

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILLS 678, 680, 718 & 735

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO ELECTIONS; PROVIDING DEFINITIONS; PRESCRIBING
DUTIES AND TRAINING PROCEDURES; UPDATING LANGUAGE IN ARTICLES
4, 5 AND 12 OF THE ELECTION CODE; REQUIRING CERTIFICATION OF
PRESIDING JUDGES; SPECIFYING HOW PRECINCTS MAY BE FORMED AND
DESIGNATED; PROVIDING FOR COUNTY CANVASS OBSERVERS; CHANGING
FILING DATES FOR INDEPENDENT AND WRITE-IN CANDIDATES; CHANGING
REGISTRATION PROCEDURES; REQUIRING REGISTRATION OF THIRD-PARTY
REGISTRATION ORGANIZATIONS; PROVIDING FOR EARLY PROCESSING OF
ABSENTEE BALLOTS; PROVIDING FOR ABSENTEE VOTING PROCEDURES;
REQUIRING A PAPER RECORD OF VOTES; REQUIRING VOTER
IDENTIFICATION FOR IN-PERSON AND ABSENTEE VOTING; PRESCRIBING
POLL WORKER DUTIES ON ELECTION DAY; REQUIRING STANDARDS FOR
COUNTING PROVISIONAL BALLOTS; CHANGING PROVISIONS FOR
POLLWATCHERS; PROVIDING FOR DEPOSITS ON RECOUNTS AND RECHECKS;
MAKING AN APPROPRIATION; RECONCILING MULTIPLE AMENDMENTS TO THE

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underscored material = new
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1 SAME SECTION OF LAW; AMENDING, REPEALING, ENACTING AND
2 RECOMPILING SECTIONS OF THE NMSA 1978.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 Section 1. A new section of Chapter 1, Article 1 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] COMPUTATION OF TIME--DEADLINES.--For the
8 purpose of the Election Code, time periods of less than eleven
9 days shall be computed as calendar days; provided, however,
10 that if an actual deadline falls on a weekend or state-
11 recognized holiday, the next business day shall be the
12 deadline."

13 Section 2. A new section of Chapter 1, Article 1 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] NEW REGISTRANT.--As used in the Election
16 Code, "new registrant" means a person who was not registered to
17 vote in the state at the time the person registered to vote."

18 Section 3. A new section of Chapter 1, Article 1 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] REGISTRATION AGENT.--As used in the
21 Election Code, "registration agent" means a state or federal
22 employee who provides voter registration at a state agency or
23 any other individual who assists another person in completion
24 of a voter registration application."

25 Section 4. Section 1-1-16 NMSA 1978 (being Laws 1969,
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1 Chapter 240, Section 16, as amended) is amended to read:

2 "1-1-16. REGISTRATION OFFICER. --As used in the Election
3 Code, "registration officer" means the secretary of state, a
4 county clerk or ~~his~~ a clerk's authorized deputy ~~or~~, a
5 member of the board of registration or a state employee
6 performing registration duties in accordance with the federal
7 National Voter Registration Act of 1993 or Section 1-4-5.2 NMSA
8 1978. "

9 Section 5. A new section of Chapter 1, Article 1 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] UNIQUE IDENTIFIER. --As used in the
12 Election Code, "unique identifier" means the last four digits
13 of a voter's social security number. "

14 Section 6. A new section of Chapter 1, Article 1 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] REQUIRED VOTER IDENTIFICATION. --As used in
17 the Election Code, "required voter identification" means any of
18 the following forms of identification as chosen by the voter:

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

20 (1) an original or copy of a current and valid
21 photo identification with or without an address, which address
22 is not required to match the voter's certificate of
23 registration or a voter identification card; or

24 (2) an original or copy of a utility bill,
25 bank statement, government check, paycheck, student

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1 identification card or other government document, including
2 identification issued by an Indian nation, tribe or pueblo,
3 that shows the name and address of the person, the address of
4 which is not required to match the voter's certificate of
5 registration; or

6 B. a verbal or written statement by the voter of
7 the voter's name, year of birth and unique identifier;
8 provided, however, that the statement of the voter's name need
9 not contain the voter's middle initial or suffix. "

10 Section 7. A new section of Chapter 1, Article 1 NMSA
11 1978 is enacted to read:

12 "[NEW MATERIAL] VOTER IDENTIFICATION CARD.--As used in the
13 Election Code, "voter identification card" means a document
14 containing the person's name, address and precinct number that
15 is issued by the county clerk or the voter's copy of the
16 voter's certificate of registration. "

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

19 "[NEW MATERIAL] VOTER IDENTIFICATION CARDS--
20 DISTRIBUTION. --

21 A. Between sixty and forty days before each
22 statewide election, the county clerk shall send to each
23 registered voter in the county a voter identification card
24 indicating the voter's name, address and voting precinct;
25 provided, however, that a registrant shall still be sent a

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1 voter identification card upon filing of the registrant's
2 certificate of registration with the county clerk as provided
3 in Section 1-4-12 NMSA 1978.

4 B. The county clerk may apply to the office of the
5 secretary of state for reimbursement of costs related to
6 supplying voter identification cards.

7 C. The secretary of state shall promulgate rules to
8 ensure that all registered voters receive a voter
9 identification card before each statewide election and
10 reimburse the county for the costs of supplying and
11 distributing the cards. "

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

14 "1-2-2. SECRETARY OF STATE--GENERAL DUTIES. --The
15 secretary of state shall:

16 A. generally supervise all elections;

17 B. administer the Election Code in its statewide
18 application especially as it relates to federal and state
19 elective offices;

20 C. prepare instructions for the conduct of election
21 and registration matters in accordance with the laws of the
22 state;

23 D. advise county clerks, boards of county
24 commissioners and boards of registration as to the proper
25 methods of performing their duties prescribed by the Election

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1 Code;

2 E. report possible violations of the Election Code
3 of which [he] the secretary of state has knowledge to the
4 district attorney or the attorney general for prosecution;

5 F. cause to be published in pamphlet form and
6 distributed to the county clerk of each county for use by
7 precinct boards a sufficient number of copies of the Election
8 Code as it is from time to time amended and supplemented;

9 G. be responsible for the education and training of
10 county clerks regarding elections;

11 H. be responsible for the education and training of
12 voting machine technicians; and

13 I. assist the county clerks in the education and
14 training of registration officers [~~and precinct boards~~], in the
15 recruitment and training of poll workers and other election
16 workers and in the certification of the presiding judges of the
17 precinct boards. "

18 Section 10. Section 1-2-4 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 25, as amended) is amended to read:

20 "1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS TO
21 PRECINCT BOARDS--TRAINING MANUAL. --

22 A. The secretary of state shall provide:

23 (1) instructions for the precinct board, which
24 shall include a brief nontechnical explanation of their duties
25 as required by the Election Code; and

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1 (2) a single training manual containing
2 standard guidelines for the operations and processes of
3 statewide elections, including pre-election day activities,
4 election-day activities and post-election-day activities and
5 county and state canvassing processes.

6 B. When any specific duty is imposed by the
7 instructions issued under the Election Code, the duty shall be
8 deemed to be a requirement of the law. "

9 Section 11. Section 1-2-7 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 29, as amended) is amended to read:

11 "1-2-7. PRECINCT BOARD--QUALIFICATION OF MEMBERS--
12 QUALIFICATION OF PRESIDING JUDGES.--

13 A. In order to qualify as a member of the precinct
14 board, a person shall:

15 (1) be a resident of the representative
16 district and county in which the precinct where he is a voter
17 is located;

18 (2) be able to read and write;

19 (3) have the necessary capacity to carry out
20 his functions with acceptable skill and dispatch; and

21 (4) execute the precinct board member's oath
22 of office.

23 B. Before serving as a presiding judge of a
24 precinct board, a person shall receive training in the duties
25 of that position and be certified for the position by the

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1 county clerk.

2 [B-] C. No person shall be qualified for
3 appointment or service on a precinct board:

4 (1) who is a candidate for any federal, state,
5 district or county office;

6 (2) who is a spouse, parent, child, brother or
7 sister of any candidate to be voted for at the election; or

8 (3) who is a sheriff, deputy sheriff, marshal,
9 deputy marshal or state or municipal policeman. "

10 Section 12. Section 1-2-17 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 37, as amended) is amended to read:

12 "1-2-17. PRECINCT BOARD--SCHOOLS OF INSTRUCTION. --

13 A. The secretary of state [~~shall~~] may supervise and
14 the county clerk shall cause to be held a public school of
15 instruction for all presiding judges, precinct boards and
16 others who will be officially concerned with the conduct of
17 elections. [~~in any county with a population of one hundred~~
18 ~~thousand or more according to the most recent federal decennial~~
19 ~~census.~~

20 B. ~~The county clerk shall cause to be held a public~~
21 ~~school of instruction for all presiding judges, precinct boards~~
22 ~~and others who will be officially concerned with the conduct of~~
23 ~~the elections in any county having a population of less than~~
24 ~~one hundred thousand according to the most recent federal~~
25 ~~decennial census.~~

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1 ~~C.~~ B. The schools for instruction provided for in
2 this section shall be as follows:

3 (1) one school not less than three days before
4 the primary election;

5 (2) one school not less than three days before
6 the general election; and

7 (3) one school not less than three days before
8 any other statewide election.

9 ~~D.~~ C. All major details of the conduct of
10 elections shall be covered by the secretary of state or the
11 secretary's authorized representative and the county clerk or
12 ~~his~~ the clerk's authorized representative at such school,
13 with special emphasis being given to recent changes in the
14 Election Code.

15 ~~E.~~ D. The school of instruction shall be open to
16 any interested person, and notice of the school shall be given
17 to the public press at least four days before the school is to
18 be held. Each member of the precinct board shall be notified
19 by mail at least seven days prior to commencement of the
20 school.

21 ~~F. No~~ E. A person shall not serve as a judge or
22 member of a precinct board in any election ~~who has not~~ unless
23 that person has attended at least one such school of
24 instruction in the calendar year of the election at which ~~he~~
25 the person is appointed to serve or has been certified by the

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1 county clerk with respect to the person's completion of the
2 school of instruction. This subsection shall not apply to
3 filling of vacancies on election day as provided in Subsection
4 B of Section 1-2-15 NMSA 1978. "

5 Section 13. Section 1-2-27 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 46, as amended) is amended to read:

7 "1-2-27. WATCHERS--APPOINTMENT. --

8 A. The county chairman of each political party
9 represented on the ballot may appoint in writing two watchers
10 for each precinct. If any county chairman fails to make the
11 appointments, the precinct chairman of the political party may
12 appoint in writing two watchers for the precinct. If any
13 precinct chairman fails to make the appointments, or if no
14 person properly appointed is present at the polling place and
15 offers to serve, the voters present belonging to that political
16 party may appoint in writing two watchers.

17 B. In a general election, a candidate for elected
18 office and an election-related organization may appoint one
19 watcher per polling place if the candidate or organization
20 makes a written request to the secretary of state at least
21 [~~twenty~~] ten days prior to the election date and specifies the
22 polling place to be watched and the name of the qualified
23 appointee. The secretary of state shall notify the county
24 clerk of the qualified appointees at least [~~ten~~] five days
25 before the election. For the purposes of this section,

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1 "election-related organization" means [~~a nonpartisan~~] an
2 organization involved in voter turnout activities.

3 C. In a primary election any group of six
4 candidates for county office for each political party
5 participating in the election may appoint in writing an
6 additional watcher for each precinct. No candidate, however,
7 shall join in more than one request for an additional watcher.

8 D. In a primary election any group of three
9 candidates seeking nomination for statewide or district office
10 may appoint in writing one watcher for each of those precincts
11 as they may desire. No candidate, however, shall join in more
12 than one request for an additional watcher at any precinct. "

13 Section 14. A new section of Chapter 1, Article 2 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] COUNTY CANVASS OBSERVERS. --

16 A. A candidate for elected office and an
17 election-related organization may each appoint one county
18 canvass observer per county if the candidate or organization
19 makes a written request to the secretary of state or county
20 clerk at least ten days prior to the election date and
21 specifies the county canvass to be watched and the name of the
22 qualified appointee. A state or county chair of a qualified
23 political party may appoint as many observers as the chief
24 election officer for that county determines is functional;
25 provided that the state or county chair may appoint at least

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1 three observers and that the number of observers for each major
2 political party is identical.

3 B. County canvass observers shall be voters of a
4 precinct located in that county to which they are appointed.
5 No sheriff, deputy sheriff, marshal, deputy marshal, municipal
6 or state police officer, candidate or person who is a spouse,
7 parent or child of a candidate being voted on at the election
8 shall serve as a county canvass observer.

9 C. The county canvass observer, upon presentation
10 of the observer's written appointment to the county canvassing
11 board, shall be permitted to be present from the time the
12 county canvassing board begins until the completion of the
13 canvass.

14 D. Only one county canvass observer for each
15 candidate and each election-related organization in each county
16 shall be permitted at one time in the room in which the canvass
17 is being conducted. An observer is strictly limited to
18 observing and documenting the canvassing process, and may not
19 interrupt the canvassing process.

20 E. County canvass observers shall not interfere
21 with the orderly conduct of the canvass, and may be removed by
22 the chief election officer if the observer does not comply with
23 the law.

24 F. As used in this section, "election-related
25 organization" means an organization involved in voter turnout

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1 activities. "

2 Section 15. Section 1-3-12 NMSA 1978 (being Laws 1984
3 (1st S.S.), Chapter 3, Section 4, as amended) is amended to
4 read:

5 "1-3-12. ADJUSTING PRECINCT BOUNDARIES. --

6 A. Before each federal decennial census, every
7 precinct boundary shall be adjusted to coincide with a numbered
8 or named street or road or with a visible terrain feature that
9 is:

10 (1) shown on the standard base maps developed
11 pursuant to Subsection B of this section;

12 (2) a designated census block boundary on the
13 federal PL 94-171 2000 census block maps; or

14 (3) approved by the secretary of state and the
15 bureau of the census.

16 B. Prior to commencement of the federal decennial
17 census, the secretary of state shall have prepared and furnish
18 to each county clerk standard base maps of the county. The
19 standard base map for nonurban areas of the county shall, as
20 nearly as practical, show:

21 (1) all state and federal highways;

22 (2) all numbered and named county roads that
23 have been certified to the [~~state highway and~~] department of
24 transportation [~~department~~];

25 (3) all military installation boundaries and

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1 federal and state prison boundaries;

2 (4) all major railroad lines; and

3 (5) other major terrain features such as
4 flowing rivers and streams, arroyos, powerlines, pipelines and
5 ridgelines and other acceptable census block boundaries.

6 C. The board of county commissioners and the county
7 clerks, upon receipt of the standard base maps from the
8 secretary of state, shall:

9 (1) adjust all urban precinct boundaries to
10 coincide with numbered or named street boundaries;

11 (2) adjust all nonurban precinct boundaries to
12 coincide with suitable visible terrain features shown on the
13 standard base map; provided that in order to make an
14 adjustment, two or more existing precincts may be consolidated
15 without consolidating existing polling places; and provided
16 further that the precincts shall be composed of contiguous and
17 compact areas, and state, county and municipal boundary lines
18 may serve as precinct boundaries; and

19 (3) upon the completion of the precinct
20 boundary adjustments as required in this section, indicate on
21 the standard base maps the boundaries for both urban and
22 nonurban precincts and, together with a written description of
23 the precincts, shall send four copies of the precinct maps to
24 the secretary of state for approval.

25 D. The precincts shown upon the standard base maps

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1 submitted pursuant to the provisions of this section and as
2 revised and approved by the secretary of state pursuant to the
3 Precinct Boundary Adjustment Act shall become the official
4 precincts of each county for the 2001 redistricting. For the
5 2002 and subsequent primary and general elections, changes in
6 precincts shall be made in accordance with the provisions of
7 Chapter 1, Article 3 NMSA 1978.

8 E. A county commission shall not split a precinct
9 into two or more districts for any elected office.

10 F. Precincts shall be designated solely by whole
11 numbers. "

12 Section 16. A new section of Chapter 1, Article 4 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] THIRD-PARTY REGISTRATION AGENTS--
15 REGISTRATION REQUIRED-- PROCEDURES-- REPORTS-- PENALTY. --

16 A. Registration agents who either register or
17 assist persons to register to vote on behalf of an organization
18 that is not a state or federal agency shall register with the
19 secretary of state and the organization shall provide the
20 secretary of state with:

21 (1) the name and permanent address of the
22 organization;

23 (2) the names, permanent addresses, temporary
24 addresses, if any, dates of birth and social security numbers
25 of each person registering persons to vote in the state on

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underscoring material = new
[bracketed material] = deleted

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1 behalf of the organization; and

2 (3) a sworn statement from each registration
3 agent employed by or volunteering for the organization stating
4 that the agent will obey all state laws and rules regarding the
5 registration of voters on a form that gives notice of the
6 criminal penalties for false registration.

7 B. Organizations employing registration agents or
8 using volunteer registration agents shall deliver a certificate
9 of registration to the secretary of state or county clerk
10 within forty-eight hours of its completion by the person
11 registering to vote or the next business day if the appropriate
12 office is closed for that twenty-four-hour period.

13 C. The secretary of state may issue rules to ensure
14 the integrity of the registration process, including rules
15 requiring that organizations account for all registration forms
16 used by their registration agents.

17 D. A person who violates the provisions of this
18 section is guilty of a fourth degree felony."

19 Section 17. A new section of Chapter 1, Article 4 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] REGISTRATION--LACK OF PHYSICAL ADDRESS.--
22 If a qualified elector resides in an area lacking a specific
23 physical address, the qualified elector shall be allowed to
24 substitute a map indicating where the qualified elector resides
25 for a physical address and register to voter. The voter shall

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1 be assigned to a precinct based on the geographic description
2 of where the voter resides. "

3 Section 18. Section 1-4-5 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 63, as amended) is amended to read:

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

7 A. A qualified elector may apply to a registration
8 officer or agent for registration.

9 B. The registration officer or agent or qualified
10 elector shall fill out each of the blanks on [~~the original and~~
11 ~~the voter's copy of~~] the certificate of registration by typing
12 or printing in ink. [~~Carbon paper may be used between the~~
13 ~~original and the voter's copy.~~] The voter shall be given a
14 receipt, which may be a carbon copy, for the original, and the
15 registration agent shall receive a copy that omits the voter's
16 social security number and date of birth and which shall
17 contain a number traceable to the registration agent or
18 officer.

19 C. The qualified elector shall subscribe a
20 certificate of registration as follows:

21 (1) [~~a person shall sign his original~~] by
22 signing the certificate of registration using [~~his~~] the
23 qualified elector's given name, middle name or initial and last
24 name; or

25 (2) if any qualified elector seeking to

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1 register is unable to read and write either the English or
2 Spanish language or is unable to read or write because of some
3 physical disability, the certificate of such person shall be
4 filled out by a registration officer or agent and the name of
5 the qualified elector so registering shall be subscribed by the
6 making of [~~his~~] the qualified elector's mark.

7 D. When properly executed by the registration agent
8 or officer, the original [~~and the voter's copy~~] of the
9 certificate of registration shall be presented, either in
10 person or by mail by the qualified elector or by the
11 registration agent or officer, to the county clerk of the
12 county in which the qualified elector resides.

13 E. Only when the certificate of registration is
14 properly filled out, subscribed by the qualified elector and
15 accepted for filing by the county clerk as evidenced by [~~his~~]
16 the county clerk's signature or stamp and the date of
17 acceptance thereon shall it constitute an official public
18 record of the registration of the qualified elector. It is
19 unlawful for [~~any information~~] the voter's date of birth or any
20 portion of the voter's social security number required on the
21 certificate of registration to be copied, conveyed or used by
22 anyone other than the person registering to vote, either before
23 or after it is filed with the county clerk, except by elections
24 administrators for purposes of the registration and voting
25 process.

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

4 Section 19. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
5 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
6 as amended) is amended to read:

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

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

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

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

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

25 E. Completed certificates of registration may be

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

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

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

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

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

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1 shall also include:

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

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

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

12 (4) a statement informing the applicant that:

13 (a) if the form is [~~not~~] submitted [~~in~~
14 ~~person~~] by mail by the applicant and the applicant is
15 registering for the first time in New Mexico, the applicant
16 must submit with the form a copy of: 1) a current and valid
17 photo identification or voter identification card; or 2) a
18 utility bill, bank statement, government check, paycheck,
19 student identification card or other government document,
20 including identification issued by an Indian nation, tribe or
21 pueblo, that shows the name and address of the applicant; and

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

25 (5) a statement requiring the applicant to

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1 swear or affirm that the information supplied by the applicant
2 is true. "

3 Section 20. A new section of Chapter 1, Article 4 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] REVIEW OF REGISTRATION-- SECRETARY OF
6 STATE.-- At least ninety days before an election, the secretary
7 of state shall review statewide computerized voter registration
8 system files for duplicate registrations. If any duplicate
9 registrations are found, the secretary of state shall notify
10 the voter and update the voter's registration accordingly. If
11 the voter does not respond, the secretary of state may correct
12 the state voter file in accordance with federal law. "

13 Section 21. Section 1-4-8 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 66, as amended) is amended to read:

15 "1-4-8. DUTIES OF COUNTY CLERK-- ACCEPTANCE OF
16 REGISTRATION-- CLOSE OF REGISTRATION-- FEDERAL QUALIFIED ELECTORS
17 AND OVERSEAS VOTERS-- LATE REGISTRATION.--

18 A. For qualified electors other than federal
19 qualified electors or overseas voters, the following provisions
20 shall apply:

21 (1) the county clerk shall receive
22 certificates of registration at all times during normal working
23 hours, except that [~~he~~] the clerk shall close registration at
24 5:00 p.m. on the twenty-eighth day immediately preceding any
25 election at which the registration books are to be furnished to

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1 the precinct board;

2 (2) registration shall be reopened on the
3 Monday following the election;

4 (3) for purposes of a municipal or school
5 election, the registration period for those precincts within
6 the municipality or school district is closed at 5:00 p.m. on
7 the twenty-eighth day immediately preceding the municipal or
8 school election and is opened again on the Monday following the
9 election;

10 (4) during the period when registration is
11 closed, the county clerk shall receive certificates of
12 registration and other documents pertaining thereto but shall
13 not file the certificate of registration in the registration
14 book until the Monday following the election, at which time a
15 voter identification card shall be mailed to the registrant at
16 the address shown on the certificate of registration;

17 (5) when the twenty-eighth day prior to any
18 election referred to in this section is a Saturday, Sunday or
19 legal holiday, registration shall be closed at 5:00 p.m. of the
20 next succeeding regular business day for the office of the
21 county clerk; and

22 (6) the county clerk shall accept for filing
23 any certificate of registration that is [~~hand-delivered~~]
24 subscribed and dated on or before the twenty-eighth day
25 preceding the election and received by the county clerk before

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1 5:00 p.m. on the Friday immediately following the close of
2 registration. The county clerk shall accept for filing any
3 mailed certificate of registration postmarked not less than
4 twenty-eight days prior to any election referred to in this
5 section and received by 5:00 p.m. on the Friday immediately
6 following the close of registration. The county clerk shall
7 accept for filing any certificate of registration accepted at a
8 state agency designated pursuant to Section 1-4-5.2 NMSA 1978
9 not later than twenty-eight days prior to any election.

10 B. For federal qualified electors and overseas
11 voters, the county clerk shall accept a certificate of
12 registration by electronic transmission from a voter qualified
13 to apply for and vote by absentee ballot in the county if the
14 transmission is received before 5:00 p.m. on the Friday
15 immediately preceding the election."

16 Section 22. Section 1-4-23 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 79, as amended) is amended to read:

18 "1-4-23. REVIEW OF REGISTRATION-- BOARD OF
19 REGISTRATION-- INACTIVE VOTER LIST CREATION.-- Beginning on the
20 third Monday of March of each odd-numbered year, the board of
21 registration shall review all certificates of registration [~~for~~
22 ~~failure of the voter to vote~~] and, based on that review, shall
23 establish a list of inactive voters [~~Voters who fail to vote in~~
24 ~~at least one statewide or local election in a two-year period~~
25 ~~shall be placed on an inactive voter list~~] in accordance with

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1 the provisions of the federal National Voter Registration Act
2 of 1993. The secretary of state shall issue rules on list
3 maintenance in accordance with the provisions of the federal
4 National Voter Registration Act of 1993. "

5 Section 23. Section 1-5-1 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 103, as amended) is amended to read:

7 "1-5-1. SHORT TITLE. -- Sections [~~3-5-1 through 3-5-34 NMSA~~
8 ~~1953]~~ 1-5-1 through 1-5-29 NMSA 1978 may be cited as the
9 "[~~Automated~~] Voter Records System Act". "

10 Section 24. Section 1-5-2 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 104, as amended) is amended to read:

12 "1-5-2. DEFINITIONS. -- As used in the Election Code:

13 A. "county" means any county in this state;

14 [~~B. "county register" means an official file of~~
15 ~~original certificates of registration of the county or any~~
16 ~~precinct thereof;~~

17 C. [~~"voter list" means any prepared list of voters;~~

18 D. [~~"signature roster" means a copy of a voter list~~
19 ~~with space provided opposite each voter's name for the voter's~~
20 ~~signature or witnessed mark;~~

21 E. [~~"active data processing media" means magnetic~~
22 ~~disks, magnetic tape or functionally similar devices containing~~
23 ~~data capable of being read and processed by computer for the~~
24 ~~eventual preparation of voter lists;~~

25 F. [~~"intermediate records" means records on active~~

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1 ~~data processing media;~~

2 G. ~~"voter file" means all voter registration~~
3 ~~information required by law and by the secretary of state that~~
4 ~~has been extracted from the certificate of registration of each~~
5 ~~voter in the county, stored on active data processing media and~~
6 ~~certified by the county clerk as the source of all information~~
7 ~~required by the Automated Voter Records System Act;~~

8 H. ~~"program records" means the necessary detailed~~
9 ~~program and instructions for carrying out and controlling~~
10 ~~machine processing of information derived from the voter file.~~
11 ~~Program records shall exist in written English or coded form~~
12 ~~and they may exist on active data processing media;~~

13 I. ~~"mailing labels" means prepared mailing labels~~
14 ~~of selected voters arranged in the order in which requested and~~
15 ~~providing only the name and address of the voter;~~

16 J. ~~"special voter lists" means prepared lists of~~
17 ~~selected voters arranged in the order in which requested;~~

18 K. ~~"statistical data" means information derived~~
19 ~~from the voter file;~~

20 L. ~~"voter data" means selected information derived~~
21 ~~from the voter file;~~

22 M. ~~"data processor" means a data processing~~
23 ~~facility and associated employees and agents thereof contracted~~
24 ~~to provide data processing services required by the Automated~~
25 ~~Voter Records System Act;~~

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1 N. ~~"file maintenance list" means any prepared~~
2 ~~listing that reflects additions, deletions or changes to the~~
3 ~~voter file;~~

4 O. ~~"precinct voter list" means a voter list~~
5 ~~arranged in alphabetical order of voter surname within and for~~
6 ~~each precinct;~~

7 P. ~~"county voter list" means a voter list arranged~~
8 ~~in alphabetical order of voter surname within and for each~~
9 ~~county;~~

10 Q. ~~"unofficial election canvassing file" means the~~
11 ~~compilation by the county clerk of the results of any election~~
12 ~~prior to official certification of the election results;~~

13 R. ~~"unofficial election canvassing system" means~~
14 ~~the automated data processing computer program used to create~~
15 ~~the unofficial election canvassing file;~~

16 S. ~~"election campaign purposes" means relating in~~
17 ~~any way to a campaign in an election conducted by a federal,~~
18 ~~state or local government; and~~

19 T. ~~"governmental purposes" means noncommercial~~
20 ~~purposes relating in any way to the structure, operation or~~
21 ~~decision-making of a federal, state or local government]~~

22 B. "county register" means an official file of
23 original certificates of registration of the county or any of
24 its precincts;

25 C. "county voter list" means a voter list arranged

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1 in alphabetical order of voter surname within and for each
2 county;

3 D. "data processor" means a data processing
4 facility and its associated employees and agents contracted to
5 provide data processing services required by the Voter Records
6 System Act;

7 E. "data recording media" means a manual,
8 electronic or other device containing data capable of being
9 read and processed by any means for the eventual preparation of
10 voter lists;

11 F. "election campaign purposes" means relating in
12 any way to a campaign in an election conducted by a federal,
13 state or local government;

14 G. "file maintenance list" means any prepared
15 listing that reflects additions, deletions or changes to the
16 voter file;

17 H. "governmental purposes" means noncommercial
18 purposes relating in any way to the structure, operation or
19 decision-making of a federal, state or local government;

20 I. "mailing labels" mean prepared mailing labels of
21 selected voters arranged in the order in which requested and
22 providing only the name and address of the voter;

23 J. "precinct voter list" means a voter list
24 arranged in alphabetical order of voter surname within and for
25 each precinct;

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1 K. "signature roster" means a copy of a voter list
2 with space provided opposite each voter's name for the voter's
3 signature or witnessed mark;

4 L. "special voter list" means a prepared list of
5 selected voters arranged in the order in which requested;

6 M. "voter data" means selected information derived
7 from the voter file;

8 N. "voter file" means all voter registration
9 information required by law and by the secretary of state that
10 has been extracted from the certificate of registration of each
11 voter in the county, stored on data recording media and
12 certified by the county clerk as the source of all information
13 required by the Voter Records System Act; and

14 O. "voter list" means any prepared list of voters. "

15 Section 25. Section 1-5-3 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 105, as amended by Laws 1993, Chapter 314,
17 Section 33 and also by Laws 1993, Chapter 316, Section 33) is
18 amended to read:

19 "1-5-3. ACT IS MANDATORY AND SUPPLEMENTAL TO ELECTION
20 CODE. --

21 A. [~~Effective January 1, 1984~~] The [~~Automated~~]
22 Voter Records System Act is mandatory and supplemental to the
23 provisions of the Election Code. The provisions of that act
24 shall be implemented in all counties by order of the [~~board of~~
25 ~~county commissioners of the county in all precincts of a~~

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1 ~~county~~ secretary of state in accordance with the provisions of
2 the federal Help America Vote Act of 2002.

3 B. The secretary of state shall maintain [~~a current~~
4 ~~registration list of state voters~~] the official state voter
5 file based on county [~~voter lists and~~] registers and shall
6 provide access to the file to the county clerks. The secretary
7 of state shall prescribe any rules, forms and instructions
8 necessary [~~for the orderly transition to and the efficient~~
9 ~~implementation of~~] to implement procedures required by the
10 [~~Automated~~] Voter Records System Act and federal law. The
11 secretary of state shall maintain a log, which shall be public,
12 containing all transactions regarding requests for current
13 registration lists of state voters. The log shall indicate the
14 requesting party, the date of the request, the date of
15 fulfilling the request, charges made and any other information
16 deemed advisable by the secretary of state. Requests for
17 registration lists in printed or [~~magnetic~~] electronic form
18 shall be fulfilled within a period of ten working days.

19 C. All registration records required by the
20 Election Code shall be maintained for each of the precincts in
21 addition to those records required by the [~~Automated~~] Voter
22 Records System Act [~~but the procedures of that act shall be~~
23 ~~used in lieu of others prescribed in the Election Code~~] and
24 federal law. "

25 Section 26. Section 1-5-6 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 108, as amended) is amended to read:

2 "1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER

3 PREPARATION.--The county clerk shall provide for preparation of
4 precinct voter lists and signature rosters generated from the
5 official state voter file for any precincts. The precinct
6 voter lists and signature rosters shall be used at any election
7 for which registration of voters is required in lieu of bound
8 original certificates of registration and poll books. "

9 Section 27. Section 1-5-7 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 109, as amended) is amended to read:

11 "1-5-7. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--

12 CONTENTS.--

13 A. The precinct voter lists and signature rosters
14 for any precinct shall contain for each voter, as shown in the
15 county register, the voter's:

- 16 (1) [~~hi-s~~] name;
- 17 (2) gender;
- 18 (3) place of residence;
- 19 (4) last four digits of the voter's social
20 security number;
- 21 (5) year of birth;
- 22 (6) party affiliation, if any; and
- 23 (7) precinct of residence.

24 B. In addition, the names on each precinct voter
25 list and signature roster shall be numbered consecutively

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1 beginning with the number "1".

2 C. On each page of each precinct voter list and on
3 each signature roster there shall be printed the page number
4 and the date and name of the election for which they are to be
5 used.

6 ~~[D. For those counties who, prior to June 18, 1993,
7 utilized voter files that do not contain telephone numbers of
8 registered voters, the provisions of Subsections J and L of
9 Section 1-5-2 NMSA 1978 and Paragraph (4) of Subsection A of
10 Section 1-5-7 NMSA 1978 regarding dissemination of voter
11 telephone numbers shall apply only to individuals registering
12 to vote after January 1, 1994.]~~"

13 Section 28. Section 1-5-8 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 110, as amended) is amended to read:

15 "1-5-8. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--NUMBER--
16 DISTRIBUTION.--

17 A. One copy of the signature roster shall be
18 prepared for each precinct. On the cover of [~~such~~] the
19 signature roster shall be printed the words, "Copy for the
20 County Clerk". Upon its preparation and certification as to
21 its accuracy and completeness, the county clerk shall deliver
22 the copy of the signature roster to the precinct board [~~in lieu~~
23 ~~of the poll book~~].

24 B. The county clerk shall prepare three copies of
25 the precinct voter list for each precinct. Of the three copies

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1 prepared, one copy shall not include voter social security
2 numbers. [He] The other two shall contain only the last four
3 digits of the voter's social security number. The county clerk
4 shall deliver two of the copies to each precinct board [~~in lieu~~
5 ~~of bound certificates of registration~~]. One copy of the
6 precinct voter list shall be retained by the county clerk for
7 verification purposes on election day and one copy for the
8 secretary of state shall be marked to verify those voters on
9 the list who voted.

10 C. Two copies of the county voter list, arranged in
11 alphabetical order, shall be prepared for election day for
12 verification purposes only. "

13 Section 29. Section 1-5-14 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 118, as amended) is amended to read:

15 "1-5-14. FILE MAINTENANCE LISTS. --

16 A. At least once a month, the county clerk shall
17 have made from the state voter file a file maintenance list of
18 additions, deletions and changes, if any, to the county
19 register.

20 [~~B. The county clerk shall be furnished with two~~
21 ~~copies of the file maintenance lists.~~

22 ~~C.] B. One copy of the list shall be stored by the~~
23 county clerk for at least one year.

24 [~~D.] C. The county clerk shall also [be furnished~~
25 ~~with] furnish copies of the list [~~to give~~] to the county~~

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1 chairman of each of the major political parties in the county.
2 The copy of the chairman's list shall indicate whether each
3 item is an addition, deletion or change. The file maintenance
4 list shall not include the voter's social security number,
5 codes used to identify the agency where the voter registered,
6 the voter's day and month of birth or the voter's telephone
7 number, if prohibited by the voter.

8 [E. ~~Beginning the first Monday of February of an~~
9 ~~election year and every month thereafter, the county clerks~~
10 ~~shall furnish the secretary of state with a copy of the voter~~
11 ~~file, except that during the months of April and September of~~
12 ~~an election year, the county clerks shall furnish a copy of the~~
13 ~~voter file to the secretary of state at least one time each~~
14 ~~week. The final copy shall be furnished to the secretary of~~
15 ~~state by the county clerks within seven days of the close of~~
16 ~~registration.]"~~

17 Section 30. Section 1-5-17 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 122, as amended) is amended to read:

19 "1-5-17. [~~PROGRAM RECORDS~~] VOTER REGISTRATION SYSTEM
20 SOFTWARE--INSTRUCTIONS--STATUS--PROTECTION.--

21 A. [~~Program records~~] Voter registration system
22 software and instructions for [~~their~~] its use in controlling
23 the processing of information derived from the voter file shall
24 be verified functionally, identified and approved by the
25 secretary of state.

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1 ~~[B. Program records and instructions for their use~~
2 ~~shall remain the property of the designated data processor.~~

3 ~~C.]~~ B. Verified, identified and approved [~~program~~
4 ~~records]~~ voter registration system software and instructions
5 shall be safeguarded at all times against loss or damage. The
6 designated data processor shall be in charge of these
7 safeguards subject to approval by the secretary of state. "

8 Section 31. Section 1-5-18 NMSA 1978 (being Laws 1969,
9 Chapter 240, Section 124, as amended) is amended to read:

10 "1-5-18. LIST AND ROSTER PREPARATION--COMPATIBLE
11 DUPLICATE MEANS. --

12 A. The [~~county clerk]~~ secretary of state shall
13 [~~employ such]~~ provide to the county clerk means for the
14 preparation of voter lists and signature rosters [~~as can be~~
15 ~~functionally duplicated elsewhere with reasonable cost and~~
16 ~~convenience]~~.

17 B. At least one compatible duplicate means shall be
18 provided for on a standby basis, and it shall be capable of
19 performing the preparation of voter lists and signature rosters
20 with minimum delay in case the original means is unable to
21 perform.

22 C. The [~~county clerk]~~ secretary of state shall
23 procure and preserve sufficient duplicate [~~program information]~~
24 voter registration system software and operating instructions
25 [~~with each duplicate program record]~~ so that in case of

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1 disaster the duplicate master record and the duplicate [program
2 record and the duplicate additional program information] voter
3 registration system software and operating instructions will be
4 all that will be required for another compatible facility to
5 prepare registered voter lists and signature rosters with
6 minimum delay. "

7 Section 32. Section 1-5-21 NMSA 1978 (being Laws 1975,
8 Chapter 255, Section 75, as amended) is amended to read:

9 "1-5-21. DATA PROCESSOR--CUSTODY AND PROTECTION OF VOTER
10 FILE--DELIVERY OF VOTER FILE AND PROGRAM RECORDS. --

11 A. The designated data processor shall provide the
12 secretary of state, county clerk or county with data processing
13 services in the implementation and maintenance of the
14 [Automated] Voter Records System Act and in carrying out such
15 other services as are reasonably related to providing
16 [automated] data processing of the voter records system.

17 B. The designated data processor [~~shall be~~
18 ~~responsible for the identification of the voter file and~~
19 ~~program records and parts thereof and~~] shall preserve and
20 safeguard [them] voter files and voter registration system
21 software from loss, damage, unauthorized alteration,
22 unauthorized access [~~thereto~~] and unauthorized reproduction
23 [~~thereof~~] and shall [insure] ensure their continued use and
24 accessibility while [~~such file and records~~] they are in the
25 data processor's custody.

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1 C. No copies of the voter file or information or
2 listings derived therefrom shall be furnished by the data
3 processor to any person other than the secretary of state, the
4 county clerk or [~~his~~] their designated [~~agent~~] agents.

5 [~~D. The designated data processor shall provide the~~
6 ~~county clerk of the county with data processing services in the~~
7 ~~implementation and maintenance of the unofficial election~~
8 ~~canvassing system.~~

9 E. ~~The unofficial election canvassing system shall~~
10 ~~be tested by the secretary of state at least thirty days prior~~
11 ~~to an election.~~

12 F. ~~The secretary of state shall certify the~~
13 ~~unofficial election canvassing system of any county at least~~
14 ~~twenty days prior to an election.]"~~

15 Section 33. Section 1-5-22 NMSA 1978 (being Laws 1975,
16 Chapter 255, Section 76) is amended to read:

17 "1-5-22. UNLAWFUL DISPOSITION OF VOTER FILE--PENALTY.--

18 A. Unlawful disposition of voter file consists of
19 the willful selling, loaning, providing access to or otherwise
20 surrendering of the voter file, duplicates of [~~such~~] the file
21 or a part [~~thereof~~] of the file by [~~any of the following~~
22 ~~persons:—(1)~~] a data processor; [~~(2)—his~~] a data processor's
23 agent or employee; [~~(3)~~] a state or county officer; [~~(4)—his~~]
24 or a state or county officer's deputy, [~~or~~] assistant, [~~or (5)~~
25 ~~his~~] employee or agent to anyone not authorized by the

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1 [Automated] Voter Records System Act to have possession of
2 [such] the file.

3 B. For purposes of this section, a file maintenance
4 list shall be considered a voter file or a part [thereof] of a
5 voter file.

6 C. Any data processor, officer, deputy, assistant,
7 agent or employee who commits unlawful disposition of a voter
8 file is guilty of a fourth degree felony. "

9 Section 34. Section 1-5-23 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 77) is amended to read:

11 "1-5-23. UNLAWFUL DESTRUCTION OR ALTERATION OF [ACTIVE]
12 DATA [PROCESSING] RECORDING MEDIA, VOTER [FILE] FILES, FILE
13 MAINTENANCE [LIST, PROGRAM RECORDS] LISTS, VOTER REGISTRATION
14 SYSTEM SOFTWARE AND INSTRUCTIONS [AND] OR VOTER LISTS--
15 PENALTY. --

16 A. Unlawful destruction or alteration of [active]
17 data [processing] recording media, voter [file] files, file
18 maintenance [list, program records] lists, voter registration
19 system software and instructions or voter lists consists of the
20 unauthorized destruction of, [or] the unauthorized alteration
21 of, [or] the erasure of information from or the rendering
22 unusable for their lawfully intended purpose of such media,
23 files, [records] software, instructions and lists or parts
24 thereof by any person.

25 B. Any person who commits unlawful destruction or

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1 alteration of [~~active~~] data [~~processing~~] recording media, voter
2 [~~file~~] files, file maintenance lists, [~~program records~~] voter
3 registration system software and instructions or voter lists is
4 guilty of a fourth degree felony. "

5 Section 35. Section 1-5-24 NMSA 1978 (being Laws 1975,
6 Chapter 255, Section 78, as amended) is amended to read:

7 "1-5-24. REQUESTS FOR [~~STATISTICAL DATA~~] VOTER DATA,
8 MAILING LABELS OR SPECIAL VOTER LISTS. --

9 A. The county clerk or secretary of state shall
10 [~~authorize the data processor to~~] furnish [~~statistical data~~]
11 voter data, mailing labels or special voter lists only upon
12 written request to the county clerk or the secretary of state
13 and after compliance with the requirements of this section;
14 provided, however, all requesters shall be treated equally [~~by~~
15 ~~the data processor~~] in regard to the charges and the furnishing
16 of the materials.

17 B. In furnishing voter data, mailing labels or
18 special voter lists, the county clerk or secretary of state
19 shall not provide data or lists that include voters' social
20 security numbers, codes used to identify agencies where voters
21 have registered, a voter's day and month of birth or voters'
22 telephone numbers if prohibited by voters.

23 C. Each requester of voter data, mailing labels or
24 special voter lists shall sign an affidavit that the voter
25 data, mailing labels and special voter lists shall be used for

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1 governmental or election and election campaign purposes only
2 and shall not be made available or used for unlawful purposes.

3 ~~[D.—Each requester of statistical data shall sign~~
4 ~~an affidavit that such statistical data shall be used for~~
5 ~~information or research purposes only and shall not be made~~
6 ~~available or used for unlawful purposes.—~~

7 ~~E.]~~ D. The secretary of state shall prescribe the
8 form of the affidavit. "

9 Section 36. Section 1-5-25 NMSA 1978 (being Laws 1975,
10 Chapter 255, Section 79, as amended) is amended to read:

11 "1-5-25. ~~[UNLAWFUL USE OF STATISTICAL DATA]~~ UNLAWFUL USE
12 OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS--
13 PENALTIES.--

14 ~~[A.—Unlawful use of statistical data consists of~~
15 ~~use of statistical data in such a manner as to derive~~
16 ~~information, the use or possession of which would be otherwise~~
17 ~~prohibited under the Automated Voter Records System Act.—~~

18 ~~B.]~~ A. Unlawful use of voter data, mailing labels
19 or special voter lists consists of the knowing and willful use
20 of such information for purposes prohibited by the ~~[Automated]~~
21 Voter Records System Act.

22 ~~[C.]~~ B. Any person, organization or corporation or
23 agent, officer, representative or employee thereof who commits
24 unlawful use of ~~[statistical data]~~ voter data, mailing labels
25 or special voter lists is guilty of a fourth degree felony and

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1 upon conviction shall be fined one hundred dollars (\$100) for
2 each and every line of voter information [~~which~~] that was
3 unlawfully used.

4 [~~D.~~] C. Each and every unlawful use of [~~statistical~~
5 ~~data~~] voter data, mailing labels or special voter lists
6 constitutes a separate offense. "

7 Section 37. Section 1-5-26 NMSA 1978 (being Laws 1975,
8 Chapter 255, Section 80) is amended to read:

9 "1-5-26. CONTRACTUAL AGREEMENT REQUIRED WITH DATA
10 PROCESSOR. -- [~~A. Each county implementing the Automated Voter~~
11 ~~Records System Act] The secretary of state shall enter into a
12 written contractual agreement with the data processor
13 notwithstanding the fact that the data processor may be a
14 department of [~~county, municipal or~~] state government.
15 [~~Parties to the contractual agreement shall be the county, the~~
16 ~~county clerk and the data processor.~~~~

17 ~~B. All contractual agreements shall be approved by~~
18 ~~the secretary of state, with the assistance of the automated~~
19 ~~voter records system advisory committee, before they are valid.~~

20 ~~C. The secretary of state shall provide by~~
21 ~~regulation the contractual provisions necessary for approval.] "~~

22 Section 38. Section 1-5-30 NMSA 1978 (being Laws 1989,
23 Chapter 298, Section 1) is amended to read:

24 "1-5-30. SECRETARY OF STATE-- ESTABLISHMENT OF STATEWIDE
25 COMPUTERIZED VOTER REGISTRATION SYSTEM --

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1 A. The secretary of state shall develop, implement,
2 establish and supervise a statewide computerized voter
3 registration system that complies with the federal Help America
4 Vote Act of 2002 to facilitate voter registration and to
5 provide a central database containing voter registration
6 information for New Mexico.

7 B. The statewide computerized voter registration
8 system shall:

9 (1) provide for the establishment and
10 maintenance of a central database for all voter registration
11 information;

12 (2) permit the offices of all county clerks to
13 add, modify and delete county information from the system to
14 provide for accurate and up-to-date records;

15 (3) permit the offices of the county clerks
16 and the bureau of elections to have access to the central
17 database for review and search capabilities;

18 (4) provide security and protection for all
19 information in the central database and monitor the central
20 database to ensure the prevention of unauthorized entry;

21 (5) provide procedures for entering data into
22 the central database; and

23 (6) provide a centralized system for each
24 county to [~~identify~~] enter the precinct to which a voter should
25 be assigned for voting purposes [~~and~~

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1 ~~(7) prescribe a procedure for phasing in or~~
2 ~~converting existing computerized records generated and~~
3 ~~maintained pursuant to the Automated Voter Records System~~
4 ~~Act]. "~~

5 Section 39. Section 1-5-31 NMSA 1978 (being Laws 1989,
6 Chapter 298, Section 2) is amended to read:

7 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES. --The secretary
8 of state shall:

9 A. assist county clerks by devising uniform
10 procedures and forms that are compatible with the statewide
11 computerized voter registration system;

12 B. ~~[develop and]~~ provide to each county clerk the
13 computer software necessary for the use and maintenance of the
14 statewide computerized voter registration system; and

15 C. adopt such rules and regulations as are
16 necessary to establish and administer the statewide
17 computerized voter registration system and to require deadlines
18 and time limits for the updating of voter files ~~[and to provide~~
19 ~~for the update of voter files at each polling place for the~~
20 ~~next election]. "~~

21 Section 40. A new section of Chapter 1, Article 6 NMSA
22 1978 is enacted to read:

23 "[NEW MATERIAL] EARLY VOTING-- USE OF ABSENTEE VOTING
24 PROCEDURES-- ALTERNATE VOTING LOCATIONS. --

25 A. Commencing on the third Saturday prior to an

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1 election, an early voter may vote in person on a voting system
2 at an alternate voting location established by the county
3 clerk. In class A counties with more than two hundred thousand
4 registered voters, the county clerk shall establish not less
5 than twelve alternate voting locations as a convenience to the
6 voters. For class A counties with two hundred thousand
7 registered voters or fewer, the county clerk shall establish
8 not less than four alternate voting locations. In non-class A
9 counties with more than ten thousand registered voters, the
10 county clerk shall establish at least one alternate voting
11 location. In non-class A counties with ten thousand registered
12 voters or fewer, early voting shall be conducted in the office
13 of the county clerk or at such alternative locations as may be
14 designated by the county clerk. Early voting may be done at an
15 alternate location from 12:00 p.m. to 8:00 p.m., Tuesday
16 through Friday, and 10:00 a.m. to 6:00 p.m. Saturday through
17 the Saturday immediately prior to the election.

18 B. When voting early, the voter shall provide the
19 required voter identification to the county clerk or the
20 clerk's authorized representative. If the voter does not
21 provide the required voter identification, the voter shall be
22 allowed to vote on a provisional ballot. If the voter provides
23 the required identification, the voter shall be allowed to vote
24 after subscribing an application to vote in accordance with
25 secretary of state rules. The county clerk or the clerk's

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1 authorized representative shall make an appropriate designation
2 on the signature roster next to the voter's name indicating
3 that the voter has voted early. "

4 Section 41. A new section of Chapter 1, Article 6 NMSA
5 1978 is enacted to read:

6 "[~~NEW MATERIAL~~] THIRD PARTY AGENTS COLLECTING ABSENTEE
7 BALLOT APPLICATIONS. --

8 A. A person or organization that is not part of a
9 government agency and that collects absentee ballot
10 applications shall submit the applications to the appropriate
11 office for filing within forty-eight hours of their completion
12 or the next business day if the appropriate office is closed
13 for that twenty-four hour period.

14 B. A person who intentionally alters or fails to
15 submit a completed absentee ballot application is guilty of a
16 fourth degree felony. "

17 Section 42. Section 1-6-4 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 130, as amended by Laws 2003, Chapter 356,
19 Section 18 and by Laws 2003, Chapter 357, Section 1) is amended
20 to read:

21 "1-6-4. ABSENTEE BALLOT APPLICATION-- FEDERAL QUALIFIED
22 ELECTOR-- OVERSEAS VOTER. --

23 A. Application by a federal qualified elector or an
24 overseas voter for an absentee ballot shall be made on the
25 official postcard form prescribed or authorized by the federal

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1 government to the county clerk of the county of his residence.
2 The form shall allow the applicant to receive an absentee
3 ballot for all elections within an election cycle.

4 B. Application by a voter for an absentee ballot
5 shall be made only on a form prescribed by the secretary of
6 state. The form shall identify the applicant and contain
7 information to establish his qualification for issuance of an
8 absentee ballot under the Absent Voter Act; provided that on
9 the application form [~~for a general election ballot~~] there
10 shall be no box, space or place provided for designation of the
11 voter's political party affiliation. [~~The form shall allow the~~
12 ~~applicant to receive an absentee ballot for all elections~~
13 ~~within an election cycle.~~]

14 C. Each application for an absentee ballot shall be
15 subscribed by the applicant and shall require the applicant's
16 printed name, year of birth and unique identifier to be
17 supplied by the applicant, which shall constitute the required
18 form of identification, except for new registrants that have
19 registered by mail and at that time did not provide acceptable
20 identification.

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

24 Section 43. Section 1-6-5 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 131, as amended by Laws 2003, Chapter 355,

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1 Section 4 and by Laws 2003, Chapter 356, Section 19 and also by
2 Laws 2003, Chapter 357, Section 2) is amended to read:

3 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT
4 [~~MARKING AND DELIVERY OF BALLOT IN PERSON~~]. --

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

11 B. If the applicant does not have a valid
12 certificate of registration on file in the county and [he] is
13 not a federal qualified elector or if the applicant states [he]
14 that the applicant is a federal qualified elector but [his] the
15 application indicates [he] the applicant is not a federal
16 qualified elector, an absentee ballot shall not be issued and
17 the county clerk shall mark the application "rejected" and file
18 the application in a separate file from those accepted.

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

23 D. If the applicant has on file with the county a
24 valid certificate of registration that indicates that the
25 applicant is a voter who is a new registrant and who registered

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1 by mail without submitting the required voter identification,
2 the county clerk shall notify the voter that [~~he~~] the voter
3 ~~must submit with [his] the absentee ballot [a copy of a current~~
4 ~~and valid photo identification; utility bill, bank statement,~~
5 ~~government check, paycheck or other government document that~~
6 ~~shows the name and address of the applicant]~~ the required
7 physical form of identification. The county clerk shall note
8 on the absentee ballot register and signature roster that the
9 applicant's absentee ballot ~~must~~ be returned with the required
10 identification.

11 E. If the county clerk finds that the applicant is
12 a voter other than a federal qualified elector or overseas
13 voter, the county clerk shall mark the application "accepted"
14 and, beginning twenty-eight days before the election, deliver
15 an absentee ballot to the voter in the county clerk's office or
16 mail to the applicant an absentee ballot and the required
17 envelopes for use in returning the ballot. If the county clerk
18 finds that the applicant is a federal qualified elector or
19 overseas voter, the county clerk shall mark the application
20 "accepted" and beginning forty-five days before the election,
21 mail to the applicant an absentee ballot and the required
22 envelopes for use in returning the ballot. Acceptance of an
23 application of a federal qualified elector constitutes
24 registration for the election in which the ballot is to be
25 cast. Acceptance of an application from an overseas voter who

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1 is not an absent uniformed services voter constitutes a request
 2 for changing information on the certificate of registration of
 3 any such voter. An absent voter shall not be permitted to
 4 change ~~his~~ party affiliation during those periods when change
 5 of party affiliation is prohibited by the Election Code. Upon
 6 delivery of an absentee ballot to a voter in the county clerk's
 7 office or mailing of an absentee ballot to an applicant who is
 8 a voter, an appropriate designation shall be made on the
 9 signature line of the signature roster next to the name of the
 10 voter who has been provided or mailed an absentee ballot.

11 F. If an application for an absentee ballot is
 12 delivered in person to the county clerk and is accepted, the
 13 county clerk shall provide the voter an absentee ballot and it
 14 shall be marked by the applicant in a voting booth of a type
 15 prescribed by the secretary of state, sealed in the proper
 16 envelopes and otherwise properly executed and returned to the
 17 county clerk or his authorized representative before the voter
 18 leaves the office of the county clerk. The act of marking the
 19 absentee ballot in the office of the county clerk shall be a
 20 convenience to the voter in the delivery of the absentee ballot
 21 and does not make the office of the county clerk a polling
 22 place subject to the requirements of a polling place in the
 23 Election Code other than is provided in this subsection. It
 24 ~~shall be~~ is unlawful to solicit votes, display or otherwise
 25 make accessible any posters, signs or other forms of campaign

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underscoring material = new
 [bracketed material] = delete

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1 literature whatsoever in the clerk's office or alternate voting
2 location. Absentee ballots may be marked in person at the
3 county clerk's office during the regular hours and days of
4 business beginning on the twenty-eighth day preceding the
5 election and from 10:00 a.m. to 6:00 p.m. on the Saturday
6 immediately prior to the date of the election. In marking the
7 absentee ballot, the voter, pursuant to the provisions of
8 Section 1-12-15 NMSA 1978, may be assisted by one person of the
9 voter's choice.

10 ~~[G.—Commencing on the third Saturday prior to an~~
11 ~~election, an absent voter may vote in person, on an electronic~~
12 ~~voting machine at an alternate location established by the~~
13 ~~county clerk.—In class A counties with more than two hundred~~
14 ~~thousand registered voters, the county clerk shall establish~~
15 ~~not less than twelve alternate voting locations as a~~
16 ~~convenience to the voters.—For class A counties with two~~
17 ~~hundred thousand registered voters or less, the county clerk~~
18 ~~shall establish not less than four alternate voting locations.—~~
19 ~~In non-class A counties with more than ten thousand registered~~
20 ~~voters, the county clerk shall establish at least one alternate~~
21 ~~voting location.—In non-class A counties with ten thousand~~
22 ~~registered voters or less, early voting shall be conducted in~~
23 ~~the office of the county clerk or at such alternative locations~~
24 ~~as may be designated by the county clerk.—Absentee voting may~~
25 ~~be done at an alternate location from 12:00 p.m. to 8:00 p.m.,~~

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1 ~~Tuesday through Friday, and 10:00 a.m. to 6:00 p.m. Saturday~~
2 ~~through the Saturday immediately prior to the election. The~~
3 ~~county clerk shall ensure that procedures established for~~
4 ~~processing an absent voter application and for voting by~~
5 ~~absentee ballot are complied with at each alternate location.~~

6 ~~H.]~~ G. Absentee ballots shall be airmailed or, if
7 so requested, electronically transmitted to applicants
8 temporarily domiciled inside or outside the continental limits
9 of the United States not later than on the ~~[Thursday]~~ Friday
10 immediately prior to the date of the election.

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

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

24 ~~K.]~~ I. The secretary of state and each county clerk
25 shall make reasonable efforts to publicize and inform voters of

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1 the times and locations for absentee voting; provided, however,
2 that notice is provided at least ten days before early voting
3 begins.

4 J. The secretary of state shall establish
5 procedures for the submittal, when required by federal law, of
6 required voter identification with mailed-in absentee ballots."

7 Section 44. Section 1-6-5.4 NMSA 1978 (being Laws 1999,
8 Chapter 267, Section 3) is amended to read:

9 "1-6-5.4. SECURITY--COUNTING AND CANVASSING. --

10 A. The secretary of state shall adopt rules for
11 protecting the integrity, security and secrecy of the absentee
12 ballots [~~including procedures specifying that machines and~~
13 ~~ballot containers remain locked and that ballots not be removed~~
14 ~~prior to election day~~]; procedures for voting by absentee
15 ballot; separation of absentee ballots voted on electronic
16 voting machines twenty days before the election from those
17 received through the mail; disposition of absentee ballots
18 rejected by a voting machine; and handling of, registering,
19 counting and canvassing of absentee ballots [~~and sorting of~~
20 ~~absentee ballots by representative district for canvassing~~
21 purposes].

22 B. As used in Chapter 1, Article 6 NMSA 1978,
23 "registering of absentee ballots" means inserting the paper
24 absentee ballot into an electronic voting system for recording
25 and retention."

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1 Section 45. Section 1-6-8 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 134, as amended) is amended to read:

3 "1-6-8. ABSENTEE BALLOT ENVELOPES. --

4 A. The secretary of state shall prescribe the form
5 of, procure and distribute to each county clerk a supply of:

6 (1) official inner envelopes for use in
7 sealing the completed absentee ballot;

8 (2) official mailing envelopes for use in
9 returning the official inner envelope to the county clerk;
10 provided the official mailing envelope for absentee ballots in
11 a general election shall contain no designation of party
12 affiliation;

13 (3) absentee ballot instructions, describing
14 proper methods for completion of the ballot and returning it;
15 and

16 (4) official transmittal envelopes for use by
17 the county clerk in mailing absentee ballot materials.

18 B. Official transmittal envelopes and official
19 mailing envelopes for transmission of absentee ballot materials
20 to and from the county clerk and federal qualified electors
21 shall be printed in red in the form prescribed by the federal
22 Uniformed and Overseas Citizens Absentee Voting Act. Official
23 transmittal envelopes and official mailing envelopes for
24 transmission of absentee ballot materials to and from the
25 county clerk and voters shall be printed in black in

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1 substantially similar form. All official inner envelopes shall
2 be printed in black.

3 C. The reverse of each official mailing envelope
4 shall contain a form to be executed by the voter completing the
5 absentee ballot. The form shall identify the voter and shall
6 contain the following statement: "I will not vote in this
7 election other than by the enclosed ballot. I will not receive
8 or offer any compensation or reward for giving or withholding
9 any vote."

10 D. The official mailing envelope shall contain a
11 space for the voter to record the voter's unique identifier,
12 year of birth and name. The envelope shall have a security
13 flap to cover this information."

14 Section 46. Section 1-6-9 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 135, as amended) is amended to read:

16 "1-6-9. MANNER OF VOTING. --

17 A. A person voting pursuant to the Absent Voter Act
18 shall secretly mark ~~[his]~~ the absentee ballot in the manner
19 provided in the Election Code for marking emergency paper
20 ballots, place it in the official inner envelope and securely
21 seal the envelope. The voter shall then place the official
22 inner envelope and, if required by Section 1-6-5 NMSA 1978, a
23 copy of the required physical form of identification inside the
24 official mailing envelope and securely seal the envelope. The
25 voter shall then complete the form on the reverse of the

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1 official mailing envelope, which shall include an affirmation
2 by the voter under penalty of perjury that the facts stated in
3 the form are true and the voter's name, year of birth and
4 unique identifier.

5 B. Federal qualified electors and overseas voters
6 shall either deliver or mail the official mailing envelope or
7 electronically transmit the absentee ballot to the county clerk
8 of their county of residence or deliver it to a person
9 designated by federal authority to receive executed ballots for
10 transmission to the county clerk of the county of residence or
11 former residence as the case may be. Voters shall either
12 deliver or mail the official mailing envelope to the county
13 clerk of their county of residence. "

14 Section 47. Section 1-6-10 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 136, as amended) is amended to read:

16 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK. --

17 A. The county clerk shall mark on each completed
18 official mailing envelope the date and time of receipt in the
19 clerk's office, record this information in the absentee ballot
20 register and safely keep the official mailing envelope unopened
21 in a locked and number-sealed ballot box [~~except as provided in~~
22 ~~Subsection H of Section 1-6-14 NMSA 1978~~] until it is delivered
23 [~~on election day~~] to the proper absent voter precinct board or
24 until it is canceled and destroyed in accordance with law.

25 B. The county clerk shall accept completed official

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1 mailing envelopes until 7:00 p.m. on election day and shall
2 accept completed official mailing envelopes from precincts
3 within the county from voters who turned in their absentee
4 ballots at their precinct by the close of polls on election
5 day. Any completed official mailing envelope received after
6 that time shall not be delivered to a precinct board but shall
7 be preserved by the county clerk until the time for election
8 contests has expired. In the absence of a restraining order
9 after expiration of the time for election contests, the county
10 clerk shall destroy all late official mailing envelopes without
11 opening or permitting the contents to be examined, cast,
12 counted or canvassed. Before their destruction, the county
13 clerk shall count the numbers of late ballots from voters,
14 federal voters, overseas citizen voters and federal qualified
15 electors and report the number from each category to the
16 secretary of state.

17 C. At 5:00 p.m. on the Monday immediately preceding
18 the date of election, the county clerk shall record the numbers
19 of the unused absentee ballots and shall publicly destroy in
20 the county clerk's office all such unused ballots. The county
21 clerk shall execute a certificate of destruction, which shall
22 include the numbers on the absentee ballots destroyed. A copy
23 of the certificate of destruction shall be sent to the
24 secretary of state. "

25 Section 48. Section 1-6-10.1 NMSA 1978 (being Laws 2003,

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1 Chapter 357, Section 5) is amended to read:

2 "1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--A
3 voter, caregiver to that voter or member of that voter's
4 immediate family may deliver that voter's absentee ballot to
5 the county clerk in person or by mail, provided that the voter
6 has subscribed the outer envelope of the absentee ballot."

7 Section 49. Section 1-6-11 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 137, as amended) is amended to read:

9 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER
10 PRECINCTS.--

11 A. Beginning on the Thursday immediately preceding
12 election day, the county clerk may deliver to the special
13 deputy county clerk for delivery to the absent voter precinct
14 board the absentee ballots received prior to the delivery day.
15 The special deputy county clerk shall issue a receipt for all
16 ballots delivered for the county clerk and shall observe the
17 listing of the names on the official mailing envelopes in the
18 signature rosters. The special deputy county clerk shall then
19 obtain a receipt executed by the presiding judge and each
20 election judge and shall return the receipt to the county clerk
21 for filing. The receipts shall specify the number of envelopes
22 received by the special deputy county clerk from the county
23 clerk for the absent voter precinct and the number of envelopes
24 received by the absent voter precinct board from the special
25 deputy county clerk.

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1 ~~[A.]~~ B. On election day, the county clerk shall
2 deliver ~~[the]~~ all absentee ballots not yet delivered to the
3 absent voter precinct board but received prior to 7:00 p. m. on
4 election day to the special deputy county clerks for delivery
5 to the absent voter precinct boards and completed official
6 mailing envelopes from precincts within the county from voters
7 who turned in their absentee ballots at their precinct by the
8 close of polls on election day. ~~[The absentee ballots for each~~
9 ~~absent voter precinct shall be separately wrapped, and]~~ The
10 special deputy county clerk shall issue a receipt for all
11 ballots delivered for the county clerk ~~[Upon delivery of the~~
12 ~~absentee ballots to the absent voter precinct board, the~~
13 ~~special deputy county clerk shall remain in the polling place~~
14 ~~of the absent voter precinct until he has observed the opening~~
15 ~~of the official mailing envelope, the deposit of the ballot in~~
16 ~~the locked ballot box]~~ and shall observe the listing of the
17 names on the official mailing envelope in the signature
18 rosters. ~~[Upon such delivery of absentee ballots]~~ The special
19 deputy county clerk shall then obtain a receipt executed by the
20 presiding judge and each election judge and ~~[he]~~ shall return
21 ~~[such]~~ the receipt to the county clerk for filing. The
22 receipts shall specify the number of envelopes received by the
23 special deputy county clerk from the county clerk for each
24 absent voter precinct and the number of envelopes received by
25 the absent voter precinct board from the special deputy county

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1 clerk.

2 ~~[B.]~~ C. At 7:00 a.m. on the Thursday prior to
3 election day or on the day the absent voter precinct board
4 begins early processing of absentee ballots, the county clerk
5 shall deliver the electronic voting machines used for absentee
6 voting by mail to the absent voter precinct board. The
7 machines shall not be used to vote on or count additional
8 ballots for that election. A special deputy county clerk shall
9 issue a receipt for each voting machine. Upon delivery of a
10 voting machine, the special deputy shall:

11 (1) obtain a receipt executed by the presiding
12 judge and each election judge specifying the serial number and
13 the seal number of the machine ~~[and shall]~~;

14 (2) verify the public counter number on the
15 machine; and ~~[he shall]~~

16 (3) return the receipt to the county clerk for
17 filing. "

18 Section 50. Section 1-6-14 NMSA 1978 (being Laws 1971,
19 Chapter 317, Section 11, as amended by Laws 2003, Chapter 354,
20 Section 1 and by Laws 2003, Chapter 356, Section 22) is amended
21 to read:

22 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
23 PRECINCT BOARDS. --

24 A. Before opening an official mailing envelope, the
25 presiding judge and the election judges shall determine that

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1 the required information has been completed on the reverse side
2 of the official mailing envelope.

3 B. If the voter's signature is missing, the
4 presiding judge shall write "Rejected" on the front of the
5 official mailing envelope. The election clerks shall enter the
6 voter's name in the signature rosters and shall write the
7 notation "Rejected--Missing Signature" in the "Notations"
8 column of the signature rosters. The presiding judge shall
9 place the official mailing envelope unopened in an envelope
10 provided for rejected ballots, seal the envelope and write the
11 voter's name on the front of the envelope and deposit it in the
12 locked ballot box.

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

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

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

22 Upon the challenge of an absentee ballot, the election
23 judges and the presiding election judge shall follow the same
24 procedure as when ballots are challenged when a person attempts
25 to vote in person. If a challenge is upheld, the official

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1 mailing envelope shall not be opened but shall be placed in an
2 envelope provided for challenged ballots. The same procedure
3 shall be followed in canvassing and determining the validity of
4 challenged absentee ballots as with other challenged ballots.

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

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

10 ~~(2)]~~ (1) the election clerks shall enter the
11 absent voter's name and residence address as shown on the
12 official mailing envelope in the signature rosters and shall
13 mark the notation "AB" opposite the voter's name in the
14 "Notations" column of the signature rosters; and

15 (2) only between 8:00 a.m. and 5:00 p.m. on
16 the five days preceding election day, including Saturday and
17 Sunday, and beginning at 7:00 a.m. on election day, under the
18 personal supervision of the presiding election judge, shall the
19 election judges open the official mailing envelope and the
20 official inner envelope and insert the enclosed ballot into an
21 electronic voting machine to be registered and retained until
22 votes are counted and canvassed following the closing of the
23 polls on election night.

24 E. ~~[Prior to the closing of the polls, the election~~
25 ~~judges and the presiding election judge may either remove the~~

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~~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.]~~ H. 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

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1 ballot in accordance with the Election Code. "

2 Section 51. Section 1-6-20 NMSA 1978 (being Laws 1969,
3 Chapter 54, Section 3, as amended) is amended to read:

4 "1-6-20. CREATION OF ABSENT VOTER PRECINCT. --

5 A. The board of county commissioners shall adopt a
6 resolution creating, for absent voting purposes only, an absent
7 voter precinct for each [~~state representative district in the~~
8 ~~county. The boundaries of such precinct shall coincide with~~
9 ~~the boundaries of the state representative district except for~~
10 ~~multicounty representative districts. In multicounty~~
11 ~~representative districts, the boundaries of the absent voter~~
12 ~~precinct in each county shall coincide with the boundaries of~~
13 ~~that portion of the representative district lying within the]~~
14 county.

15 B. Absent voter precincts shall be identified by
16 the name of the county [~~and the state representative district~~
17 ~~number. In the case of multicounty representative districts,~~
18 ~~the absent voter precinct in each county shall be distinguished~~
19 ~~by the name of the county]. "~~

20 Section 52. Section 1-6-22 NMSA 1978 (being Laws 1969,
21 Chapter 54, Section 4, as amended) is amended to read:

22 "1-6-22. DESIGNATION OF ABSENT VOTER PRECINCT POLLING
23 PLACE. --The board of county commissioners of each county shall
24 designate a polling place in each absent voter precinct at the
25 time [~~such~~] the precinct is created [~~or consolidated~~]. "

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1 Section 53. Section 1-6-23 NMSA 1978 (being Laws 1975,
2 Chapter 255, Section 95, as amended) is amended to read:

3 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
4 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or
5 statutorily appointed supervisor of the election shall
6 determine the hours during which the absent voter precinct
7 polling place shall be open for delivery and registering of
8 absentee ballots on the five days preceding election day and
9 the delivery, registering and counting of ballots on election
10 day and subsequent days until all ballots are counted."

11 Section 54. Section 1-8-52 NMSA 1978 (being Laws 1977,
12 Chapter 322, Section 8, as amended) is amended to read:

13 "1-8-52. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
14 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITIONS--
15 CIRCULATION--DATE OF FILING.--

16 A. Declarations of independent candidacy and
17 nominating petitions shall be filed with the proper filing
18 officer during the period commencing at 9:00 a.m. on the
19 [~~second Tuesday of July~~] day following the primary election of
20 each even-numbered year and ending at 5:00 p.m. on that same
21 day and not later than 5:00 p.m. on the fifty-sixth day
22 preceding any United States representative special election.

23 B. Declarations of independent candidacy and
24 nominating petitions for the office of president of the United
25 States shall be filed with the proper filing officer during the

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1 period commencing at 9:00 a.m. on the [~~fifty-sixth day prior to~~
2 ~~the general election~~] day following the primary election and
3 ending at 5:00 p.m. on the same day. "

4 Section 55. A new section of Chapter 1, Article 9 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] VOTING SYSTEM - VOTER VERIFIED PAPER
7 TRAIL. --

8 A. All voting systems used in elections covered by
9 the Election Code shall have a voter verified and auditable
10 paper trail; provided, however, that voting systems owned or
11 used by a county on the effective date of this 2005 act that do
12 not have an auditable paper trail may be used until the first
13 occurrence of the following:

14 (1) sufficient federal, state or local funds
15 are available to replace the voting system; or

16 (2) December 31, 2006.

17 B. In any event, no voting system shall be used
18 that has not been certified by the secretary of state.

19 C. As used in this section, "voter verified and
20 auditable paper trail" means a paper record of the voter's
21 choices viewed by the voter prior to casting the ballot; the
22 paper trail may be used by the state or its contractor to check
23 either the veracity of a machine count or the count itself, or
24 may be used in a recount proceeding, and in case of a
25 discrepancy, the voter verified and auditable paper trail shall

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1 be considered the true and correct record of the voter's
2 choices. "

3 Section 56. A new section of Chapter 1, Article 9 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] VOTING SYSTEMS--TESTING OF PREVIOUSLY
6 CERTIFIED SYSTEMS.--The secretary of state may voluntarily test
7 and certify voting systems without an application by the
8 manufacturer if the system has been previously certified by
9 other states or by the national association of state election
10 directors. Tests and inspections conducted pursuant to this
11 section shall follow the testing procedures in Section 1-9-14
12 NMSA 1978 and shall be completed within six months of the date
13 on which testing begins; provided, however, that if the
14 manufacturer has not applied for certification of that voting
15 system, the manufacturer shall not be required to pay for the
16 costs of testing and certification. "

17 Section 57. Section 1-9-4.2 NMSA 1978 (being Laws 2003,
18 Chapter 356, Section 9) is amended to read:

19 "1-9-4.2. DEFINITION OF A VOTE.--

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

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1 B. A vote on a paper ballot card used on an
2 electronic vote tabulating marksense voting system, optical
3 scan vote tabulating system or high-speed central count
4 marksense vote tabulator consists of a voter's selection of a
5 candidate or answer to a ballot question indicated in the
6 voting response area of the paper ballot card marked in
7 accordance with the instructions for that ballot type. If the
8 paper ballot card is marked indistinctly or not marked
9 according to the instructions for that ballot type, only a
10 cross (X) or a check (√) within the voting response area shall
11 be counted. A vote on a paper ballot card shall also be
12 counted if, on a ballot type requiring the completion of an
13 arrow to indicate a voter's selection, the voter has marked an
14 arrowhead on the tail portion of the arrow in the voting
15 response area or has circled the name of the preferred
16 candidate. "

17 Section 58. A new section of Chapter 1, Article 12 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] CONDUCT OF ELECTION--ELECTION DAY VOTING
20 BY ABSENTEE VOTERS--PROCEDURES. --

21 A. A voter who requested and received an absentee
22 ballot shall be allowed to vote on election day in the precinct
23 in which the voter is registered if the voter presents the
24 absentee ballot to the election judge and follows the
25 procedures for voting described in Section 1-12-10 NMSA 1978.

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1 B. If the absentee ballot is or is not voted on,
2 the election judge shall note on the signature roster that the
3 voter voted in person and mark the absentee ballot "Rejected".
4 Rejected absentee ballots collected at the polling place shall
5 be handled as are other rejected absentee ballots. "

6 Section 59. A new section of Chapter 1, Article 12 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] QUALIFYING PROVISIONAL, ABSENTEE AND
9 OTHER PAPER BALLOTS. --

10 A. The secretary of state shall issue rules to
11 create a uniform process and set of criteria for deciding if
12 provisional, absentee and other paper ballots shall be counted.

13 B. When qualifying provisional, absentee and other
14 paper ballots, middle initials, suffixes and addresses shall
15 not be dispositive as to whether that person's ballot is
16 qualified and counted in the vote totals, provided that the
17 county clerk can otherwise verify the person is a voter based
18 on the information provided on the outer envelope of the paper
19 ballot or affidavit. "

20 Section 60. A new section of Chapter 1, Article 12 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] CONDUCT OF ELECTION--USE OF VOTER'S COPY
23 OF CERTIFICATE OF REGISTRATION--PROCEDURES.--If a voter whose
24 name is not in the signature roster presents the voter's
25 duplicate of the voter's certificate of registration, the voter

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1 shall be allowed to vote in the proper precinct in accordance
2 with the provisions of Section 1-5-10 NMSA 1978. The election
3 judge shall inform the voter that the voter will be notified by
4 the county clerk to provide a copy of the certificate of
5 registration to the county clerk if the original certificate is
6 not located. A note shall be entered on the signature roster
7 indicating that the voter's certificate of registration should
8 be checked by the county clerk. "

9 Section 61. Section 1-5-10 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 112, as amended) is recompiled as Section
11 1-12-7.1 NMSA 1978 and is amended to read:

12 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--USE DURING
13 ELECTION.--

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

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

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

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1 D. The judge assigned to the precinct voter list
2 used for confirmation of registration and voting shall
3 determine that each person offering to vote is registered and,
4 in the case of a primary election, that the voter is registered
5 in a party designated on the primary election ballot. If the
6 person's registration is confirmed by the presence of ~~[his]~~ the
7 person's name on the precinct voter list ~~[or if the person~~
8 ~~presents a certificate under the seal and signature of the~~
9 ~~county clerk showing that he is entitled to vote in the~~
10 ~~election and to vote in that precinct]~~ and the voter provides
11 the required voter identification, the judge shall announce to
12 the election clerks the list number and the name of the
13 precinct voter as shown on the voter list. If the voter does
14 not provide the required voter identification, the voter shall
15 be allowed to vote on a provisional ballot and shall provide
16 the required voter identification to the county clerk's office
17 before the county canvass begins, or to the precinct board
18 before the polls close, or the voter's provisional ballot shall
19 not be qualified. If the required voter identification is
20 provided, the voter's provisional ballot shall be qualified and
21 the voter shall not vote on any other type of ballot.

22 E. The election clerk shall locate that list number
23 and name on the signature roster and shall require the voter to
24 sign ~~[his]~~ the voter's usual signature or, if unable to write,
25 to ~~make~~ ~~[his]~~ the voter's mark opposite ~~[his]~~ the voter's

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1 printed name. If the voter makes [~~his~~] the voter's mark, it
 2 shall be witnessed by one of the judges of the precinct board.
 3 If the signature roster indicates that the voter is required to
 4 present a physical form of identification before voting, the
 5 election judge shall ask the voter for [~~a current and valid~~
 6 ~~photo identification or a copy of a current utility bill, bank~~
 7 ~~statement, government check, paycheck or other government~~
 8 ~~document that shows and matches the name and address of the~~
 9 ~~voter as indicated on the signature roster~~] the required
 10 physical form of identification. If the voter does not provide
 11 the required identification, [~~he~~] the voter shall be allowed to
 12 vote on a provisional paper ballot; provided, however, that if
 13 the voter brings the required physical form of identification
 14 to the polling place after casting a provisional ballot, that
 15 ballot shall be qualified and the voter shall not vote on any
 16 other type of ballot.

17 F. The election judge shall follow the procedures
 18 provided for in Sections [~~1-5-12~~] 1-12-7.2 and 1-12-8 NMSA 1978
 19 if a person whose name does not appear on the signature [~~list~~]
 20 roster requests to vote or a person is required to vote on a
 21 provisional paper ballot.

22 G. A voter shall not be permitted to vote until
 23 [~~he~~] the voter has properly signed [~~his~~] the voter's usual
 24 signature or made [~~his~~] the voter's mark in the signature
 25 roster.

underscored material = new
 [bracketed material] = delete

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

5 Section 62. Section 1-12-8 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 247, as amended) is amended to read:

7 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING. --

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

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

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

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

23 B. A voter shall vote on a provisional paper ballot
24 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) ~~[did not register to vote in person]~~
3 registered to vote by mail;

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

7 (4) does not present to the election judge
8 ~~[one of the following forms of]~~ a physical form of the required
9 voter identification ~~[that matches the name and address on the~~
10 ~~voter's certificate of registration~~

11 (a) ~~a current and valid photo~~
12 ~~identification; or~~

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

16 C. A voter shall vote on a provisional ballot in
17 accordance with the provisions of Section 1-12-7.1 NMSA 1978 if
18 the voter does not provide the required voter identification to
19 the election judge.

20 ~~[C.]~~ D. An election judge shall have the voter sign
21 the signature roster and issue the voter a provisional paper
22 ballot, an outer envelope and an official inner envelope. The
23 voter shall vote on the provisional paper ballot in secrecy and
24 when done, place the ballot in the official inner envelope and
25 place the official inner envelope in the outer envelope and

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1 return it to the precinct officer. The election judge shall
2 ensure that the required information is completed on the outer
3 envelope, have the voter sign it in the appropriate place and
4 place it in an envelope designated for provisional paper
5 ballots.

6 ~~[D.]~~ E. Knowingly executing a false statement
7 constitutes perjury as provided in the Criminal Code of this
8 state, and voting on the basis of such falsely executed
9 statement constitutes fraudulent voting. "

10 Section 63. Section 1-12-10 NMSA 1978 (being Laws 1969,
11 Chapter 240, Section 249, as amended) is amended to read:

12 "1-12-10. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
13 SIGNATURE.--

14 A. When a voter presents himself at the polls to
15 vote, he shall announce his name and address in an audible tone
16 of voice. When an election judge finds the voter's name in the
17 signature roster, he shall in like manner repeat the name of
18 the voter. The election judge shall then ask the voter to
19 provide the required voter identification. The voter shall
20 then sign his name or make his mark on the signature line in
21 the copy of the signature roster to be returned to the county
22 clerk. Upon the voter's name or mark being written in the
23 signature roster, a challenge may be interposed as provided in
24 the Election Code.

25 B. If a voter fails to provide the required voter

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1 identification, the voter shall be allowed to vote on a
2 provisional ballot. "

3 Section 64. Section 1-12-10.1 NMSA 1978 (being Laws 2003,
4 Chapter 356, Section 2) is amended to read:

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

6 A. The secretary of state shall issue rules
7 describing the voter information the county clerks shall
8 display, in accordance with the federal Help America Vote Act
9 of 2002, in each polling place on election day and in each
10 county clerk's office and alternate location where absentee or
11 early voting is taking place.

12 B. Each polling place shall post a map of the
13 precincts represented in that polling place and an alphabetical
14 list of the voters in each precinct represented in that polling
15 place. "

16 Section 65. Section 1-12-12 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 265, as amended) is amended to read:

18 "1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR
19 ASSISTANCE. --A voter may request assistance in voting only if
20 the voter:

- 21 A. [he] is blind;
22 B. [he] is physically disabled;
23 C. [he] is unable to read or write; [or]
24 D. [he] is a member of a language minority who has
25 an inability to read well enough to exercise the elective

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1 franchise; or

2 E. requires assistance in operating the voting
3 system. "

4 Section 66. Section 1-12-15 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 267, as amended) is amended to read:

6 "1-12-15. CONDUCT OF ELECTION--PERSONS WHO MAY ASSIST
7 VOTER. --

8 A. In any primary, general or statewide special
9 election, if a voter who has requested assistance in marking
10 [~~his~~] the ballot is blind, has a physical disability, has an
11 inability to read or write or is a member of a language
12 minority who has requested assistance pursuant to Subsection D
13 of Section 1-12-12 NMSA 1978, [~~he~~] the voter may be accompanied
14 into the voting machine only by a person of [~~his~~] the voter's
15 own choice other than the voter's employer or an agent of that
16 employer, an officer or agent of the voter's union or a
17 candidate whose name appears on the ballot in this election.

18 B. The name of the person providing assistance to a
19 voter pursuant to this section shall be recorded on the
20 signature roster. "

21 Section 67. Section 1-12-19.1 NMSA 1978 (being Laws 1981,
22 Chapter 156, Section 2, as amended) is amended to read:

23 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--WRITE-
24 IN CANDIDATES. --

25 A. A person desiring to be a write-in candidate in

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1 a [~~general election, a~~] special election for United States
2 representative or a statewide special election shall file with
3 the proper filing officer a declaration of intent to be a
4 write-in candidate. The declaration of intent shall be filed
5 between 9:00 a.m. and 5:00 p.m. on the sixty-third day
6 immediately preceding the election. A person desiring to be a
7 write-in candidate in a general election shall file the
8 declaration of intent between 9:00 a.m. and 5:00 p.m. on the
9 day after the primary election.

10 B. The form of the declaration of intent shall be
11 prescribed by the secretary of state and shall contain a sworn
12 statement by the candidate that [~~he~~] the candidate is qualified
13 to be a candidate for and to hold the office for which [~~he~~] the
14 candidate is filing.

15 C. At the time of filing the declaration of intent
16 to be a write-in candidate, the write-in candidate shall be
17 considered a candidate for all purposes and provisions relating
18 to candidates in the Election Code, including the obligation to
19 report under the Campaign Reporting Act, except that [~~he~~] the
20 candidate shall not be entitled to have [~~his~~] the candidate's
21 name printed on the ballot.

22 D. The secretary of state shall, not less than ten
23 days before the general election, certify the names of the
24 declared write-in candidates to the county clerks of every
25 county affected by such candidacy.

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1 E. No person shall be a write-in candidate in the
2 general election who was a candidate in the primary election
3 immediately prior to the general election.

4 F. A vote for a write-in candidate shall be counted
5 and canvassed only if:

6 (1) the name written in is the name of a
7 declared write-in candidate and shows two initials and last
8 name; first name, middle initial or name and last name; first
9 and last name; or the full name as it appears on the
10 declaration of intent to be a write-in candidate and
11 misspellings of the above combinations that can be reasonably
12 determined by a majority of the members of the precinct board
13 to identify a declared write-in candidate; and

14 (2) the name is written in the proper office
15 or entered upon the keyboard on the voting machine or on the
16 proper line provided on a marksense ballot, absentee ballot or
17 emergency paper ballot for write-in votes for the office for
18 which the candidate has filed a declaration of intent.

19 G. No unopposed write-in candidate shall have [~~his~~]
20 an election certified unless [~~he~~] the candidate receives at
21 least the number of write-in votes as [~~he~~] the candidate would
22 need signatures on a nominating petition pursuant to the
23 requirements in Section 1-8-33 NMSA 1978.

24 H. A write-in vote shall be cast by writing in the
25 name. As used in this section, "write-in" does not include the

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1 imprinting of any name by rubber stamp or similar device or the
2 use of preprinted stickers or labels. "

3 Section 68. Section 1-12-25.2 NMSA 1978 (being Laws 2003,
4 Chapter 356, Section 3) 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 election judge shall give the voter written
9 instructions on how the voter may determine whether the vote
10 was counted and, if the vote was not counted, the reason it was
11 not counted.

12 B. The county clerk shall establish a free access
13 system, such as a toll-free telephone number or internet web
14 site, that a voter who casts a provisional paper ballot may
15 access to ascertain whether the voter's ballot was counted and,
16 if the vote was not counted, the reason it was not counted.

17 Access to information about an individual voter's provisional
18 ballot is restricted to the voter who cast the ballot.

19 C. Within ten days after the election, the county
20 clerk shall notify by mail each person whose provisional ballot
21 was not counted of the reason the ballot was not counted. The
22 voter shall have ten days from the date of the mailing to
23 appeal to the county canvassing board a decision to reject the
24 voter's ballot. "

25 Section 69. Section 1-12-25.3 NMSA 1978 (being Laws 2003,

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1 Chapter 356, Section 6) is amended to read:

2 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
3 INFORMATION.--

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

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

16 B. A provisional paper ballot shall not be rejected
17 for lack of the information required by this section and shall
18 be qualified as long as the voter provides a valid signature
19 and sufficient information for the clerk to determine
20 [eligibility] the voter is a qualified elector. "

21 Section 70. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
22 Chapter 356, Section 7) is amended to read:

23 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

24 A. Upon closing of the polls, provisional paper
25 ballots shall be delivered to the county clerk, who shall

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1 determine if the ballots will be counted prior to certification
2 of the election.

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

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

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

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

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

25 G. If the county clerk finds that the voter who

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1 voted on a provisional paper ballot at the polls has also voted
2 an absentee ballot in that election, the provisional paper
3 ballot shall not be counted.

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

11 I. The secretary of state shall issue rules to
12 ensure securing the secrecy of the provisional paper ballots,
13 especially during canvassing, reviewing or recounting, and
14 protecting against fraud in the voting process. "

15 Section 71. Section 1-5-11 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 113, as amended) is recompiled as Section
17 1-12-30.1 NMSA 1978 and is amended to read:

18 "1-12-30.1. VOTER LISTS--SIGNATURE ROSTERS--DISPOSITION
19 AFTER THE POLLS CLOSE. --

20 A. After the polls are closed, the signature roster
21 shall be properly certified by the precinct board and returned
22 to the county clerk with the election returns destined for the
23 county clerk. The precinct voter list marked for the secretary
24 of state shall be returned to the secretary of state with the
25 election returns destined for the secretary of state.

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1 B. The signed and certified signature rosters used
2 in any election shall be considered a part of the election
3 returns and treated accordingly. They shall be preserved and
4 finally disposed of in the same manner as provided in the
5 Election Code ~~[for poll books]~~ and 42 U. S. C. 1974.

6 C. ~~[The punishment for willful destruction,~~
7 ~~defacement, unauthorized alteration or improper disposition]~~
8 Whoever willfully destroys, defaces, alters without
9 authorization or improperly disposes of signature rosters used
10 in an election ~~[shall be the same as for similar treatment of~~
11 ~~poll books]~~ is guilty of a fourth degree felony. "

12 Section 72. Section 1-12-53 NMSA 1978 (being Laws 1977,
13 Chapter 222, Section 56, as amended) is amended to read:

14 "1-12-53. EMERGENCY SITUATIONS--VOTERS--EMERGENCY PAPER
15 BALLOT--GENERAL ELECTION--MARKING.--The voter in preparing an
16 emergency paper ballot in a general election shall ~~[A. if he~~
17 ~~wishes to vote a straight party ticket, mark a cross (X) or a~~
18 ~~check (V) in the circle beneath the name of the party and his~~
19 ~~vote shall be considered as having been cast for every~~
20 ~~candidate named on the ticket of that party on the ballot,~~
21 ~~unless he also votes for one or more candidates in some other~~
22 ~~column or for some person whose name is not printed on the~~
23 ~~ballot;~~

24 ~~B. if he marks a cross (X) or a check (V) in any~~
25 ~~circle and also desires to vote for a candidate of another~~

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1 ~~political party (the ticket of which also appears on the~~
2 ~~ballot) or for any person by write in, mark a cross (X) or a~~
3 ~~check (V) in the box immediately to the right of the name of~~
4 ~~the candidate or write in the name of the person for whom he~~
5 ~~desires to vote in the blank provided therefor and mark a cross~~
6 ~~(X) or a check (V) in the box immediately to the right thereof,~~
7 ~~and his vote shall be considered as having been cast for every~~
8 ~~candidate of the political party below the party name where he~~
9 ~~marked his cross (X) or a check (V) in the circle, except for~~
10 ~~the candidates for whom he has otherwise voted; or~~

11 C. ~~if he wishes, mark the ballot by omitting the~~
12 ~~cross (X) or check (V) in the circle and marking a cross (X) or~~
13 ~~a check (V) in the box immediately to the right of the name of~~
14 ~~every candidate or person for whom he desires to vote, and his~~
15 ~~vote shall be considered as having been cast only for the~~
16 ~~candidate or person opposite whose name the cross or check has~~
17 ~~been marked] mark the ballot in accordance with the~~
18 ~~instructions for that ballot type."~~

19 Section 73. A new section of Chapter 1, Article 14 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] CONTESTS, RECOUNTS AND RECHECKS--
22 PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary
23 of state shall issue rules governing and allowing procedures
24 for reviewing the qualification of provisional ballot
25 envelopes, absentee and other paper ballots in the case of a

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1 contest, recount or recheck of election results. All rejected
2 provisional paper ballot envelopes shall be included in any
3 contest, recount or recheck of election results, and a review
4 of the qualification of provisional ballot envelopes shall
5 occur in a recount. "

6 Section 74. Section 1-14-15 NMSA 1978 (being Laws 1978,
7 Chapter 48, Section 1, as amended) is amended to read:

8 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

9 A. An applicant for a recount shall deposit with
10 the proper canvassing board or, in the case of an office for
11 which the state canvassing board issues a certificate of
12 nomination or election, with the secretary of state fifty
13 dollars (\$50.00) in cash, or a sufficient surety bond in an
14 amount equal to fifty dollars (\$50.00), for each precinct for
15 which a recount is demanded. An applicant for a recheck shall
16 deposit with the proper canvassing board or, in the case of an
17 office for which the state canvassing board issues a
18 certificate of nomination or election, with the secretary of
19 state ten dollars (\$10.00) in cash, or a sufficient surety bond
20 in an amount equal to ten dollars (\$10.00), for each voting
21 machine to be rechecked.

22 B. The deposit or surety bond shall be security for
23 the payment of the costs and expenses of the recount or recheck
24 in case the results of the recount or recheck are not
25 sufficient to change the results of the election. The state

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1 canvassing board may condition the issuance of the summons on a
2 receipt of a portion of or the full estimated costs of the
3 recount or recheck to ensure sufficient security.

4 C. If it appears that error or fraud sufficient to
5 change the winner of the election has been committed, the costs
6 and expenses of the recount or recheck shall be paid by the
7 state upon warrant issued by the secretary of finance and
8 administration supported by a voucher of the secretary of
9 state, or shall be paid by the county upon warrant of the
10 county clerk from the general fund of the county, as the case
11 may be.

12 D. If no error or fraud appears to be sufficient to
13 change the winner, the costs and expenses for the recount or
14 recheck shall be paid by the applicant. Costs shall consist of
15 any docket fees, mileage of the sheriff in serving summons and
16 fees and mileage of precinct board members, at the same rates
17 allowed witnesses in civil actions. If error or fraud has been
18 committed by a precinct board, [~~they~~] the board members shall
19 not be entitled to such mileage or fees. "

20 Section 75. TEMPORARY PROVISION--RECOMPILATION.--Section
21 1-5-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 114, as
22 amended) is recompiled as Section 1-12-7.2 NMSA 1978.

23 Section 76. APPROPRIATION.--One million five hundred
24 thousand dollars (\$1,500,000) is appropriated from the general
25 fund to the secretary of state for expenditure in fiscal year

. 156722. 3

underscored material = new
[bracketed material] = delete

1 2006 to carry out the provisions of this act. Any unexpended
2 or unencumbered balance remaining at the end of fiscal year
3 2006 shall revert to the general fund.

4 Section 77. REPEAL. -- Sections 1-5-9, 1-5-13, 1-5-15,
5 1-5-20, 1-5-27 through 1-5-29 and 1-6-21 NMSA 1978 (being Laws
6 1969, Chapter 240, Sections 111, 115 and 120, Laws 1977,
7 Chapter 222, Section 11, Laws 1975, Chapter 255, Sections 81
8 through 83 and Laws 1975, Chapter 255, Section 93, as amended)
9 are repealed.

10 Section 78. REPEAL. -- Laws 2003, Chapter 356, Section 18
11 is repealed.

12 Section 79. EFFECTIVE DATE. -- The effective date of the
13 provisions of this act is July 1, 2005.