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HOUSE BILL 577

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

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO ELECTIONS; REQUIRING ALL 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 OR INABILITY TO PAY; PROVIDING FOR XEROGRAPHIC COPIES OF A VOTER'S IDENTIFICATION DOCUMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] VOTER IDENTIFICATION--PROVISION OF XEROGRAPHIC COPIES.--At the request of a voter, the state shall provide at no charge a xerographic copy of the voter's required voter identification document when the voter presents the

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1 document during normal business hours at any state office that  
2 is capable of making such copies."

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

5 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the  
6 Election Code, "required voter identification" or "physical  
7 form of identification" means: [~~any of the following forms of~~  
8 ~~identification as chosen by the voter:~~

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

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

14 (2) ~~an original or copy of a utility bill,~~  
15 ~~bank statement, government check, paycheck, student~~  
16 ~~identification card or other government document, including~~  
17 ~~identification issued by an Indian nation, tribe or pueblo,~~  
18 ~~that shows the name and address of the person, the address of~~  
19 ~~which is not required to match the voter's certificate of~~  
20 ~~registration; or~~

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

25 A. a document that:

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1                   (1) shows the name of the person to whom the  
2 document was issued, and:

3                   (a) the name conforms to the name in the  
4 person's voter registration record; or

5                   (b) at least two members of the precinct  
6 board determine that the document sufficiently matches the  
7 information on the voter's certificate of registration to  
8 identify the person;

9                   (2) shows a photograph of the person to whom  
10 the document was issued;

11                   (3) includes an expiration date, and the  
12 document is not expired; and

13                   (4) was issued by the United States or the  
14 state of New Mexico, including any public post-secondary  
15 educational institution; or

16                   B. a document that:

17                   (1) shows the name of the person to whom the  
18 document was issued, and:

19                   (a) the name conforms to the name of the  
20 person's certificate of registration; or

21                   (b) at least two members of the precinct  
22 board determine that the document sufficiently matches the  
23 information on the voter's certificate of registration to  
24 identify the person;

25                   (2) includes the person's tribal enrollment

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1 number; and

2 (3) was issued by an Indian nation, tribe or  
3 pueblo."

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

7 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

11 B. A person may request certificate of registration  
12 forms from the secretary of state or any county clerk in  
13 person, by telephone or by mail for that person or for other  
14 persons.

15 C. Except as provided in Subsection D of this  
16 section, a qualified elector who wishes to register to vote  
17 shall fill out completely and sign the certificate of  
18 registration. The qualified elector may seek the assistance of  
19 any person in completing the certificate of registration.

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

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1           E. Completed certificates of registration may be  
2 mailed or presented in person by the registrant or any other  
3 person to the secretary of state or presented in person by the  
4 registrant or any other person to the county clerk of the  
5 county in which the registrant resides.

6           F. If the registrant wishes to vote in the next  
7 election, the completed and signed certificate of registration  
8 shall be delivered or mailed and postmarked at least twenty-  
9 eight days before the election.

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

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

20          I. The secretary of state shall prescribe the form  
21 of the certificate of registration, which form shall be a  
22 postpaid mail-in format and shall be printed in Spanish and  
23 English. The certificate of registration form shall be clear  
24 and understandable to the average person and shall include  
25 brief but sufficient instructions to enable the qualified

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1 elector to complete the form without assistance. The form  
2 shall also include:

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

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

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

13 (4) a statement informing the applicant that:

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

23 (b) ~~[if the applicant does not submit~~  
24 ~~the required identification]~~ the applicant will be required to  
25 ~~[do so]~~ submit the required voter identification when voting in

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1 person or absentee by mail; and

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

5 SECTION 4. Section 1-6-4 NMSA 1978 (being Laws 1969,  
6 Chapter 240, Section 130, as amended) is amended to read:

7 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED  
8 ELECTOR--OVERSEAS VOTER.--

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

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

24 C. Each application for an absentee ballot shall be  
25 subscribed by the applicant and shall require the applicant's

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1 printed name, registration address [~~and~~], year of birth [~~to be~~  
2 ~~supplied by the applicant, which shall constitute~~] and a copy  
3 of the required form of identification [~~except for new~~  
4 ~~registrants who have registered by mail and at that time did~~  
5 ~~not provide acceptable identification~~] to be supplied by the  
6 applicant. The secretary of state shall issue rules to exempt  
7 voters from submitting identification only as required by  
8 federal law and shall review and, if necessary, update these  
9 rules no later than March 15 of even-numbered years.

10 D. An application for an absentee ballot by a  
11 federal qualified elector or an overseas voter shall be  
12 accepted at any time preceding the general election."

13 SECTION 5. Section 1-6-5 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 131, as amended) is amended to read:

15 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

16 A. The county clerk shall mark each completed  
17 absentee ballot application with the date and time of receipt  
18 in the clerk's office and enter the required information in the  
19 absentee ballot register. The county clerk shall then  
20 determine if the applicant is a voter, an absent uniformed  
21 services voter or an overseas voter.

22 B. If the applicant does not have a valid  
23 certificate of registration on file in the county and is not a  
24 federal qualified elector or if the applicant states that the  
25 applicant is a federal qualified elector but the application

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1 indicates the applicant is not a federal qualified elector, an  
2 absentee ballot shall not be issued and the county clerk shall  
3 mark the application "rejected" and file the application in a  
4 separate file from those accepted.

5 C. The county clerk shall notify in writing each  
6 applicant of the fact of acceptance or rejection of the  
7 application and, if rejected, shall explain why the application  
8 was rejected.

9 D. ~~[If the applicant has on file with the county a  
10 valid certificate of registration that indicates that the  
11 applicant is a voter who is a new registrant and who registered  
12 by mail without submitting the required voter identification]~~  
13 The county clerk shall notify the voter that the voter must  
14 submit with the absentee ballot a copy of the required physical  
15 form of identification. ~~[The county clerk shall note on the  
16 absentee ballot register and signature roster that the  
17 applicant's absentee ballot must be returned with the required  
18 identification.]~~

19 E. If the county clerk finds that the applicant is  
20 a voter other than a federal qualified elector or overseas  
21 voter, the county clerk shall mark the application "accepted"  
22 and, beginning twenty-eight days before the election, deliver  
23 an absentee ballot to the voter in the county clerk's office or  
24 mail to the applicant an absentee ballot and the required  
25 envelopes for use in returning the ballot. If the county clerk

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1 finds that the applicant is a federal qualified elector or  
2 overseas voter, the county clerk shall mark the application  
3 "accepted" and beginning forty-five days before the election,  
4 mail to the applicant an absentee ballot and the required  
5 envelopes for use in returning the ballot. Acceptance of an  
6 application of a federal qualified elector constitutes  
7 registration for the election in which the ballot is to be  
8 cast. Acceptance of an application from an overseas voter who  
9 is not an absent uniformed services voter constitutes a request  
10 for changing information on the certificate of registration of  
11 any such voter. An absent voter shall not be permitted to  
12 change party affiliation during those periods when change of  
13 party affiliation is prohibited by the Election Code. Upon  
14 delivery of an absentee ballot to a voter in the county clerk's  
15 office or mailing of an absentee ballot to an applicant who is  
16 a voter, an appropriate designation shall be made on the  
17 signature line of the signature roster next to the name of the  
18 voter who has been provided or mailed an absentee ballot.

19 F. If an application for an absentee ballot is  
20 delivered in person to the county clerk and is accepted, the  
21 county clerk shall provide the voter an absentee ballot and it  
22 shall be marked by the applicant in a voting booth of a type  
23 prescribed by the secretary of state, sealed in the proper  
24 envelopes and otherwise properly executed and returned to the  
25 county clerk or the clerk's authorized representative before

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1 the voter leaves the office of the county clerk. The act of  
2 marking the absentee ballot in the office of the county clerk  
3 shall be a convenience to the voter in the delivery of the  
4 absentee ballot and does not make the office of the county  
5 clerk a polling place subject to the requirements of a polling  
6 place in the Election Code other than is provided in this  
7 subsection. It is unlawful to solicit votes, display or  
8 otherwise make accessible any posters, signs or other forms of  
9 campaign literature whatsoever in the clerk's office or  
10 alternate voting location. In marking the absentee ballot, the  
11 voter, pursuant to the provisions of Section 1-12-15 NMSA 1978,  
12 may be assisted by one person of the voter's choice.

13 G. Absentee ballots may be marked in person at the  
14 county clerk's office during the regular hours and days of  
15 business beginning on the twenty-eighth day preceding the  
16 election and from 10:00 a.m. to 6:00 p.m. on the Saturday  
17 immediately prior to the date of the election. If the county  
18 clerk establishes an additional alternate voting location near  
19 the clerk's office, absentee ballots may be marked in person at  
20 that location during the regular hours and days of business  
21 beginning on the twenty-eighth day preceding the election and  
22 during the hours for voting at alternate voting locations  
23 commencing on the third Saturday prior to the election through  
24 the Saturday immediately prior to the election.

25 H. Absentee ballots shall be sent to applicants not

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1 later than on the Friday immediately prior to the date of the  
2 election.

3 I. An absentee ballot shall not be delivered or  
4 mailed by the county clerk to any person other than the  
5 applicant for such ballot.

6 J. The secretary of state and each county clerk  
7 shall make reasonable efforts to publicize and inform voters of  
8 the times and locations for absentee voting; provided, however,  
9 that notice is provided at least ten days before early voting  
10 begins.

11 K. The secretary of state shall establish  
12 procedures for the [~~submittal, when required by federal law~~]  
13 submission of the required voter identification with mailed-in  
14 absentee ballots.

15 L. An absentee ballot that is returned without a  
16 copy of the required voter identification shall be considered  
17 to be and handled as a provisional ballot."

18 SECTION 6. A new section of Chapter 1, Article 12 NMSA  
19 1978 is enacted to read:

20 "[NEW MATERIAL] CONDUCT OF ELECTION--CHALLENGES TO A  
21 VOTER'S IDENTIFICATION.--If a challenge is interposed because  
22 the required voter identification a voter presents does not  
23 conform to the requirements of Section 1-1-24 NMSA 1978, the  
24 voter shall be allowed to vote on a provisional ballot."

25 SECTION 7. Section 1-12-20 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 273, as amended) is amended to read:

2 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A  
3 challenge may be interposed by a member of the precinct board  
4 or by a party challenger for the following reasons:

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

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

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

14 D. the required voter identification the person  
15 presents does not conform to the requirements of Section 1-1-24  
16 NMSA 1978;

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

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

23 SECTION 8. Section 1-12-25.3 NMSA 1978 (being Laws 2003,  
24 Chapter 356, Section 6, as amended) is amended to read:

25 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED

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1 INFORMATION.--

2 A. At a minimum, the following information shall be  
3 printed on the outer envelope for a provisional paper ballot:

- 4 (1) the name and signature of the voter;
- 5 (2) the voter's registered address, both  
6 present and former if applicable;
- 7 (3) the voter's date of birth;
- 8 (4) the reason for using the ballot;
- 9 (5) the precinct and the polling place at  
10 which the voter has voted; and
- 11 (6) sufficient space to list the disposition  
12 of the ballot after review by the county clerk.

13 B. A provisional paper ballot shall not be  
14 rejected for lack of the information required by this section  
15 and shall be qualified as long as the voter provides a valid  
16 signature and sufficient information for the clerk to  
17 determine the voter is a qualified elector and has provided a  
18 copy of the required voter identification."

19 SECTION 9. Section 66-5-408 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 335, as amended) is amended to read:

21 "66-5-408. FEES--EXCEPTIONS.--

22 A. Upon application for an identification card  
23 with a four-year term, there shall be paid to the department  
24 a fee of five dollars (\$5.00). Upon application for an  
25 identification card with an eight-year term, there shall be

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1 paid to the department a fee of ten dollars (\$10.00). A fee  
2 shall not be charged to an applicant for an identification  
3 card if the applicant:

4 (1) is at least seventy-five years of age;  
5 or

6 (2) will be at least eighteen years of age  
7 on the date of the next general election and the person signs  
8 a statement declaring that the person is unable to pay for  
9 the card or is indigent.

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

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SECTION 10. REPEAL.--Section 1-12-4.1 NMSA 1978 (being  
Laws 2005, Chapter 270, Section 59) is repealed.

SECTION 11. EFFECTIVE DATE.--The effective date of the  
provisions of this act is January 1, 2012.