

1 HOUSE BILL 235

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Dianne Miller Hamilton

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10 AN ACT

11 RELATING TO ELECTIONS; REQUIRING ALL VOTERS TO PRESENT
12 IDENTIFICATION BEFORE VOTING; ESTABLISHING PROCEDURES TO SUBMIT
13 IDENTIFICATION TO THE COUNTY CLERK UP TO TWO DAYS AFTER THE
14 ELECTION; AMENDING SECTIONS OF THE NMSA 1978.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the
20 Election Code, "required voter identification" means any of the
21 following forms of identification as chosen by the voter:

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

23 (1) an original or copy of ~~[a]~~ one of the
24 following current and valid photo identification ~~[with or~~
25 ~~without an address, which address is not required to match the~~

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1 ~~voter's certificate of registration]~~ documents:

2 (a) a New Mexico driver's license;

3 (b) a military identification card;

4 (c) a United States passport; or

5 (d) an identification card issued by the

6 motor vehicle division of the taxation and revenue department;

7 or

8 (2) an [~~original or copy of a utility bill,~~
9 ~~bank statement, government check, paycheck, student~~

10 ~~identification card or other government document, including]~~

11 identification document issued by an Indian nation, tribe or

12 pueblo that shows the name and address of the person, the

13 address of which is not required to match the voter's

14 certificate of registration; or

15 B. a verbal or written statement by the voter of the

16 last four digits of the voter's [~~name, registration address and~~

17 ~~year of birth; provided, however, that the statement of the~~

18 ~~voter's name need not contain the voter's middle initial or~~

19 ~~suffix]~~ social security number; provided that in the case of an

20 absentee voter who is a new registrant, who registered by mail

21 and who did not submit a copy of a physical form of

22 identification with the registration application, this statement

23 is not an acceptable form of identification."

24 SECTION 2. Section 1-4-5.1 NMSA 1978 (being Laws 1993,

25 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,

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1 as amended) is amended to read:

2 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

6 B. A person may request certificate of registration
7 forms from the secretary of state or any county clerk in
8 person, by telephone or by mail for that person or for other
9 persons.

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

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

21 E. Completed certificates of registration may be
22 mailed or presented in person by the registrant or any other
23 person to the secretary of state 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.

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1 F. If the registrant wishes to vote in the next
2 election, the completed and signed certificate of registration
3 shall be delivered or mailed and postmarked at least twenty-
4 eight days before the election.

5 G. Upon receipt of a certificate of registration,
6 the secretary of state shall send the certificate to the county
7 clerk in the county where the qualified elector resides.

8 H. Only when the certificate of registration is
9 properly filled out, signed by the qualified elector and
10 accepted for filing by the county clerk as evidenced by the
11 county clerk's signature or stamp and the date of acceptance
12 thereon and when notice has been received by the registrant
13 shall it constitute an official public record of the
14 registration of the qualified elector.

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 election day?" and boxes for
3 the applicant to check to indicate whether the applicant will
4 be eighteen years of age or older on election day;

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

8 (4) a statement informing the applicant that:

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

18 (b) if the applicant does not submit the
19 [~~required~~] identification required by Subparagraph (a) of
20 Paragraph (4) of this subsection, the applicant will be
21 required to do 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 1-6-4 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 130, as amended) is amended to read:

2 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
3 ELECTOR--OVERSEAS VOTER.--

4 A. Application by a federal qualified elector or an
5 overseas voter for an absentee ballot shall be made on the
6 official postcard form prescribed or authorized by the federal
7 government to the county clerk of the county of the applicant's
8 residence. The form shall allow the applicant to receive an
9 absentee ballot for all elections within an election cycle.

10 B. Application by a voter for an absentee ballot
11 shall be made only on a form prescribed by the secretary of
12 state in accordance with federal law. The form shall identify
13 the applicant and contain information to establish the
14 applicant's qualification for issuance of an absentee ballot
15 under the Absent Voter Act; provided that on the application
16 form for a general election ballot there shall be no box, space
17 or place provided for designation of the voter's political
18 party affiliation.

19 C. Each application for an absentee ballot shall be
20 signed by the applicant and shall require the applicant's
21 printed name, registration address and year of birth, to be
22 supplied by the applicant [~~which shall constitute the required~~
23 ~~form of identification, except for new registrants who have~~
24 ~~registered by mail and at that time did not provide acceptable~~
25 ~~identification. The secretary of state shall issue rules to~~

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1 ~~exempt voters from submitting identification only as required~~
2 ~~by federal law and shall review and, if necessary, update these~~
3 ~~rules no later than March 15 of even-numbered years].~~

4 D. An application for an absentee ballot by a
5 federal qualified elector or an overseas voter shall be
6 accepted at any time preceding the general election.

7 E. A person who willfully and with knowledge and
8 intent to deceive or mislead any voter, precinct board,
9 canvassing board, county clerk or other election official and
10 who falsifies any information on an absentee ballot request
11 form or who affixes a signature or mark other than the person's
12 own on an absentee ballot request form is guilty of a fourth
13 degree felony."

14 SECTION 4. Section 1-6-8 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 134, as amended) is amended to read:

16 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

17 A. The secretary of state shall prescribe the form
18 of, procure and distribute to each county clerk a supply of:

19 (1) official inner envelopes for use in
20 sealing the completed absentee ballot;

21 (2) official mailing envelopes for use in
22 returning the official inner envelope to the county clerk;
23 provided the official mailing envelope for absentee ballots in
24 a general election shall contain no designation of party
25 affiliation;

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1 (3) absentee ballot instructions, describing
2 proper methods for completion of the ballot and returning it;
3 and

4 (4) official transmittal envelopes for use by
5 the county clerk in mailing absentee ballot materials.

6 B. Official transmittal envelopes and official
7 mailing envelopes for transmission of absentee ballot materials
8 to and from the county clerk and federal qualified electors
9 shall be printed in the form prescribed by the federal
10 Uniformed and Overseas Citizens Absentee Voting Act. Official
11 transmittal envelopes and official mailing envelopes for
12 transmission of absentee ballot materials to and from the
13 county clerk and voters shall be printed in black in
14 substantially similar form. All official inner envelopes shall
15 be printed in black.

16 C. The reverse of each official mailing envelope
17 shall contain a form to be executed by the voter completing the
18 absentee ballot. The form shall identify the voter and shall
19 contain the following statement: "I will not vote in this
20 election other than by the enclosed ballot. I will not receive
21 or offer any compensation or reward for giving or withholding
22 any vote."

23 D. The official mailing envelope shall contain a
24 space for the voter to record the voter's name, registration
25 address and year of birth and a window slot to hold the copy of

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1 the required voter identification. The envelope shall have a
2 security flap to cover this information."

3 SECTION 5. Section 1-6-9 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 135, as amended) is amended to read:

5 "1-6-9. MANNER OF VOTING--ALTERNATE DELIVERY METHODS.--

6 A. Except as provided in Subsection B of this
7 section or Section 1-6-5.7 NMSA 1978, a person voting pursuant
8 to the Absent Voter Act shall secretly mark the absentee ballot
9 in the manner provided in the Election Code for marking paper
10 ballots, place it in the official inner envelope and securely
11 seal the envelope. The voter shall then place the official
12 inner envelope inside the official mailing envelope and
13 securely seal the envelope. The voter shall then complete the
14 form on the reverse of the official mailing envelope, which
15 shall include a statement by the voter under penalty of perjury
16 that the facts stated in the form are true and the voter's
17 name, registration address [~~and~~], year of birth and required
18 voter identification. Voters shall either deliver or mail the
19 official mailing envelope to the county clerk of their county
20 of residence.

21 B. Federal qualified electors and overseas voters
22 shall either deliver or mail the official mailing envelope or,
23 in accordance with Subsection C of this section, electronically
24 transmit the absentee ballot to the county clerk of their
25 county of residence or deliver it to a person designated by

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1 federal authority to receive executed ballots for transmission
2 to the county clerk of the county of residence or former
3 residence as the case may be.

4 C. A federal qualified elector or overseas voter
5 may return an absentee ballot by electronic transmission if:

6 (1) the voter signs a statement under penalty
7 of perjury waiving the right of secrecy of the voter's ballot;

8 (2) the voter transmits the statement with the
9 absentee ballot; and

10 (3) the transmission of the absentee ballot
11 and statement are received by the county clerk no later than
12 7:00 p.m. on election day."

13 SECTION 6. Section 1-6-14 NMSA 1978 (being Laws 1971,
14 Chapter 317, Section 11, as amended) is amended to read:

15 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
16 PRECINCT BOARDS.--

17 A. Before opening an official mailing envelope, the
18 presiding judge and the election judges shall determine that
19 the required information has been completed on the reverse side
20 of the official mailing envelope.

21 B. If the voter's signature is missing, the
22 presiding judge shall write "Rejected" on the front of the
23 official mailing envelope. The judge or election clerk shall
24 enter the voter's name in the signature rosters or register and
25 shall write the notation "Rejected--Missing Signature" in the

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1 "Notations" column of the signature rosters or register. The
2 presiding judge shall place the official mailing envelope
3 unopened in an envelope provided for rejected ballots, seal the
4 envelope and write the voter's name on the front of the
5 envelope and deposit it in the locked ballot box.

6 C. If the required voter identification is not
7 under the flap or in the window pocket under the flap on the
8 official mailing envelope, the presiding judge shall place the
9 official mailing envelope unopened in an envelope provided for
10 ballots lacking the required voter identification. An updated
11 list of all voters who mailed in absentee ballots without the
12 required voter identification shall be posted by the county
13 clerk in the county clerk's office and on the county clerk's
14 web site within twenty-four hours of processing a voter's
15 official mailing envelope. Absentee ballots received by the
16 county clerk without the required voter identification shall
17 not be counted unless the voter provides the county clerk with
18 the required voter identification by 5:00 p.m. on the second
19 day following the election.

20 [~~G.~~] D. A lawfully appointed challenger may view
21 the official mailing envelope and may challenge the ballot of
22 any absent voter for the following reasons:

23 (1) the official mailing envelope has been
24 opened by someone other than the voter prior to being received
25 by the absent voter precinct board;

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1 (2) the official mailing envelope does not
2 contain a signature; or

3 (3) the person offering to vote is not a voter
4 as provided in the Election Code.

5 ~~[D-]~~ E. If a challenge is upheld by unanimous vote
6 of the presiding judge and the election judges, the official
7 mailing envelope shall not be opened but shall be placed in an
8 envelope provided for challenged ballots. If the reason for
9 the challenge is satisfied by the voter before the conclusion
10 of the county canvass, the official mailing envelope shall be
11 opened and the vote counted. The same procedure shall be
12 followed in canvassing and determining the validity of
13 challenged absentee ballots as with other challenged ballots.

14 ~~[E-]~~ F. If the official mailing envelope has been
15 properly subscribed and the voter has not been challenged:

16 (1) the judges or election clerks shall enter
17 the absent voter's name and residence address as shown on the
18 official mailing envelope in the signature rosters and shall
19 mark the notation "AB" opposite the voter's name in the
20 "Notations" column of the signature rosters or register; and

21 (2) only between 8:00 a.m. and 10:00 p.m. on
22 the five days preceding election day, including Saturday and
23 Sunday, and beginning at 7:00 a.m. on election day, under the
24 personal supervision of the presiding election judge, shall the
25 election judges open the official mailing envelope and the

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1 official inner envelope and insert the enclosed ballot into an
2 electronic voting machine to be registered and retained until
3 votes are counted and canvassed following the closing of the
4 polls on election night.

5 ~~[F.]~~ G. It is unlawful for a person to disclose the
6 results of a count and tally or the registration on a voting
7 machine of absentee ballots prior to the closing of the polls.

8 ~~[G.]~~ H. Absentee ballots shall be counted and
9 tallied, where possible, on an electronic voting machine as
10 provided in the Election Code.

11 ~~[H.]~~ I. Absent voter precinct polls shall close in
12 accordance with Section 1-6-23 NMSA 1978, and the results of
13 the election shall be certified as prescribed by the secretary
14 of state.

15 ~~[I.]~~ J. If an absentee ballot does not contain the
16 identification required pursuant to Subsection D of Section
17 1-6-5 NMSA 1978, it shall be handled as a provisional paper
18 ballot in accordance with the Election Code."

19 **SECTION 7.** Section 1-12-7.3 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 109, as amended) is amended to read:

21 "1-12-7.3. SIGNATURE ROSTERS AND CHECKLISTS OF VOTERS--
22 CONTENTS.--

23 A. The signature roster and checklist of voters for
24 any precinct shall contain for each voter, as shown in the
25 county register, the voter's:

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- 1 (1) name;
- 2 (2) gender;
- 3 (3) place of residence;
- 4 (4) year of birth;
- 5 (5) party affiliation, if any; and
- 6 (6) precinct of residence.

7 B. The checklist of voters shall also contain the
8 voter's social security number's last four digits.

9 [~~B.~~] C. In addition, the names on each signature
10 roster and checklist of voters shall be numbered consecutively
11 beginning with the number "1".

12 [~~C.~~] D. On each page of each signature roster and
13 each checklist of voters there shall be printed the page number
14 and the date and name of the election for which they are to be
15 used."

16 **SECTION 8.** Section 1-12-20 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 273, as amended) is amended to read:

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

21 A. the person offering to vote is not registered to
22 vote;

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

25 C. the person offering to vote has already cast a

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1 ballot in that election;

2 D. the person offering to vote is improperly
3 registered because the person is not a qualified elector; ~~[or]~~

4 E. the person offering to vote does not provide the
5 required voter identification; or

6 ~~[E.]~~ F. in the case of a primary election, the
7 person ~~[desiring]~~ offering to vote is not affiliated with a
8 political party represented on the ballot."

9 SECTION 9. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2012.