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SENATE BILL 363

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO ELECTIONS; REQUIRING IN-PERSON VOTERS TO PRESENT IDENTIFICATION BEFORE VOTING; PROVIDING FOR FREE IDENTIFICATION CARDS TO BE ISSUED BY THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT IN CASE OF INDIGENCY; PROVIDING PROCEDURES FOR CHALLENGING A VOTER'S IDENTIFICATION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

"1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the Election Code, "required voter identification" and "physical form of identification" means: ~~[any of the following forms of identification as chosen by the voter:~~

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

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1 ~~(1) an original or copy of a current and valid~~
2 ~~photo identification with or without an address, which address~~
3 ~~is not required to match the voter's certificate of~~
4 ~~registration; or~~

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

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

16 A. a document that:

17 (1) shows the name of the person to whom the
18 document was issued, and the name conforms to the name in the
19 person's voter registration record;

20 (2) shows a photograph of the person to whom
21 the document was issued;

22 (3) includes an expiration date, and the
23 document is not expired; and

24 (4) was issued by the United States or the
25 state of New Mexico; or

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1 B. a document that:

2 (1) shows the name of the person to whom the
3 document was issued, and the name conforms to the name of the
4 person's certificate of registration;

5 (2) includes an expiration date, and the
6 document is not expired;

7 (3) includes the person's tribal enrollment
8 number; and

9 (4) was issued by an Indian nation, tribe or
10 pueblo."

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

14 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

18 B. A person may request certificate of registration
19 forms from the secretary of state or any county clerk in
20 person, by telephone or by mail for that person or for other
21 persons.

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

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1 any person in completing the certificate of registration.

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

8 E. Completed certificates of registration may be
9 mailed or presented in person by the registrant or any other
10 person to the secretary of state 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.

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

17 G. Upon receipt of a certificate of registration,
18 the secretary of state shall send the certificate to the county
19 clerk in the county where the qualified elector resides.

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

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1 registration of the qualified elector.

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

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

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

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

20 (4) a statement informing the applicant that:

21 (a) if the form is submitted by mail by
22 the applicant and the applicant is registering for the first
23 time in New Mexico, the applicant must submit with the form a
24 copy of [~~1) a current and valid photo identification; or 2) a~~
25 ~~current utility bill, bank statement, government check,~~

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1 ~~paycheck, student identification card or other government~~
2 ~~document, including identification issued by an Indian nation,~~
3 ~~tribe or pueblo, that shows the name and current address of the~~
4 ~~applicant]~~ the required voter identification; and

5 (b) if the applicant does not submit the
6 required identification, the applicant will be required to do
7 so when voting [~~in person or~~] absentee by mail; and

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

11 SECTION 3. A new section of Chapter 1, Article 12 NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] CONDUCT OF ELECTION--CHALLENGES TO A
14 VOTER'S IDENTIFICATION.--If a challenge is interposed because
15 the required voter identification a voter presents does not
16 conform to the requirements of Section 1-1-24 NMSA 1978, the
17 presiding judge shall ask the voter to present a form of
18 identification containing the voter's date of birth, and:

19 A. if the voter presents such identification and
20 the year of birth matches the voter's year of birth on the
21 signature roster or checklist of voters, the voter shall be
22 allowed to vote and the election clerk shall enter the words
23 "Not Affirmed" under the challenge notation after the voter's
24 name in the signature roster and the checklist of registered
25 voters;

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1 B. if the voter is not able to present such
2 identification, the presiding judge shall ask the voter the
3 voter's year of birth, and if the voter answers correctly as
4 indicated on the signature roster or checklist of voters, the
5 voter shall be allowed to vote and the election clerk shall
6 enter the words "Not Affirmed" under the challenge notation
7 after the voter's name in the signature roster and the
8 checklist of registered voters; or

9 C. if the voter is unable to present identification
10 in accordance with Subsection A of this section or correctly
11 state the voter's year of birth in accordance with Subsection B
12 of this section, the challenge shall be handled in accordance
13 with the provisions of Section 1-12-22 NMSA 1978."

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

16 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
17 challenge may be interposed by a member of the precinct board
18 or by a party challenger for the following reasons:

19 A. the person [~~presenting himself~~] who has come to
20 vote is not registered;

21 B. the person [~~presenting himself~~] who has come to
22 vote is listed on the purge list placed with the signature
23 rosters or is listed among those persons in the precinct from
24 whom an absentee ballot was received;

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

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1 vote is improperly registered because [~~he~~] the person is not a
2 qualified elector;

3 D. the required voter identification the person
4 presents does not conform to the requirements of Section 1-1-24
5 NMSA 1978;

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

9 [~~E-~~] F. in the case of an absentee ballot, the
10 official outer envelope of the absentee voter has been opened
11 prior to the counting of the ballots."

12 **SECTION 5.** Section 66-5-408 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 335, as amended) is amended to read:

14 "66-5-408. FEES--EXCEPTIONS---

15 A. Upon application for an identification card with
16 a four-year term, there shall be paid to the department a fee
17 of five dollars (\$5.00). Upon application for an
18 identification card with an eight-year term, there shall be
19 paid to the department a fee of ten dollars (\$10.00). A fee
20 shall not be charged to an applicant for an identification card
21 if the applicant is at least seventy-five years of age or if
22 the person will be at least eighteen years of age on the date
23 of the next general election, the person states that the person
24 is unable to pay for the card and the person signs a statement
25 declaring indigency.

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1 B. The department with the approval of the governor
2 may increase the amount of the identification card fee by an
3 amount not to exceed three dollars (\$3.00) for the purpose of
4 implementing an enhanced licensing system; provided that for an
5 identification card issued for an eight-year period, the amount
6 of the fee shall be twice the amount charged for other
7 identification cards. The additional amounts collected
8 pursuant to this subsection are appropriated to the department
9 to defray the expense of the new system of licensing and for
10 use as set forth in the provisions of Subsection F of Section
11 66-6-13 NMSA 1978. Unexpended and unencumbered balances from
12 fees collected pursuant to the provisions of this subsection at
13 the end of any fiscal year shall not revert to the general fund
14 but shall be expended by the department in fiscal year 2010 and
15 subsequent fiscal years."

16 **SECTION 6. REPEAL.**--Section 1-12-4.1 NMSA 1978 (being
17 Laws 2005, Chapter 270, Section 59) is repealed.

18 **SECTION 7. EFFECTIVE DATE.**--The effective date of the
19 provisions of this act is January 1, 2012.