



March 21, 2025

The Honorable Chuck Gray, Secretary of State
Herschler Building East
122 West 25th St., Ste. 101
Cheyenne, WY 82002

Re: No signature of House Enrolled Act 0057 / House Bill 156 - Proof of voter
residency-registration qualifications

Dear Secretary Gray,

Considering the fact this Act would not become effective until July 1, 2025 and that it would first apply to the 2026 primary election, over a year from then, I wanted to give it the consideration it deserved. Ostensibly, this Act is about giving the Secretary of State the rulemaking authority, currently lacking, with regard to forms of identification to be used to prove Wyoming residency and United States citizenship. This Act appears to accomplish that. There are other aspects of this Act equally important however, outside of the residency and citizenship questions. These are all salient features to improving confidence in our elections.

Our Constitution sets a framework for elections, providing that only Wyoming residents who are citizens should vote. Specifically of note, Article 6, Section 2 of the Wyoming Constitution reads:

Qualifications of electors. Every citizen of the United States of the age of twenty-one years and upwards, *who has resided in the state or territory one year and in the county wherein such residence is located sixty days next preceding any election, shall be entitled to vote at such election, except as herein otherwise provided.* (emphasis added).

Article 6, Section 5 reads, “**Electors must be citizens of United States.** No person shall be deemed a qualified elector of this state, unless such person be a citizen of the United States.”

Article 1, Section 37 also points out, “**Constitution of United States supreme law of land.** The State of Wyoming is an inseparable part of the federal union, and the constitution of the United States is the supreme law of the land.”

There is an obvious friction between Article 6, Section 2 and the practice of allowing eighteen year olds to vote, as well as citizens who have been residents for less than a year. This dichotomy most probably can be explained by the recognition of the supremacy of United States law with regard to these two points, as will be discussed below. As to the age requirement, the 26th Amendment to the United States Constitution passed in 1971 provides that "Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any state on account of age." Considering Article 1, Section 37 of the Wyoming Constitution recognizes the United States Constitution as the supreme law of the land, allowing citizens eighteen years and older to register and vote certainly seems to be understandable despite Wyoming's constitutional language to the contrary.

I am an enthusiastic supporter of the notion that citizens should be residents of Wyoming for a considerable period of time prior to being able to participate in our elections (it took me eighteen years). Not only does it seem sensible, but it obviously comports with the original construction of our Constitution. I am unclear why the Legislature and the Secretary of State included an arbitrary thirty-day residency requirement when reiterating the Wyoming Constitution's original requirement of one year would have conformed more closely with the framers original intent. If the Legislature is already willing to test the bounds of legal propriety, they might as well respect original construction.

Let me say, I am confident in how elections have been conducted in Wyoming over the 50 years that I have been voting here. Moreover, I believe that those who have sworn an oath to our Constitution will adhere to how elections should be conducted under the provisions in this law just as they have supported and obeyed the laws and our Constitution and statutes to date. Our elections are precious, and those that have served as election judges and clerks over the years should be complimented for the diligence they have brought to this important task. I have both won and lost elections in this state. I have never whined about the outcome or sought to reengineer the process. I believe in the results even when they don't go my way.

How we balance the twin goals of encouraging participation and assuring that participation is limited to qualified electors, especially considering Wyoming's already excellent track record with election integrity and security, is clearly the challenge with which the Wyoming Legislature and Secretary of State continue to wrestle. How to conduct a clean, accurate, and heartily engaged election is every bit as important as it is to secure fair results themselves. Because I believe in adequate checks to ensure only qualified electors can vote, I am allowing this bill to become law despite the likelihood that it will invite litigation.

If this Act simply dealt with clarifying the statutory authority for rulemaking requiring proof of residency and citizenship to vote (already constitutionally required), there would be no need for this explanation. Unfortunately, that is not the case. Not content to satisfy that question, the Act also articulates the legally questionable durational residency requirement mentioned above. In any case, this Act's residency requirement may interfere with its implementation: federal statute 52 U.S.C. § 10502 provides that "[n]o citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote... in such election because of the failure of such citizen to comply with any durational residency requirement of such State." Whether the federal or state statute will prevail in a legal contest is a question that will have to be resolved in court.

Practically, of some significance for the implementation of this Act is a far-reaching new "any indication" standard for rejection of voter registration. This standard may be difficult for clerks to administer, as it is unclear and perhaps awkward for our county clerks to consistently apply with any degree of certainty. The rulemaking provisions could be helpful, however one must also remember with the passage of Senate File 0127/Senate Enrolled Act No. 59 Administrative Rules-Legislative Review this year, that it now appears any legislator can pull rules for review and potential repeal following promulgation after July 1, 2026, leaving some uncertainty for clerks going forward.

Considering the constitutional requirements already present in our Constitution and statutes, I do not believe the tweaks in this Act will present much of a change from the diligence clerks currently exhibit, though there always is a potential for unintended consequences. Would the presence of a P.O. box on an identification card be sufficient to disqualify a voter? If so, there is at least one high ranking member of the Wyoming Republican Party, and bonafide U.S. citizen, who could be disenfranchised. What about well worn, sunbleached, or wrinkled identification cards? No doubt, it is up to the voter to make sure all their "papers" are in order before they can vote, but still, I remain concerned that the vagueness of the language in this Act could lead clerks to either err on the side of over-enforcement or under-enforcement. Seniors may also be disenfranchised, as may rural residents who carry their wallets as they work may find their ID insufficient if it has suffered a drop on a shop floor. On this point, I am left to ponder whether this Act's new features will be an improvement over the existing "provisional ballot" process whereby a questionable ballot is not counted until fully vetted and verified. Nevertheless, having both a belt and suspenders approach for election security seems appropriate, if not abundant.

Because it is laudable to continuously improve our standards for identification, I am thrilled that this legislation now gives the Secretary of State the authority he was trying to usurp by passing rules he had no authority to pass last spring. The will of the Legislature is finally clear on this

point. Let us remember, though, it is ultimately essential and core to the workings of both our Wyoming and United States Constitutions that a bona fide citizen be able to vote without undue difficulty, and that right should not be abridged or diminished as a result of measures taken to conduct an election.

I agree with responsibly ensuring only Wyoming residents who are citizens can vote. It is already in our Constitution that way, and I have sworn to support and obey it more than once. I take that oath seriously. Because this legislation adheres to neither the original construction of our Constitution nor federal law in its durational requirement, I cannot sign it as such. Because I believe this Act – although redundant – offers some useful improvements, I am letting this bill pass into law without my signature.

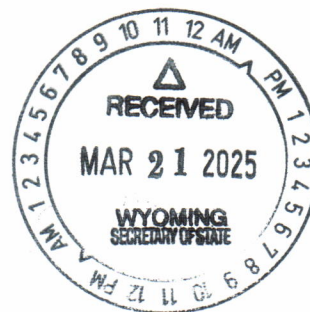
Sincerely,



Mark Gordon
Governor

MG:kw:kh

cc: The Honorable Bo Biteman, Senate President
The Honorable Chip Neiman, House Speaker
Chief Clerk, Wyoming Senate
Chief Clerk, Wyoming House of Representatives



ORIGINAL HOUSE
BILL NO. HB0156

ENGROSSED

ENROLLED ACT NO. 57, HOUSE OF REPRESENTATIVES

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2025 GENERAL SESSION

AN ACT relating to elections; requiring a qualified elector to be a bona fide resident of the state of Wyoming for not less than thirty (30) days before the date of the election in which they offer to vote; requiring documentation proving residence to register to vote; prohibiting registration based on documentation showing noncitizen status; making conforming amendments; requiring rulemaking; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 18-16-102(a)(ix)(E), (F) and by creating a new subparagraph (G), 22-1-102(a)(xxvi), (xxvii) and by creating new paragraphs (lv) and (lvi), 22-3-102(a)(i) and by creating a new paragraph (vi), 22-3-103(a) by creating new paragraphs (ix) and (x) and (b), 22-3-117(a)(intro), 22-3-118(a)(ii) and 22-29-104(a)(v)(E), (F) and by creating a new subparagraph (G) are amended to read:

18-16-102. Definitions.

(a) As used in this act:

(ix) "Qualified elector" means a natural person who:

(E) Has not been convicted of a felony or if convicted has had his civil rights or voting rights restored;~~and~~

(F) Is registered to vote;and

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(G) Has been a bona fide resident of Wyoming for not less than thirty (30) days before the date of the election at which he offers to vote.

22-1-102. Definitions.

(a) The definitions contained in this chapter apply to words and phrases used in this Election Code and govern the construction of those words and phrases unless they are specifically modified by the context in which they appear. As used in this Election Code:

(xxvi) "Qualified elector" includes every citizen of the United States who is a bona fide resident of Wyoming, has been a bona fide resident of Wyoming for not less than thirty (30) days before the date of the election at which he offers to vote, has registered to vote and will be at least eighteen (18) years of age on the day of the election at which he may offer to vote. No person is a qualified elector who is a currently adjudicated mentally incompetent person, or who has been convicted of a felony and his civil or voting rights have not been restored. A literacy test shall not be imposed as a condition to voting in any election;

(xxvii) "Registration" is the entry and verification of the name, residence, citizenship and voter information of a qualified elector on the official registry list, as provided in W.S. 22-3-104(f) and 22-3-108;

(lv) "Proof of residence" means the documents or other proof of residence specified by rule of the secretary of state, which rule identifies documents or other proof that establishes residency. If a person does not have the documents or other proof of residency

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specified by rule of the secretary of state, "proof of residence" may be established by a signed attestation of the person that the person is a bona fide resident of the state of Wyoming. The attestation shall be subject to verification by the county clerk or the secretary of state;

(lvi) "Proof of United States citizenship" means, for purposes of voter registration, any of the following:

(A) A valid Wyoming driver's license as defined by W.S. 31-7-102(a)(xxv) or a valid Wyoming identification card issued under W.S. 31-8-101, provided that the license or identification card does not contain any indication that the person is not a United States citizen;

(B) A valid tribal identification card issued by the governing body of the Eastern Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation or any other federally recognized Indian tribe, provided that the identification card does not contain any indication that the person is not a United States citizen;

(C) A valid driver's license or identification card issued by any other state that is consistent with the Real ID Act as defined by W.S. 31-7-102(a)(lii), provided that the driver's license or identification card does not include any indication that the person is not a United States citizen;

(D) A valid United States passport;

(E) A certificate of United States citizenship;

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(F) A certificate of naturalization;

(G) A United States military draft record
or a selective service registration acknowledgment card;

(H) A consular report of birth abroad
issued by the United States department of state;

(J) An original or certified copy of a
birth certificate in the United States bearing an official
seal.

22-3-102. Qualifications; temporary registration.

(a) A person may register to vote not less than fourteen (14) days before an election, at any election specified in W.S. 22-2-101(a)(i) through (viii) or as provided by W.S. 22-3-117, who satisfies the following qualifications:

(i) He is a citizen of the United States, as
evidenced by providing proof of United States citizenship
as defined by W.S. 22-1-102(a)(lvi);

(vi) He has been a bona fide resident of Wyoming
for not less than thirty (30) days before the date of the
election at which he offers to vote.

22-3-103. Furnishing of oath forms; contents thereof.

(a) The county clerk shall furnish voter registration oath forms to registry agents which forms shall require the following voter information from the applicant:

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(ix) Proof of residence as defined in W.S.
22-1-102(a)(lv);

(x) Proof of United States citizenship as
defined by W.S. 22-1-102(a)(lvi).

(b) Following the provision of the information required in subsection (a) of this section, the form shall require the applicant's signature in full below the following oath:

I,, do solemnly swear (or affirm) that I am a citizen of the United States; that I am a bona fide resident of the state of Wyoming and this county; I have resided in the state for not less than thirty (30) days before the date of the election; that if registered in another county or state, I hereby request that my registration be withdrawn; that I will be at least eighteen (18) years of age on or before the next election; that I am not currently adjudicated a mentally incompetent person, that I have not been convicted of a felony, or if I have been convicted of a felony, I have had my civil or voting rights restored by a competent authority; and that the voter registration information contained herein is true and accurate to my best knowledge and belief.

.... (Signature in full of applicant)

Subscribed and affirmed or sworn to before me by this
.... day of, (year).

.... (Signature and title of registry agent

or person authorized to administer oaths)

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22-3-117. Absentee registration generally; use of federal postcard.

(a) Notwithstanding any other section or provision in this chapter, any citizen of the United States who is a resident of Wyoming may apply for registration by providing the information required by W.S. 22-3-103(a), and acceptable identification, ~~to~~ proof of United States citizenship and proof of residence and by completing and subscribing the form of voter registration oath prescribed by W.S. 22-3-103(b) before any person authorized by law to administer oaths. Each county clerk shall furnish the voter registration oath forms. The applicant shall mail or return the completed voter registration oath form to the county clerk in the county in which the applicant resides. In order to vote in the next election, the application must be received in the county clerk's office before the close of registration for that election, or:

22-3-118. Proof of identity.

(a) Unless a voter is challenged pursuant to W.S. 22-15-101 through 22-15-109, and except as provided in W.S. 22-9-104(a)(vi) for an absentee ballot obtained in person by the elector, no identification shall be required when:

(ii) Voting by absentee ballot after having registered by mail and having submitted a copy of the person's acceptable identification, proof of United States citizenship as defined by W.S. 22-1-102(a)(lvi) and proof of residence as set forth in W.S. 22-1-102(a)(xxxix)(A) and (lv), at the time of registration.

22-29-104. Definitions when principal act is silent.

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(a) When used in a principal act, the following definitions apply, unless the term is otherwise specifically defined in that principal act:

(v) "Qualified elector" means a natural person who:

(E) Has not been convicted of a felony, or, if so convicted, has had his civil or voting rights restored;~~and~~

(F) Has registered to vote; and

(G) Has been a bona fide resident of Wyoming for not less than thirty (30) days before the date of the election at which he offers to vote.

Section 2. The secretary of state shall promulgate all rules necessary to implement this act.

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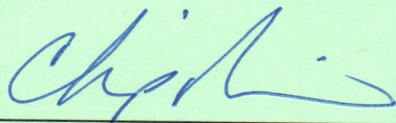
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Section 3.

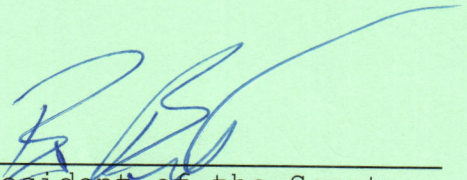
(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2025.

(b) Sections 2 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)



Speaker of the House



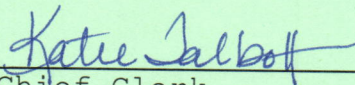
President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.



Chief Clerk

