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HOUSE BILL 123

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR VOTER REGISTRATION 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 Chapter 1, Article 6 NMSA  
1978 is enacted to read:

"~~[NEW MATERIAL]~~ EARLY VOTING--REGISTRATION PROCEDURES.--

A. If a qualified elector is not registered to vote  
or needs to update the qualified elector's existing certificate  
of registration and is at an early voting site for a primary or  
general election in the county in which the qualified elector  
resides, the qualified elector shall be allowed to complete a  
certificate of registration and cast a ballot from the precinct  
in which the qualified elector resides; provided that the  
qualified elector:

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1 (1) presents a physical form of identification  
2 as defined in Subsection A of Section 1-1-24 NMSA 1978 to the  
3 county clerk or the clerk's authorized representative;

4 (2) completes a certificate of registration  
5 form;

6 (3) subscribes an application to vote; and

7 (4) is entered into the statewide electronic  
8 voter file.

9 B. If the early voting site does not have real-time  
10 access to the statewide electronic voter file, and the  
11 qualified elector fulfills the conditions specified in  
12 Paragraphs (1) through (3) of Subsection A of this section, the  
13 voter shall be issued a provisional ballot.

14 C. A voter shall not be allowed to change party  
15 affiliation when registering at an early voting site during a  
16 primary election.

17 D. For registration purposes, "early voting site"  
18 means an alternate voting site or the office of the county  
19 clerk during the time when in-person absentee voting is being  
20 conducted."

21 Section 2. Section 1-1-24 NMSA 1978 (being Laws 2005,  
22 Chapter 270, Section 6, as amended) is amended to read:

23 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the  
24 Election Code, "required voter identification" means any of the  
25 following forms of identification as chosen by the [voter]

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1 qualified elector:

2 A. a physical form of identification, which may be:

3 (1) an original or copy of a current and valid  
4 government-issued photo identification with or without an  
5 address, which address is not required to match the [~~voter's~~  
6 ~~certificate of~~] qualified elector's registration address; or

7 (2) an original or copy of a current utility  
8 bill, bank statement, government check, paycheck, student  
9 identification card or other government document, including  
10 identification issued by an Indian nation, tribe or pueblo,  
11 that shows the name and address of the person, the address of  
12 which is [~~not~~] required to match the [~~voter's certificate of~~]  
13 qualified elector's registration address; or

14 B. a verbal or written statement by the voter of  
15 the voter's name, registration address and year of birth;  
16 provided, however, that the statement of the voter's name need  
17 not contain the voter's middle initial or suffix."

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

21 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

22 A. A qualified elector may apply for registration:

23 (1) by mail;

24 (2) in the office of the secretary of state or  
25 county clerk; or

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1                   (3) with a registration agent or officer.

2                   B. A person may request certificate of registration  
3 forms from:

4                   (1) the secretary of state or any county clerk  
5 in person, by telephone or by mail for that person or for other  
6 persons; or

7                   (2) a county clerk or the clerk's authorized  
8 representative at an early voting site.

9                   C. Except as provided in Subsection D of this  
10 section, a qualified elector who wishes to register to vote  
11 shall fill out completely and sign the certificate of  
12 registration. The qualified elector may seek the assistance of  
13 any person in completing the certificate of registration.

14                   D. A qualified elector who has filed for an order  
15 of protection pursuant to the provisions of the Family Violence  
16 Protection Act and who presents a copy of that order from a  
17 state or tribal court to the registration officer shall not be  
18 required to provide physical residence address information on  
19 the certificate of registration.

20                   E. Completed certificates of registration may be:

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

23                   (2) mailed or presented in person by the  
24 registrant or any other person to the county clerk of the  
25 county in which the registrant resides; or

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1                   (3) completed at an early voting site and  
2 presented to the county clerk or the clerk's authorized  
3 representative at the early voting site in the county in which  
4 the qualified elector resides.

5                   F. If the registrant wishes to vote in [~~the next~~]  
6 an election, the completed and signed certificate of  
7 registration shall be delivered or mailed and postmarked at  
8 least twenty-eight days before the election, or completed at an  
9 early voting site and presented to the county clerk or the  
10 clerk's authorized representative at an early voting site in  
11 the county in which the qualified elector resides.

12                   G. Upon receipt of a certificate of registration,  
13 the secretary of state shall send the certificate to the county  
14 clerk in the county where the qualified elector resides.

15                   H. Only when the certificate of registration is  
16 properly filled out, signed by the qualified elector and  
17 accepted for filing by the county clerk as evidenced by the  
18 county clerk's signature or stamp and the date of acceptance  
19 thereon and when notice has been received by the registrant  
20 shall it constitute an official public record of the  
21 registration of the qualified elector.

22                   I. The secretary of state shall prescribe the form  
23 of the certificate of registration, which form shall be a  
24 postpaid mail-in format and shall be printed in Spanish and  
25 English. The certificate of registration form shall be clear

1 and understandable to the average person and shall include  
2 brief but sufficient instructions to enable the qualified  
3 elector to complete the form without assistance. The form  
4 shall also include:

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

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

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

15 (4) a statement informing the applicant that:

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

25 (b) if the applicant does not submit the

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1 required identification, the applicant will be required to do  
2 so when voting in person or absentee; and

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

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

8 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
9 REGISTRATION--CLOSE OF REGISTRATION--EARLY VOTING SITE  
10 REGISTRATION--FEDERAL QUALIFIED ELECTORS AND OVERSEAS VOTERS--  
11 LATE REGISTRATION.--

12 A. For qualified electors other than federal  
13 qualified electors or overseas voters, the following provisions  
14 shall apply:

15 (1) the county clerk shall receive  
16 certificates of registration at all times during normal working  
17 hours, except that the clerk shall close registration at  
18 5:00 p.m. on the twenty-eighth day immediately preceding any  
19 election at which the registration books are to be furnished to  
20 the precinct board;

21 (2) during the period when early voting sites  
22 are open, the county clerk shall accept for filing certificates  
23 of registration from qualified electors who register to vote at  
24 an early voting site in the county in which the qualified  
25 elector resides;

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1                    [~~(2)~~] (3) registration shall be reopened on  
2 the Monday following the election;

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

9                    [~~(4)~~] (5) during the period when registration  
10 is closed, the county clerk shall receive certificates of  
11 registration and other documents pertaining thereto but, except  
12 for certificates of registration received from an early voting  
13 site, shall not file [~~the~~] any certificate of registration in  
14 the registration book until the Monday following the election,  
15 at which time a voter information document shall be mailed to  
16 the registrant at the address shown on the certificate of  
17 registration;

18                    [~~(5)~~] (6) when the twenty-eighth day prior to  
19 any election referred to in this section is a Saturday, Sunday  
20 or legal holiday, registration shall be closed at 5:00 p.m. of  
21 the next succeeding regular business day for the office of the  
22 county clerk; and

23                    [~~(6)~~] (7) the county clerk shall accept for  
24 filing any certificate of registration that is subscribed and  
25 dated on or before the twenty-eighth day preceding the election

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1 and:

2 (a) received by the county clerk before  
3 5:00 p.m. on the Friday immediately following the close of  
4 registration;

5 (b) mailed and postmarked not less than  
6 twenty-eight days prior to any election referred to in this  
7 section; or

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

10 B. For federal qualified electors and overseas  
11 voters, the county clerk shall accept a certificate of  
12 registration by electronic transmission from a voter qualified  
13 to apply for and vote by absentee ballot in the county if the  
14 transmission is received before 5:00 p.m. on the Friday  
15 immediately preceding the election."

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

18 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

19 A. A person shall be permitted to vote on a  
20 provisional paper ballot even though the person's original  
21 certificate of registration cannot be found in the county  
22 register or even if the person's name does not appear on the  
23 signature roster, provided:

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

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

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

8                   B. A person shall vote on a provisional ballot if  
9 the person is not registered, or is not registered in the  
10 correct precinct, and attempts to register to vote at an early  
11 voting site, but the early voting site does not have real-time  
12 access to the statewide electronic voter file and the person  
13 would otherwise be eligible to vote at the early voting site.

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

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

18                   (2) registered to vote by mail;

19                   (3) did not submit the physical form of the  
20 required voter identification with the certificate of  
21 registration form; and

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

24                   ~~[C.]~~ D. A voter shall vote on a provisional ballot  
25 in accordance with the provisions of Section 1-12-7.1 NMSA 1978

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1 if the voter does not provide the required voter identification  
2 to the election judge.

3 ~~[D-]~~ E. An election judge shall have the voter sign  
4 the signature roster or application to vote and issue the voter  
5 a provisional paper ballot, an outer envelope and an official  
6 inner envelope. The voter shall vote on the provisional paper  
7 ballot in secrecy and, when done, place the ballot in the  
8 official inner envelope and place the official inner envelope  
9 in the outer envelope and return it to the precinct officer.  
10 The election judge shall ensure that the required information  
11 is completed on the outer envelope, have the voter sign it in  
12 the appropriate place and place it in an envelope designated  
13 for provisional paper ballots.

14 ~~[E-]~~ F. Knowingly executing a false statement  
15 constitutes perjury as provided in the Criminal Code of this  
16 state, and voting on the basis of such falsely executed  
17 statement constitutes fraudulent voting."

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

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

23 A. the person [~~presenting himself~~] who has come to  
24 vote is not registered and is not a qualified elector;

25 B. the person [~~presenting himself~~] who has come to

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1 vote is listed on the purge list placed with the signature  
2 rosters or is listed among those persons in the precinct from  
3 whom an absentee ballot was received;

4 C. the person [~~presenting himself~~] who has come to  
5 vote is improperly registered because [~~he~~] the person is not a  
6 qualified elector;

7 D. in the case of a primary election, the person  
8 [~~presenting himself~~] who has come to vote is not affiliated  
9 with a political party represented on the ballot; or

10 E. in the case of an absentee ballot, the official  
11 outer envelope of the absentee voter has been opened prior to  
12 the counting of the ballots."

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

15 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

16 A. Upon closing of the polls, provisional paper  
17 ballots shall be delivered to the county clerk, who shall  
18 determine if the ballots will be counted prior to certification  
19 of the election.

20 B. A provisional paper ballot shall not be counted  
21 if the registered voter did not sign either the signature  
22 roster or, in the case of a person registering to vote at an  
23 early voting site, the application to vote or the ballot's  
24 envelope.

25 C. If there is no record of the [~~voter~~] person ever

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1 having been registered in the county, the ~~[voter]~~ person shall  
2 be offered the opportunity to register and the provisional  
3 paper ballot shall not be counted; provided that this  
4 subsection does not apply to a provisional ballot of a  
5 qualified elector that registered to vote at an early voting  
6 site.

7 D. If the voter was registered in the county, the  
8 registration was later canceled and the county clerk determines  
9 that the cancellation was in error, the voter's registration  
10 shall be immediately restored and the provisional paper ballot  
11 counted.

12 E. If the county clerk determines that the  
13 cancellation was not in error, the voter shall be offered the  
14 opportunity to register at the voter's correct address, and the  
15 provisional paper ballot shall not be counted.

16 F. If the voter is a registered voter in the  
17 county, but has voted on a provisional paper ballot at a  
18 polling place other than the voter's designated polling place,  
19 the county canvassing board shall ensure that only those votes  
20 for the positions or measures for which the voter was eligible  
21 to vote are counted.

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

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