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HOUSE BILL 405

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Bill McCamley and Jacob R. Candelaria

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR VOTER REGISTRATION AT
POLLING PLACES ON ELECTION DAY AND AT EARLY VOTING SITES FOR
PRIMARY AND GENERAL ELECTIONS.

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

SECTION 1. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] ELECTION DAY AND EARLY VOTING SITE
REGISTRATION.--

A. A qualified elector may register to vote on
election day by appearing in person at the polling place for
the precinct in which the qualified elector maintains
residence, completing a certificate of registration, making an
oath in the form prescribed by the secretary of state and
providing proof of residence.

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1 B. A qualified elector may prove residence for
2 purposes of registering at a polling place by:

3 (1) showing a New Mexico driver's license or
4 New Mexico identification card issued through the motor vehicle
5 division of the taxation and revenue department;

6 (2) showing any document that contains a valid
7 address in the precinct together with a picture identification
8 card; or

9 (3) showing a current valid student photo
10 identification card from a post-secondary educational
11 institution in New Mexico accompanied with a current student
12 fee statement that contains the student's valid address in the
13 precinct.

14 C. A qualified elector may also register to vote,
15 upon providing proof of residence, at an early voting site in
16 the county in which the qualified elector resides.

17 D. If the early voting site or polling place does
18 not have real-time access to the statewide electronic voter
19 file and the qualified elector fulfills the conditions
20 specified in Subsection A or C of this section, the voter shall
21 be issued a provisional ballot.

22 E. A voter shall not be allowed to change party
23 affiliation when registering at an early voting site or polling
24 place during a primary election.

25 F. For registration purposes, "early voting site"

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1 means an alternate voting site or the office of the county
2 clerk during the time when in-person absentee voting is being
3 conducted."

4 SECTION 2. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
5 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
6 as amended) is amended to read:

7 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

8 A. A qualified elector may apply for registration:

9 (1) by mail;

10 (2) in the office of the secretary of state or
11 county clerk; or

12 (3) with a registration agent or officer.

13 B. A person may request certificate of registration
14 forms from:

15 (1) the secretary of state or any county clerk
16 in person, by telephone or by mail for that person or for other
17 persons; or

18 (2) a county clerk or the clerk's authorized
19 representative at an early voting site or polling place on
20 election day.

21 C. Except as provided in Subsection D of this
22 section, a qualified elector who wishes to register to vote
23 shall fill out completely and sign the certificate of
24 registration. The qualified elector may seek the assistance of
25 any person in completing the certificate of registration.

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1 D. A qualified elector who has filed for an order
2 of protection pursuant to the provisions of the Family Violence
3 Protection Act and who presents a copy of that order from a
4 state or tribal court to the registration officer shall not be
5 required to provide physical residence address information on
6 the certificate of registration.

7 E. Completed certificates of registration may be:
8 (1) mailed or presented in person by the
9 registrant or any other person to the secretary of state; ~~[or]~~

10 (2) mailed or presented in person by the
11 registrant or any other person to the county clerk of the
12 county in which the registrant resides; or

13 (3) completed at an early voting site or
14 polling place and presented to the county clerk or the clerk's
15 authorized representative at the early voting site or polling
16 place in the county in which the qualified elector resides.

17 F. If the registrant wishes to vote in ~~[the next]~~
18 an election, the completed and signed certificate of
19 registration shall be delivered or mailed and postmarked at
20 least twenty-eight days before the election or completed at an
21 early voting site or polling place and presented to the county
22 clerk or the clerk's authorized representative at an early
23 voting site or polling place in the county in which the
24 qualified elector resides.

25 G. Upon receipt of a certificate of registration,

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1 the secretary of state shall send the certificate to the county
2 clerk in the county where the qualified elector resides.

3 H. Only when the certificate of registration is
4 properly filled out, signed by the qualified elector and
5 accepted for filing by the county clerk as evidenced by the
6 county clerk's signature or stamp and the date of acceptance
7 thereon and when notice has been received by the registrant
8 shall it constitute an official public record of the
9 registration of the qualified elector.

10 I. The secretary of state shall prescribe the form
11 of the certificate of registration, which form shall be a
12 postpaid mail-in format and shall be printed in Spanish and
13 English. The certificate of registration form shall be clear
14 and understandable to the average person and shall include
15 brief but sufficient instructions to enable the qualified
16 elector to complete the form without assistance. The form
17 shall also include:

18 (1) the question "Are you a citizen of the
19 United States of America?" and boxes for the applicant to check
20 to indicate whether the applicant is or is not a citizen;

21 (2) the question "Will you be at least
22 eighteen years of age on or before election day?" and boxes for
23 the applicant to check to indicate whether the applicant will
24 be eighteen years of age or older on election day;

25 (3) the statement "If you checked 'no' in

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1 response to either of these questions, do not complete this
2 form.";

3 (4) a statement informing the applicant that:

4 (a) if the form is submitted by mail by
5 the applicant and the applicant is registering for the first
6 time in New Mexico, the applicant must submit with the form a
7 copy of: 1) a current and valid government-issued photo
8 identification; or 2) a current utility bill, bank statement,
9 government check, paycheck, student identification card or
10 other government document, including identification issued by
11 an Indian nation, tribe or pueblo, that shows the name and
12 current address of the applicant; and

13 (b) if the applicant does not submit the
14 required identification, the applicant will be required to do
15 so when voting in person or absentee; and

16 (5) a statement requiring the applicant to
17 swear or affirm that the information supplied by the applicant
18 is true."

19 SECTION 3. Section 1-4-8 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 66, as amended) is amended to read:

21 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
22 REGISTRATION--CLOSE OF REGISTRATION--VOTING SITE REGISTRATION--
23 FEDERAL QUALIFIED ELECTORS AND OVERSEAS VOTERS--LATE
24 REGISTRATION.--

25 A. For qualified electors other than federal

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1 qualified electors or overseas voters, the following provisions
2 shall apply:

3 (1) the county clerk shall receive
4 certificates of registration at all times during normal working
5 hours, except that the clerk shall close registration at
6 5:00 p.m. on the twenty-eighth day immediately preceding any
7 election at which the registration books are to be furnished to
8 the precinct board;

9 (2) during the period when early voting sites
10 are open and on election day, the county clerk shall accept for
11 filing a certificate of registration from any qualified elector
12 who registers to vote at an early voting site or polling place
13 in the county in which the qualified elector resides;

14 [~~2~~] (3) registration shall be reopened on
15 the Monday following the election;

16 [~~3~~] (4) for purposes of a municipal or
17 school election, the registration period for those precincts
18 within the municipality or school district is closed at 5:00
19 p.m. on the twenty-eighth day immediately preceding the
20 municipal or school election and is opened again on the Monday
21 following the election;

22 [~~4~~] (5) during the period when registration
23 is closed, the county clerk shall receive certificates of
24 registration and other documents pertaining thereto but, except
25 for certificates of registration received from an early voting

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1 site or polling place, shall not file [~~the~~] any certificate of
2 registration in the registration book until the Monday
3 following the election, at which time a voter information
4 document shall be mailed to the registrant at the address shown
5 on the certificate of registration;

6 [~~(5)~~] (6) when the twenty-eighth day prior to
7 any election referred to in this section is a Saturday, Sunday
8 or legal holiday, registration shall be closed at 5:00 p.m. of
9 the next succeeding regular business day for the office of the
10 county clerk; and

11 [~~(6)~~] (7) the county clerk shall accept for
12 filing any certificate of registration that is subscribed and
13 dated on or before the twenty-eighth day preceding the election
14 and:

15 (a) received by the county clerk before
16 5:00 p.m. on the Friday immediately following the close of
17 registration;

18 (b) mailed and postmarked not less than
19 twenty-eight days prior to any election referred to in this
20 section; or

21 (c) accepted at a state agency
22 designated pursuant to Section 1-4-5.2 NMSA 1978.

23 B. For federal qualified electors and overseas
24 voters, the county clerk shall accept a certificate of
25 registration by electronic transmission from a voter qualified

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1 to apply for and vote by absentee ballot in the county if the
2 transmission is received before 5:00 p.m. on the Friday
3 immediately preceding the election."

4 SECTION 4. Section 1-12-8 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 247, as amended) is amended to read:

6 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

7 A. A person shall be permitted to vote on a
8 provisional paper ballot even though the person's original
9 certificate of registration cannot be found in the county
10 register or even if the person's name does not appear on the
11 signature roster, provided:

12 (1) the person's residence is within the
13 boundaries of the county in which the person offers to vote;

14 (2) the person's name is not on the list of
15 persons submitting absentee ballots; and

16 (3) the person executes a statement swearing
17 or affirming to the best of the person's knowledge that the
18 person is a qualified elector, is currently registered and
19 eligible to vote in that county and has not cast a ballot or
20 voted in that election.

21 B. A person shall vote on a provisional ballot if
22 the person:

23 (1) is not registered, or is not registered in
24 the correct precinct;

25 (2) attempts to register to vote at an early

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1 voting site or polling place that does not have real-time
2 access to the statewide electronic voter file; and

3 (3) would otherwise be eligible to vote at the
4 early voting site or polling place.

5 ~~[B-]~~ C. A voter shall vote on a provisional paper
6 ballot if the voter:

7 (1) has not previously voted in a general
8 election in New Mexico or has been purged from the voter list;

9 (2) registered to vote by mail;

10 (3) did not submit the physical form of the
11 required voter identification with the certificate of
12 registration form; and

13 (4) does not present to the election judge a
14 physical form of the required voter identification.

15 ~~[G-]~~ D. A voter shall vote on a provisional paper
16 ballot in accordance with the provisions of Section 1-12-7.1
17 NMSA 1978 if the voter does not provide the required voter
18 identification to the election judge.

19 ~~[D-]~~ E. A judge or election clerk shall have the
20 voter sign the signature roster or application to vote and
21 issue the voter a provisional paper ballot, an outer envelope
22 and an official inner envelope. The voter shall vote on the
23 provisional paper ballot in secrecy and, when done, place the
24 ballot in the official inner envelope and place the official
25 inner envelope in the outer envelope and return it to the judge

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1 or election clerk. The judge or election clerk shall ensure
2 that the required information is completed on the outer
3 envelope, have the voter sign it in the appropriate place and
4 place it in an envelope designated for provisional paper
5 ballots.

6 [E-] F. Knowingly executing a false statement
7 constitutes perjury as provided in the Criminal Code, and
8 voting on the basis of such falsely executed statement
9 constitutes fraudulent voting."

10 SECTION 5. Section 1-12-20 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 273, as amended) is amended to read:

12 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
13 challenge may be interposed by a member of the precinct board
14 or by a party challenger for the following reasons:

15 A. the person offering to vote is not registered to
16 vote and is not a qualified elector;

17 B. the person offering to vote is listed among
18 those persons to whom an absentee ballot was mailed;

19 C. the person offering to vote has already cast a
20 ballot in that election;

21 D. the person offering to vote is improperly
22 registered because the person is not a qualified elector; or

23 E. in the case of a primary election, the person
24 desiring to vote is not affiliated with a political party
25 represented on the ballot."

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1 SECTION 6. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
2 Chapter 356, Section 7, as amended) is amended to read:

3 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

4 A. Upon closing of the polls, provisional paper
5 ballots shall be delivered to the county clerk, who shall
6 determine if the ballots will be counted prior to certification
7 of the election.

8 B. A provisional paper ballot shall not be counted
9 if the registered voter did not sign either the signature
10 roster or, in the case of a person who registered to vote at an
11 early voting site or polling place, the application to vote or
12 the ballot's envelope.

13 C. If there is no record of the ~~[voter]~~ person ever
14 having been registered in the county, the ~~[voter]~~ person shall
15 be offered the opportunity to register and the provisional
16 paper ballot shall not be counted; provided that this
17 subsection does not apply to a provisional ballot of a
18 qualified elector who registered to vote at an early voting
19 site or polling place.

20 D. If the voter was registered in the county, the
21 registration was later canceled and the county clerk determines
22 that the cancellation was in error, the voter's registration
23 shall be immediately restored and the provisional paper ballot
24 counted.

25 E. If the county clerk determines that the

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1 cancellation was not in error, the voter shall be offered the
2 opportunity to register at the voter's correct address and the
3 provisional paper ballot shall not be counted.

4 F. If the voter is a registered voter in the
5 county, but has voted on a provisional paper ballot at a
6 polling place other than the voter's designated polling place,
7 the county canvassing board shall ensure that only those votes
8 for the positions or measures for which the voter was eligible
9 to vote are counted.

10 G. If the county clerk finds that the voter who
11 voted on a provisional paper ballot [~~at the polls~~] has also
12 voted [~~an absentee~~] another ballot in that election, the
13 provisional paper ballot shall not be counted.

14 H. The county canvassing board shall prepare a
15 tally displaying the number of provisional paper ballots
16 received, the number found valid and counted, the number
17 rejected and not counted and the reason for not counting the
18 ballots as part of the canvassing process and forward it to the
19 secretary of state immediately upon certification of the
20 election.

21 I. The secretary of state shall issue rules to
22 ensure securing the secrecy of the provisional paper ballots,
23 especially during canvassing, reviewing or recounting, and
24 protecting against fraud in the voting process."

25 SECTION 7. EFFECTIVE DATE.--The effective date of the
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1 provisions of this act is July 1, 2015.

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