

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

HOUSE BILL 207

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

INTRODUCED BY

James E. Smith

AN ACT

RELATING TO ELECTIONS; CHANGING VOTER IDENTIFICATION REQUIREMENTS FOR VOTING IN PERSON OR BY MAIL; PROVIDING FOR NOTIFICATION OF VOTER IDENTIFICATION REQUIREMENTS; REQUIRING MUNICIPALITIES AND OTHER POLITICAL SUBDIVISIONS TO FOLLOW THE SAME VOTER IDENTIFICATION REQUIREMENTS AS REQUIRED IN STATE ELECTIONS; CHANGING PROCEDURES FOR THE ISSUANCE OF TEMPORARY LICENSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

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

"1-1-24. ~~[REQUIRED]~~ VOTER IDENTIFICATION.--

A. As used in the Election Code, when a person offers to vote in person, "required voter identification"

underscored material = new
[bracketed material] = delete

1 means: ~~[any of the following forms of identification as chosen~~
2 ~~by the voter:~~

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

4 (1) a physical form of identification that is
5 issued by a government, including a federally recognized Indian
6 nation, tribe or pueblo, or educational institution and that:

7 (a) contains the name of the voter,
8 which reasonably matches the name on the voter's certificate of
9 registration and is presumed to match unless a challenge is
10 successfully interposed;

11 (b) contains a photograph of the voter,
12 which resembles the person offering to vote and is presumed to
13 resemble the person unless a challenge is successfully
14 interposed; provided that, in the case of identification or a
15 letter of enrollment issued by a federally recognized Indian
16 nation, tribe or pueblo, a photograph of the voter is not
17 required;

18 (c) may or may not contain an address,
19 and if it does, the address is not required to match the
20 voter's certificate of registration; and

21 (d) may or may not contain an expiration
22 date, and if it does the expiration date is not required to be
23 a date on or after the election in which the identification is
24 used; or

25 (2) a form containing the following

.188153.3

underscored material = new
[bracketed material] = delete

1 information filled out and signed by the voter:

2 (a) the voter's month, day and year of
3 birth, which must match the date of birth listed on the voter's
4 certificate of registration; and

5 (b) the voter's full social security
6 number, which must match the social security number listed on
7 the voter's certificate of registration.

8 B. As used in the Election Code, when a person
9 offers to vote by mail, "required voter identification" means a
10 form containing the following information filled out and signed
11 by the voter:

12 (1) the driver's license number or the
13 identification card number on the most recent driver's license
14 or identification card issued to the voter by the motor vehicle
15 division of the taxation and revenue department; provided that:

16 (a) the address on file with the motor
17 vehicle division is not required to match the address on the
18 voter's certificate of registration; and

19 (b) the expiration date on a driver's
20 license or identification card is not required to be a date on
21 or after the election in which the number is used; or

22 (2) the voter's month, day and year of birth
23 and full social security number; provided that:

24 (a) the voter's month, day and year of
25 birth matches the date of birth listed on the voter's

.188153.3

underscored material = new
[bracketed material] = delete

1 certificate of registration; and

2 (b) the voter's full social security
3 number matches the social security number listed on the voter's
4 certificate of registration.

5 C. As used in the Election Code, "federally
6 required identification" means a form of identification
7 required by Section 303(b)(1) of the federal Help America Vote
8 Act of 2002 that may be:

9 (1) an original or copy of a current and valid
10 photo identification with or without an address, which address
11 is not required to match the voter's certificate of
12 registration; or

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

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

24 SECTION 2. Section 1-4-11 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 67, as amended) is amended to read:

.188153.3

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

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

3 A. Upon receipt of a complete certificate of
4 registration, if in proper form, the county clerk shall
5 determine if the qualified elector applying for registration is
6 already registered in the registration records of the county.
7 If the qualified elector is not already registered in the
8 county and if the certificate of registration is received
9 within the time allowed by law for filing certificates of
10 registration in the county clerk's office, the county clerk
11 shall sign or stamp, in the space provided therefor on each
12 copy of the certificate, the qualified elector's name and the
13 date the certificate was accepted for filing in the county
14 registration records. Voter information shall be handed or
15 mailed immediately to the qualified elector and to no other
16 person.

17 B. If the qualified elector is already registered
18 in the county as shown by the qualified elector's original
19 certificate of registration currently on file in the county
20 registration records, the county clerk shall not accept the new
21 certificate of registration unless it is filed pursuant to
22 Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. If the
23 applicant's certificate of registration is rejected for any
24 reason, the county clerk shall stamp or write the word
25 "rejected" on the new certificate of registration and hand or

underscored material = new
[bracketed material] = delete

1 mail it, if possible, to the applicant with an explanation of
2 why the new certificate of registration was rejected and what
3 remedial action, if any, the applicant must take to bring the
4 registration up to date or into compliance with the Election
5 Code.

6 C. If the qualified elector does not register in
7 person, indicates that the qualified elector has not previously
8 voted in a [~~general election in~~] New Mexico election and does
9 not provide the registration officer with the federally
10 required identification, the registration officer shall
11 indicate this on the qualified elector's certificate of
12 registration and the county clerk shall note this on the
13 appropriate precinct signature roster."

14 SECTION 3. Section 1-4-12 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 68, as amended) is amended to read:

16 "1-4-12. DUTIES OF COUNTY CLERK--FILING OF
17 CERTIFICATES.--

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

20 (1) a voter [~~identification card~~] information
21 document shall be delivered or mailed to the voter; and

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

25 B. Except as provided in Section 1-4-8 NMSA 1978,

.188153.3

underscored material = new
[bracketed material] = delete

1 the county clerk shall, on Monday of each week, process all
2 certificates of registration that are in proper form and that
3 were received in [~~his~~] the county clerk's office up to 5:00
4 p.m. on the preceding Friday.

5 C. The contents of certificates of registration,
6 except for the voter's social security number and [~~date~~] month,
7 day and year of birth, are public records."

8 SECTION 4. Section 1-5-31 NMSA 1978 (being Laws 1989,
9 Chapter 298, Section 2, as amended) is amended to read:

10 "1-5-31. UNIFORM PROCEDURES FOR COUNTIES.--The secretary
11 of state shall:

12 A. assist county clerks by devising uniform
13 procedures and forms that are compatible with the [~~statewide~~
14 ~~computerized~~] voter registration electronic management system;

15 B. provide to each county clerk the computer
16 software necessary for the use and maintenance of the
17 [~~statewide computerized~~] voter registration electronic
18 management system; [~~and~~]

19 C. provide to each county clerk, through an
20 agreement with the motor vehicle division of the taxation and
21 revenue department, access to the division's driver's license
22 database for the purpose of verifying voter registrations,
23 processing absentee ballots and qualifying provisional ballots;
24 and

25 [~~G.~~] D. adopt such rules [~~and regulations~~] as are

.188153.3

underscored material = new
[bracketed material] = delete

1 necessary to establish and administer the [~~statewide~~
2 ~~computerized~~] voter registration electronic management system
3 and to [~~require deadlines and time limits for the updating of~~
4 ~~voter files~~] regulate the use of the driver's license database
5 by the county clerks."

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

8 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
9 ELECTOR--OVERSEAS VOTER.--

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

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

25 C. Each application for an absentee ballot shall be

.188153.3

underscored material = new
[bracketed material] = delete

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

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

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

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

22 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

23 A. The county clerk shall mark each completed
24 absentee ballot application with the date and time of receipt
25 in the clerk's office and enter the required information in the

.188153.3

underscored material = new
[bracketed material] = delete

1 absentee ballot register. The county clerk shall then
2 determine if the applicant is a voter, an absent uniformed
3 services voter or an overseas voter.

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

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

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

.188153.3

underscored material = new
[bracketed material] = delete

1 E. If the county clerk finds that the applicant is
2 a voter other than a federal qualified elector or overseas
3 voter, the county clerk shall mark the application "accepted"
4 and, beginning twenty-eight days before the election, deliver
5 an absentee ballot to the voter in the county clerk's office or
6 mail to the applicant an absentee ballot and the required
7 envelopes for use in returning the ballot.

8 F. If the county clerk finds that the applicant is
9 a federal qualified elector or overseas voter, the county clerk
10 shall mark the application "accepted" and beginning forty-five
11 days before the election, mail to the applicant an absentee
12 ballot and the required envelopes for use in returning the
13 ballot. Acceptance of an application of a federal qualified
14 elector constitutes registration for the election in which the
15 ballot is to be cast. Acceptance of an application from an
16 overseas voter who is not an absent uniformed services voter
17 constitutes a request for changing information on the
18 certificate of registration of any such voter. An absent voter
19 shall not be permitted to change party affiliation during those
20 periods when change of party affiliation is prohibited by the
21 Election Code.

22 G. Upon delivery of an absentee ballot to a voter
23 in the county clerk's office or mailing of an absentee ballot
24 to an applicant who is a voter, an appropriate designation
25 shall be made on the signature line of the signature roster

.188153.3

underscored material = new
[bracketed material] = delete

1 next to the name of the voter who has been provided [~~or mailed~~]
2 an absentee ballot.

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

22 [~~G-~~] I. When marking an absentee ballot in person
23 at the county clerk's office, the voter shall provide the
24 required voter identification to the county clerk or the
25 clerk's authorized representative. If the voter does not

.188153.3

underscored material = new
[bracketed material] = delete

1 provide the required voter identification, the voter shall be
2 allowed to vote on a provisional ballot. If the voter provides
3 the required voter identification, the voter, after subscribing
4 an application for an absentee ballot, shall be allowed to vote
5 by inserting the ballot into an optical scan tabulator
6 certified for in-person absentee voting at the county clerk's
7 office. The county clerk or the clerk's authorized
8 representative shall make an appropriate designation indicating
9 that the voter has voted absentee. In marking the absentee
10 ballot, the voter may be assisted pursuant to the provisions of
11 Section 1-12-15 NMSA 1978.

12 ~~[H.]~~ J. Absentee ballots shall be sent to
13 applicants not later than on the Friday immediately prior to
14 the date of the election.

15 ~~[I.]~~ K. An absentee ballot shall not be delivered
16 or mailed by the county clerk to any person other than the
17 applicant for such ballot.

18 ~~[J.]~~ L. The secretary of state and each county
19 clerk shall make reasonable efforts to publicize and inform
20 voters of the times and locations for absentee voting;
21 provided, however, that notice is provided at least ten days
22 before early voting begins.

23 ~~[K. The secretary of state shall establish~~
24 ~~procedures for the submittal, when required by federal law, of~~
25 ~~required voter identification with mailed-in absentee ballots.~~

.188153.3

underscored material = new
[bracketed material] = delete

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

3 SECTION 7. Section 1-6-6 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 132, as amended) is amended to read:

5 "1-6-6. ABSENTEE BALLOT REGISTER.--

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

9 (1) the name and address of each absentee
10 ballot applicant;

11 (2) the date and time of receipt of the
12 application;

13 (3) whether the application was accepted or
14 rejected;

15 (4) the date of issue of an absentee ballot in
16 the county clerk's office or at an alternate location or the
17 mailing of an absentee ballot to the applicant;

18 (5) the applicant's precinct;

19 (6) whether the applicant is a voter, a
20 federal qualified elector or an overseas voter;

21 (7) whether the voter is required to submit a
22 federally required identification pursuant to Section 1-6-5
23 NMSA 1978; and

24 (8) the date and time the completed absentee
25 ballot was received from the applicant by the county clerk or

.188153.3

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

1 the absent voter voted early in person in the county clerk's
2 office or at an alternate location.

3 B. Absentee ballots shall be sent to applicants
4 beginning twenty-eight days before the election. For each
5 application for an absentee ballot received twenty-three or
6 more days before the election, the county clerk shall send
7 either the ballot or a notice of rejection to the applicant as
8 soon as practicable, provided it is sent not later than
9 twenty-two days before the election. Within twenty-two days of
10 election day, the county clerk shall send either the ballot or
11 a notice of rejection to the applicant within twenty-four hours
12 after receipt of the voter's application for an absentee
13 ballot.

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

19 D. The county clerk shall deliver to the absent
20 voter precinct on election day a complete list of all absentee
21 ballot applicants and early voters with applicable information
22 shown in the absentee ballot register for each applicant and
23 early voter up to 6:00 p.m. on the Saturday preceding the
24 election. The county clerk shall deliver a signature roster
25 containing the same information as the lists to the absent

.188153.3

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

1 voter precinct board.

2 E. Upon request, the county clerk shall transmit to
3 the county chair of each of the major political parties in the
4 county a complete copy of entries made in the absentee ballot
5 register. Such transmissions shall be made once each week
6 beginning four weeks immediately prior to the election. A
7 final copy shall be transmitted on the Saturday immediately
8 following the election.

9 F. If the county clerk has available the technology
10 to do so, at the request of a candidate or chair of a political
11 party of the county, the county clerk shall electronically
12 transmit to the candidate or chair via the internet the
13 information, when updated, on the absentee ballot register
14 indicating voters who have requested absentee ballots, returned
15 their absentee ballots or voted early in person."

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

18 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

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

21 (1) official inner envelopes for use in
22 sealing the completed absentee ballot;

23 (2) official mailing envelopes for use in
24 returning the official inner envelope to the county clerk;
25 provided the official mailing envelope for absentee ballots in

.188153.3

underscored material = new
[bracketed material] = delete

1 a general election shall contain no designation of party
2 affiliation;

3 (3) absentee ballot instructions, describing
4 proper methods for completion of the ballot and returning it;
5 and

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

8 B. Official transmittal envelopes and official
9 mailing envelopes for transmission of absentee ballot materials
10 to and from the county clerk and federal qualified electors
11 shall be printed in the form prescribed by the federal
12 Uniformed and Overseas Citizens Absentee Voting Act. Official
13 transmittal envelopes and official mailing envelopes for
14 transmission of absentee ballot materials to and from the
15 county clerk and voters shall be printed in black in
16 substantially similar form. All official inner envelopes shall
17 be printed in black.

18 C. The reverse of each official mailing envelope
19 shall contain a form to be executed by the voter completing the
20 absentee ballot. The form shall identify the voter and shall
21 contain ~~[the following statement: "I will not vote in this~~
22 ~~election other than by the enclosed ballot. I will not receive~~
23 ~~or offer any compensation or reward for giving or withholding~~
24 ~~any vote."].~~

25 ~~D. The official mailing envelope shall contain a]~~

.188153.3

underscoring material = new
[bracketed material] = delete

1 sufficient space for the [~~voter to record the voter's name,~~
2 ~~registration address and year of birth~~] voter's required voter
3 identification. The envelope shall have a security flap to
4 cover this information."

5 SECTION 9. Section 1-6-14 NMSA 1978 (being Laws 1971,
6 Chapter 317, Section 11, as amended) is amended to read:

7 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
8 PRECINCT BOARDS.--

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

13 B. If the voter's signature is missing, the
14 presiding judge shall write "Rejected" on the front of the
15 official mailing envelope. The judge or election clerk shall
16 enter the voter's name in the signature rosters or register and
17 shall write the notation "Rejected--Missing Signature" in the
18 "Notations" column of the signature rosters or register. The
19 presiding judge shall place the official mailing envelope
20 unopened in an envelope provided for rejected ballots, seal the
21 envelope and write the voter's name on the front of the
22 envelope and deposit it in the locked ballot box.

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

.188153.3

underscored material = new
[bracketed material] = delete

1 (1) the official mailing envelope has been
2 opened by someone other than the voter prior to being received
3 by the absent voter precinct board;

4 (2) the official mailing envelope does not
5 contain a signature; [~~or~~]

6 (3) the person offering to vote is not a voter
7 as provided in the Election Code;

8 (4) the person offering to vote did not
9 provide the required voter identification; or

10 (5) the person offering to vote was required
11 to provide, but did not provide, the federally required
12 identification.

13 D. If a challenge is upheld by unanimous vote of
14 the presiding judge and the election judges, the official
15 mailing envelope shall not be opened but shall be placed in an
16 envelope provided for challenged ballots. If the reason for
17 the challenge is satisfied by the voter before the conclusion
18 of the county canvass, the official mailing envelope shall be
19 opened and the vote counted. The same procedure shall be
20 followed in canvassing and determining the validity of
21 challenged absentee ballots as with other challenged ballots.

22 E. If the official mailing envelope has been
23 properly [~~subscribed~~] signed and the voter has not been
24 challenged:

25 (1) the judges or election clerks shall enter

.188153.3

underscoring material = new
[bracketed material] = delete

1 the absent voter's name and residence address as shown on the
2 official mailing envelope in the signature rosters and shall
3 mark the notation "AB" opposite the voter's name in the
4 "Notations" column of the signature rosters or register; and

5 (2) only between 8:00 a.m. and 10:00 p.m. on
6 the five days preceding election day, including Saturday and
7 Sunday, and beginning at 7:00 a.m. on election day, under the
8 personal supervision of the presiding election judge, shall the
9 election judges open the official mailing envelope and the
10 official inner envelope and insert the enclosed ballot into an
11 electronic voting machine to be registered and retained until
12 votes are counted and canvassed following the closing of the
13 polls on election night.

14 F. It is unlawful for a person to disclose the
15 results of a count and tally or the registration on a voting
16 machine of absentee ballots prior to the closing of the polls.

17 G. Absentee ballots shall be counted and tallied,
18 where possible, on an electronic voting machine as provided in
19 the Election Code.

20 H. Absent voter precinct polls shall close in
21 accordance with Section 1-6-23 NMSA 1978, and the results of
22 the election shall be certified as prescribed by the secretary
23 of state.

24 I. If an absentee ballot does not contain the
25 required voter identification [~~required pursuant to Subsection~~

.188153.3

underscored material = new
[bracketed material] = delete

1 ~~D of Section 1-6-5 NMSA 1978]~~ or, if required, the federally
2 required identification, it shall be considered to be, and be
3 handled as, a provisional paper ballot in accordance with the
4 Election Code."

5 SECTION 10. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
6 Chapter 353, Section 1, as amended) is amended to read:

7 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

8 A. After the close of the period for requesting
9 absentee ballots by mail, any voter who is unable to go to the
10 polls due to unforeseen illness or disability resulting in
11 [~~his~~] the voter's confinement in a hospital, sanatorium,
12 nursing home or residence and who is unable to vote at [~~his~~]
13 the voter's regular polling place or alternate location may
14 request in writing that an alternative ballot be made available
15 to [~~him~~] the voter. The written request shall be signed by the
16 voter and a health care provider under penalty of perjury.

17 B. The alternative ballot shall be made available
18 by the county clerk of the county in which the voter resides to
19 any authorized representative of the voter who [~~through his~~
20 ~~representative~~] has presented the written request to the office
21 of the county clerk.

22 [~~G. Before releasing the alternative ballot, the~~
23 ~~county clerk shall compare the signature on the written request~~
24 ~~with the signature on the voter's affidavit of registration.~~

25 ~~If the county clerk determines that the signature on the~~

.188153.3

underscored material = new
[bracketed material] = delete

1 ~~written request is not the signature of the voter, he shall~~
2 ~~reject the request for an alternative ballot.~~

3 ~~D.]~~ C. The voter shall mark the alternative ballot,
4 place it in an [~~identification~~] envelope similar to that used
5 for absentee ballots, [~~fill out~~] provide the required voter
6 identification and sign the envelope [~~and return~~]. The ballot
7 must be returned to the office of the county clerk of the
8 county in which the voter resides no later than the time of
9 closing of the polls on election day. The voter's name shall
10 be compared to the roster of voters and the ballot shall only
11 be counted if there is no signature for that voter on the
12 roster of the precinct where that voter's name appears.

13 ~~[E.]~~ D. Alternative ballots shall be processed and
14 counted in the same manner as absentee ballots.

15 ~~[F.]~~ E. The secretary of state shall prescribe the
16 form of alternative [~~ballots~~] ballot envelopes and shall
17 distribute an appropriate number of alternative [~~ballots~~]
18 ballot envelopes to each county clerk."

19 SECTION 11. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 112, as amended) is amended to read:

21 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
22 VOTERS--USE DURING ELECTION.--

23 A. [~~Each~~] At each polling location other than a
24 consolidated precinct where any voter in the county may vote,
25 the precinct board [~~using voter lists~~] shall post securely at

.188153.3

underscored material = new
[bracketed material] = delete

1 or near the entrance of the polling place one copy of an
2 alphabetical list of voters and a map of the precincts
3 represented in that polling place for use of the voters prior
4 to voting. The posted copy shall not contain a listing of
5 voter addresses, years, months or days of birth [~~unique~~
6 ~~identifiers~~] or social security numbers.

7 B. At each polling location where physical
8 signature rosters are used, the presiding judge of the precinct
9 board shall assign one judge or election clerk of the board to
10 be in charge of one copy of the checklist of voters, which
11 shall be used to confirm the registration and voting of each
12 person offering to vote.

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

16 D. The judge or election clerk assigned to [~~the~~
17 ~~checklist of voters used for confirmation of~~] confirm
18 registration [~~and voting~~] shall determine that each person
19 offering to vote is registered and, in the case of a primary
20 election, that the voter is registered in a party designated on
21 the primary election ballot. If the person's registration is
22 confirmed [~~by the presence of the person's name on the~~
23 ~~checklist of voters~~] and the voter provides the required voter
24 identification, the judge or election clerk shall announce to
25 the judges or election clerks the list number and the name of

.188153.3

underscored material = new
[bracketed material] = delete

1 the voter as shown on the checklist of voters. If the voter
2 does not provide the required voter identification, the voter
3 shall be allowed to vote on a provisional paper ballot and
4 shall provide the required voter identification to the county
5 clerk's office before 5:00 p.m. on the second day following the
6 election, or to the precinct board before the polls close, or
7 the voter's provisional ballot shall not be qualified. If the
8 required voter identification is provided, the voter's
9 provisional paper ballot shall be qualified and the voter shall
10 not vote on any other type of ballot.

11 E. The judge or election clerk shall locate [~~that~~
12 ~~list number and~~] the name on the signature roster and shall
13 require the voter to sign the voter's usual signature or, if
14 unable to write, to make the voter's mark opposite the voter's
15 printed name. If the voter makes the voter's mark, it shall be
16 witnessed by one of the judges or election clerks of the
17 precinct board.

18 F. If the signature roster indicates that the voter
19 is required to present [~~a physical form of~~] the federally
20 required identification before voting, the judge or election
21 clerk shall ask the voter for the federally required [~~physical~~
22 ~~form of~~] identification. If the voter does not provide the
23 [~~required~~] identification, the voter shall be allowed to vote
24 on a provisional paper ballot; provided, however, that if the
25 voter brings the federally required [~~physical form of~~]

.188153.3

underscoring material = new
[bracketed material] = delete

1 identification to the polling place after casting a provisional
2 paper ballot, that ballot shall be qualified [~~and the voter~~
3 ~~shall not vote on any other type of ballot~~].

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

9 [~~G.~~] H. A voter shall not be permitted to vote
10 until the voter has properly signed the voter's usual signature
11 or made the voter's mark in the signature roster."

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

14 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

15 A. A person shall be permitted to vote on a
16 provisional paper ballot even though the person's original
17 certificate of registration cannot be found in the county
18 register or even if the person's name does not appear on the
19 signature roster, provided:

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

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

24 (3) the person executes a statement swearing
25 or affirming to the best of the person's knowledge that the

.188153.3

underscored material = new
[bracketed material] = delete

1 person is a qualified elector, is currently registered and
2 eligible to vote in that county and has not cast a ballot or
3 voted in that election.

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

6 (1) has not previously voted in a general
7 election in New Mexico or has been purged from the voter list;

8 (2) registered to vote by mail;

9 (3) did not submit the ~~[physical form of the~~
10 ~~required voter]~~ federally required identification with the
11 certificate of registration form; and

12 (4) does not present to the election judge [~~a~~
13 ~~physical form of the required voter]~~ the federally required
14 identification.

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

19 D. A judge or election clerk shall have the voter
20 sign the signature roster and issue the voter a provisional
21 paper ballot, an outer envelope and an official inner envelope.
22 The voter shall vote on the provisional paper ballot in secrecy
23 and, when done, place the ballot in the official inner envelope
24 and place the official inner envelope in the outer envelope and
25 return it to the judge or election clerk. The judge or

.188153.3

underscored material = new
[bracketed material] = delete

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

5 E. Knowingly executing a false statement
6 constitutes perjury as provided in the Criminal Code, and
7 voting on the basis of such falsely executed statement
8 constitutes fraudulent voting."

9 SECTION 13. Section 1-12-10.1 NMSA 1978 (being Laws 2003,
10 Chapter 356, Section 2, as amended) is amended to read:

11 "1-12-10.1. CONDUCT OF ELECTIONS--~~[VOTER]~~ VOTING
12 INFORMATION.--

13 A. The secretary of state shall ~~[issue rules~~
14 ~~describing the voter information]~~ provide voting information,
15 including voter identification requirements for voters as well
16 as provisional paper ballot rights for persons offering to
17 vote, which the county clerks shall display in accordance with
18 the federal Help America Vote Act of 2002, in each polling
19 place ~~[on election day and]~~, in each county clerk's office and
20 ~~[alternate]~~ at any location where ~~[absentee or early]~~ voting is
21 taking place.

22 B. The county clerk shall ensure that in each
23 polling place ~~[shall post]~~ there is posted the phone numbers of
24 the county clerk and the secretary of state ~~[and a map of the~~
25 ~~precincts represented in that polling place and an alphabetical~~

.188153.3

underscored material = new
[bracketed material] = delete

1 ~~list of the voters in each precinct represented in that polling~~
2 ~~place]."~~

3 SECTION 14. Section 1-12-13 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 266, as amended) is amended to read:

5 "1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER
6 IN MARKING BALLOT.--

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

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

15 C. After noting the request for assistance in the
16 signature roster, the voter shall be permitted assistance in
17 filling out forms necessary to vote, in marking the ballot or
18 in using the voting system as provided in Section 1-12-15 NMSA
19 1978.

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

22 SECTION 15. Section 1-12-20 NMSA 1978 (being Laws 1969,
23 Chapter 240, Section 273, as amended) is amended to read:

24 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
25 challenge may be interposed by a member of the precinct board

.188153.3

underscoring material = new
[bracketed material] = delete

1 or by a party challenger for the following reasons:

2 A. the person offering to vote is not registered to
3 vote;

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

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

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

10 E. the person offering to vote did not provide the
11 required voter identification;

12 F. the person offering to vote was required to
13 provide, but did not provide, the federally required
14 identification; or

15 ~~[E-]~~ G. in the case of a primary election, the
16 person ~~[desiring]~~ offering to vote is not affiliated with a
17 political party represented on the ballot."

18 SECTION 16. Section 1-12-25.2 NMSA 1978 (being Laws 2003,
19 Chapter 356, Section 3, as amended) is amended to read:

20 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
21 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

22 A. If a voter is required to vote on a provisional
23 paper ballot, the presiding judge or election judge shall give
24 the voter written instructions on how the voter may determine
25 whether the vote was counted and, if the vote was not counted,

.188153.3

underscored material = new
[bracketed material] = delete

1 the reason it was not counted.

2 B. The county clerk shall provide a free access
3 system, such as a toll-free telephone number or internet web
4 site, that a voter [~~who casts a provisional paper ballot~~] may
5 access to ascertain whether the voter's provisional paper
6 ballot was counted and, if the vote was not counted, the reason
7 it was not counted and how to appeal the decision pursuant to
8 rules issued by the secretary of state. Access to information
9 about an individual voter's provisional paper ballot is
10 restricted to the voter who cast the ballot.

11 C. Beginning with the closing of the polls on
12 election day through the tenth day following the election, the
13 county clerk shall notify by mail each person whose provisional
14 paper ballot was not counted of the reason the ballot was not
15 counted. The voter shall have until the Friday prior to the
16 meeting of the state canvassing board to appeal to the county
17 clerk a decision to reject the voter's ballot.

18 D. The secretary of state shall issue rules
19 establishing the procedures for disposition of appeals
20 conducted pursuant to this section.

21 E. A provisional paper ballot that was rejected for
22 failure of the voter to provide the required voter
23 identification shall be qualified if the voter provides the
24 required voter identification at the time of the hearing.

25 F. A provisional paper ballot that was rejected for

.188153.3

underscored material = new
[bracketed material] = delete

1 failure of the voter to provide the federally required
2 identification shall be qualified if the voter provides the
3 federally required identification at the time of the hearing."

4 SECTION 17. Section 1-12-25.3 NMSA 1978 (being Laws 2003,
5 Chapter 356, Section 6, as amended) is amended to read:

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

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

- 10 (1) the name and signature of the voter;
- 11 (2) the voter's registered address [~~both~~
12 ~~present and former if applicable~~];
- 13 (3) the voter's date of birth;
- 14 (4) the voter's social security number;
- 15 [~~(4)~~] (5) the reason for using the provisional
16 paper ballot;
- 17 [~~(5)~~] (6) the [~~precinct and the~~] polling place
18 at which the voter has voted; and
- 19 [~~(6)~~] (7) sufficient space to list the
20 disposition of the ballot after review by the county clerk.

21 B. [A] In the case of a provisional paper ballot
22 issued for failure of the voter to provide the required voter
23 identification, the provisional paper ballot shall be
24 qualified as long as the voter provides a signature and at
25 least the following information:

.188153.3

underscored material = new
[bracketed material] = delete

1 (1) the voter's day, month and year of
2 birth, which must match the date of birth listed on the
3 voter's certificate of registration; and

4 (2) the voter's full social security number,
5 which must match the social security number listed on the
6 voter's certificate of registration.

7 C. In the case of a provisional paper ballot cast
8 for any other reason, the provisional paper ballot shall not
9 be rejected for lack of the information required by this
10 section and shall be qualified as long as the voter provides
11 a [~~valid~~] signature and sufficient information for the clerk
12 to determine the voter is a qualified elector."

13 SECTION 18. Section 1-12-25.4 NMSA 1978 (being Laws
14 2003, Chapter 356, Section 7, as amended) is amended to read:

15 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

20 B. A provisional paper ballot shall not be
21 counted if the [~~registered~~] voter did not sign either the
22 signature roster or the ballot's envelope.

23 C. If there is no record of the [~~voter~~] person
24 who voted ever having been registered in the county, the
25 [~~voter~~] person shall be offered the opportunity to register

.188153.3

underscored material = new
[bracketed material] = delete

1 and the provisional paper ballot shall not be counted.

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

7 E. If the county clerk determines that the
8 cancellation was not in error, the ~~[voter]~~ person who voted
9 shall be offered the opportunity to register at the ~~[voter's]~~
10 person's correct address, and the provisional paper ballot
11 shall not be counted.

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

18 G. If the person is registered to vote in the
19 county, but has voted on a provisional paper ballot for
20 failure to provide the required voter identification, the
21 provisional paper ballot shall be counted if the voter
22 provides the information required pursuant to Subsection B of
23 Section 1-12-25.3 NMSA 1978.

24 H. If the person is registered to vote in the
25 county, but has voted on a provisional paper ballot for

.188153.3

underscored material = new
[bracketed material] = delete

1 failure to provide the federally required identification, the
2 provisional paper ballot shall be counted if the voter
3 provided the federally required identification to the
4 precinct board before the polls close or if the voter
5 provided the federally required identification to the county
6 clerk no later than 5:00 p.m. on the second day following the
7 election.

8 ~~[G.]~~ I. If the county clerk finds that the voter
9 who voted on a provisional paper ballot at the polls has also
10 voted an absentee ballot in that election, the provisional
11 paper ballot shall not be counted.

12 ~~[H.]~~ J. The county canvassing board shall prepare
13 a tally displaying the number of provisional paper ballots
14 received, the number found valid and counted, the number
15 rejected and not counted and the reason for not counting the
16 ballots as part of the canvassing process and forward it to
17 the secretary of state immediately upon certification of the
18 election.

19 ~~[I.]~~ K. The secretary of state shall issue rules
20 to ensure securing the secrecy of the provisional paper
21 ballots, especially during canvassing, reviewing or
22 recounting, and protecting against fraud in the voting
23 process."

24 **SECTION 19.** A new section of the Election Code is
25 enacted to read:

.188153.3

underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] REQUIREMENT TO NOTIFY VOTERS OF NEW
2 VOTER IDENTIFICATION REQUIREMENTS.--

3 A. Before each statewide election in 2012, the
4 secretary of state shall conduct a public service campaign to
5 publicize the voter identification requirements enacted in
6 2012.

7 B. Between seventy-five and sixty days before the
8 general election conducted in 2012, the secretary of state
9 shall send a notice of the voter identification requirements
10 enacted in 2012. The notice shall be sent by forwardable
11 mail to each voter who is not marked as "NVRA" or "inactive"
12 in the voter registration electronic management system.

13 C. Should the secretary of state fail to send the
14 notice required pursuant to Subsection B of this section,
15 voter identification requirements shall be suspended for the
16 general election in 2012."

17 **SECTION 20.** A new section of the Election Code is
18 enacted to read:

19 "[NEW MATERIAL] VOTER IDENTIFICATION--PREEMPTION OF
20 LOCAL REQUIREMENTS.--

21 A. Municipalities, counties, school districts,
22 community colleges, branch community colleges and home rule
23 municipalities and any other political subdivisions
24 conducting elections pursuant to the Election Code or the
25 Municipal Election Code shall not adopt or continue in effect

.188153.3

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

1 any ordinance, rule, regulation or resolution regarding voter
2 identification.

3 B. Municipalities, counties, school districts,
4 community colleges, branch community colleges and home rule
5 municipalities and any other political subdivisions
6 conducting elections pursuant to the Election Code or the
7 Municipal Election Code are prohibited from enforcing any
8 ordinance, rule, regulation, resolution or statute regarding
9 voter identification except as provided in the Election Code
10 and the Municipal Election Code.

11 C. All other political subdivisions of the state
12 shall not adopt, continue in effect or enforce any ordinance,
13 rule, regulation, resolution or statute regarding voter
14 identification except one that uses only the definition and
15 procedures for required voter identification in the Election
16 Code.

17 D. No provision of state law enacted after July
18 1, 2012 shall be deemed to modify this section except by
19 amendment of this section."

20 SECTION 21. Section 3-8-2 NMSA 1978 (being Laws 1985,
21 Chapter 208, Section 10, as amended) is amended to read:

22 "3-8-2. DEFINITIONS.--

23 A. The definitions in Section 3-1-2 NMSA 1978
24 shall apply to the Municipal Election Code in addition to
25 those definitions set forth in the Municipal Election Code.

.188153.3

underscored material = new
[bracketed material] = delete

1 B. The definition of "required voter
2 identification" in the Election Code shall apply to the
3 Municipal Election Code in addition to those definitions set
4 forth in the Municipal Election Code.

5 [~~B.~~] C. As used in the Municipal Election Code:

6 (1) "absentee voter list" means the list
7 prepared by the municipal and county clerks of those persons
8 who have been issued an absentee ballot;

9 (2) "ballot" means a system for arranging
10 and designating for the voter the names of candidates and
11 questions to be voted on and for the marking, casting or
12 otherwise recording of such votes. "Ballot" includes paper
13 ballots, absentee ballots, ballot sheets and paper ballots
14 used in lieu of voting machines;

15 (3) "ballot sheet" means the material placed
16 on the front of the voting machine containing the names of
17 the candidates, the offices the candidates are seeking and a
18 statement of the proposed questions to be voted upon;

19 (4) "consolidated precinct" means the
20 combination of two or more precincts pursuant to the
21 Municipal Election Code;

22 (5) "county clerk" means the clerk of the
23 county or the county clerk's designee within which the
24 municipality is located;

25 (6) "election returns" means all

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

1 certificates of the precinct board, including the certificate
2 showing the total number of votes cast for each candidate, if
3 any, and for or against each question, if any, and shall
4 include statements of canvass, signature rosters, registered
5 voter lists, machine-printed returns, paper ballots used in
6 lieu of voting machines, absentee ballots, absentee ballot
7 registers and absentee voter lists or absent voter machine-
8 printed returns;

9 (7) "municipal clerk" means the municipal
10 clerk or any deputy or assistant municipal clerk;

11 (8) "municipal clerk's office" means the
12 office of the municipal clerk or any other room used in the
13 process of absentee voting, counting and tallying of absentee
14 ballots or canvassing the election results within the
15 confines of the building where the municipal clerk's office
16 is located;

17 (9) "paper ballot" means a ballot manually
18 marked by the voter and counted by hand without the
19 assistance of a machine or optical-scan vote tabulating
20 device;

21 (10) "precinct" means a portion of a county
22 situated entirely in or partly in a municipality that has
23 been designated by the county as a precinct for election
24 purposes and that is entitled to a polling place and a
25 precinct board. If a precinct includes territory both inside

.188153.3

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

1 and outside the boundaries of a municipality, "precinct", for
2 municipal elections, shall mean only that portion of the
3 precinct lying within the boundaries of the municipality;

4 (11) "precinct board" means the appointed
5 election officials serving a single or consolidated precinct;

6 (12) "qualified elector" means any person
7 whose affidavit of voter registration has been filed by the
8 county clerk, who is registered to vote in a general election
9 precinct established by the board of county commissioners
10 that is wholly or partly within the municipal boundaries and
11 who is a resident of the municipality. Persons who would
12 otherwise be qualified electors if land on which they reside
13 is annexed to a municipality shall be deemed to be qualified
14 electors:

15 (a) upon the effective date of the
16 municipal ordinance effectuating the terms of the annexation
17 as certified by the board of arbitration pursuant to Section
18 3-7-10 NMSA 1978;

19 (b) upon thirty days after the filing
20 of an order of annexation by the municipal boundary
21 commission pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978,
22 if no appeal is filed or, if an appeal is filed, upon the
23 filing of a nonappealable court order effectuating the
24 annexation; or

25 (c) upon thirty days after the filing

.188153.3

underscored material = new
[bracketed material] = delete

1 of an ordinance pursuant to Section 3-7-17 NMSA 1978, if no
2 appeal is filed or, if an appeal is filed, upon the filing of
3 a nonappealable court order effectuating the annexation;

4 (13) "recheck" pertains to voting machines
5 and means a verification procedure where the counter
6 compartment of the voting machine is opened and the results
7 of the balloting as shown on the counters of the machine are
8 compared with the results shown on the official returns;

9 (14) "recount" pertains to ballots and
10 absentee ballots and means a retabulation and retallying of
11 individual ballots;

12 (15) "voter" means a qualified elector of
13 the municipality; and

14 (16) "voting machine" means any electronic
15 recording and tabulating voting system as tested and approved
16 by the secretary of state."

17 SECTION 22. Section 3-8-41 NMSA 1978 (being Laws 1985,
18 Chapter 208, Section 49, as amended) is amended to read:

19 "3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
20 SIGNATURE--ENTRIES BY PRECINCT BOARD.--

21 A. When a person goes to the polls to vote, the
22 person shall announce the person's name and address in an
23 audible tone of voice and [~~locate the person's name and~~
24 ~~number in the registered voter list posted for such purpose~~]
25 provide the required voter identification. An election clerk

.188153.3

underscored material = new
[bracketed material] = delete

1 shall locate the person's name and number in the signature
2 roster. The person shall then sign the person's name in the
3 signature roster or, if the person is unable to write, the
4 election clerk shall sign the person's name in the signature
5 roster, which shall be initialed by an election judge in the
6 signature roster. Thereupon, a challenge may be interposed
7 as provided in the Municipal Election Code.

8 B. If no challenge is interposed, an election
9 clerk shall issue a voting machine permit to the person, upon
10 which shall be written the person's voter registration list
11 number. The person shall present the voting machine permit
12 to the precinct board member monitoring the machine or
13 issuing ballots, and the person shall be allowed to vote.
14 The precinct board member shall enter the public counter
15 number onto the voting machine permit as shown on the voting
16 machine after the person has voted. All voting machine
17 permits shall be retained in consecutive order and made part
18 of the election returns."

19 SECTION 23. Section 3-8-43 NMSA 1978 (being Laws 1985,
20 Chapter 208, Section 51, as amended) is amended to read:

21 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED
22 CHALLENGES--ENTRIES--DISPOSITION.--

23 A. A challenge may be interposed by a member of
24 the precinct board or by a challenger for the following
25 reasons, which shall be stated in an audible tone by the

.188153.3

underscored material = new
[bracketed material] = delete

1 person making the challenge:

2 (1) the person offering to vote is not
3 registered;

4 (2) the person offering to vote is listed
5 among those persons in the precinct to whom an absentee
6 ballot was issued;

7 (3) the person offering to vote is not a
8 qualified elector;

9 (4) the person offering to vote is not
10 listed on the signature roster or voter registration list;

11 (5) the person offering to vote did not
12 provide the required voter identification;

13 [~~5~~] (6) in the case of an absentee ballot,
14 the official mailing envelope containing an absentee ballot
15 has been opened prior to delivery of absentee ballots to the
16 absent voter precinct board; or

17 [~~6~~] (7) the person offering to vote is a
18 qualified elector of the municipality but does not reside in
19 the district where the person is offering to vote.

20 B. When a person has offered to vote and a
21 challenge is interposed and the person's name appears in the
22 signature roster or the person's name has been entered in the
23 signature roster pursuant to Subsection C of Section 3-8-40
24 NMSA 1978, the election clerk shall write the word
25 "challenged" above the person's signature in the signature

.188153.3

underscored material = new
[bracketed material] = delete

1 roster and:

2 (1) if the challenge is unanimously affirmed
3 by the election judges:

4 (a) the election clerk shall write the
5 word "affirmed" above the person's signature next to the
6 challenge notation in the signature roster;

7 (b) the person shall nevertheless be
8 furnished a paper ballot, whether or not voting machines are
9 being used at the polling place, and the election clerk shall
10 write the number of the ballot so furnished next to the
11 person's signature in the signature roster;

12 (c) the person shall be allowed to
13 mark and prepare the ballot. The person shall return the
14 paper ballot to an election judge who shall announce the
15 person's name in an audible tone and in the person's presence
16 place the challenged ballot in an envelope marked "rejected",
17 which shall be sealed and the person's name shall be written
18 on the envelope; ~~and~~

19 (d) if the ballot was rejected for any
20 reason other than failure to provide the required voter
21 identification, the envelope containing the rejected ballot
22 shall then be deposited in the ballot box and shall not be
23 counted; ~~or~~ and

24 (e) if the ballot was rejected for
25 failure to provide the required voter identification, the

.188153.3

underscored material = new
[bracketed material] = delete

1 envelope containing the rejected ballot shall then be
2 deposited in the ballot box and shall not be counted unless
3 the voter provides the required voter identification to the
4 precinct board before the polls close or to the municipal
5 clerk's office before 5:00 p.m. on the second day following
6 the election; or

7 (2) if the challenge is not unanimously
8 affirmed by the election judges:

9 (a) the election clerks shall write
10 the words "not affirmed" above the person's signature next to
11 the challenge notation in the signature roster; and

12 (b) the person shall be allowed to
13 vote in the manner allowed by law as if the challenge had not
14 been interposed.

15 C. A required challenge shall be interposed by
16 the precinct board when a person attempts to offer to vote
17 and demands to vote and the person's name does not appear on
18 the signature roster and cannot be entered pursuant to
19 Subsection B of Section 3-8-40 NMSA 1978. A required
20 challenge shall be interposed by the precinct board as
21 follows:

22 (1) the election judge shall cause the
23 election clerks to enter the person's name and address under
24 the heading "name and address" in the signature roster in the
25 first blank space immediately below the last name and address

.188153.3

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

1 that appears in the signature roster;

2 (2) the election clerk shall immediately
3 write the words "required challenge" above the space provided
4 for the person's signature in the signature roster;

5 (3) the person shall sign the person's name
6 in the signature roster;

7 (4) the person shall nevertheless be
8 furnished a paper ballot, whether or not voting machines are
9 being used at the polling place, and the election clerk shall
10 write the number of the ballot so furnished next to the
11 person's signature in the signature roster; and

12 (5) the person shall be allowed to mark and
13 prepare the ballot. The person shall return the paper ballot
14 to an election judge who shall announce the person's name in
15 an audible tone and in the person's presence place the
16 required challenge ballot in an envelope marked "rejected--
17 required challenge" that shall be sealed. The person's name
18 shall be written on the envelope and the envelope containing
19 the rejected ballot shall then be deposited in the ballot box
20 and shall not be counted."

21 SECTION 24. Section 3-9-6 NMSA 1978 (being Laws 1973,
22 Chapter 375, Section 7, as amended) is amended to read:

23 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE
24 BALLOT ENVELOPES.--

25 A. The form of the absentee ballot shall be, as

.188153.3

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

1 nearly as practicable, in the same form as prescribed by the
2 municipal clerk for other ballots. However, to reduce weight
3 and bulk for transport of absentee ballots, the size and
4 weight of the paper for envelopes, ballots and instructions
5 shall be reduced as much as is practicable. The ballots
6 shall provide for sequential numbering.

7 B. Absentee ballots and envelopes shall be
8 delivered by the printer to the municipal clerk not later
9 than thirty-five days prior to the date of the election to be
10 held.

11 C. The municipal clerk shall prescribe the form
12 of:

13 (1) official inner envelopes for use in
14 sealing the completed absentee ballot;

15 (2) official mailing envelopes for use in
16 returning the official inner envelope to the municipal clerk;

17 (3) absentee ballot instructions, describing
18 proper methods for completion of the ballot and returning it;
19 and

20 (4) official transmittal envelopes for use
21 by the municipal clerk in mailing absentee ballot materials.

22 D. Official transmittal envelopes and official
23 mailing envelopes for transmission of absentee ballot
24 materials to and from the municipal clerk and overseas voters
25 and federal qualified electors shall be printed in black in

.188153.3

underscored material = new
[bracketed material] = delete

1 the form prescribed by postal regulations and the federal
2 Uniformed and Overseas Citizens Absentee Voting Act.
3 Official transmittal envelopes and official mailing envelopes
4 for transmission of absentee ballot materials to and from the
5 municipal clerk shall be printed in green in substantially
6 similar form. All official inner envelopes shall be printed
7 in green.

8 E. The reverse of each official mailing envelope
9 shall contain ~~[a form to be signed by the person completing~~
10 ~~the absentee ballot. The form shall identify the person and~~
11 ~~shall contain the following statement: "I will not vote in~~
12 ~~this election other than by the enclosed ballot. I will not~~
13 ~~receive or offer any compensation or reward for giving or~~
14 ~~withholding any vote."]~~ sufficient space for the voter's
15 required voter identification. The envelope shall have a
16 security flap to cover this information."

17 SECTION 25. Section 3-9-11 NMSA 1978 (being Laws 1985,
18 Chapter 208, Section 99, as amended) is amended to read:

19 "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
20 PRECINCT BOARDS.--

21 A. Before opening any official mailing envelope,
22 an election judge shall determine that the required voter
23 identification is included and the signature has been
24 executed on the reverse side of the official mailing
25 envelope.

.188153.3

underscored material = new
[bracketed material] = delete

1 B. If the required voter identification or
2 signature is missing, an election judge shall write
3 "rejected" on the front of the official mailing envelope.
4 The election clerks shall write the notation
5 "rejected--missing signature" in the "notations" column on
6 the absentee voter list. An election judge shall place the
7 official mailing envelope unopened in an envelope provided
8 for rejected ballots, seal the envelope, write the voter's
9 name on the front of the envelope and deposit it in the
10 locked ballot box.

11 C. Declared challengers certified by the
12 municipal clerk may examine the official mailing envelope and
13 may challenge the ballot of any absent voter for the
14 following reasons:

15 (1) the required voter identification or
16 signature is missing;

17 [~~(1)~~] (2) the official mailing envelope has
18 been opened by someone other than the voter prior to being
19 received by the absent voter precinct board; or

20 [~~(2)~~] (3) the person offering to vote is not
21 an overseas voter, federal qualified elector or voter as
22 provided in the Municipal Election Code.

23 D. Upon the rejection or challenge of an absentee
24 ballot, an election judge shall generally follow the same
25 procedure as when ballots are challenged when a person offers

.188153.3

underscored material = new
[bracketed material] = delete

1 to vote in person. If a challenged ballot is not to be
2 counted, it shall not be opened and shall be placed in an
3 envelope provided for challenged ballots. If the ballot was
4 rejected or challenged for failure to provide the required
5 voter identification, the envelope shall not be counted or
6 opened unless the voter provides the required voter
7 identification to the absent voter precinct board before the
8 polls close or to the municipal clerk's office before 5:00
9 p.m. on the second day following the election.

10 ~~[D-]~~ E. If the official mailing envelopes contain
11 the required voter identification, have properly executed
12 signatures and the voters have not been challenged:

13 (1) an election judge shall open the
14 official mailing envelopes and deposit the ballots in their
15 still sealed official inner envelopes in the locked ballot
16 box; and

17 (2) the election clerks shall mark the
18 notation "AB" opposite the voter's name in the "notations"
19 column of the absentee voter list.

20 ~~[E-]~~ F. Prior to the closing of the polls, an
21 election judge may remove the absentee ballots from the
22 official inner envelopes and either count and tally the
23 results of absentee balloting by hand or register the results
24 of each absentee ballot on a voting machine the same as if
25 the absent voter had been present and voted in person. It

.188153.3

underscored material = new
[bracketed material] = delete

1 shall be unlawful for any person to disclose the results of
2 such count and tally or such registration on a voting machine
3 of absentee ballots prior to the closing of the polls.

4 ~~[F-]~~ G. The municipal clerk shall, prior to the
5 opening of the polls on election day, notify the absent voter
6 precinct board in writing whether absentee ballots are to be
7 counted and tallied or registered on a voting machine. The
8 procedures shall be such as to ensure the secrecy of the
9 ballot.

10 ~~[G-]~~ H. Absent voter precinct polls shall be
11 closed at 7:00 p.m. on the day of the election by the absent
12 voter precinct board."

13 **SECTION 26.** Section 3-9-13.1 NMSA 1978 (being Laws
14 2003, Chapter 244, Section 19, as amended) is amended to
15 read:

16 "3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
17 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
18 COUNTING.--

19 A. A voter who has submitted an application for
20 an absentee ballot that was accepted by the municipal clerk
21 but who has not received the absentee ballot by mail as of
22 the date of the election may go to the assigned polling place
23 and, after executing an affidavit of nonreceipt of absentee
24 ballot, shall be issued a ballot in lieu of an absentee
25 ballot by the presiding judge, and shall be allowed to mark

.188153.3

underscored material = new
[bracketed material] = delete

1 the ballot.

2 B. The voter shall place the completed ballot
3 issued in lieu of an absentee ballot in an official inner
4 envelope, substantially in the form prescribed pursuant to
5 Section 3-9-6 NMSA 1978, which shall be sealed by the voter.
6 The official inner envelope shall then be placed by the
7 voter, in the presence of the presiding judge, in an official
8 outer envelope substantially as prescribed for a transmittal
9 envelope or mailing envelope pursuant to Section 3-9-6 NMSA
10 1978. The presiding judge shall fill in the information on
11 the back of the envelope that identifies the voter by name
12 and signature roster number and contains the printed
13 affidavit that the voter made application for an absentee
14 ballot, which the voter believes to have been accepted by the
15 municipal clerk, that the voter swears an absentee ballot had
16 not been received as of the date of the election and that the
17 voter was issued a ballot in lieu of an absentee ballot, that
18 the voter provided the required voter identification and that
19 the ballot was marked by the voter and submitted to the
20 presiding judge.

21 C. The presiding judge shall place all ballots
22 issued in lieu of absentee ballots in a special envelope
23 provided for that purpose by the municipal clerk, seal the
24 envelope and return it to the municipal clerk along with the
25 machine tally sheets after the closing of the polls. The

.188153.3

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

1 sealed envelope shall not be placed in the locked ballot box.

2 D. The municipal clerk shall, upon receipt of the
3 envelope containing ballots in lieu of absentee ballots, and
4 no later than forty-eight hours after the close of the polls
5 for the election, remove the transmittal envelopes and
6 without removing or opening the inner envelopes, determine:

7 (1) if the voter did in fact make
8 application for an absentee ballot that was accepted by the
9 municipal clerk;

10 (2) if an absentee ballot was mailed by the
11 municipal clerk to the voter; and

12 (3) whether an absentee ballot was received
13 by the municipal clerk from the voter by 7:00 p.m. on
14 election day.

15 E. If the municipal clerk determines that the
16 ballot in lieu of absentee ballot is valid, that an absentee
17 ballot was mailed to the voter and that no absentee ballot
18 was received from the voter by the municipal clerk, the
19 municipal clerk shall remove the inner envelope without
20 opening it, retain the transmittal envelope with the other
21 election returns and place the inner envelope, unopened, in a
22 secure and locked container to be transmitted to the
23 canvassing board to be tallied and included in the canvass of
24 the election returns for the municipality.

25 F. If the municipal clerk determines that the

.188153.3

underscored material = new
[bracketed material] = delete

1 ballot in lieu of absentee ballot is not valid because the
2 application for absentee ballot was rejected and no ballot
3 was mailed to the voter, or that a ballot was received from
4 the voter by the municipal clerk not later than 7:00 p.m. on
5 election day, the municipal clerk shall write
6 "rejected--invalid ballot" on the front of the transmittal
7 envelope and the transmittal envelope shall not be sent to
8 the canvassing board for counting and tallying. The
9 municipal clerk shall retain the unopened transmittal
10 envelope in a safe and secure manner and shall notify the
11 district attorney in writing of the alleged violation of the
12 Municipal Election Code. A copy of the notification to the
13 district attorney shall be sent by first class mail to the
14 voter and to the secretary of state.

15 G. The municipal clerk shall furnish and shall
16 prescribe the form of the necessary envelopes to be used in
17 accordance with the purposes of this section, and shall take
18 steps to preserve the secrecy of any ballots cast pursuant to
19 this section."

20 SECTION 27. Section 66-8-111.1 NMSA 1978 (being Laws
21 1984, Chapter 72, Section 7, as amended by Laws 2003, Chapter
22 51, Section 14 and by Laws 2003, Chapter 90, Section 7) is
23 amended to read:

24 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
25 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND OF RIGHT TO A

.188153.3

underscored material = new
[bracketed material] = delete

1 HEARING.--

2 A. On behalf of the department, a law enforcement
3 officer requesting a chemical test or directing the
4 administration of a chemical test pursuant to Section
5 66-8-107 NMSA 1978 shall serve immediate written notice of
6 revocation and of right to a hearing on a person who:

7 (1) refuses to permit chemical testing; or
8 [~~on a person who~~]

9 (2) submits to a chemical test the results
10 of which indicate an alcohol concentration in the person's
11 blood or breath of:

12 (a) eight one hundredths or more if
13 the person is twenty-one years of age or older;

14 (b) four one hundredths or more if the
15 person is driving a commercial motor vehicle; or

16 (c) two one hundredths or more if the
17 person is less than twenty-one years of age. [~~Upon serving~~]

18 B. The written notice of revocation [~~the law~~
19 ~~enforcement officer shall take the license or permit of the~~
20 ~~driver, if any, and issue] and of a right to a hearing served
21 on the driver shall be a temporary license valid for twenty
22 days or, if the driver requests a hearing pursuant to Section
23 66-8-112 NMSA 1978, valid until the date the department
24 issues the order following that hearing; provided that a
25 written notice of revocation and of right to a hearing shall~~

.188153.3

underscoring material = new
[bracketed material] = delete

1 not be a temporary license [~~shall not be issued to~~] for a
2 driver without [~~a valid license or permit~~] any otherwise
3 valid driving privileges in this state.

4 C. The law enforcement officer shall send [~~the~~
5 ~~person's driver's license~~] to the department [~~along with~~] the
6 signed statement required pursuant to Section 66-8-111 NMSA
7 1978."

8 SECTION 28. REPEAL.--Section 1-12-4.1 NMSA 1978 (being
9 Laws 2005, Chapter 270, Section 81) is repealed.

10 SECTION 29. DELAYED REPEAL.--Section 19 of this act is
11 repealed effective December 31, 2012.

12 SECTION 30. EFFECTIVE DATE.--

13 A. If this act is passed with the emergency
14 clause, the effective date of the provisions of this act is
15 March 15, 2012.

16 B. If this act is not passed with the emergency
17 clause, the effective date of the provisions of this act is
18 July 1, 2012.

19 SECTION 31. EMERGENCY.--It is necessary for the public
20 peace, health and safety that this act take effect
21 immediately.