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HOUSE BILL 86

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Daymon Ely

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 showing:

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

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

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

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

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

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

24 F. For registration purposes, "early voting site"
25 means an alternate voting site or the office of the county

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1 clerk during the time when in-person absentee voting is being
2 conducted."

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

6 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

7 A. A qualified elector may apply for registration
8 by mail, in the office of the secretary of state or county
9 clerk or with a registration agent or officer.

10 B. A person may request certificate of registration
11 forms from:

12 (1) the secretary of state or any county clerk
13 in person, by telephone or by mail for that person or for other
14 persons; or

15 (2) a county clerk or the clerk's authorized
16 representative at an early voting site or polling place on
17 election day.

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

23 D. A qualified elector who has filed for an order
24 of protection pursuant to the provisions of the Family Violence
25 Protection Act and who presents a copy of that order from a

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1 state or tribal court to the registration officer shall not be
2 required to provide physical residence address information on
3 the certificate of registration.

4 E. Completed certificates of registration may be:

5 (1) mailed or presented in person by the
6 registrant or any other person to the secretary of state; ~~[or]~~

7 (2) mailed or presented in person by the
8 registrant or any other person to the county clerk of the
9 county in which the registrant resides; or

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

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

22 G. Within one business day after receipt of a
23 certificate of registration, the secretary of state shall send
24 the certificate to the county clerk in the county where the
25 qualified elector resides. Within one business day after

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1 receipt of a certificate of registration of another county, a
2 county clerk shall send the certificate of registration to the
3 county clerk in the county where the qualified elector resides.

4 H. Only when the certificate of registration is
5 properly filled out, signed by the qualified elector and
6 accepted for filing by the county clerk as evidenced by the
7 county clerk's signature or stamp and the date of acceptance
8 thereon shall it constitute an official public record of the
9 registration of the qualified elector. A qualified elector
10 complies with a voter registration deadline established in the
11 Election Code when a properly filled-out voter registration
12 certificate has been received by a county clerk or the
13 secretary of state, regardless of the date the certificate is
14 processed.

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

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

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1 (2) the question "Will you be at least
2 eighteen years of age on or before the next general election?"
3 and boxes for the applicant to check to indicate whether the
4 applicant will be eighteen years of age or older on or before
5 the next general election;

6 (3) the statement "If you checked 'no' in
7 response to either of these questions, do not complete this
8 form.";

9 (4) a statement informing the applicant that:

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

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

22 (5) a statement requiring the applicant to
23 swear or affirm that the information supplied by the applicant
24 is true."

25 SECTION 3. Section 1-4-8 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 66, as amended) is amended to read:

2 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
3 REGISTRATION--CLOSE OF REGISTRATION--VOTING SITE REGISTRATION--
4 LATE REGISTRATION.--For qualified electors, the following
5 provisions shall apply:

6 A. the county clerk shall receive certificates of
7 registration at all times during normal working hours, except
8 that the clerk shall close registration at the end of the
9 twenty-eighth day immediately preceding any election at which
10 the registration books are to be furnished to the precinct
11 board;

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

17 [~~B.~~] C. registration shall be reopened on the
18 Monday following the election;

19 [~~G.~~] D. for purposes of a [~~municipal or school~~]
20 local election held pursuant to the Local Election Act, the
21 registration period for those precincts within the
22 [~~municipality or school~~] local government district is closed at
23 the end of the twenty-eighth day immediately preceding the
24 [~~municipal or school~~] local election and is opened again on the
25 Monday following the election;

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1 ~~[D-]~~ E. during the period when registration is
2 closed, the county clerk shall receive certificates of
3 registration and other documents pertaining thereto but, except
4 for certificates of registration received from an early voting
5 site or polling place, shall not file any certificate of
6 registration in the registration book until the Monday
7 following the election, at which time a voter information
8 document shall be mailed to the registrant at the address shown
9 on the certificate of registration;

10 ~~[E-]~~ F. when the twenty-eighth day prior to any
11 election referred to in this section is a Saturday, Sunday or
12 legal holiday, registration shall be closed at the end of the
13 next succeeding regular business day for the office of the
14 county clerk; and

15 ~~[F-]~~ G. the county clerk shall accept for filing
16 any certificate of registration that is subscribed and dated on
17 or before the twenty-eighth day preceding the election and:

18 (1) received by the county clerk by the end of
19 the regular business day for the office of the county clerk on
20 the Friday immediately following the close of registration;

21 (2) mailed and postmarked not less than
22 twenty-eight days prior to any election referred to in this
23 section; or

24 (3) accepted at a state agency designated
25 pursuant to Section 1-4-5.2 NMSA 1978."

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1 SECTION 4. Section 1-4-17 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 73, as amended by Laws 1993, Chapter 10,
3 Section 1 and by Laws 1993, Chapter 314, Section 16 and also by
4 Laws 1993, Chapter 316, Section 16) is amended to read:

5 "1-4-17. REGISTRATION--CHANGE OF RESIDENCE WITHIN SAME
6 COUNTY.--

7 A. A voter who has changed [~~his~~] residence within
8 the same county shall complete a certificate of registration to
9 change [~~his~~] the voter's registered residence address or file a
10 change of residence notification with the county clerk on a
11 postcard-type form, approved by the secretary of state.

12 B. No change of registered residence address shall
13 be made in any period during which registration is closed,
14 except as allowed pursuant to Section 1-4-8 NMSA 1978; however,
15 the county clerk may accept applications for or notifications
16 of such change but shall not process them until the
17 registration period is open.

18 C. The application for or notification of change of
19 registered residence shall be filed with the county clerk, and
20 the previous registration shall be retained for six years in a
21 file established for that purpose."

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

24 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

25 A. A person shall be permitted to vote on a

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1 provisional paper ballot even though the person's original
2 certificate of registration cannot be found in the county
3 register or even if the person's name does not appear on the
4 signature roster, provided:

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

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

9 (3) the person executes a statement swearing
10 or affirming to the best of the person's knowledge that the
11 person is a qualified elector, is currently registered and
12 eligible to vote in that county and has not cast a ballot or
13 voted in that election.

14 B. A person shall vote on a provisional ballot if
15 the person:

16 (1) is not registered or is not registered in
17 the correct precinct;

18 (2) attempts to register to vote at an early
19 voting site or polling place that does not have real-time
20 access to the statewide electronic voter file; and

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

23 [~~B.~~] C. A voter shall vote on a provisional paper
24 ballot if the voter:

25 (1) has not previously voted in a general

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1 election in New Mexico or has been purged from the voter list;

2 (2) registered to vote by mail;

3 (3) did not submit the physical form of the
4 required voter identification with the certificate of
5 registration form; and

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

8 [~~E.~~] D. A voter shall vote on a provisional paper
9 ballot in accordance with the provisions of Section 1-12-7.1
10 NMSA 1978 if the voter does not provide the required voter
11 identification to the election judge.

12 [~~D.~~] E. A judge or election clerk shall have the
13 voter sign the signature roster or application to vote and
14 issue the voter a provisional paper ballot, an outer envelope
15 and an official inner envelope. The voter shall vote on the
16 provisional paper ballot in secrecy and, when done, place the
17 ballot in the official inner envelope and place the official
18 inner envelope in the outer envelope and return it to the judge
19 or election clerk. The judge or election clerk shall ensure
20 that the required information is completed on the outer
21 envelope, have the voter sign it in the appropriate place and
22 place it in an envelope designated for provisional paper
23 ballots.

24 [~~E.~~] F. Knowingly executing a false statement
25 constitutes perjury as provided in the Criminal Code, and

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1 voting on the basis of such falsely executed statement
2 constitutes fraudulent voting."

3 SECTION 6. Section 1-12-20 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 273, as amended) is amended to read:

5 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
6 challenge may be interposed by a member of the precinct board
7 or by a party challenger for the following reasons:

8 A. the person offering to vote is not registered to
9 vote and is not a qualified elector;

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

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

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

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

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

21 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

22 A. Upon closing of the polls, provisional paper
23 ballots shall be delivered to the county clerk, who shall
24 determine if the ballots will be counted prior to certification
25 of the election.

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

6 C. If there is no record of the ~~[voter]~~ person ever
7 having been registered in the county, the ~~[voter]~~ person shall
8 be offered the opportunity to register and the provisional
9 paper ballot shall not be counted; provided that this
10 subsection does not apply to a provisional ballot of a
11 qualified elector who registered to vote at an early voting
12 site or polling place.

13 D. If the voter was registered in the county, the
14 registration was later canceled and the county clerk determines
15 that the cancellation was in error, or that the voter's name
16 should not have been placed on the list of voters whose
17 registrations were to be canceled, the voter's registration
18 shall be immediately restored and the provisional paper ballot
19 counted.

20 E. If the county clerk determines that the
21 cancellation was not in error, the voter shall be offered the
22 opportunity to register at the voter's correct address and the
23 provisional paper ballot shall not be counted.

24 F. If the voter is a registered voter in the county
25 but has voted on a provisional paper ballot at a polling place

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1 other than the voter's designated polling place, the county
2 canvassing board shall ensure that only those votes for the
3 positions or measures for which the voter was eligible to vote
4 are counted.

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

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

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

20 SECTION 8. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2019.