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

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

19 B. Upon receiving an electronic record pursuant to
20 Subsection A of this section, the secretary of state shall
21 determine if the person is registered to vote in the state. If
22 the person is not registered to vote, the secretary of state
23 shall determine if the person is ineligible to register to vote
24 for the reason that the person does not satisfy the state's
25 voter eligibility requirements as a qualified elector or a

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1 federal qualified elector or the person is otherwise a
2 qualified elector but ineligible to register to vote pursuant
3 to Section 1-4-27.1 NMSA 1978. If the person is not registered
4 to vote and is eligible to register to vote, the secretary of
5 state shall forward the person's electronic record to the
6 county clerk of the county in which the person resides.

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

18 (1) an explanation of the voter eligibility
19 requirements, a statement of the penalties for registering to
20 vote when a person is not eligible and a statement that if the
21 person is not eligible to vote that the person should decline
22 to register by returning the card;

23 (2) a statement that:

24 (a) if the person declines to register
25 to vote, the fact that the person has declined registration

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1 will remain confidential and will be used only for election
2 administration purposes; and

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

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

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

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

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

24 E. If a person who satisfies the age requirements
25 for eligibility to vote conducts an in-person transaction to

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1 apply for or renew, update, correct or replace the person's
2 driver's license or state-issued identification card, or files
3 in person a notice of change of address or name for a driver's
4 license or state-issued identification card, but does not
5 provide documentation demonstrating United States citizenship
6 in the course of conducting the transaction, the motor vehicle
7 division of the taxation and revenue department shall
8 electronically transmit to the secretary of state an electronic
9 record containing the person's full name, date of birth,
10 driver's license or state-issued identification card number,
11 residence address, mailing address if different from residence
12 address, county of residence and an electronic image of the
13 person's signature. The information transmitted pursuant to
14 this subsection shall only be used to update an existing voter
15 certificate of registration and shall contain a clear notation
16 that it is only to be used for voter registration update
17 purposes.

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

21 (1) the person is a voter in the state, but
22 the information provided by the motor vehicle division of the
23 taxation and revenue department indicates a different address
24 or name from that on the voter's certificate of registration,
25 including an address in a different county, the secretary of

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1 state shall forward the voter's electronic record and notice of
2 the change of name or address to the county clerk of the county
3 in which the voter resides and to the county clerk of the
4 county in which the voter previously resided, if applicable.

5 The county clerk of the county in which the voter resides shall
6 update the voter's certificate of registration to reflect the
7 change of name or address and send to the voter's mailing
8 address, by forwardable mail, a notice that the voter's
9 certificate of registration was updated and a postage prepaid
10 and pre-addressed return card by which the voter may verify or
11 correct the information on the certificate of registration. If
12 the voter returns the card indicating that the change to the
13 voter's certificate of registration was in error, the
14 appropriate county clerk shall immediately correct the error on
15 the voter's certificate of registration; and

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

21 G. Immediately upon the conclusion of a transaction
22 that results in an electronic record being transmitted to the
23 secretary of state pursuant to this section, the person whose
24 electronic record was transmitted shall be notified in writing
25 that the electronic record was transmitted to the secretary of

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1 state for purposes of automatic voter registration or to update
2 voter records.

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

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

21 J. A person who is an unqualified elector or who is
22 ineligible to vote, but who becomes registered to vote under
23 this section, and votes or attempts to vote in an election held
24 after the effective date of the person's registration, commits
25 false voting under Section 1-20-8 NMSA 1978 only if the person

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1 knowingly and willfully took voluntary action to register to
2 vote with knowledge that the person is an unqualified elector
3 or ineligible to register or knowingly and willfully voted with
4 knowledge that the person is an unqualified elector or
5 ineligible to vote.

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

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

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

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

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

22 L. Upon a determination by the secretary of state
23 that a state agency that participates in the state-agency-based
24 voter registration program pursuant to Section 1-4-48 NMSA 1978
25 collects sufficient information to transmit electronic records

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1 for the purposes of automatic voter registration in accordance
2 with the provisions in this section, the secretary of state
3 shall adopt rules requiring agencies to comply with the
4 provisions of this section.

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

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

12 "1-4-2. REGISTRATION OF QUALIFIED RESIDENTS--RIGHT TO
13 VOTE IN PRIMARY.--

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

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1 provided by this section.

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

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

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

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

19 C. Any resident of New Mexico who may be a
20 qualified elector upon the resident's eighteenth birthday, who
21 obtains a license, permit or identification card from the motor
22 vehicle division of the taxation and revenue department and who
23 has not submitted a voter registration certificate pursuant to
24 Subsection A of this section or has not been registered to vote
25 through automatic voter registration pursuant to Section 1 of

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1 this 2021 act shall be sent a notification by the secretary of
2 state advising the resident of the requirements and opportunity
3 to register to vote and a uniform resource locator for a web
4 page where the resident may submit a voter registration
5 certificate online. When applicable, a notification shall be
6 sent to a resident described in this subsection within the
7 sixty days following the resident's seventeenth birthday, when
8 the resident obtained a license, permit or identification card
9 from the motor vehicle division prior to the resident's
10 seventeenth birthday and within thirty days prior to the
11 resident's eighteenth birthday."

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

14 "1-4-5.2. AGENCY REGISTRATION--FORM.--

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

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

24 C. Pursuant to Section 1-4-48 NMSA 1978, a
25 qualified elector may register to vote in any state agency that

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1 provides public assistance or services to persons with
2 disabilities. If the qualified elector does not provide a
3 document demonstrating United States citizenship in the course
4 of a transaction with the agency, the qualified elector shall
5 be offered the opportunity to register to vote or update an
6 existing certificate of registration. The secretary of state
7 may designate other state or local public offices with the
8 agreement of those offices.

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

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

18 "1-4-5.8. ~~[AUTOMATIC]~~ AGENCY VOTER REGISTRATION--DRIVER'S
19 LICENSE AND AGENCY REGISTRATION AND UPDATES TO REGISTRATION.--

20 A. In addition to the requirements of Section
21 1-4-47 NMSA 1978:

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

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

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

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

19 B. In addition to the requirements of Section
20 1-4-48 NMSA 1978:

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

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

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

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

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

2 "1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

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

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

24 C. Every motor vehicle division office, field
25 office or contract field office of the division shall display

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1 within the offices clearly visible signs stating "voter
2 registration assistance available" and:

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

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

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

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

22 E. Any voter registration made or accepted at a
23 motor vehicle division office or motor vehicle division field
24 office shall be transmitted to the secretary of state and the
25 appropriate registration officer within seven calendar days.

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1 F. The secretary of state shall work with the motor
2 vehicle division to:

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

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

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

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

16 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
17 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For
18 qualified electors seeking to register to vote or update an
19 existing voter registration in the state, the following
20 provisions shall apply:

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

24 B. the county clerk shall receive certificates of
25 registration at all times during normal working hours, except

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1 that the clerk shall not process any certificate of
2 registration subscribed and sworn beginning the first business
3 day after the deadline to register to vote or update an
4 existing voter registration before an election if the
5 residential address on the certificate of registration
6 indicates that the registration is for a:

7 (1) statewide election, within the county; or

8 (2) special election, within any precinct in
9 the county in which votes may be cast in the special election;

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

13 (1) new voter registrations that meet the
14 requirements of this section;

15 (2) updates to existing voter registrations in
16 this state that meet the requirements of this section; provided
17 that an update to an existing registration in this state shall
18 not be processed if the voter has requested or been sent a
19 ballot in the election, unless the voter executes an affidavit
20 stating that the voter has not and will not vote the ballot
21 that was issued and the ballot register does not show that a
22 ballot from the voter has been cast in the election; and

23 (3) pending cancellations of existing voter
24 registrations in this state through the day of the election;
25 provided that a cancellation of an existing voter registration

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1 shall not be processed if the voter has requested or been sent
2 a ballot in the election;

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

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

22 F. the county clerk shall accept for filing and
23 process any certificate of registration that is subscribed and
24 dated on or before the deadline to register to vote or update
25 an existing voter registration prior to an election and:

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1 (1) received by the county clerk by the end of
2 the last regular business day of the week for the office of the
3 county clerk immediately following the deadline to register to
4 vote or update an existing voter registration prior to an
5 election;

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

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

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