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HOUSE BILL 340

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO ELECTIONS; CHANGING VOTER IDENTIFICATION  
REQUIREMENTS FOR THOSE VOTING IN PERSON; PROVIDING FOR ISSUANCE  
OF IDENTIFICATION CARDS WITHOUT CHARGE; PROVIDING FOR  
REIMBURSEMENT OF THE COSTS OF ISSUING IDENTIFICATION CARDS.

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, when a person offers to vote in person,  
"required voter identification" means ~~[any of the following  
forms of identification as chosen by the voter:~~

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

~~(1) an original or copy of a current and valid  
photo identification with or without an address, which address~~

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1 ~~is not required to match the voter's certificate of~~  
2 ~~registration; or~~

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

10 ~~B. a verbal or written statement by the voter of~~  
11 ~~the voter's name, registration address and year of birth;~~  
12 ~~provided, however, that the statement of the voter's name need~~  
13 ~~not contain the voter's middle initial or suffix] a physical~~  
14 ~~form of identification that is issued by a branch, department,~~  
15 ~~agency or entity of the state of New Mexico, the United States,~~  
16 ~~a federally recognized Indian nation, tribe or pueblo or a New~~  
17 ~~Mexico educational institution and that contains:~~

18 ~~A. a photograph of the voter that reasonably~~  
19 ~~resembles the person offering to vote; and~~

20 ~~B. the name of the voter that reasonably conforms~~  
21 ~~to the name on the voter's certificate of registration."~~

22 SECTION 2. A new section of Chapter 1, Article 12 NMSA  
23 1978 is enacted to read:

24 "[NEW MATERIAL] REQUIRED VOTER IDENTIFICATION--EXCEPTION--  
25 CHALLENGES.--

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1           A. If a physical form of identification containing  
2 a photograph is not issued by one of the entities required by  
3 Section 1-1-24 NMSA 1978 but is unanimously determined to be  
4 legitimate by the presiding judge and election judges at the  
5 polling location, it shall be determined to meet the  
6 requirements of this section.

7           B. If any person authorized to challenge a voter  
8 pursuant to the provisions of the Election Code objects to the  
9 election judges' decision to accept the person's identification  
10 as legitimate, and the challenger identifies the reason for the  
11 objection in writing and states the specific source of the  
12 information or personal knowledge upon which the challenge is  
13 based, the person offering to vote shall be allowed to vote on  
14 a provisional ballot."

15           **SECTION 3.** Section 1-12-7.1 NMSA 1978 (being Laws 1969,  
16 Chapter 240, Section 112, as amended) is amended to read:

17           "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF  
18 VOTERS--USE DURING ELECTION.--

19           A. Each precinct board using paper voter lists  
20 shall post securely at or near the entrance of the polling  
21 place one copy of an alphabetical list of voters for use of the  
22 voters prior to voting. The posted copy shall not contain a  
23 listing of voter addresses, years of birth [~~unique identifiers~~]  
24 or social security numbers.

25           B. The presiding judge of the precinct board shall

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1 assign one judge or election clerk of the board to be in charge  
2 of one copy of the checklist of voters, which shall be used to  
3 confirm the registration and voting of each person offering to  
4 vote.

5 C. The presiding judge of the precinct board shall  
6 assign one judge or election clerk to be in charge of the  
7 signature roster.

8 D. The judge or election clerk assigned to the  
9 checklist of voters used for confirmation of registration and  
10 voting shall determine that each person offering to vote is  
11 registered and, in the case of a primary election, that the  
12 voter is registered in a party designated on the primary  
13 election ballot. If the person's registration is confirmed by  
14 the presence of the person's name on the checklist of voters  
15 and the voter provides the required voter identification, the  
16 judge or election clerk shall announce to the judges or  
17 election clerks the list number and the name of the voter as  
18 shown on the checklist of voters. If the voter does not  
19 provide the required voter identification, the voter shall be  
20 allowed to vote on a provisional paper ballot and ~~shall~~  
21 ~~provide~~ the voter's provisional ballot shall not be qualified;  
22 provided that if the voter provides the required voter  
23 identification to the county clerk's office before 5:00 p.m. on  
24 the second day following the election, or to the precinct board  
25 before the polls close, ~~or~~ the voter's provisional ballot

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1 shall [not] be qualified. [~~If the required voter~~  
2 ~~identification is provided, the voter's provisional paper~~  
3 ~~ballot shall be qualified and the voter shall not vote on any~~  
4 ~~other type of ballot.~~]

5 E. The judge or election clerk shall locate [~~that~~  
6 ~~list number and~~] the voter's name on the signature roster or  
7 electronic poll book and shall require the voter to sign the  
8 voter's usual signature on the paper signature roster or  
9 electronic signature roster or, if unable to write, to make the  
10 voter's mark opposite the voter's printed name. If the voter  
11 makes the voter's mark, it shall be witnessed by one of the  
12 judges or election clerks of the precinct board. [~~If the~~  
13 ~~signature roster indicates that the voter is required to~~  
14 ~~present a physical form of identification before voting, the~~  
15 ~~judge or election clerk shall ask the voter for the required~~  
16 ~~physical form of identification. If the voter does not provide~~  
17 ~~the required identification, the voter shall be allowed to vote~~  
18 ~~on a provisional paper ballot; provided, however, that if the~~  
19 ~~voter brings the required physical form of identification to~~  
20 ~~the polling place after casting a provisional paper ballot,~~  
21 ~~that ballot shall be qualified and the voter shall not vote on~~  
22 ~~any other type of ballot.~~]

23 F. The judge or election clerk shall follow the  
24 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA  
25 1978 if a person whose name does not appear on the signature

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1 roster requests to vote or a person is required to vote on a  
2 provisional paper ballot.

3 G. A voter shall not be permitted to vote until the  
4 voter has properly signed the voter's usual signature or made  
5 the voter's mark in the signature roster."

6 SECTION 4. Section 1-12-8 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 247, as amended) is amended to read:

8 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

9 A. A person shall be permitted to vote on a  
10 provisional paper ballot [~~even though~~] if the person's original  
11 certificate of registration cannot be found in the county  
12 register or [~~even~~] if the person's name does not appear on the  
13 signature roster; provided that:

14 (1) the person's residence is within the  
15 boundaries of the county in which the person offers to vote;

16 (2) the person's name is not on the list of  
17 persons submitting absentee ballots; and

18 (3) the person executes a statement swearing  
19 or affirming to the best of the person's knowledge that the  
20 person is a qualified elector, is currently registered and  
21 eligible to vote in that county and has not cast a ballot or  
22 voted in that election.

23 [~~B. A voter shall vote on a provisional paper  
24 ballot if the voter:~~

25 (~~1) has not previously voted in a general~~

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1 ~~election in New Mexico or has been purged from the voter list;~~

2 ~~(2) registered to vote by mail;~~

3 ~~(3) did not submit the physical form of the~~  
4 ~~required voter identification with the certificate of~~  
5 ~~registration form; and~~

6 ~~(4) does not present to the election judge a~~  
7 ~~physical form of the required voter identification.~~

8 ~~G.]~~ B. A voter shall vote on a provisional paper  
9 ballot in accordance with the provisions of Section 1-12-7.1  
10 NMSA 1978 if the voter does not provide the required voter  
11 identification to the election judge.

12 ~~[D.]~~ C. A judge or election clerk shall have the  
13 voter sign the signature roster and issue the voter a  
14 provisional paper ballot, an outer envelope and an official  
15 inner envelope. The voter shall vote on the provisional paper  
16 ballot in secrecy and, when done, place the ballot in the  
17 official inner envelope and place the official inner envelope  
18 in the outer envelope and return it to the judge or election  
19 clerk. The judge or election clerk shall ensure that the  
20 required information is completed on the outer envelope, have  
21 the voter sign it in the appropriate place and place it in an  
22 envelope designated for provisional paper ballots.

23 ~~[E.]~~ D. Knowingly executing a false statement  
24 constitutes perjury as provided in the Criminal Code, and  
25 voting on the basis of such falsely executed statement

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1 constitutes fraudulent voting."

2 SECTION 5. Section 1-12-10.1 NMSA 1978 (being Laws 2003,  
3 Chapter 356, Section 2, as amended) is amended to read:

4 "1-12-10.1. CONDUCT OF ELECTIONS--VOTER EDUCATION AND  
5 INFORMATION.--

6 A. The secretary of state shall [~~issue rules~~  
7 ~~describing the voter information~~] provide voter information,  
8 including voter identification requirements for voters and a  
9 statement of the right of a person offering to vote to use a  
10 provisional paper ballot. The county clerks shall display this  
11 information in accordance with the federal Help America Vote  
12 Act of 2002 in each polling place [~~on election day and~~], in  
13 each county clerk's office and [~~alternate~~] at any location  
14 where [~~absentee or early~~] voting is taking place.

15 B. The county clerk shall ensure that in each  
16 polling place [~~shall post~~] there are posted the phone numbers  
17 of the county clerk and the secretary of state [~~and~~], a map of  
18 the precincts represented in that polling place and an  
19 alphabetical list of the voters in each precinct represented in  
20 that polling place.

21 C. The secretary of state and the county clerk of  
22 each county that maintains a web site shall provide notice of  
23 the voter identification requirements on each entity's  
24 respective web site in each language in which voter  
25 registration materials are available. The secretary of state



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1 shall prescribe the wording of the notice to be included on the  
2 web sites.

3 D. The secretary of state shall conduct a statewide  
4 effort to educate voters regarding voter identification  
5 requirements.

6 E. The county clerk of each county shall post in a  
7 prominent location at the clerk's office a physical copy of the  
8 notice prescribed by Subsection C of this section in each  
9 language in which voter registration materials are available."

10 SECTION 6. 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 person offering to vote did not provide the  
24 required voter identification; or

25 [~~E-~~] F. in the case of a primary election, the

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1 person [~~desiring~~] offering to vote is not affiliated with a  
2 political party represented on the ballot."

3 SECTION 7. Section 1-12-25.2 NMSA 1978 (being Laws 2003,  
4 Chapter 356, Section 3, as amended) is amended to read:

5 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--  
6 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

7 A. If a voter is required to vote on a provisional  
8 paper ballot, the presiding judge or election judge shall give  
9 the voter written instructions on how the voter may determine  
10 whether the vote was counted and, if the vote was not counted,  
11 the reason it was not counted.

12 B. The county clerk shall report all provisional  
13 ballots and their status to the secretary of state. The  
14 secretary of state shall provide a free access system, such as  
15 a toll-free telephone number or internet web site, that a voter  
16 who casts a provisional paper ballot may access to ascertain  
17 whether the voter's ballot was counted and, if the vote was not  
18 counted, the reason it was not counted and how to appeal the  
19 decision pursuant to rules issued by the secretary of state.  
20 Access to information about an individual voter's provisional  
21 paper ballot is restricted to the voter who cast the ballot.

22 C. Beginning with the closing of the polls on  
23 election day through the tenth day following the election, the  
24 county clerk shall notify by mail each person whose provisional  
25 paper ballot was not counted of the reason the ballot was not

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1 counted. The voter shall have until the Friday prior to the  
2 meeting of the state canvassing board to appeal to the district  
3 court the county [~~clerk-a~~] clerk's decision to reject the  
4 voter's ballot.

5 D. A provisional paper ballot that was rejected  
6 shall be qualified if the voter provides sufficient proof for  
7 the district court to determine that the voter was a duly  
8 registered qualified elector in the county at the time the  
9 ballot was cast."

10 SECTION 8. Section 1-12-25.4 NMSA 1978 (being Laws 2003,  
11 Chapter 356, Section 7, as amended) is amended to read:

12 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

13 A. Upon closing of the polls, provisional paper  
14 ballots shall be delivered to the county clerk, who shall  
15 determine if the ballots will be counted prior to certification  
16 of the election.

17 B. [~~A provisional paper ballot shall not be counted~~  
18 ~~if the registered~~] If the voter did not [sign] provide a  
19 signature by signing either the signature roster or either side  
20 of the provisional ballot's envelope, the ballot shall not be  
21 counted.

22 C. If there is no record of the [~~voter~~] person who  
23 voted ever having been registered in the county, the voter  
24 [~~shall be offered the opportunity to register~~] registration  
25 form from the provisional ballot envelope shall be accepted as

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1 a new voter registration application and the provisional paper  
2 ballot shall not be counted.

3 D. If the voter was registered in the county, the  
4 registration was later canceled and the county clerk determines  
5 that the cancellation was in error, the voter's registration  
6 shall be immediately restored and the provisional paper ballot  
7 counted.

8 E. If the county clerk determines that the  
9 cancellation was not in error, the voter [~~shall be offered the~~  
10 ~~opportunity to register at the voter's correct address~~]  
11 registration form from the provisional ballot envelope shall be  
12 accepted as a new voter registration application and the  
13 provisional paper ballot shall not be counted.

14 F. If the voter is [~~a~~] registered [~~voter~~] to vote  
15 in the county, but has voted on a provisional paper ballot at a  
16 polling place other than the voter's designated polling place,  
17 the county canvassing board shall ensure that only those votes  
18 for the positions or measures for which the voter was eligible  
19 to vote are counted.

20 G. If the person is registered to vote in the  
21 county, but has voted on a provisional paper ballot for failure  
22 to provide the required voter identification, the provisional  
23 paper ballot shall be counted if:

24 (1) the voter provides the required voter  
25 identification to the county clerk or the precinct board at any

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1 time before 5:00 p.m. on the second day following the election;

2 (2) the voter executes an affidavit under  
3 penalty of perjury that states the voter is unable to provide  
4 the required voter identification because the voter has a  
5 religious objection to being photographed and the voter has  
6 consistently refused to be photographed for any governmental  
7 purpose from the time the voter has held this belief; or

8 (3) the voter executes an affidavit under  
9 penalty of perjury that states that the voter does not have the  
10 required voter identification as a result of a natural disaster  
11 that was declared by the president of the United States or the  
12 governor, the disaster occurred not earlier than forty-five  
13 days before the date the ballot was cast and caused the  
14 destruction of or inability of the voter to access the voter's  
15 identification.

16 ~~[G.]~~ H. If the county clerk finds that the voter  
17 who voted on a provisional paper ballot at the polls has also  
18 voted an absentee ballot in that election, the provisional  
19 paper ballot shall not be counted.

20 ~~[H.]~~ I. The county canvassing board shall prepare a  
21 tally displaying the number of provisional paper ballots  
22 received, the number found valid and counted, the number  
23 rejected and not counted and the reason for not counting the  
24 ballots as part of the canvassing process and forward it to the  
25 secretary of state immediately upon certification of the

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1 election.

2           [~~F.~~] J. The secretary of state shall issue rules to  
3 ensure uniform and nondiscriminatory practices in the  
4 qualification of provisional ballots, securing the secrecy of  
5 the provisional paper ballots, especially during canvassing,  
6 reviewing or recounting, and protecting against fraud in the  
7 voting process."

8           SECTION 9. Section 1-19A-10 NMSA 1978 (being Laws 2003,  
9 Chapter 14, Section 10, as amended) is amended to read:

10           "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

11           A. There is created in the state treasury the  
12 "public election fund" solely for the purposes of:

13                   (1) financing the election campaigns of  
14 certified candidates for covered offices;

15                   (2) paying administrative and enforcement  
16 costs of the Voter Action Act; [~~and~~]

17                   (3) carrying out all other specified  
18 provisions of the Voter Action Act; and

19                   (4) reimbursing the motor vehicle division of  
20 the taxation and revenue department for the cost of issuing  
21 identification cards to voters without charge pursuant to the  
22 provisions of Section 66-5-408 NMSA 1978.

23           B. The state treasurer shall invest the funds as  
24 other state funds are invested, and all income derived from the  
25 fund shall be credited directly to the fund. Remaining

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1 balances at the end of a fiscal year shall remain in the public  
2 election fund and not revert to the general fund.

3 C. Money received from the following sources shall  
4 be deposited directly into the fund:

5 (1) qualifying contributions that have been  
6 submitted to the secretary;

7 (2) any recurring balance of unspent fund  
8 money distributed to a certified candidate who does not remain  
9 a candidate through the primary or general election period for  
10 which the money was distributed;

11 (3) money that remains unspent or unencumbered  
12 by a certified candidate following the date of the primary  
13 election;

14 (4) money that remains unspent or unencumbered  
15 by a certified candidate following the date of the general  
16 election;

17 (5) unspent seed money that cannot be used for  
18 any other purpose;

19 (6) money distributed to the fund from funds  
20 received pursuant to the Uniform Unclaimed Property Act (1995);  
21 and

22 (7) money appropriated by the legislature.

23 D. A subaccount shall be established in the fund,  
24 and money in the subaccount shall only be used to pay the costs  
25 of carrying out the provisions of the Voter Action Act related

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1 to public regulation commission elections.

2 E. Two hundred thousand dollars (\$200,000) per year  
3 shall be collected and deposited in the subaccount for public  
4 regulation commission elections as follows:

5 (1) one hundred thousand dollars (\$100,000)  
6 from inspection and supervision fees collected pursuant to  
7 Section 62-8-8 NMSA 1978; and

8 (2) one hundred thousand dollars (\$100,000)  
9 from utility and carrier inspection fees collected pursuant to  
10 Section 63-7-20 NMSA 1978."

11 SECTION 10. [NEW MATERIAL] IDENTIFICATION CARDS--  
12 REIMBURSEMENT COSTS--INFORMATION SHARING.--

13 A. The motor vehicle division of the taxation and  
14 revenue department shall provide the secretary of state with a  
15 record of all identification cards issued to voters pursuant to  
16 the provisions of Section 66-5-408 NMSA 1978.

17 B. The secretary of state shall reimburse the motor  
18 vehicle division of the taxation and revenue department with  
19 money from the public election fund for the costs of issuing  
20 identification cards to voters without charge pursuant to the  
21 provisions of Section 66-5-408 NMSA 1978.

22 SECTION 11. Section 66-5-408 NMSA 1978 (being Laws 1978,  
23 Chapter 35, Section 335, as amended) is amended to read:

24 "66-5-408. FEES--EXCEPTIONS.--

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

7 (1) is at least seventy-five years of age; or  
8 (2) states that the applicant is obtaining the  
9 identification card for the purpose of voting and does not  
10 possess any other form of identification required by the  
11 Election Code for the applicant to vote in person and the  
12 applicant is:

13 (a) currently registered to vote in the  
14 state; or

15 (b) a qualified elector and submits a  
16 certificate of registration form to the department for  
17 processing by the requisite county clerk.

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

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

8 SECTION 12. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2015.