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HOUSE BILL 63

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Larry A. Larrañaga

AN ACT

**RELATING TO ELECTIONS; REQUIRING VOTERS TO PRESENT
IDENTIFICATION WHEN VOTING IN PERSON; RECONCILING MULTIPLE
AMENDMENTS TO THE SAME SECTION OF LAW.**

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

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

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

**A. A qualified elector may apply for registration
by mail or in the office of the county clerk.**

**B. Certificate of registration forms may be
requested from the secretary of state or any county clerk in
person, by telephone or by mail for oneself or for others.**

C. Except as provided in Subsection D of this

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1 section, a qualified elector who wishes to register to vote
2 shall fill out completely and sign the certificate of
3 registration. The qualified elector may seek the assistance of
4 any person in completing the certificate of registration.

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

11 E. Completed certificates of registration may be
12 mailed or presented in person by the registrant or any other
13 person to the secretary of state or presented in person by the
14 registrant or any other person to the county clerk of the
15 county in which the registrant resides.

16 F. If the registrant wishes to vote in the next
17 election, the completed and signed certificate of registration
18 shall be delivered or mailed and postmarked at least twenty-
19 eight days before the election.

20 G. Upon receipt of a certificate of registration,
21 the secretary of state shall send the certificate to the county
22 clerk in the county where the qualified elector resides.

23 H. Only when the certificate of registration is
24 properly filled out, signed by the qualified elector and
25 accepted for filing by the county clerk as evidenced by ~~his~~

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1 the county clerk's signature or stamp and the date of
2 acceptance thereon and when notice has been received by the
3 registrant shall it constitute an official public record of the
4 registration of the qualified elector.

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

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

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

20 (3) the statement "If you checked 'no' in
21 response to either of these questions, do not complete this
22 form "; and

23 (4) a statement informing the applicant that:

24 (a) if the form is not submitted in
25 person by the applicant and the applicant is registering for

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1 the first time in New Mexico, the applicant must submit with
2 the form a copy of: 1) a current and valid photo
3 identification; or 2) a utility bill, bank statement,
4 government check, paycheck or other government document that
5 shows the name and address of the applicant; [and]

6 (b) if the applicant does not submit the
7 required identification [~~he~~] the voter will be required to do
8 so when [~~he votes in person or~~] voting absentee; and

9 (c) the applicant must submit the
10 required identification when voting in person."

11 Section 2. Section 1-5-10 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 112, as amended) is amended to read:

13 "1-5-10. VOTER LISTS--SIGNATURE ROSTERS--USE DURING
14 ELECTION.--

15 A. Each precinct board using voter lists shall post
16 securely at or near the entrance of the polling place one copy
17 of the voter list for use of the voters prior to voting. The
18 posted copy shall not contain a listing of voter social
19 security numbers.

20 B. The presiding judge of the precinct board shall
21 assign one judge of the board to be in charge of one copy of
22 the voter list, which shall be used to confirm the registration
23 and voting of each person offering to vote.

24 C. The presiding judge of the precinct board shall
25 assign one election clerk to be in charge of the signature

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1 roster.

2 D. The judge assigned to the voter list used for
3 confirmation of registration and voting shall determine that
4 each person offering to vote is registered and, in the case of
5 a primary election, that the voter is registered in a party
6 designated on the primary election ballot. If the person's
7 registration is confirmed by the presence of ~~[his]~~ the person's
8 name on the voter list or if the person presents a certificate
9 under the seal and signature of the county clerk showing that
10 ~~[he]~~ the person is entitled to vote in the election and to vote
11 in that precinct, the judge shall announce to the election
12 clerks the list number and the name of the voter as shown on
13 the voter list.

14 E. The election clerk shall locate that list number
15 and name on the signature roster and shall require the voter to
16 sign ~~[his]~~ the voter's usual signature or, if unable to write,
17 to make ~~[his]~~ the voter's mark opposite ~~[his]~~ the voter's
18 printed name. If the voter makes ~~[his]~~ the voter's mark, it
19 shall be witnessed by one of the judges of the precinct board.
20 ~~[If the signature roster indicates that the voter is required~~
21 ~~to present a form of identification before voting]~~ The election
22 judge shall ask the voter for ~~[a current and valid photo~~
23 ~~identification or]~~ a copy of a current utility bill, bank
24 statement, government check, paycheck or other government
25 document that shows and matches the name and address of the

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1 voter as indicated on the signature roster or a current and
2 valid photo identification. If the voter does not provide the
3 required identification, [~~he~~] the voter shall be allowed to
4 vote on a provisional paper ballot.

5 F. The election judge shall follow the procedures
6 provided for in Sections 1-5-12 and 1-12-8 NMSA 1978 if a
7 person whose name does not appear on the signature list
8 requests to vote or a person is required to vote on a
9 provisional paper ballot.

10 G. A voter shall not be permitted to vote until
11 [~~he~~] the voter has properly signed [~~his~~] the voter's usual
12 signature or made [~~his~~] the voter's mark in the signature
13 roster.

14 H. After the poll is closed, the election clerk in
15 charge of a signature roster shall draw a single horizontal
16 line in ink through each signature space in the signature
17 roster where no signature or mark appears. "

18 Section 3. Section 1-6-5 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 131, as amended by Laws 2003, Chapter 355,
20 Section 4 and by Laws 2003, Chapter 356, Section 19 and also by
21 Laws 2003, Chapter 357, Section 2) is amended to read:

22 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
23 MARKING AND DELIVERY OF BALLOT IN PERSON. --

24 A. The county clerk shall mark each completed
25 absentee ballot application with the date and time of receipt

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1 in the clerk's office and enter the required information in the
2 absentee ballot register. The county clerk shall then
3 determine if the applicant is a voter, an absent uniformed
4 services voter or an overseas voter.

5 B. If the applicant does not have a valid
6 certificate of registration on file in the county and [he] is
7 not a federal qualified elector or if the applicant states [he]
8 that the applicant is a federal qualified elector but [his] the
9 application indicates [he] the applicant is not a federal
10 qualified elector, an absentee ballot shall not be issued and
11 the county clerk shall mark the application "rejected" and file
12 the application in a separate file from those accepted.

13 C. The county clerk shall notify in writing each
14 applicant of the fact of acceptance or rejection of [his] the
15 application and, if rejected, shall explain why the application
16 was rejected.

17 D. If the applicant has on file with the county a
18 valid certificate of registration that indicates that the
19 applicant is a voter who registered by mail without submitting
20 the required identification the county clerk shall notify the
21 voter that [he] the voter must submit with [his] the absentee
22 ballot either a copy of a current and valid photo
23 identification, or a copy of a utility bill, bank statement,
24 government check, paycheck or other government document that
25 shows the name and address of the applicant. The county clerk

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1 shall note on the absentee ballot register and signature roster
2 that the applicant's absentee ballot must be returned with the
3 required identification.

4 E. If the county clerk finds that the applicant is
5 a voter other than a federal qualified elector or overseas
6 voter, the county clerk shall mark the application "accepted"
7 and, beginning twenty-eight days before the election, deliver
8 an absentee ballot to the voter in the county clerk's office or
9 mail to the applicant an absentee ballot and the required
10 envelopes for use in returning the ballot. If the county clerk
11 finds that the applicant is a federal qualified elector or
12 overseas voter, the county clerk shall mark the application
13 "accepted" and beginning forty-five days before the election,
14 mail to the applicant an absentee ballot and the required
15 envelopes for use in returning the ballot. Acceptance of an
16 application of a federal qualified elector constitutes
17 registration for the election in which the ballot is to be
18 cast. Acceptance of an application from an overseas voter who
19 is not an absent uniformed services voter constitutes a request
20 for changing information on the certificate of registration of
21 any such voter. An absent voter shall not be permitted to
22 change [his] party affiliation during those periods when change
23 of party affiliation is prohibited by the Election Code. Upon
24 delivery of an absentee ballot to a voter in the county clerk's
25 office or mailing of an absentee ballot to an applicant who is

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1 a voter, an appropriate designation shall be made on the
2 signature line of the signature roster next to the name of the
3 voter who has been provided or mailed an absentee ballot.

4 F. If an application for an absentee ballot is
5 delivered in person to the county clerk and is accepted, and,
6 if the voter is required to present identification pursuant to
7 Subsection D of this section and the voter presents the
8 required identification, the county clerk shall provide the
9 voter an absentee ballot and it shall be marked by the
10 applicant in a voting booth of a type prescribed by the
11 secretary of state, sealed in the proper envelopes and
12 otherwise properly executed and returned to the county clerk or
13 [~~his~~] the county clerk's authorized representative before the
14 voter leaves the office of the county clerk. The act of
15 marking the absentee ballot in the office of the county clerk
16 shall be a convenience to the voter in the delivery of the
17 absentee ballot and does not make the office of the county
18 clerk a polling place subject to the requirements of a polling
19 place in the Election Code other than is provided in this
20 subsection. It shall be unlawful to solicit votes, display or
21 otherwise make accessible any posters, signs or other forms of
22 campaign literature whatsoever in the clerk's office. Absentee
23 ballots may be marked in person at the county clerk's office
24 during the regular hours and days of business beginning on the
25 twenty-eighth day preceding the election and from 10:00 a.m. to

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1 6:00 p.m. on the Saturday immediately prior to the date of the
2 election. In marking the absentee ballot, the voter, pursuant
3 to the provisions of Section 1-12-15 NMSA 1978, may be assisted
4 by one person of the voter's choice.

5 G. Commencing on the third Saturday prior to an
6 election, an absent voter may vote in person, on an electronic
7 voting machine at an alternate location established by the
8 county clerk. In class A counties with more than two hundred
9 thousand registered voters, the county clerk shall establish
10 [~~not less~~] no fewer than twelve alternate voting locations as a
11 convenience to the voters. For class A counties with two
12 hundred thousand registered voters or [~~less~~] fewer, the county
13 clerk shall establish [~~not less~~] no fewer than four alternate
14 voting locations. In non-class A counties with more than ten
15 thousand registered voters, the county clerk shall establish at
16 least one alternate voting location. In non-class A counties
17 with ten thousand registered voters or [~~less~~] fewer, early
18 voting shall be conducted in the office of the county clerk or
19 at such alternative locations as may be designated by the
20 county clerk. Absentee voting may be done at an alternate
21 location from 12:00 p.m. to 8:00 p.m., Tuesday through Friday,
22 and 10:00 a.m. to 6:00 p.m. Saturday through the Saturday
23 immediately prior to the election. The county clerk shall
24 ensure that procedures established for processing an absent
25 voter application and for voting by absentee ballot are

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1 complied with at each alternate location, provided, however,
2 that before voting the voter shall present:

3 (1) a current and valid photo identification;
4 or

5 (2) a copy of a current utility bill, bank
6 statement, government check, paycheck or other government
7 document that shows and matches the name and address of the
8 voter.

9 H. If the otherwise qualified voter does not
10 present the required form of identification, the voter shall be
11 given a provisional ballot in accordance with the provisions of
12 Section 1-12-8 NMSA 1978.

13 ~~[H.]~~ I. Absentee ballots shall be airmailed or, if
14 so requested, electronically transmitted to applicants
15 temporarily domiciled inside or outside the continental limits
16 of the United States not later than on the [Thursday] Friday
17 immediately prior to the date of the election.

18 ~~[I.]~~ J. An absentee ballot shall not be delivered
19 or mailed by the county clerk to any person other than the
20 applicant for such ballot.

21 ~~[J. The county clerk shall accept and process, with~~
22 ~~respect to a primary or general election for any federal~~
23 ~~office, any otherwise valid voter registration application from~~
24 ~~an absent uniformed services voter or overseas voter if the~~
25 ~~application is received not less than thirty days before the~~

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1 ~~election. The county clerk shall also accept and process~~
2 ~~federal write in absentee ballots from overseas voters in~~
3 ~~general elections for federal offices in accordance with the~~
4 ~~provisions of Section 103 of the federal Uniformed and Overseas~~
5 ~~Citizens Absentee Voting Act.]~~

6 K. The secretary of state and each county clerk
7 shall make reasonable efforts to publicize and inform voters of
8 the times and locations for absentee voting."

9 Section 4. Section 1-6-9 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 135, as amended) is amended to read:

11 "1-6-9. MANNER OF VOTING. --

12 A. A person voting pursuant to the Absent Voter Act
13 shall secretly mark ~~[his]~~ the absentee ballot in the manner
14 provided in the Election Code for marking emergency paper
15 ballots, place it in the official inner envelope and securely
16 seal the envelope. The voter shall then place the official
17 inner envelope and, if required to submit identification
18 pursuant to Subsection D of Section 1-6-5 NMSA 1978, a copy of
19 the required identification inside the official mailing
20 envelope and securely seal the envelope. The voter shall then
21 complete the form on the reverse of the official mailing
22 envelope, which shall include an affirmation by the voter under
23 penalty of perjury that the facts stated in the form are true.

24 B. Federal qualified electors and overseas voters
25 shall either deliver or mail the official mailing envelope or

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1 electronically transmit the absentee ballot to the county clerk
2 of their county of residence or deliver it to a person
3 designated by federal authority to receive executed ballots for
4 transmission to the county clerk of the county of residence or
5 former residence as the case may be. Voters shall either
6 deliver or mail the official mailing envelope to the county
7 clerk of their county of residence. "

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

10 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING. --

11 A. A person shall be permitted to vote on a
12 provisional paper ballot even though ~~his~~ the person's
13 original certificate of registration cannot be found in the
14 county register or even if ~~his~~ the person's name does not
15 appear on the signature roster, provided:

16 (1) ~~his~~ the person's residence is within the
17 boundaries of the county in which ~~he~~ the person offers to
18 vote;

19 (2) ~~his~~ the person's name is not on the list
20 of persons submitting absentee ballots; and

21 (3) ~~he~~ the person executes a statement
22 swearing or affirming to the best of ~~his~~ the person's
23 knowledge that ~~he~~ the person is a qualified elector, is
24 currently registered and eligible to vote in that county and
25 has not cast a ballot or voted in that election.

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1 B. A voter shall vote on a provisional paper ballot
2 if the voter

3 ~~[(1) has not previously voted in a general~~
4 ~~election in New Mexico;~~

5 ~~(2) did not register to vote in person;~~

6 ~~(3) did not submit the required identification~~
7 ~~with the certificate of registration form; and~~

8 (4) does not present to the election judge one
9 of the following forms of identification [~~that matches the name~~
10 ~~and address on the voter's certificate of registration~~]:

11 ~~[(a)]~~ (1) a current and valid photo
12 identification; or

13 ~~[(b)]~~ (2) a copy of a current utility bill,
14 bank statement, government check, paycheck or other government
15 document that shows the name and address of the voter and that
16 matches the name and address on the voter's certificate of
17 registration.

18 C. An election judge shall have the voter sign the
19 signature roster and issue the voter a provisional paper
20 ballot, an outer envelope and an official inner envelope. The
21 voter shall vote on the provisional paper ballot in secrecy and
22 when done, place the ballot in the official inner envelope and
23 place the official inner envelope in the outer envelope and
24 return it to the precinct officer. The election judge shall
25 ensure that the required information is completed on the outer

1 envelope, have the voter sign it in the appropriate place and
2 place it in an envelope designated for provisional paper
3 ballots.

4 D. Knowingly executing a false statement
5 constitutes perjury as provided in the Criminal Code of this
6 state, and voting on the basis of such falsely executed
7 statement constitutes fraudulent voting. "

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