

AN ACT

RELATING TO ELECTIONS; DEFINING TERMS; PROHIBITING RELEASE OF CERTAIN REGISTRATION INFORMATION; ESTABLISHING RECOUNT PROCEDURES; ESTABLISHING COUNTING STANDARDS; ALLOWING MESSENGERS TO PICK UP ABSENTEE BALLOTS FROM POLLING PLACES; CHANGING PROCEDURES BY WHICH VOTING RIGHTS MAY BE RESTORED TO FELONS; CHANGING THE PENALTY FOR FAILURE TO DELIVER AN ABSENTEE BALLOT APPLICATION; ELIMINATING PROVISIONS ALLOWING CANDIDATES WHO FAIL TO RECEIVE PREPRIMARY CONVENTION DESIGNATION TO BECOME A CANDIDATE; ALLOWING THE SECRETARY OF STATE TO ASSIST IN PREPARING BALLOTS; CHANGING PROVISIONS RELATED TO ASSISTANCE OF VOTERS AT THE POLLS; PROVIDING PROCEDURES FOR PRESERVING AND CLEARING VOTING SYSTEM MEMORY CARDS; GIVING THE SECRETARY OF STATE AUTHORITY TO DETERMINE THE FORM OF THE BALLOT FOR CONSTITUTIONAL AMENDMENTS; REMOVING CERTAIN REFERENCES TO ABSENTEE, EMERGENCY AND PROVISIONAL BALLOTS; CHANGING THE DEADLINE FOR SCHOOL BOARD ELECTION PROCLAMATIONS; PROVIDING FOR PENALTIES.

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

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

"PROHIBITION ON RELEASE OF REGISTRATION INFORMATION.--

The secretary of state, county clerk or any other registration agent shall not release to the public a voter's social

security number or date of birth."

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

"RECOUNT PROCEDURES.--

A. To ensure the accuracy of electronic vote tabulating systems, the secretary of state shall issue rules to implement the recount procedures provided for in Subsections B and C of this section.

B. The votes from a random selection of ballots shall be tallied by hand, and the votes from the same ballots shall be tabulated by an electronic vote tabulating system. For statewide and federal office, the number of ballots to be tallied and tabulated shall be equal to at least two percent of the ballots cast in each county. For all other offices, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred, or five percent, of the ballots cast for the office, distributed by county where applicable.

C. For a statewide or federal office, if the results of the hand-tally and the electronic vote tabulating system tabulation differ by one-fourth of one percent or less, the remaining ballots shall be recounted using electronic vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

D. For offices other than statewide or federal

offices, if the results of the hand-tally and the electronic vote tabulating system tabulation differ by the greater of one percent or less, or two votes, the remaining ballots shall be recounted using electronic vote tabulating systems.

Otherwise, the remaining ballots shall be recounted by hand.

E. Nothing in this section prohibits a candidate from requesting a hand recount in accordance with the provisions of Section 1-14-15 NMSA 1978."

Section 3. Section 1-1-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 1, as amended) is amended to read:

"1-1-6. RECHECK AND RECOUNT.--As used in the Election Code:

A. "recheck" pertains to electronic vote tabulating systems and means a verification procedure whereby a printout of the electronic record of votes cast in an election is made from each electronic memory device in the electronic vote tabulating system and the results are compared with the results shown on the official returns; and

B. "recount" pertains to emergency paper ballots, absentee ballots, provisional paper ballots, optical scan paper ballots and any other paper ballot and means a verification procedure whereby the voters' selections for an office are retabulated by feeding the ballots into an electronic vote tabulating system, and the voters' selections on ballots that cannot be read by the system are counted by

hand and the results compared with the results shown on the official returns."

Section 4. Section 1-1-23 NMSA 1978 (being Laws 2005, Chapter 270, Section 5) is amended to read:

"1-1-23. UNIQUE IDENTIFIER.--As used in the Election Code, "unique identifier" means a randomly generated series of numbers, letters or symbols assigned to a voter, which shall not be the voter's social security number or date of birth."

Section 5. Section 1-1-25 NMSA 1978 (being Laws 2005, Chapter 270, Section 7) is amended to read:

"1-1-25. VOTER INFORMATION.--As used in the Election Code, "voter information" means a document containing the person's name, address and precinct number that is issued by the county clerk or the secretary of state."

Section 6. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--COMPENSATION.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect absentee ballots from polling places and deliver those absentee ballots to locations designated by the county clerk.

B. Messengers shall be paid mileage as provided in the Per Diem and Mileage Act each way over the usually

traveled route. The mileage shall be paid within thirty days following the date of election if funds are available for payment."

Section 7. Section 1-4-27.1 NMSA 1978 (being Laws 2001, Chapter 46, Section 1, as amended) is amended to read:

"1-4-27.1. CANCELLATION OF REGISTRATION FOLLOWING CONVICTION--ELIGIBILITY FOR VOTING UPON SATISFACTION OF CONDITIONS.--

A. When a voter has been convicted of a felony, the voter's registration shall be cancelled.

B. When a voter convicted of a felony is placed on supervised probation and has completed the conditions of supervision as ordered by the court, the person is eligible for registration.

C. When a voter convicted of a felony is unconditionally discharged from a correctional facility under the jurisdiction of the corrections department, or is conditionally discharged from a facility under the jurisdiction of the corrections department and has completed all conditions of probation or parole, the person is eligible for registration.

D. When a voter convicted of a federal offense constituting a felony is unconditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency and has completed all conditions of

probation or parole, the person is eligible for registration.

E. The corrections department and the administrative office of the courts shall deliver to the secretary of state information and data as needed to carry out the provisions of this section.

F. The secretary of state shall promulgate rules to implement and enforce the provisions of this section."

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

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

A. One copy of the signature roster shall be prepared for each precinct. On the cover of the signature roster shall be printed the words, "Copy for the County Clerk". Upon its preparation and certification as to its accuracy and completeness, the county clerk shall deliver the copy of the signature roster to the precinct board.

B. The county clerk shall prepare three copies of the precinct voter list for each precinct. Of the three copies prepared, one copy shall not include the voters' unique identifiers. The other two shall contain the voters' unique identifiers. The county clerk shall deliver two of the copies to each precinct board. One copy of the precinct voter list shall be retained by the county clerk for verification purposes on election day and one copy for the secretary of

state shall be marked to verify those voters on the list who voted.

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

Section 9. Section 1-6-4.3 NMSA 1978 (being Laws 2005, Chapter 270, Section 41) is amended to read:

"1-6-4.3. THIRD PARTY AGENTS COLLECTING ABSENTEE BALLOT APPLICATIONS.--

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

B. A person who collects absentee ballot applications and fails to submit a voter's completed absentee ballot application is guilty of a petty misdemeanor.

C. A person who intentionally alters another voter's completed absentee ballot application is guilty of a fourth degree felony."

Section 10. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

B. Candidates who seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent of the total vote of the candidate's party in the state or congressional district, or the following number of voters, whichever is greater: for statewide offices, two hundred thirty voters; and for congressional candidates, seventy-seven voters.

C. Nominating petitions for candidates for any other office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least three percent of the total vote of the candidate's party in the district or division, or the following number of voters, whichever is greater: for metropolitan court and magistrate courts, ten voters; for the public regulation commission, fifty voters; for the public education commission, twenty-five voters; for state representative, ten voters; for state senator, seventeen voters; and for district attorney and district judge, fifteen voters."

Section 11. Section 1-9-4.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 9, as amended) is amended to read:

"1-9-4.2. DEFINITION OF A VOTE--COUNTING OF HAND-TALLIED BALLOTS.--

A. A vote on a paper ballot used on an electronic vote tabulating system, optical scan vote tabulating system or high-speed central count vote tabulator consists of a voter's selection of a candidate or answer to a ballot question indicated in the voting response area of the paper ballot marked in accordance with the instructions for that ballot type.

B. For paper ballots that are hand-tallied, a vote shall be counted if:

(1) the ballot is marked in accordance with the instructions for that ballot type;

(2) the preferred candidate's name or answer to a ballot question is circled;

(3) there is a cross or check within the voting response area for the preferred candidate or answer to the ballot question; or

(4) the presiding judge and election judges for the precinct unanimously agree that the voter's intent is clearly discernable."

Section 12. Section 1-10-2 NMSA 1978 (being Laws 1977, Chapter 222, Section 25) is amended to read:

"1-10-2. BALLOTS--DUTY TO PROVIDE.--The county clerk shall prepare and supply the ballots used in elections conducted under the Election Code. The secretary of state may assist in preparing and supplying ballots. Ballots other than those prepared by the county clerk or secretary of state shall not be used."

Section 13. Section 1-12-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 266, as amended) is amended to read:

"1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER IN MARKING BALLOT.--

A. When a voter who is eligible for assistance pursuant to Section 1-12-12 NMSA 1978 requires assistance in marking a ballot or using the voting system, the voter shall announce this fact before receiving the ballot or using the voting system.

B. The voter's request for assistance shall be noted by the voter's name in the signature roster and initialed by the presiding judge.

C. After noting the request for assistance in the signature roster, the voter shall be permitted assistance in marking the ballot or using the voting system as provided in Section 1-12-15 NMSA 1978.

D. Any person who swears falsely in order to secure assistance is guilty of perjury."

Section 14. Section 1-12-16 NMSA 1978 (being Laws 1969,

Chapter 240, Section 268) is amended to read:

"1-12-16. CONDUCT OF ELECTION--TYPE OF ASSISTANCE.--

Persons providing assistance to a voter may assist the voter in reading and marking the ballot or using the voting system."

Section 15. Section 1-13-21 NMSA 1978 (being Laws 1971, Chapter 317, Section 21, as amended) is amended to read:

"1-13-21. CLEARING VOTING SYSTEMS.--

A. Thirty days after adjournment of the state canvassing board, each county clerk in the presence of the district judge or the district judge's designated representative shall clear the votes recorded on the memory cards of all voting systems of the precincts for which the county clerk has not received notice by registered mail of contest or judicial inquiry.

B. The county clerk shall keep locked those memory cards from voting systems used in precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of the contest or inspection.

C. At least three days prior to the clearing of the voting system memory cards, the county clerk shall notify the county chair of each political party participating in the election of the time, place and date thereof. The chair of the political party may be present or may have the chair's accredited representative present at the clearing."

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

"1-16-5. STATE CONSTITUTIONAL AMENDMENTS--FORM OF BALLOTS.--All ballots proposing constitutional amendments shall be in the form prescribed by the secretary of state."

Section 17. Section 1-16-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 379, as amended) is amended to read:

"1-16-6. STATE CONSTITUTIONAL AMENDMENTS--MARKING BALLOTS.--A voter desiring to mark the ballot for or against a proposed constitutional amendment shall do so in the manner specified in the instructions printed on the ballot."

Section 18. Section 1-16-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 381, as amended) is amended to read:

"1-16-9. STATE CONSTITUTIONAL AMENDMENTS--SINGLE BALLOT.--Proposed constitutional amendments or other questions submitted to the voters at any election shall be printed on one ballot only."

Section 19. Section 1-22-4 NMSA 1978 (being Laws 1985, Chapter 168, Section 6, as amended) is amended to read:

"1-22-4. REGULAR ELECTION--PROCLAMATION--PUBLICATION.--

A. The board shall by resolution issue a public proclamation in Spanish and English calling a regular school district election within the school district on the date prescribed by the School Election Law. The proclamation shall be filed by the superintendent with the county clerk of record

on the last Tuesday in November of the even-numbered year immediately preceding the date of the election.

B. The proclamation shall specify:

- (1) the date when the election will be held;
- (2) the positions on the board to be filled;
- (3) the date on which declarations of candidacy are to be filed;
- (4) the date on which declarations of intent to be a write-in candidate are to be filed;
- (5) the questions to be submitted to the voters;
- (6) the precincts in each county in which the election is to be held and the location of each polling place;
- (7) the hours each polling place will be open; and
- (8) the date and time of the closing of the registration books by the county clerk of record as required by law.

C. After filing the proclamation with the county clerk of record and not less than fifty days before the date of the election, the county clerk of record shall publish the proclamation at least once in a newspaper of general circulation within the school district. The publication of the proclamation shall conform to the requirements of the

federal Voting Rights Act of 1965, as amended."

Section 20. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007. _____

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