used only for election
administration purposes; and

(b) if the person does not decline the
registration, the office from which the person's electronic
record was received will remain confidential and will be used
only for election administration purposes;

(3) information on how a person may become a
participant in the Intimate Partner Violence Survivor Suffrage
Act;

(4) an opportunity for the person to designate
affiliation with a political party; and

(5) an opportunity for the person to request a
mailed ballot for an upcoming election in which the person is
eligible to vote, in a form prescribed by the secretary of
state, which shall serve as an application for a mailed ballot
pursuant to Section 1-6-4 NMSA 1978.

D. If a person declines to be registered to vote by
returning the card, the person's registration shall be canceled
and the person shall be deemed to have not registered to vote.
Information relating to a person declining to be registered to
vote pursuant to this section shall not be used for any purpose
other than election administration and voter registration
statistics.

E. If a person who satisfies the age requirements
for eligibility to vote conducts an in-person transaction to
apply for or renew, update, correct or replace the person's
driver's license or state-issued identification card, or files
in person a notice of change of address or name for a driver's
license or state-issued identification card, but does not
provide documentation demonstrating United States citizenship
in the course of conducting the transaction, the motor vehicle
division of the taxation and revenue department shall
electronically transmit to the secretary of state an electronic
record containing the person's full name, date of birth,
driver's license or state-issued identification card number,
residence address, mailing address if different from residence
address, county of residence and an electronic image of the
person's signature. The information transmitted pursuant to
this subsection shall only be used to update an existing voter
certificate of registration and shall contain a clear notation
that it is only to be used for voter registration update
purposes.

F. After reviewing an electronic record received
pursuant to Subsection E of this section, if the secretary of
state determines that:

(1) the person is a voter in the state, but
the information provided by the motor vehicle division of the
taxation and revenue department indicates a different address
or name from that on the voter's certificate of registration,
including an address in a different county, the secretary of
state shall forward the voter's electronic record and notice of
the change of name or address to the county clerk of the county
in which the voter resides and to the county clerk of the
county in which the voter previously resided, if applicable.
The county clerk of the county in which the voter resides shall
update the voter's certificate of registration to reflect the
change of name or address and send to the voter's mailing
address, by forwardable mail, a notice that the voter's
certificate of registration was updated and a postage prepaid
and pre-addressed return card by which the voter may verify or
correct the information on the certificate of registration. If
the voter returns the card indicating that the change to the
voter's certificate of registration was in error, the
appropriate county clerk shall immediately correct the error on
the voter's certificate of registration; and

(2) the person is a voter in the state and has
been sent a notice pursuant to Subsection C of Section 1-4-28
NMSA 1978 to the registration address listed in the electronic
record, the electronic record shall be confirmation that the
voter did not change residency.

G. Immediately upon the conclusion of a transaction
that results in an electronic record being transmitted to the
secretary of state pursuant to this section, the person whose
electronic record was transmitted shall be notified in writing
that the electronic record was transmitted to the secretary of
state for purposes of automatic voter registration or to update voter records.

H. Unless a person who is an unqualified elector or ineligible to register to vote knowingly and willfully takes voluntary action to register to vote knowing that the person is an unqualified elector or ineligible to register to vote, the transfer of the person's electronic record to the secretary of state pursuant to this section does not constitute the submission or completion of a voter registration form by that person, and that person shall not be considered to have registered to vote or made a false claim to United States citizenship. If the registration is processed by the secretary of state and a county clerk, it is presumed to have been officially authorized by the state and the person is not subject to any penalty under the Election Code.

I. The transfer of an electronic record or the failure of a person to decline voter registration pursuant to this section shall not be considered the signing of a certificate of registration pursuant to Subsection A of Section 1-20-3 NMSA 1978.

J. A person who is an unqualified elector or who is ineligible to vote, but who becomes registered to vote under this section, and votes or attempts to vote in an election held after the effective date of the person's registration, commits false voting under Section 1-20-8 NMSA 1978 only if the person
knowingly and willfully took voluntary action to register to
vote with knowledge that the person is an unqualified elector
or ineligible to register or knowingly and willfully voted with
knowledge that the person is an unqualified elector or
ineligible to vote.

K. Annually, the secretary of state shall submit to
the legislature, and make publicly available, a report on the
implementation of this section. Excluding any personal
identifying information, the report shall include:

(1) the number of electronic records
transmitted to the secretary of state by the motor vehicle
division of the taxation and revenue department pursuant to
this section;

(2) the number of new voters statewide as a
result of the automatic voter registration system;

(3) the number of voters whose information was
updated because of the automatic voter registration system,
reported by the type of information updated; and

(4) the number of people who declined to be
registered to vote through the automatic voter registration
system.

L. Upon a determination by the secretary of state
that a state agency that participates in the state-agency-based
voter registration program pursuant to Section 1-4-48 NMSA 1978
collects sufficient information to transmit electronic records
for the purposes of automatic voter registration in accordance
with the provisions in this section, the secretary of state
shall adopt rules requiring agencies to comply with the
provisions of this section.

M. The secretary of state shall adopt rules and
coordinate as necessary with the motor vehicle division of the
taxation and revenue department, and other state agencies as
designated by the secretary of state, to implement the
provisions of this section."

SECTION 2. Section 1-4-2 NMSA 1978 (being Laws 1969,
Chapter 240, Section 60, as amended) is amended to read:

"1-4-2. REGISTRATION OF QUALIFIED RESIDENTS--RIGHT TO
VOTE IN PRIMARY.--

A. Any qualified resident of New Mexico shall be
permitted within the provisions of the Election Code to submit
a voter registration certificate in paper form, through the
online voter registration portal provided by the secretary of state, electronically when conducting an in-person transaction
at the motor vehicle division of the taxation and revenue
department or as otherwise prescribed by the secretary of state
and may become registered to vote through automatic voter
registration pursuant to Section 1 of this 2021 act. The
certificate shall be processed by the county clerk in the same
manner as for a qualified elector, but the qualified resident
shall not become a voter nor be considered a voter except as
provided by this section.

B. If a qualified resident submits a voter registration certificate in accordance with the provisions of Subsection A of this section and pursuant to the requirements of Section 1-4-8 NMSA 1978, or becomes registered to vote through automatic voter registration pursuant to Section 1 of this 2021 act, the qualified resident shall:

(1) become a voter upon the qualified resident's eighteenth birthday;

(2) be considered a voter for the purpose of participation in a statewide or special election where the qualified resident will turn eighteen on or before the day of the statewide or special election; or

(3) be considered a voter for the purpose of participation in a political party primary election where the qualified resident will turn eighteen on or before the day of the general election immediately succeeding the primary election.

C. Any resident of New Mexico who may be a qualified elector upon the resident's eighteenth birthday, who obtains a license, permit or identification card from the motor vehicle division of the taxation and revenue department and who has not submitted a voter registration certificate pursuant to Subsection A of this section or has not been registered to vote through automatic voter registration pursuant to Section 1 of this act.
this 2021 act shall be sent a notification by the secretary of
state advising the resident of the requirements and opportunity
to register to vote and a uniform resource locator for a web
page where the resident may submit a voter registration
certificate online. When applicable, a notification shall be
sent to a resident described in this subsection within the
sixty days following the resident's seventeenth birthday, when
the resident obtained a license, permit or identification card
from the motor vehicle division prior to the resident's
seventeenth birthday and within thirty days prior to the
resident's eighteenth birthday."

SECTION 3. Section 1-4-5.2 NMSA 1978 (being Laws 1995,
Chapter 198, Section 3) is amended to read:

"1-4-5.2. AGENCY REGISTRATION--FORM. --

A. A qualified elector may register to vote at
certain state government offices.

B. Pursuant to Section 1-4-47 NMSA 1978, a
qualified elector who applies for a driver's license, license
renewal or motor vehicle identification card and does not
provide a document demonstrating United States citizenship in
the course of that transaction may simultaneously register to
vote or file a change of address for voter registration
purposes.

C. Pursuant to Section 1-4-48 NMSA 1978, a
qualified elector may register to vote in any state agency that
provides public assistance or services to persons with
disabilities. If the qualified elector does not provide a
document demonstrating United States citizenship in the course
of a transaction with the agency, the qualified elector shall
be offered the opportunity to register to vote or update an
existing certificate of registration. The secretary of state
may designate other state or local public offices with the
agreement of those offices.

D. Pursuant to Section 1 of this 2021 act, a
qualified elector may become registered to vote by automatic
voter registration if the qualified elector provides a document
demonstrating United States citizenship in the course of
conducting a transaction with the motor vehicle division of the
taxation and revenue department or other state or local public
offices designated by the secretary of state."

SECTION 4. Section 1-4-5.8 NMSA 1978 (being Laws 2019,
Chapter 67, Section 2) is amended to read:

"1-4-5.8. [AUTOMATIC] AGENCY VOTER REGISTRATION--DRIVER'S
LICENSE AND AGENCY REGISTRATION AND UPDATES TO REGISTRATION.--

A. In addition to the requirements of Section
1-4-47 NMSA 1978:

(1) a qualified elector registering to vote or
updating an existing certificate of registration when
conducting an in-person transaction to apply for or renew a
driver's license or state-issued identification card shall not

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be required to provide a second time any information that
duplicates information required in the driver's license portion
of the transaction;

(2) the address of a voter who provides a
different address when conducting an in-person transaction to
apply for or renew a driver's license or state-issued
identification card shall be updated on the voter's certificate
of registration unless the voter declines to do so; and

(3) immediately at the conclusion of each in-
person transaction to apply for or renew a driver's license or
state-issued identification card, the person shall receive
written notification by the motor vehicle division of the
taxation and revenue department informing the person if a voter
registration transaction was processed, and if so, providing
information regarding any voter registration transaction
delivered to the county clerk by the motor vehicle division as
a result of that application for or renewal of a driver's
license or state-issued identification card.

B. In addition to the requirements of Section
1-4-48 NMSA 1978:

(1) the human services department shall
develop procedures to be approved by the secretary of state to
ensure that each benefit program administered by the department
appropriately ensures that qualified electors receiving
benefits are offered the opportunity to register to vote or

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update an existing certificate of registration without
duplication of information contained by the department or by
the secretary of state. No later than the last day of August
of each calendar year, the human services department shall
issue an annual report detailing implementation of the
requirements of this paragraph. The report shall be sent to
the legislative council service, the secretary of state and
each county clerk; and

(2) no later than June 30, 2020 and upon the
approval of the voting system certification committee, the
secretary of state and the secretary of taxation and revenue
shall develop a procedure for using the address provided as a
taxpayer to update the registration address of a voter who has
been identified as having moved from the voter's precinct of
residence pursuant to Section 1-4-48 NMSA 1978. The procedure
shall include a requirement of notification to the voter at
least one hundred twenty days before an election of the intent
to update the registration address and the ability for a voter
to decline to permit the update to take effect.

C. If a person who is not a qualified elector
becomes registered to vote pursuant to this section, that
registration shall not be valid and the county clerk shall
remove the certificate of registration from the register of
voters."

SECTION 5. Section 1-4-47 NMSA 1978 (being Laws 1991,
Chapter 80, Section 4, as amended) is amended to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

A. [Every] When a person who is a qualified elector [and is applying for a driver's license, to renew a driver's license or for an identification card shall, if qualified to register to vote with the consent of the applicant be] conducts an in-person transaction to apply for or renew a driver's license or state-issued identification card, the qualified elector shall be offered the opportunity to simultaneously [registered] register to vote or update an existing certificate of registration; provided that if the person provides a document demonstrating United States citizenship in the course of conducting the transaction, the person shall not be offered the opportunity to register to vote or update an existing certification of registration and the person's electronic record shall be transmitted to the secretary of state pursuant to Section 1 of this 2021 act.

B. The secretary of taxation and revenue shall select certain employees of the motor vehicle division of the taxation and revenue department or employees of entities on contract to provide field services to the motor vehicle division to provide assistance to any applicant requesting voter registration assistance.

C. Every motor vehicle division office, field office or contract field office of the division shall display
within the offices clearly visible signs stating "voter registration assistance available" and:

(1) personnel in each office shall advise each person who is a qualified elector and an applicant for licensure or renewal or for an identification card that initial voter registration or a change of address for voter registration may be made simultaneously with the motor vehicle application;

(2) voter registration shall be conducted in a manner such that the applicant completes the full certificate of registration electronically; and

(3) the applicant's digital signature shall be affixed to the certificate of registration using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.

D. A motor vehicle division employee or contractor shall not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

E. Any voter registration made or accepted at a motor vehicle division office or motor vehicle division field office shall be transmitted to the secretary of state and the appropriate registration officer within seven calendar days.
F. The secretary of state shall work with the motor vehicle division to:

(1) ensure compliance in the application of the provisions of this section with the federal National Voter Registration Act of 1993;

(2) ensure consistent implementation in the various counties, based on county classification and developing technology; and

(3) develop procedures to ensure that, once voter registration information is transmitted to the appropriate registration officer, the voter's certificate of registration is printed and placed in the county's register of voters."

SECTION 6. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For qualified electors seeking to register to vote or update an existing voter registration in the state, the following provisions shall apply:

A. to participate in an election, the deadline to register to vote or update an existing voter registration is twenty-eight days prior to that election;

B. the county clerk shall receive certificates of registration at all times during normal working hours, except
that the clerk shall not process any certificate of
registration subscribed and sworn beginning the first business
day after the deadline to register to vote or update an
existing voter registration before an election if the
residential address on the certificate of registration
indicates that the registration is for a:

(1) statewide election, within the county; or
(2) special election, within any precinct in
the county in which votes may be cast in the special election;

C. between the deadline to register to vote or
update an existing voter registration through the day of the
election, the county clerk shall process all:

(1) new voter registrations that meet the
requirements of this section;
(2) updates to existing voter registrations in
this state that meet the requirements of this section; provided
that an update to an existing registration in this state shall
not be processed if the voter has requested or been sent a
ballot in the election, unless the voter executes an affidavit
stating that the voter has not and will not vote the ballot
that was issued and the ballot register does not show that a
ballot from the voter has been cast in the election; and
(3) pending cancellations of existing voter
registrations in this state through the day of the election;
provided that a cancellation of an existing voter registration
shall not be processed if the voter has requested or been sent a ballot in the election;

D. certificates of registration and cancellations of existing voter registrations not processed pursuant to Subsection B or C of this section shall be processed beginning thirty-five days after an election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration; provided that if there is a subsequent election scheduled at which a qualified elector or voter would be eligible to vote if the certificate of registration were processed on an earlier date, the certificate of registration for that qualified elector or voter shall be processed by the county clerk on a day and in a manner to ensure the ability of the qualified elector or voter to vote in the subsequent election;

E. when the deadline to register to vote or update an existing voter registration prior to an election referred to in this section is a Saturday, Sunday or state holiday, registration certificates shall be accepted through the next succeeding business day for the office of the county clerk;

F. the county clerk shall accept for filing and process any certificate of registration that is subscribed and dated on or before the deadline to register to vote or update an existing voter registration prior to an election and:
(1) received by the county clerk by the end of
the last regular business day of the week for the office of the
county clerk immediately following the deadline to register to
vote or update an existing voter registration prior to an
election;

(2) mailed and postmarked on or before the day
of the deadline to register to vote or update an existing voter
registration prior to any election referred to in this section;
or

(3) accepted at a state agency designated
pursuant to Section 1-4-5.2 NMSA 1978; and

G. the county clerk shall accept for filing and
process as a complete certificate of registration an electronic
record received through the automatic voter registration system
pursuant to Section 1 of this 2021 act on or before the day of
the deadline to register to vote or update an existing voter
registration prior to any election referred to in this
section."

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