

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 113

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

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; 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 document during normal business hours at any state office that

.188514.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 is capable of making such copies."

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

4 "1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the  
5 Election Code, "required voter identification" or "physical  
6 form of identification" means: [~~any of the following forms of~~  
7 ~~identification as chosen by the voter:~~

8 A. ~~a physical form of identification, which may be:~~  
9 (1) ~~an original or copy of a current and valid~~  
10 ~~photo identification with or without an address, which address~~  
11 ~~is not required to match the voter's certificate of~~  
12 ~~registration; or~~

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

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

24 A. a document that:

25 (1) shows the name of the person to whom the

.188514.1

underscored material = new  
[bracketed material] = delete

1 document was issued, and:

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

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

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

10 (3) includes an expiration date, and if  
11 expired, has not been expired for more than eight years; and

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

15 B. a document that:

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

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

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

24 (2) includes the person's tribal enrollment  
25 number; and

.188514.1

underscored material = new  
[bracketed material] = delete

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

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

6           "1-4-5.1. METHOD OF REGISTRATION--FORM.--

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

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

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

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

25                   E. Completed certificates of registration may be

.188514.1

underscoring material = new  
~~[bracketed material] = delete~~

1 mailed or presented in person by the registrant or any other  
2 person to the secretary of state or presented in person by the  
3 registrant or any other person to the county clerk of the  
4 county in which the registrant resides.

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

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

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

19 I. The secretary of state shall prescribe the form  
20 of the certificate of registration, which form shall be a  
21 postpaid mail-in format and shall be printed in Spanish and  
22 English. The certificate of registration form shall be clear  
23 and understandable to the average person and shall include  
24 brief but sufficient instructions to enable the qualified  
25 elector to complete the form without assistance. The form

.188514.1

underscored material = new  
[bracketed material] = delete

1 shall also include:

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

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

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

12 (4) a statement informing the applicant that:

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

22 (b) [~~if the applicant does not submit~~  
23 ~~the required identification]~~ the applicant will be required to  
24 [~~do so~~] submit the required voter identification when voting in  
25 person or absentee by mail; and

.188514.1

underscoring material = new  
~~[bracketed material] = delete~~

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

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

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

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

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

23 C. Each application for an absentee ballot shall be  
24 signed by the applicant and shall require the applicant's  
25 printed name, registration address and year of birth to be

.188514.1

underscoring material = new  
[bracketed material] = delete

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

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

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

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

20 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

21 A. The county clerk shall mark each completed  
22 absentee ballot application with the date and time of receipt  
23 in the clerk's office and enter the required information in the  
24 absentee ballot register. The county clerk shall then  
25 determine if the applicant is a voter, an absent uniformed

.188514.1



underscored material = new  
[bracketed material] = delete

1 services voter or an overseas voter.

2 B. If the applicant does not have a valid  
3 certificate of registration on file in the county and is not a  
4 federal qualified elector or if the applicant states that the  
5 applicant is a federal qualified elector but the application  
6 indicates the applicant is not a federal qualified elector, an  
7 absentee ballot shall not be issued and the county clerk shall  
8 mark the application "rejected" and file the application in a  
9 separate file from those accepted.

10 C. The county clerk shall notify in writing each  
11 applicant of the fact of acceptance or rejection of the  
12 application and, if rejected, shall explain why the application  
13 was rejected.

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

24 E. If the county clerk finds that the applicant is  
25 a voter other than a federal qualified elector or overseas

.188514.1

underscoring material = new  
~~[bracketed material] = delete~~

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

24 F. Absentee ballots may be marked in person at the  
25 county clerk's office during the regular hours and days of

.188514.1

underscored material = new  
~~[bracketed material] = delete~~

1 business beginning on the twenty-eighth day preceding the  
2 election and from 10:00 a.m. to 6:00 p.m. on the Saturday  
3 immediately prior to the date of the election. The act of  
4 marking the absentee ballot in the office of the county clerk  
5 shall be a convenience to the voter in the delivery of the  
6 absentee ballot and does not make the office of the county  
7 clerk a polling place subject to the requirements of a polling  
8 place in the Election Code. If the county clerk establishes an  
9 additional alternate voting location near the clerk's office,  
10 absentee ballots may be marked in person at that location  
11 during the regular hours and days of business beginning on the  
12 twenty-eighth day preceding the election and during the hours  
13 for voting at alternate voting locations commencing on the  
14 third Saturday prior to the election through the Saturday  
15 immediately prior to the election. The additional alternate  
16 voting location shall be operated by the county clerk and the  
17 county clerk's staff.

18 G. When marking an absentee ballot in person at the  
19 county clerk's office, the voter shall provide the required  
20 voter identification to the county clerk or the clerk's  
21 authorized representative. If the voter does not provide the  
22 required voter identification, the voter shall be allowed to  
23 vote on a provisional ballot. If the voter provides the  
24 required voter identification, the voter, after subscribing an  
25 application for an absentee ballot, shall be allowed to vote by

.188514.1

underscored material = new  
[bracketed material] = delete

1 inserting the ballot into an optical scan tabulator certified  
2 for in-person absentee voting at the county clerk's office.  
3 The county clerk or the clerk's authorized representative shall  
4 make an appropriate designation indicating that the voter has  
5 voted absentee. In marking the absentee ballot, the voter may  
6 be assisted pursuant to the provisions of Section 1-12-15 NMSA  
7 1978.

8 H. Absentee ballots shall be sent to applicants not  
9 later than on the Friday immediately prior to the date of the  
10 election.

11 I. An absentee ballot shall not be delivered or  
12 mailed by the county clerk to any person other than the  
13 applicant for such ballot.

14 J. The secretary of state and each county clerk  
15 shall make reasonable efforts to publicize and inform voters of  
16 the times and locations for absentee voting; provided, however,  
17 that notice is provided at least ten days before early voting  
18 begins.

19 K. The secretary of state shall establish  
20 procedures for ~~[the submittal, when required by federal law]~~  
21 submission of the required voter identification with mailed-in  
22 absentee ballots.

23 L. An absentee ballot that is returned without a  
24 copy of the required voter identification shall be considered  
25 to be and handled as a provisional ballot.

.188514.1

underscored material = new  
[bracketed material] = delete

1           ~~[E.]~~ M. It is unlawful to electioneer in the county  
2 clerk's office or in any alternate voting location."

3           SECTION 6. A new section of Chapter 1, Article 12 NMSA  
4 1978 is enacted to read:

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

10          SECTION 7. Section 1-12-20 NMSA 1978 (being Laws 1969,  
11 Chapter 240, Section 273, as amended) is amended to read:

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

15           A. the person offering to vote is not registered to  
16 vote;

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

19           C. the person offering to vote has already cast a  
20 ballot in that election;

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

23           E. the required voter identification that the  
24 person presents does not conform to the requirements of Section  
25 1-1-24 NMSA 1978; or

.188514.1

underscored material = new  
[bracketed material] = delete

1           ~~[E-]~~ F. in the case of a primary election, the  
2 person desiring to vote is not affiliated with a political  
3 party represented on the ballot."

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

6           "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED  
7 INFORMATION.--

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

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

19           B. A provisional paper ballot shall not be  
20 rejected for lack of the information required by this section  
21 and shall be qualified as long as the voter provides a valid  
22 signature and sufficient information for the clerk to  
23 determine the voter is a qualified elector and has provided a  
24 copy of the required voter identification."

25           **SECTION 9.** Section 66-5-408 NMSA 1978 (being Laws 1978,

underscored material = new  
[bracketed material] = delete

1 Chapter 35, Section 335, as amended) is amended to read:

2 "66-5-408. FEES--EXCEPTIONS.--

3 A. Upon application for an identification card  
4 with a four-year term, there shall be paid to the department  
5 a fee of five dollars (\$5.00). Upon application for an  
6 identification card with an eight-year term, there shall be  
7 paid to the department a fee of ten dollars (\$10.00). A fee  
8 shall not be charged to an applicant for an identification  
9 card if the applicant:

10 (1) is at least seventy-five years of age;

11 or

12 (2) will be at least eighteen years of age  
13 on the date of the next general election and the person signs  
14 a statement requesting an identification card at no cost for  
15 voter identification purposes.

16 B. The department with the approval of the  
17 governor may increase the amount of the identification card  
18 fee by an amount not to exceed three dollars (\$3.00) for the  
19 purpose of implementing an enhanced licensing system;  
20 provided that for an identification card issued for an eight-  
21 year period, the amount of the fee shall be twice the amount  
22 charged for other identification cards. The additional  
23 amounts collected pursuant to this subsection are  
24 appropriated to the department to defray the expense of the  
25 new system of licensing and for use as set forth in the

.188514.1

underscoring material = new  
~~[bracketed material] = delete~~

1 provisions of Subsection F of Section 66-6-13 NMSA 1978.  
2 Unexpended and unencumbered balances from fees collected  
3 pursuant to the provisions of this subsection at the end of  
4 any fiscal year shall not revert to the general fund but  
5 shall be expended by the department in fiscal year 2010 and  
6 subsequent fiscal years."

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

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