

AN ACT

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RELATING TO ELECTIONS; CONFORMING THE ELECTION CODE TO THE
REQUIREMENTS OF THE FEDERAL HELP AMERICA VOTE ACT OF 2002;
PROVIDING FOR SECURITY OF VOTERS' PERSONAL INFORMATION DURING
REGISTRATION; PRESCRIBING PENALTIES; AMENDING AND ENACTING SECTIONS
OF THE NMSA 1978.

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

Section 1. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"ELECTION CYCLE.--As used in the Election Code, "election cycle" means the period between the beginning of a general election and the end of the following general election."

Section 2. A new section of the Election Code is enacted to read:

"CONDUCT OF ELECTIONS--VOTER INFORMATION.--The secretary of state shall issue rules describing the voter information the county clerks shall display, in accordance with the federal Help America Vote Act of 2002, in each polling place on election day and in each county clerk's office and alternate location where absentee or early voting is taking place."

Section 3. A new section of the Election Code is enacted to read:

"CONDUCT OF ELECTION--PROVISIONAL VOTING--INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

A. If a voter is required to vote on a provisional paper ballot, the election judge shall give the voter written instructions on how the voter may determine

whether the vote was counted and, if the vote was not counted, the reason it was not counted.

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B. The county clerk shall establish a free access system, such as a toll-free telephone number or internet web site, that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted and, if the vote was not counted, the reason it was not counted. Access to information about an individual voter's provisional ballot is restricted to the voter who cast the ballot."

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Section 4. A new section of the Election Code is enacted to read:

"CONDUCT OF ELECTION--PROVISIONAL PAPER BALLOTS--USE WHEN POLLING HOURS EXTENDED--DISPOSITION.--

A. If polling hours are extended by court order or any other order pursuant to a state law in effect at least ten days before the date of that election, during the extended hours, a voter shall vote only on a provisional paper ballot.

B. A provisional paper ballot cast pursuant to this section shall be separated and held apart from provisional paper ballots cast by those not affected by the order. The ballot shall be counted if:

- (1) there is no legal challenge to the order extending polling hours within ten days of the election; or
- (2) a legal challenge to the order extending polling hours is not sustained."

Section 5. A new section of the Election Code is enacted to read:

"ADMINISTRATIVE COMPLAINTS--PROCEDURES.--

A. The secretary of state shall adopt rules for an administrative procedure for hearing complaints on violations of the provisions of Title III of the

federal Help America Vote Act of 2002, including provisions related to voting system standards, provisional voting procedures, voter registration procedures and operational standards of the statewide voter registration system.

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B. A person who determines that there is a violation or that a violation is about to occur pursuant to this section may file a complaint with the secretary of state. Complaints may be consolidated by the secretary.

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C. Complaints shall be in writing, signed and sworn by the person filing the complaint and notarized.

D. The hearing shall be on the record if the complainant requests.

E. If the hearing officer determines that there is a violation, an appropriate remedy shall be provided. If there is no violation, the complaint shall be dismissed and the results of the hearing made available to the public.

F. A final decision shall be made within ninety days of the filing of the complaint unless the complainant consents to extending the deadline. If the deadline is not met, the complaint shall be resolved within sixty days through alternative dispute resolution procedures established pursuant to the Governmental Dispute Resolution Act. Records and materials from the hearing shall be available for use in an alternative dispute resolution procedure."

Section 6. A new section of the Election Code is enacted to read:

"PROVISIONAL PAPER BALLOTS--REQUIRED INFORMATION.--

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

(1) the name and signature of the voter;

(2) the voter's registered address, both present and former if

applicable;

(3) the voter's date of birth;

(4) the reason for using the ballot;

(5) the precinct and the polling place at which the voter has

voted;

(6) the voter's social security number; and

(7) sufficient space to list the disposition of the ballot after

review by the county clerk.

B. A provisional paper ballot shall not be rejected for lack of the information required by this section as long as the voter provides a valid signature and sufficient information to determine eligibility."

Section 7. A new section of the Election Code is enacted to read:

"PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

B. A provisional paper ballot shall not be counted if the registered voter did not sign either the signature roster or the ballot's envelope.

C. If there is no record of the voter ever having been registered in the county, the voter shall be offered the opportunity to register and the provisional paper ballot shall not be counted.

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

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E. If the county clerk determines that the cancellation was not in error, the voter shall be offered the opportunity to register at the voter's correct address, and the provisional paper ballot shall not be counted.

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

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G. If the county clerk finds that the voter who voted on a provisional paper ballot at the polls has also voted an absentee ballot in that election, the provisional paper ballot shall not be counted.

H. The county canvassing board shall prepare a tally displaying the number of provisional paper ballots received, the number found valid and counted, the number rejected and not counted and the reason for not counting the ballots as part of the canvassing process and forward it to the secretary of state immediately upon certification of the election.

I. The secretary of state shall issue rules to ensure securing the secrecy of the provisional paper ballots and protecting against fraud in the voting process."

Section 8. A new section of the Election Code is enacted to read:

"ABSENTEE BALLOTS--OVERSEAS VOTERS--REPORTS.--

A. Within thirty days following a general election, the county clerk shall report to the secretary of state the number of absentee ballots transmitted to overseas voters and federal qualified electors for the election and the number of those ballots returned, rejected or counted.

B. Within ninety days following a general election, the secretary of state shall report to the federal election assistance commission the combined absentee ballot numbers submitted by the counties pursuant to this section."

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Section 9. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

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"DEFINITION OF A VOTE.--

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A. A vote on a touch-screen direct recording electronic voting system or electronic voting system consists of a voter's selection of a candidate or answer to a ballot question selected by the electro-optical ballot display of the device, followed by the voter activating the cast vote indicator.

B. A vote on a paper ballot card used on an electronic vote tabulating marksense voting system, optical scan vote tabulating system or high-speed central count marksense vote tabulator consists of a voter's selection of a candidate or answer to a ballot question indicated in the voting response area of the paper ballot card marked in accordance with the instructions for that ballot type. If the paper ballot card is marked indistinctly or not marked according to the instructions for that ballot type, only a cross (X) or a check (√) within the voting response area shall be counted. A vote on a paper ballot card shall also be counted if, on a ballot type requiring the completion of an arrow to indicate a voter's selection, the voter has marked an arrowhead on the tail portion of the arrow in the voting response area."

Section 10. Section 1-4-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 63, as amended by Laws 1993, Chapter 314, Section 6 and also by Laws 1993, Chapter 316, Section 6) is amended to read:

"1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF INFORMATION--

PENALTY.--

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A. A qualified elector may apply to a registration officer for registration.

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B. The registration officer shall fill out each of the blanks on the original and the voter's copy of the certificate of registration by typing or printing in ink.

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Carbon paper may be used between the original and the voter's copy.

C. The qualified elector shall subscribe a certificate of registration as

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follows:

(1) a person shall sign his original certificate of registration using his given name, middle name or initial and last name; or

(2) if any qualified elector seeking to register is unable to read and write either the English or Spanish language or is unable to read or write because of some physical disability, the certificate of such person shall be filled out by a registration officer and the name of the qualified elector so registering shall be subscribed by the making of his mark.

D. When properly executed by the registration officer, the original and the voter's copy of the certificate of registration shall be presented, either in person or by mail by the qualified elector or by the registration officer, to the county clerk of the county in which the qualified elector resides.

E. Only when the certificate of registration is properly filled out, subscribed by the qualified elector and accepted for filing by the county clerk as evidenced by his signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector. It is unlawful for any information required on the certificate of registration to be copied, conveyed or used by anyone other than the person registering to vote, either before

or after it is filed with the county clerk, except by elections administrators for purposes of the registration process.

F. A person who unlawfully copies, conveys or uses information from a certificate of registration is guilty of a fourth degree felony."

Section 11. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

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

A. A qualified elector may apply for registration by mail or in the office of the county clerk.

B. Certificate of registration forms may be requested from the secretary of state or any county clerk in person, by telephone or by mail for oneself or for others.

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

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

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

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

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

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

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

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

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

(3) the statement "If you checked 'no' in response to either of

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these questions, do not complete this form."; and

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(4) a statement informing the applicant that:

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(a) if the form is not submitted in person by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of a current and valid photo identification, utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the applicant; and

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(b) if the applicant does not submit the required identification, he will be required to do so when he votes in person or absentee."

Section 12. Section 1-4-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

"1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF CERTIFICATES.--

A. Upon receipt of a complete certificate of registration, if in proper form, the county clerk shall determine if the qualified elector applying for registration is already registered in the registration records of the county. If the qualified elector is not already registered in the county and if the certificate of registration is received within the time allowed by law for filing certificates of registration in the county clerk's office, the county clerk shall sign or stamp, in the space provided therefor on each copy of the certificate, his name and the date the certificate was accepted for filing in the county registration records. A voter identification card shall be handed or mailed to the voter and to no other person.

B. If the qualified elector is already registered in the county as shown by his original certificate of registration currently on file in the county registration records, the county clerk shall not accept the new certificate of registration unless it is

filed pursuant to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. He shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it to the voter with an explanation why the new certificate of registration was rejected and what remedial action, if any, the voter must take to bring his registration up to date.

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C. If the qualified elector does not register in person, indicates that he has not previously voted in a general election in New Mexico and does not provide the registration officer with the required identification, the registration officer shall indicate this on the voter's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

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Section 13. Section 1-4-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 68, as amended) is amended to read:

"1-4-12. DUTIES OF COUNTY CLERK--FILING OF CERTIFICATES.--

A. Certificates of registration, if in proper form, shall be processed and filed by the county clerk as follows:

(1) a voter identification card shall be delivered or mailed to the voter; and

(2) the original certificate shall be filed alphabetically by surname and inserted into the county register pursuant to Section 1-5-5 NMSA 1978.

B. The county clerk shall, on Monday of each week, process all certificates of registration that are in proper form and that were received in his office up to 5:00 p.m. on the preceding Friday.

C. The contents of certificates of registration, except for the voter's social security number and date of birth, are public records."

Section 14. Section 1-4-48 NMSA 1978 (being Laws 1995, Chapter 198,
Section 13) is amended to read:

"1-4-48. AGENCY REGISTRATION.--

A. The secretary of state shall adopt and publish in accordance with
the State Rules Act rules for the administration of a state-agency-based voter
registration program. The rules shall provide for distribution of voter registration
forms, provisions for the acceptance of voter registration forms and procedures for
reporting voter registration activity in accordance with the federal National Voter
Registration Act of 1993.

B. Voter registration shall be made available at all state agencies
providing public assistance or services to people with disabilities. The secretary of
state may, with the agreement of those offices, designate other state and local public
offices to provide voter registration services.

C. Each state agency participating in the voter registration program
shall maintain sufficient records for the secretary of state to comply with federal voter
registration reporting requirements and the federal Help America Vote Act of 2002.
Any records maintained by a state agency regarding voter registration activities in that
agency are confidential and shall not be released as public records.

D. Any voter registration made or accepted at a state agency pursuant
to this section shall be transmitted to the appropriate registration officer within ten
calendar days.

E. A state agency employee or agency contractor who participates in
the voter registration process may not intentionally influence the prospective registrant
in the selection of political party, or independent status, by word or act. A state agency

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employee or agency contractor who participates in the voter registration process may not reveal the existence of or the nature of the voter registration to anyone other than a registration officer."

Section 15. Section 1-5-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 112, as amended) is amended to read:

"1-5-10. VOTER LISTS--SIGNATURE ROSTERS--USE DURING ELECTION.--

A. Each precinct board using voter lists shall post securely at or near the entrance of the polling place one copy of the voter list for use of the voters prior to voting. The posted copy shall not contain a listing of voter social security numbers.

B. The presiding judge of the precinct board shall assign one judge of the board to be in charge of one copy of the voter list, which shall be used to confirm the registration and voting of each person offering to vote.

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

D. The judge assigned to the voter list used for confirmation of registration and voting shall determine that each person offering to vote is registered and, in the case of a primary election, that the voter is registered in a party designated on the primary election ballot. If the person's registration is confirmed by the presence of his name on the voter list or if the person presents a certificate under the seal and signature of the county clerk showing that he is entitled to vote in the election and to vote in that precinct, the judge shall announce to the election clerks the list number and the name of the voter as shown on the voter list.

E. The election clerk shall locate that list number and name on the signature roster and shall require the voter to sign his usual signature or, if unable to

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write, to make his mark opposite his printed name. If the voter makes his mark, it shall be witnessed by one of the judges of the precinct board. If the signature roster indicates that the voter is required to present a form of identification before voting, the election judge shall ask the voter for a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows and matches the name and address of the voter as indicated on the signature roster. If the voter does not provide the required identification, he shall be allowed to vote on a provisional paper ballot.

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F. The election judge shall follow the procedures provided for in Sections 1-5-12 and 1-12-8 NMSA 1978 if a person whose name does not appear on the signature list requests to vote or a person is required to vote on a provisional paper ballot.

G. A voter shall not be permitted to vote until he has properly signed his usual signature or made his mark in the signature roster.

H. After the poll is closed, the election clerk in charge of a signature roster shall draw a single horizontal line in ink through each signature space in the signature roster where no signature or mark appears."

Section 16. Section 1-5-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 114, as amended) is amended to read:

"1-5-12. VOTER WHOSE NAME IS NOT ON LIST OR ROSTER.--

A. A voter whose name does not appear on the voter list and signature roster for the precinct in which he offers to vote shall be permitted to vote in the precinct pursuant to the federal National Voter Registration Act of 1993 and Section 1-12-8 NMSA 1978.

B. The election clerks in charge of the signature rosters shall add the voter's name and address in ink to the signature roster on the line immediately following the last entered voter's name and the voter shall be allowed to sign an affidavit of eligibility and cast a provisional paper ballot, provided he has first signed or marked both the signature roster and checklist of registered voters.

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C. The provisional paper ballot number for the voter shall be entered on the affidavit of eligibility, the signature roster and the checklist of registered voters.

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D. In a primary election, a voter shall not be permitted to vote for a candidate of a party different from the party designation shown on his certificate of registration. Upon making that determination, the county clerk shall transmit the ballot to the county canvassing board to be tallied and included in the canvass of that county for the appropriate precinct.

E. Verbal authorization from the county clerk to allow a person to vote is not permitted."

Section 17. Section 1-6-2 NMSA 1978 (being Laws 1987, Chapter 327, Section 6, as amended) is amended to read:

"1-6-2. DEFINITIONS.--As used in the Absent Voter Act:

A. "absent uniformed services voter" means:

(1) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(2) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(3) a spouse or dependent of a member referred to in Paragraphs (1) and (2) of this subsection who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

B. "election" means a statewide election, general election, primary election or special election to fill vacancies in the office of United States representative and regular or special school district elections;

C. "electronic ballot" means a paper ballot or ballot face designed to be used on an electronic voting machine to cast votes;

D. "electronic voting machine" means a computer-controlled machine designed to electronically record and tabulate votes cast;

E. "federal office" means the office of president, vice president or senator or representative in congress;

F. "federal qualified elector" means:

(1) an absent uniformed services voter; or

(2) an absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved;

G. "member of the merchant marine" means an individual other than a member of a uniformed service or an individual employed, enrolled or maintained on the Great Lakes or the inland waterways who:

(1) is employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States or a vessel of a foreign-flag registry under charter to or control of the United States; or

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(2) is enrolled with the United States for employment or training for employment or maintained by the United States for emergency relief service as an officer or crew member of any such vessel;

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H. "overseas voter" means:

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(1) an absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved;

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(2) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(3) a person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States; and

I. "uniformed services" means the army, navy, air force, marine corps and coast guard and the commissioned corps of the national oceanic and atmospheric administration."

Section 18. Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

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

A. Application by a federal qualified elector or an overseas voter for an absentee ballot shall be made on the official postcard form prescribed or authorized by the federal government to the county clerk of the county of his residence.

B. Application by a voter for an absentee ballot shall be made only on

a form prescribed, printed and furnished by the secretary of state to the county clerk of the county in which the voter resides. The form shall identify the applicant and contain information to establish his qualification for issuance of an absentee ballot under the Absent Voter Act; provided that on the application form for a general election ballot there shall be no box, space or place provided for designation of the voter's political party affiliation. The form shall allow the applicant to receive an absentee ballot for all elections within an election cycle.

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C. Each application for an absentee ballot shall be subscribed by the applicant.

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

Section 19. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended by Laws 2001, Chapter 49, Section 1 and by Laws 2001, Chapter 58, Section 1) is amended to read:

"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--MARKING AND DELIVERY OF BALLOT IN PERSON.--

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

B. If the applicant has no valid certificate of registration on file in the county and he is not a federal qualified elector or if the applicant states he is a federal qualified elector but his application indicates he is not a federal qualified elector, an absentee ballot shall not be issued and the county clerk shall mark the application

"Rejected" and file the application in a separate file from those accepted.

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

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D. If the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who registered by mail without submitting the required identification, the county clerk shall notify the voter that he must submit with his absentee ballot a copy of a current and valid photo identification, utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the applicant. The county clerk shall note on the absentee ballot register and signature roster that the applicant's absentee ballot must be returned with the required identification.

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E. If the county clerk finds that the applicant is a voter or a federal qualified elector, the county clerk shall mark the application "Accepted" and deliver an absentee ballot to the voter in the county clerk's office or mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. Acceptance of an application of a federal qualified elector constitutes registration for the election in which the ballot is to be cast. Acceptance of an application from an overseas voter who is not an absent uniformed services voter constitutes a request for changing information on the certificate of registration of any such voter. An absent voter shall not be permitted to change his party affiliation during those periods when change of party affiliation is prohibited by the Election Code. Upon delivery of an absentee ballot to a voter in the county clerk's office or mailing of an absentee ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the

signature roster next to the name of the voter who has been provided or mailed an absentee ballot.

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F. If an application for an absentee ballot is delivered in person to the county clerk and is accepted, the county clerk shall provide the voter an absentee ballot and it shall be marked by the applicant in a voting booth of a type prescribed by the secretary of state, sealed in the proper envelopes and otherwise properly executed and returned to the county clerk or his authorized representative before the voter leaves the office of the county clerk. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code other than is provided in this subsection. It shall be unlawful to solicit votes, display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office. Absentee ballots may be marked in person during the regular hours and days of business at the county clerk's office from 8:00 a.m. on the fortieth day preceding the election up until 5:00 p.m. on the Saturday immediately prior to the date of the election. In marking the absentee ballot, the voter may be assisted by one person of the voter's choice.

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G. Commencing with the twentieth day prior to an election, an absent voter may vote in person, on an electronic voting machine at the county clerk's office or at an alternate location established by the county clerk; provided, a county clerk may allow an absent voter to vote on an electronic voting machine beginning on the fortieth day before an election. In class A counties, the county clerk shall establish not less than four alternate locations as a convenience to the voters. Absentee voting

may be done at the county clerk's office or an alternate location during the regular hours of business from 8:00 a.m. on the twentieth day prior to the election until 5:00 p.m. on the Saturday immediately prior to the election. The county clerk shall ensure that procedures established for processing an absent voter application and for voting by absentee ballot are complied with at each alternate location.

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H. Absentee ballots shall be airmailed to applicants temporarily domiciled inside or outside the continental limits of the United States not later than on the Thursday immediately prior to the date of the election.

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

J. The county clerk shall accept and process, with respect to a primary or general election for any federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter if the application is received not less than thirty days before the election. The county clerk shall also accept and process federal write-in absentee ballots from overseas voters in general elections for federal offices in accordance with the provisions of Section 103 of the federal Uniformed and Overseas Citizens Absentee Voting Act.

K. The secretary of state and each county clerk shall make reasonable efforts to publicize and inform voters of the times and locations for absentee voting."

Section 20. Section 1-6-5.1 NMSA 1978 (being Laws 1991, Chapter 105, Section 10) is amended to read:

"1-6-5.1. FEDERAL ABSENTEE BALLOT DISTRIBUTION.--In the distribution of federal absentee ballots:

A. federal qualified electors and members of the uniformed services

shall receive the entire ballot; and

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B. all other overseas voters shall receive only ballots for federal candidates."

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Section 21. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

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"1-6-6. ABSENTEE BALLOT REGISTER.--

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A. For each election, the county clerk shall keep an "absentee ballot register", in which he shall enter:

- (1) the name and address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot in the county clerk's office or at an alternate location or the mailing of an absentee ballot to the applicant;
- (5) the applicant's precinct;
- (6) whether the applicant is a voter, a federal voter, a federal qualified elector or an overseas voter;
- (7) whether the voter is required to submit identification pursuant to Section 1-6-5 NMSA 1978; and
- (8) the date and time the completed absentee ballot was received from the applicant by the county clerk or the absent voter voted in the county clerk's office or at an alternate location.

B. Within twenty-four hours after receipt of a voter's application for an absentee ballot, the county clerk shall mail either the ballot or a notice of rejection to the applicant.

C. The absentee ballot register is a public record open to public inspection in the county clerk's office during regular office hours. The county clerk shall have an updated absentee ballot register available for public inspection Monday through Friday during regular office hours.

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D. The county clerk shall deliver to the absent voter precinct on election day a complete list of all absentee ballot applicants with applicable information shown in the absentee ballot register for each applicant up to 5:00 p.m. on the Thursday preceding the election. The county clerk shall deliver a signature roster containing the same information as the lists to the absent voter precinct board.

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E. The county clerk shall transmit to the secretary of state and to the county chairman of each of the major political parties in the county a complete copy of entries made in the absentee ballot register. The transmissions shall be made once each week beginning four weeks immediately prior to the election. A final copy shall be transmitted on the Friday immediately following the election."

Section 22. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

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

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

B. If the voter's signature is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The election clerks shall enter the voter's name in the signature rosters and shall write the notation "Rejected--

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

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C. A lawfully appointed challenger may examine the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:

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(1) the official mailing envelope has been opened prior to being received by the absent voter precinct board; or

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(2) the person offering to vote is not a federal voter, federal qualified elector, overseas voter or voter as provided in the Election Code.

Upon the challenge of an absentee ballot, the election judges and the presiding election judge shall follow the same procedure as when ballots are challenged when a person attempts to vote in person. If a challenge is upheld, the official mailing envelope shall not be opened but shall be placed in an envelope provided for challenged ballots. The same procedure shall be followed in canvassing and determining the validity of challenged absentee ballots as with other challenged ballots.

D. If the official mailing envelope has been properly subscribed and the voter has not been challenged:

(1) the election judges shall open the official mailing envelope and deposit the ballot in its still-sealed official inner envelope in the locked ballot box; and

(2) the election clerks shall enter the absent voter's name and residence address as shown on the official mailing envelope in the signature rosters

and shall mark the notation "AB" opposite the voter's name in the "Notations" column of the signature rosters.

E. Prior to the closing of the polls, the election judges and the presiding election judge may either remove the absentee ballots from the official inner envelopes and count and tally the results of absentee balloting or, under the personal supervision of the presiding election judge and one election judge from each major political party, count and tally the absentee ballots on an electronic voting machine the same as if the absent voters had been present and voted in person. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of absentee ballots prior to the closing of the polls.

F. Absentee ballots shall be counted and tallied on an electronic voting machine as provided in the Election Code.

G. Absent voter precinct polls shall close at the time prescribed by the Election Code for other polling places, and the results of the election shall be certified as prescribed by the secretary of state.

H. The county clerk may convene the absent voter precinct board no more than three days before the day of the election to alphabetize, enter on the roster and sort the absentee ballots by legislative district; provided that a member of the absent voter precinct board shall not open an official mailing envelope or count and canvass any absentee ballot prior to the day of the election.

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

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Section 23. Section 1-9-2 NMSA 1978 (being Laws 1969, Chapter 240,
Section 185, as amended) is amended to read:

"1-9-2. SECRETARY OF STATE--MANNER OF APPROVAL.--

A. All voting systems approved for use in New Mexico shall meet
federal election standards, conform to state information technology rules, standards
and practices and be tested by an independent authority.

B. A person desiring to have a type of voting system approved for use
in New Mexico may apply to the secretary of state to have the system examined and
approved. At the time application is made, the applicant shall direct the independent
testing authority to submit its report on the system to the secretary of state.

C. Upon receipt of the report from the independent testing authority,
the secretary of state shall examine and study the system. As part of the examination,
the secretary of state shall require the system to be independently inspected by two
voting system experts and shall require from each of them a written report on the
results of their inspection.

D. Upon completion of his examination, the secretary of state shall
make a written report on the result of his examination and findings and shall file such
report, together with the inspection reports of the two voting system experts, in the
office of the secretary of state. Such reports and findings are public records.

E. The secretary of state shall inform the applicant in writing of the
findings. If the findings show that the voting system type is adequate for the election
needs of New Mexico, it shall be deemed approved for use at elections in the state."

Section 24. Section 1-9-4.1 NMSA 1978 (being Laws 2001, Chapter 233,
Section 15) is amended to read:

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<p>"1-9-4.1. TOUCH-SCREEN DIRECT RECORDING ELECTRONIC VOTING SYSTEMS--STANDARDS.--</p> <p>A. A touch-screen direct recording electronic voting system, as approved by the secretary of state, may be used in any election for public office in New Mexico. As used in this section, "system" means a touch-screen direct recording electronic voting system.</p> <p>B. The system shall:</p> <p style="padding-left: 40px;">(1) meet federal election performance and test standards;</p> <p style="padding-left: 40px;">(2) provide for direct recording and tabulating of votes cast;</p> <p style="padding-left: 40px;">(3) have internal application software that:</p> <p style="padding-left: 80px;">(a) is specifically designed and engineered for the election application;</p> <p style="padding-left: 80px;">(b) is contained within each touch-screen voting device;</p> <p style="padding-left: 80px;">(c) is stored in a nonvolatile memory within each terminal;</p> <p style="padding-left: 80px;">(d) includes internal quality checks such as parity or error detection and correction codes; and</p> <p style="padding-left: 80px;">(e) includes comprehensive diagnostics to ensure that failures do not go undetected;</p> <p style="padding-left: 40px;">(4) have a battery backup that will, at a minimum, allow voting to continue uninterrupted for two hours without external power;</p> <p style="padding-left: 40px;">(5) have internal audit trail capability such that all pre-election, election day and post-election events, including all random ballot image anomalies, shall be stored, recorded and recovered in an easy-to-read printed form and be</p>	<p>H B</p> <p>3 8 3 P a g e</p> <p>2 7</p>
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retained within at least three independent memories that do not require any type of external alternating current or direct current battery power for memory retention;

(6) along with any and all activating and vote recording devices and components, have a unique embedded internal serial number for audit purposes;

(7) be a stand-alone, non-networked election system such that all pre-election, election day and post-election events and activities, including any and all entered votes, are directly entered, recorded and retained in each device in multiple memory locations within the device;

(8) for security purposes, along with each associated activating and recording device and component, employ a unique, electronically implanted election specific internal security code such that the absence of such code prevents substitution of any unauthorized system or related component;

(9) be designed to accept challenged or fail-safe ballots and allow voters to choose their ballot language directly on the system;

(10) be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction;

(11) employ scalable technology allowing easy enhancements that meet federal election standards and can take advantage of new election technology such as larger touch-screens, optional touch-screen types, expandable memory, modem transmission of election results, ballot activation from automated voter registration and internet communication capabilities;

(12) have electronic components mounted on printed circuit boards and subsistence, such as printer, power sources, microprocessor, switch and

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indicator matrices modular and luggable;

(13) have a realtime clock capable of recording and documenting the total time polls are open in a precinct and capable of documenting the opening and closing of polls;

(14) prevent any voter from selecting more than the allowable number of candidates for any office to prevent overvoting, be able to alert the voter on a message screen if the voter attempts to overvote and inform the voter of any necessary corrective action;

(15) present the entire ballot to the voter in a series of sequential pages that include methods to ensure the voter sees all ballot options on all pages before completing his vote and allow the voter to review all ballot choices before casting his ballot;

(16) have as an integral part of the system a privacy curtain within which the voter casts his vote;

(17) have a color touch-screen that is at least fifteen inches in diagonal measure; and

(18) be able to accommodate a wheelchair voter without intervention of the poll worker other than a minor adjustment such as the angle of the display, and the voter must be able to vote in a face-first position so that privacy is maintained with the ballot surface adjusted to a vertical position.

C. If the net weight of the system, or aggregate of voting device parts, is over twenty pounds, the system shall have self-contained wheels so that the system can be easily rolled by one person on rough pavement and can roll through a standard thirty-inch door frame.

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D. The device that is used by a poll worker to activate the system for each individual voter shall be a credit-card size "smart card" type of device. The poll worker shall be able to activate the card at the poll table with an activation device and hand the card to the voter to use on any open voting system. The card shall be rendered unusable by the voting system after the voter has cast a ballot. The system must be compatible with the voter registration system, so that the precinct and party information for a specific voter can be transferred to the system automatically and transferred to the smart card without poll-worker data entry. There shall be a manual solution available in the event the smart card activation device, or the smart card reading unit on the machine, fails.

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E. Each system shall be able to print an alphanumeric printout of the contest, candidates, position numbers and vote totals when the polls are open so that the poll workers can verify that the counters for each candidate are on zero. At the close of the polls, the system shall be able to print out in the same format the results of the election. These printouts shall contain the system serial number, public counter total and protective counter number. The poll worker must be able to request as many copies as necessary by state law. The system shall include a feature to allow reports to be sent to a printer, the screen and a file.

F. The system central processing unit shall be designed so that no executable code can be launched from random access memory. If the operating system is open or widely used, it shall be an embedded system.

G. The system shall have a mandatory pre-election testing of the ballot control logic and accuracy. The logic and accuracy test results must be stored into the memory of the main processor (central processing unit) and into the same

programmable memory device that is used on election day for future reference. This should be stored by vote total summaries and by each individual ballot image randomly. The system must be capable of printing a zero-results printout prior to these tests and a results printout after the test.

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H. The system shall provide an electronic, redundant storage of both the vote totals and the randomized individual ballot images.

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I. The system shall allow a comparison of the multiple locations of totals and ballot images to detect any errors or discrepancies. In the event of a data discrepancy, an appropriate error message shall be displayed in a text format, in order to either correct the data error or prohibit voting from continuing.

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J. The system shall have a programmable memory device that plugs into the system. The programmable memory device shall contain ballot control information, summary vote totals, maintenance log, operator log and randomized ballot images.

K. The system shall maintain all vote totals, public counter totals, audit trail ballot images, protective counter totals and the internal clock time in both the main memory and the removable programmable memory devices in the event the main power and battery backup power fail.

L. The system shall have a self-contained, internal backup battery that powers all components of the system that are powered by alternating current power. In the event of a power outage in the precinct the self-contained, internal backup battery power shall engage with no disruption of operation or loss of data. The system shall maintain all vote totals, public counter totals, audit trail ballot images, protective counter totals and the internal clock time in both the main memory and the removable

programmable memory devices in the event the main power and battery backup power fail. H
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M. The system software shall be able to:

(1) run in a networked or stand-alone environment; P

(2) support absentee in-person voting; a

(3) collect and keep separate the absentee in-person vote g
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totals by day collected, by machine, by legislative district and by site; and 3
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(4) collect statistical data such as turnout so that it is available

by date and site."

Section 25. Section 1-9-15 NMSA 1978 (being Laws 1985, Chapter 207, Section 14, as amended) is amended to read:

"1-9-15. ELECTRONIC VOTING SYSTEMS--RECORDING AND TABULATING VOTING SYSTEMS--STANDARDS.--

A. Electronic recording and tabulating voting systems as tested and approved by the secretary of state pursuant to the provisions of Section 1-9-14 NMSA 1978, may be used in any election for public office in New Mexico.

B. The electronic recording and tabulating voting system shall meet the following standards:

(1) the system shall be an electronic computer-controlled voting system that provides for direct electronic recording and tabulating of votes cast;

(2) the operating system software of the system shall be stored in nonvolatile memory and shall include internal quality checks such as parity or error detection and correction codes. The software shall include comprehensive diagnostics to ensure that failures do not go undetected;

- (3) the system shall have a battery backup system that will, as a minimum, retain voter information and be capable of retaining and restoring processor operating parameters in the event of power failures;
- (4) the system shall have, as a standard or as an option, software and hardware provisions for remote transmission of election results to a central location;
- (5) subsistence, such as printer, power sources, microprocessor, switch and indicator matrices, shall be modular and luggable. Electronic components shall be mounted on printed circuit boards;
- (6) the system shall be supplied with a dust- and moisture-proof cover for transportation and storage purposes;
- (7) the system shall be able to operate in a temperature range of fifty degrees Fahrenheit to ninety degrees Fahrenheit;
- (8) the system shall have a temperature range for storage of zero degrees Fahrenheit to one hundred twenty degrees Fahrenheit;
- (9) the system shall have an operating and storage humidity range of thirty percent to eighty percent noncondensing;
- (10) the system shall be able to accept line voltage of 115 VAC +- fifteen percent, 60 HZ;
- (11) the system shall be able to record and document the total time polls are open at a precinct location;
- (12) the system shall prevent any voter from selecting more than the allowable number of candidates for any office and shall preclude overvoting;
- (13) the system shall be capable of operating continuously for

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a minimum time period of sixteen hours without external power (115 VAC);

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(14) the tabulation of votes on the system shall be stored, ballot by ballot, in three or more memory locations on separate integrated circuit chips and shall be electronically compared throughout the election. Any differences between votes tabulated and votes stored in multiple storage locations shall be detected immediately and generate an error message defining required maintenance on the system before it can continue to be used in the election;

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(15) the system shall contain the entire ballot, which shall be placed on the face of the machine, and shall be visible to the voter on a single page;

(16) the system shall have a privacy booth in which the voter casts his vote, and the privacy booth shall be an integral part of the system; and

(17) the system shall be designed to meet the needs of physically disabled voters with or without adjustment of the unit by poll workers.

C. In determining compliance with the standards set forth in Subsection B of this section, the qualification test report made pursuant to the performance and test standards of federal election law shall be considered insofar as it is applicable."

Section 26. Section 1-9-16 NMSA 1978 (being Laws 1985, Chapter 207, Section 15, as amended) is amended to read:

"1-9-16. ELECTRONIC VOTING SYSTEMS--VOTE TABULATING SYSTEMS--STANDARDS.--

A. Electronic vote tabulating systems, as tested and approved by the secretary of state pursuant to the provisions of Section 1-9-14 NMSA 1978, may be used in any election for public office in New Mexico for the purpose of tabulating ballots.

<p>B. The electronic vote tabulating system shall meet the following standards:</p> <p>(1) the machine shall be an electronic computer-controlled voting system that provides for the direct electronic tabulation of votes cast;</p> <p>(2) the operating software of the vote tabulating system shall be stored in nonvolatile memory and shall include internal quality checks such as parity or error detection and correction codes. The software shall include comprehensive diagnostics to ensure that failures do not go undetected;</p> <p>(3) the system shall have a battery backup that will, as a minimum, retain voter information and be capable of retaining and restoring processor operating parameters in the event of power failures;</p> <p>(4) the system shall provide alphanumeric printouts of the vote totals by legislative district at the closing of the polls;</p> <p>(5) the system shall have, as a standard or as an option, software and hardware provisions for remote transmission of election results to a central location;</p> <p>(6) subsistence, such as printer, power sources, microprocessor, switch and indicator matrices, shall be modular and luggable. Electronic components shall be mounted on printed circuit boards;</p> <p>(7) the system shall be supplied with a dust- and moisture-proof cover for transportation and storage purposes;</p> <p>(8) the system shall be able to operate in a temperature range of fifty degrees Fahrenheit to ninety degrees Fahrenheit;</p> <p>(9) the system shall have a temperature range for storage of</p>	<p>H B</p> <p>3 8 3 P a g e</p> <p>3 5</p>
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zero degrees Fahrenheit to one hundred twenty degrees Fahrenheit;

(10) the system shall have an operating and storage humidity of thirty percent to eighty percent noncondensing;

(11) the system shall accept a line voltage of 115 VAC +/- fifteen percent, 60 HZ;

(12) the system memory pack shall be able to accept over one thousand five hundred voting positions and tabulate over sixty-five thousand votes for each position;

(13) the system shall accept a ballot inserted in any orientation and one that is a minimum six inches wide and a maximum twenty-four inches long, in dual columns and printed on both sides. The ballot shall be able to hold a maximum of five hundred twenty candidate positions;

(14) the system shall recognize all errors and be able to reject or return a ballot that contains an error. The tabulator shall automatically be able to detect an overvoted ballot;

(15) the system shall contain an RS-232 data communications capability to transmit totals;

(16) the system shall contain a public display counter to record the number of ballots processed; and

(17) the system should be programmable with control cards.

C. In determining compliance with the standards set forth in Subsection B of this section, the qualification test report made pursuant to the performance and test standards of federal election law shall be considered insofar as it is applicable."

Section 27. Section 1-9-19 NMSA 1978 (being Laws 1985, Chapter 207,

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Section 18, as amended) is amended to read:

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"1-9-19. ELECTRONIC VOTING SYSTEM REVOLVING FUND.--The "electronic voting system revolving fund" is created. The electronic voting system revolving fund may be used to finance, by contract, the purchase of electronic voting systems and necessary support equipment under the conditions stated in Section 1-9-17 NMSA 1978. The electronic voting system revolving fund may be expended upon vouchers signed by the secretary of finance and administration. If at the end of a fiscal year the electronic voting system revolving fund exceeds six million five hundred thousand dollars (\$6,500,000), the amount in excess of six million five hundred thousand dollars (\$6,500,000) shall revert to the general fund."

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Section 28. Section 1-10-1 NMSA 1978 (being Laws 1977, Chapter 222, Section 24, as amended) is amended to read:

"1-10-1. BALLOT.--As used in the Election Code:

A. "ballot" means a system for arranging and designating for the voter the names of candidates, constitutional amendments and other questions to be voted on and for the marking, casting or otherwise recording of such votes, and the term includes absentee ballots, ballot labels, ballot cards, ballot sheets, provisional paper ballots and emergency paper ballots;

B. "ballot label" means that portion of cardboard, paper or other material placed on the front of the voting machine containing the names of the candidates, the offices the candidates are seeking, a statement of the proposed constitutional amendment or other question or proposition to be voted upon;

C. "emergency paper ballot" means the paper ballot used in the circumstances covered under Section 1-12-43 NMSA 1978;

D. "ballot card" means a card upon which votes may be recorded by use of a pen or pencil for tabulation in an electronic vote tabulating machine;

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E. "ballot sheet" means the sheet used on an electronic vote recording and tabulating machine containing the offices, candidates and questions to be voted on; and

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F. "provisional paper ballot" means the paper ballot used pursuant to Section 1-5-10 or 1-12-8 NMSA 1978 or Section 3 of this 2003 act."

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Section 29. Section 1-12-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 246, as amended) is amended to read:

"1-12-7. CONDUCT OF ELECTION--PERSONS NOT PERMITTED TO VOTE.--

A. A person shall not vote in a primary, general or statewide special election unless he is a voter of the county in which he offers to vote. A valid original certificate of registration in the county register is prima facie evidence of being a voter in the precinct.

B. A person whose major party affiliation is not designated on his original certificate of registration shall not vote in a primary election.

C. A person at a primary election shall not be permitted to vote for the candidate of any party other than the party designated on his current certificate of registration."

Section 30. Section 1-12-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 247, as amended) is amended to read:

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

A. A person shall be permitted to vote on a provisional paper ballot even though his original certificate of registration cannot be found in the county

register or even if his name does not appear on the signature roster, provided:

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(1) his residence is within the boundaries of the county in which he offers to vote;

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(2) his name is not on the list of persons submitting absentee ballots; and

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(3) he executes a statement swearing or affirming to the best of his knowledge that he is a qualified elector, is currently registered and eligible to vote in that county and has not cast a ballot or voted in that election.

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B. A voter shall vote on a provisional paper ballot if the voter:

(1) has not previously voted in a general election in New Mexico;

(2) did not register to vote in person;

(3) did not submit the required identification with the certificate of registration form; and

(4) does not present to the election judge one of the following forms of identification that matches the name and address on the voter's certificate of registration:

(a) a current and valid photo identification; or

(b) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

C. An election judge shall have the voter sign the signature roster and issue the voter a provisional paper ballot, an outer envelope and an official inner envelope. The voter shall vote on the provisional paper ballot in secrecy and when

done, place the ballot in the official inner envelope and place the official inner envelope in the outer envelope and return it to the precinct officer. The election judge shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate place and place it in an envelope designated for provisional paper ballots.

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D. Knowingly executing a false statement constitutes perjury as provided in the Criminal Code of this state, and voting on the basis of such falsely executed statement constitutes fraudulent voting."

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Section 31. Section 1-16-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 378, as amended) is amended to read:

"1-16-5. STATE CONSTITUTIONAL AMENDMENTS--BALLOT--FORMS FOR EMERGENCY AND PROVISIONAL PAPER BALLOTS AND ABSENTEE BALLOTS.--

A. All emergency and provisional paper ballots and absentee ballots proposing constitutional amendments shall have printed thereon in both English and Spanish the full title of the joint resolution proposing the constitutional amendment and the constitutional amendment number assigned to the joint resolution by the secretary of state. Below the printed title, there shall be printed on the ballot two one-quarter inch blank boxes. Opposite one of the blank boxes, there shall be printed in both English and Spanish the word "FOR", and opposite the other blank box shall be printed in both languages the word "AGAINST".

B. There shall be printed across the top of the ballot the following:
"Instructions to voters: If you desire to vote for the amendment, mark a cross (X) or a check (✓) or any other mark clearly indicating intention in the opposite the word "FOR". If you desire to vote against the amendment, mark a cross (X) or a check (✓)

or any other mark clearly indicating intention in the opposite the word "AGAINST".

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Section 32. Section 1-16-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 379, as amended) is amended to read:

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"1-16-6. STATE CONSTITUTIONAL AMENDMENTS--MARKING EMERGENCY AND PROVISIONAL PAPER BALLOTS AND ABSENTEE BALLOTS.--A voter desiring to mark his emergency or provisional paper ballot or absentee ballot for or against a proposed constitutional amendment shall do so in the manner specified in the instructions printed on the ballot."

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Section 33. Section 1-16-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 381, as amended) is amended to read:

"1-16-9. STATE CONSTITUTIONAL AMENDMENTS--SINGLE EMERGENCY AND PROVISIONAL PAPER BALLOT AND ABSENTEE BALLOT.--Proposed constitutional amendments or other questions submitted to the voters on emergency or provisional paper ballots or absentee ballots at any election shall be printed upon one ballot only."

Section 34. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.