

FIFTY-SECOND LEGISLATURE
FIRST SESSION

March 18, 2015

SENATE FLOOR AMENDMENT number 1 to SENATE JUDICIARY COMMITTEE
SUBSTITUTE FOR
SENATE BILL 643

Amendment sponsored by Senator Lisa A. Torraco

1. On page 1, line 13, before the period, insert:

"; ENACTING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT; MAKING CORRESPONDING CHANGES TO THE ELECTION CODE AND THE MUNICIPAL ELECTION CODE; PROHIBITING PROXY VOTING; ALLOWING USE OF COUNTY CLERK EMPLOYEES AS ELECTION CLERKS; REQUIRING SUFFICIENT STAFF AND EQUIPMENT AT POLLING LOCATIONS; SETTING, CLARIFYING AND STANDARDIZING PROCESSES, DATES AND DEADLINES; PROVIDING DEFINITIONS; ALLOWING ACCESS BY COUNTY CLERKS TO THE DRIVER'S LICENSE DATABASE; PERMITTING PARTY COMMITTEE APPOINTMENTS ACCORDING TO PARTY RULES; PRESCRIBING THE ORDER OF OFFICES ON THE BALLOT; EXEMPTING CERTAIN VOTING RECORDS FROM THE INSPECTION OF PUBLIC RECORDS ACT UNTIL AFTER ALL RECOUNTS, CONTESTS AND CANVASSING ARE COMPLETED; ENSURING THAT MISTAKEN CANCELLATION OF REGISTRATION WILL NOT VOID A PROVISIONAL BALLOT; RESTRICTING THE HOLDING OF OTHER ELECTIONS WITHIN FIFTY DAYS OF A GENERAL ELECTION; PRESCRIBING RECOUNT PROCEDURES; PROVIDING STANDARDS FOR CONSOLIDATED PRECINCTS; AUTHORIZING SCHOOL BOARDS TO SET THE TIMES FOR ALTERNATE VOTING LOCATIONS; REQUIRING ELECTIONS FOR CHANGING THE NUMBER OF SCHOOL BOARD MEMBERS TO BE HELD DURING A REGULAR SCHOOL ELECTION; UPDATING FORMS; PROVIDING FOR A PENALTY; ASSIGNING PROSECUTORIAL DUTIES; GRANTING AUTHORITY TO THE SECRETARY OF STATE TO COOPERATE WITH LOCAL, STATE AND FEDERAL AGENCIES ON VERIFICATION OF VOTER REGISTRATION INFORMATION".

2. On page 1, between lines 15 and 16, insert the following sections to read:

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

"[NEW MATERIAL] FEDERAL QUALIFIED ELECTOR.--As used in the Election Code, "federal qualified elector" means:

- A. a uniformed-service voter; or
- B. an overseas voter."

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

"[NEW MATERIAL] OVERSEAS VOTER.--As used in the Election Code, "overseas voter" means an individual who is a United States citizen, who is outside the United States and who:

- A. is temporarily absent from the individual's residence in this state;
- B. before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- C. before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- D. was born outside the United States, is not otherwise described in this section and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(1) the last place where a parent or legal guardian of the individual was, or would have been, eligible to vote before leaving the United States is within this state; and

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(2) the individual has not previously registered to vote in any other state."

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

"[NEW MATERIAL] UNIFORMED-SERVICE VOTER.--As used in the Election Code, "uniformed-service voter" means an individual who is a United States citizen, whose voting residence is in this state, who otherwise satisfies this state's voter eligibility requirements and who is:

A. a member of the active or reserve components of the army, navy, air force, marine corps or coast guard of the United States who is on active duty and who by reason of that active duty is absent from the state;

B. a member of the merchant marine, the commissioned corps of the public health service, the astronaut program of the national aeronautics and space administration or the commissioned corps of the national oceanic and atmospheric administration of the United States and who by reason of that service is absent from the state;

C. a member on activated status of the national guard or state militia and who by reason of that active duty is absent from the member's county of residence; or

D. a spouse or dependent of a member referred to in Subsection A, B or C of this section and who, by reason of active duty or service of the member, is absent from the state; provided the spouse or dependent is an individual recognized as a spouse or dependent by the entity under which the member is serving."

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

"1-1-5. VOTER.--As used in the Election Code, "voter" means

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any qualified elector or federal qualified elector [~~or overseas voter~~] who is registered under the provisions of the Election Code."

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

"[NEW MATERIAL] POWER OF ATTORNEY--PROHIBITED USE.--A power of attorney or other form of proxy is not valid for use by a person in any procedure or transaction concerning elections, including voter registration, petition signature, voter-registration cancellation, absentee ballot requests or voting another person's ballot."

SECTION 6. Section 1-1-22 NMSA 1978 (being Laws 2005, Chapter 270, Section 1) is amended to read:

"1-1-22. COMPUTATION OF TIME--DEADLINES.--For the purpose of the Election Code, time periods of less than eleven days shall be computed as calendar days; provided, however, that if an actual deadline falls on a weekend or state-recognized holiday, the next business day shall be the deadline, unless the deadline is expressed as a day of the week, in which case that day remains the actual deadline."

SECTION 7. Section 1-2-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 22, as amended) is amended to read:

"1-2-1. SECRETARY OF STATE--CHIEF ELECTION OFFICER--RULES [~~ENFORCEMENT POWERS~~].--

A. The secretary of state is the chief election officer of the state [~~and~~].

B. The secretary of state shall:

(1) obtain and maintain uniformity in the application, operation and interpretation of the Election Code; and

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(2) subject to the State Rules Act, make rules pursuant to the provisions of, and necessary to carry out the purposes of, the Election Code and shall furnish to the county clerks copies of such rules; provided that no rule is adopted or amended within the fifty-six days before a primary or a general election. [~~and~~

~~(3) through the attorney general or the district attorney having jurisdiction, bring such actions as deemed necessary and proper for the enforcement of the provisions of the Election Code.~~

~~B.]~~ C. No forms or procedures shall be used in any election held pursuant to the Election Code without prior approval of the secretary of state."

SECTION 8. Section 1-2-1.1 NMSA 1978 (being Laws 1979, Chapter 74, Section 3, as amended) is amended to read:

"1-2-1.1. ATTORNEY GENERAL [~~AND DISTRICT ATTORNEYS~~] REQUIRED TO ASSIST SECRETARY OF STATE--DISTRICT ATTORNEYS REQUIRED TO ASSIST SECRETARY OF STATE AND COUNTY CLERKS.--

A. The attorney general [~~and the several district attorneys of the state~~] shall, upon request of the secretary of state, [~~shall~~] provide [~~to the secretary of state~~] legal advice, assistance, services and representation as counsel in any action to enforce the provisions of the Election Code and the Municipal Election Code.

B. Upon the request of the secretary of state or a county clerk, the attorney general and the several district attorneys of the state shall assign investigators or lawyers to aid the secretary of state [~~on election day~~] and county clerks to ensure the proper conduct of [~~the~~] an election.

C. Each district attorney shall assign a lawyer to be the

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elections prosecutor for the judicial district or for each county in the judicial district. The district attorney shall communicate and maintain current the name and contact information of the assigned elections prosecutor to the secretary of state and to each county clerk in the judicial district. The assigned elections prosecutor shall receive from the county clerk in the prosecutor's county or judicial district referrals of suspected violations of the Election Code. The assigned elections prosecutor shall each month report in writing to the county clerk and the district attorney the status of each referral until the matter is concluded."

SECTION 9. Section 1-2-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 32, as amended) is amended to read:

"1-2-12. PRECINCT BOARD--NUMBER FOR EACH PRECINCT.--

A. For primary, general and special federal elections, the precinct board shall consist of:

- (1) a presiding judge;
- (2) two election judges; and
- (3) one election clerk.

B. The county clerk, in appointing precinct boards for primary, general and special federal elections:

(1) shall appoint presiding judges and election judges so that at least one election judge shall not be of the same political party, if any, as the presiding judge; and

(2) may appoint teams of presiding judges and election judges for absent voter precincts, recount precinct boards and alternate voting locations, provided that each team meets the requirements pursuant to Paragraph (1) of this subsection.

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C. For all other elections, the precinct board shall consist of:

- (1) a presiding judge;
- (2) one election judge; and
- (3) one election clerk.

D. If the county clerk determines that additional election clerks are needed, the clerk may appoint such additional election clerks as the clerk deems necessary.

E. County clerk employees may be appointed to assist a precinct board."

SECTION 10. 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 and removable media storage devices from polling places and deliver [~~those absentee ballots~~] them 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 11. Section 1-3-4 NMSA 1978 (being Laws 1975, Chapter 255, Section 30, as amended) is amended to read:

"1-3-4. CONSOLIDATION OF PRECINCTS.--

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A. Precincts may be consolidated by the board of county commissioners for the following elections:

- (1) primary and general elections;
- (2) statewide special elections;
- (3) countywide special elections; and
- (4) elections to fill vacancies in the office of ~~[the]~~ United States ~~[house of representatives]~~ representative.

B. Precincts may be consolidated by the governing body of a municipality for municipal candidate and bond elections, unless otherwise prohibited.

C. Precincts may be consolidated by the local school board for school district candidate and bond elections, unless otherwise prohibited.

D. When precincts are consolidated for a primary and general election, the resolution required by Section 1-3-2 NMSA 1978, in addition to the other matters required by law, shall state therein which precincts have been consolidated and the designation of the polling place. In addition, when consolidating precincts for primary and general elections:

(1) any voter of the county shall be allowed to vote in any consolidated precinct polling location in the county;

(2) each consolidated precinct in a primary or general election shall be ~~[comprised]~~ composed of no more than ten precincts;

(3) each consolidated precinct shall comply with the provisions of Section 1-3-7 NMSA 1978;

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(4) each consolidated precinct polling location shall have a broadband internet connection and real-time access to the statewide voter registration electronic management system;

(5) the county clerk may maintain any alternative voting locations previously used in the same election open for voting on election day for any voter in the county, in addition to the polling location established in each consolidated precinct; and

(6) the board of county commissioners may permit rural precincts to be exempted from operating as or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for the rural precinct does not have real-time access to the statewide voter registration electronic management system, voters registered in a rural precinct as described in this paragraph are permitted to vote in any consolidated precinct polling location on election day only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the rural precinct.

E. When precincts are consolidated for a municipal election, school election or special county election, the proclamation, in addition to the other matters required by law, shall state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a municipal election, school election or special county election may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the proclamation.

F. When precincts are consolidated for a statewide special election or for a special election to fill a vacancy in the office of ~~[the]~~ United States ~~[house of representatives]~~ representative, within twenty-one days after the proclamation of election is issued by the governor, the board of county commissioners shall pass a resolution that, in addition to other matters required by law, shall

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state which precincts have been consolidated and the designation of the polling place. Precincts consolidated for a statewide special election or for a special election to fill a vacancy in the office of [~~the~~] United States [~~house of representatives~~] representative may allow any voter to vote in any consolidated precinct in the county, which shall be stated in the resolution.

G. Unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived, each consolidated precinct polling location shall:

(1) have ballots available for voters from every precinct that is able to vote in the consolidated precinct;

(2) have at least one optical scan tabulator programmed to read every ballot style able to be cast in the consolidated precinct;

(3) have at least one voting system available to assist disabled voters to cast and record their votes;

(4) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;

(5) have sufficient check-in stations to accommodate voters throughout the day as provided in Section 1-9-5 NMSA 1978;

~~[(5)]~~ (6) have a secure area for storage of preprinted ballots or for storage of paper ballot stock and a system designed to print ballots at a polling location;

~~[(6)]~~ (7) issue a ballot to voters who have provided the required voter identification after the voter has signed a signature roster or an electronic equivalent approved by the voting system certification committee or after the voter has subscribed an

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application to vote on a form approved by the secretary of state;
and

[~~(7)~~] (8) be in a location that is accessible and
compliant with the requirements of the federal Americans with
Disabilities Act of 1990.

H. As a prerequisite to consolidation, the authorizing
resolution must find that consolidation will make voting more
convenient and accessible to voters of the consolidated precinct and
does not result in delays for voters in the voting process and the
consolidated precinct voting location will be centrally located
within the consolidated precinct."

SECTION 12. A new section of Chapter 1, Article 3 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] ELECTION-DAY POLLING PLACES--ADEQUATE
RESOURCES.--

A. Each election-day polling place in a primary or general
election that does not contain mail ballot election precincts or
precincts consolidated pursuant to Section 1-3-4 NMSA 1978 shall
comply with the requirements for polling places and precincts as
provided in Subsections B and C of this section, unless the county
clerk receives a written waiver from the secretary of state
specifying the location and specific provision being waived.

B. Each polling place shall:

(1) have at least one voting system available to
assist disabled voters to cast and record their votes; and

(2) be in a location that is accessible and compliant
with the requirements of the federal Americans with Disabilities Act
of 1990.

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C. Each precinct polling place located within a single polling place shall have:

(1) a separate precinct board and signature roster for the precinct;

(2) at least one optical scan tabulator for the precinct; and

(3) sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible, for the precinct."

SECTION 13. Section 1-4-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 63, as amended) is amended to read:

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

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

B. The registration officer or agent or qualified elector shall fill out each of the blanks on the certificate of registration by typing or printing in ink. The qualified elector shall be given a receipt that shall contain:

(1) a number traceable to the registration agent or officer;

(2) a statement informing the qualified elector that if the qualified elector does not receive confirmation of the qualified elector's registration within fifteen days of the receipt date, the qualified elector should contact the office of the county clerk in the county where the qualified elector resides; and

(3) a toll-free number for the office of the county

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clerk and an address for the web site of the secretary of state.

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

(1) by signing the certificate of registration using the qualified elector's given name, middle name or initial and last name; or

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

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

~~[E. Only when the certificate of registration is properly filled out, subscribed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector.]~~ It is unlawful for the qualified elector's month and day of birth or any portion of the qualified elector's social security number required on the certificate of registration to be copied, conveyed or used by anyone other than the person registering to vote, either before or after it is filed with the county clerk, and by elections administrators in their official capacity.

~~[F.]~~ E. A person who unlawfully copies, conveys or uses information from a certificate of registration is guilty of a fourth

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degree felony."

SECTION 14. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

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

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

B. A person may request certificate of registration forms from the secretary of state or any county clerk in person, by telephone or by mail for that person or for other persons.

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

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

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

F. If the registrant wishes to vote in the next election, the completed and signed certificate of registration shall be

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delivered or mailed and postmarked at least twenty-eight days before the election.

G. ~~[Upon]~~ Within one business day after receipt of a certificate of registration, the secretary of state shall send the certificate to the county clerk in the county where the qualified elector resides. Within one business day after receipt of a certificate of registration of another county, a county clerk shall send the certificate of registration to the county clerk in the county where the qualified elector resides.

H. Only when the certificate of registration is properly filled out, signed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon ~~[and when notice has been received by the registrant]~~ shall it constitute an official public record of the registration of the qualified elector. A qualified elector complies with a voter registration deadline established in the Election Code when a properly filled-out voter registration certificate has been received by a county clerk or the secretary of state, regardless of the date the certificate is processed.

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

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

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

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eighteen years of age or older on or before the next general
election [~~day~~];

(3) the statement "If you checked 'no' in response to
either of these questions, do not complete this form.";

(4) a statement informing the applicant that:

(a) if the form is submitted by mail by the
applicant and the applicant is registering for the first time in New
Mexico, the applicant must submit with the form a copy of: 1) a
current and valid photo identification; or 2) a current utility
bill, bank statement, government check, paycheck, student
identification card or other government document, including
identification issued by an Indian nation, tribe or pueblo, that
shows the name and current address of the applicant; and

(b) if the applicant does not submit the required
identification, the applicant will be required to do so when voting
in person or absentee; and

(5) a statement requiring the applicant to swear or
affirm that the information supplied by the applicant is true."

SECTION 15. Section 1-4-5.5 NMSA 1978 (being Laws 1975,
Chapter 255, Section 78, as amended) is amended to read:

"1-4-5.5. REQUESTS FOR VOTER DATA, MAILING LABELS OR SPECIAL
VOTER LISTS.--

A. The county clerk or secretary of state shall furnish
voter data, mailing labels or special voter lists only upon written
request to the county clerk or the secretary of state and after
compliance with the requirements of this section; provided, however,
all requesters shall be treated equally in regard to the charges and
the furnishing of the materials.

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

C. Each requester of voter data, mailing labels or special voter lists shall sign an affidavit that the voter data, mailing labels and special voter lists shall be used for governmental or election and election campaign purposes only and shall not be made available or used for unlawful purposes.

D. The secretary of state shall prescribe the form of the affidavit.

E. As used in this section:

(1) "election campaign purposes" means relating in any way to a campaign in an election conducted by a federal, state or local government;

(2) "governmental purposes" means noncommercial purposes relating in any way to the structure, operation or decision-making of a federal, state or local government;

(3) "mailing labels" means prepared mailing labels of selected voters arranged in the order in which requested and providing only the name and address of the voter;

(4) "special voter list" means a prepared list of selected voters arranged in the order in which requested; and

(5) "voter data" means selected information derived from the voter file."

SECTION 16. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter

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240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--
CLOSE OF REGISTRATION [~~FEDERAL QUALIFIED ELECTORS AND OVERSEAS
VOTERS~~]-LATE REGISTRATION.--[~~A.~~] For qualified electors [~~other than
federal qualified electors or overseas voters~~], the following
provisions shall apply:

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

[~~(2)~~] B. registration shall be reopened on the Monday
following the election;

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

[~~(4)~~] D. during the period when registration is closed,
the county clerk shall receive certificates of registration and
other documents pertaining thereto but shall not file [~~the~~] any
certificate of registration in the registration book until the
Monday following the election, at which time a voter information
document shall be mailed to the registrant at the address shown on
the certificate of registration;

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

[~~(6)~~] F. the county clerk shall accept for filing any

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certificate of registration that is subscribed and dated on or before the twenty-eighth day preceding the election and:

[~~(a)~~] (1) received by the county clerk before 5:00 p.m. on the Friday immediately following the close of registration;

[~~(b)~~] (2) mailed and postmarked not less than twenty-eight days prior to any election referred to in this section; or

[~~(c)~~] (3) accepted at a state agency designated pursuant to Section 1-4-5.2 NMSA 1978.

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

SECTION 17. Section 1-4-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

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

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

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B. If the qualified elector is already registered in the county as shown by the qualified elector's original certificate of registration currently on file in the county registration records, the county clerk shall not accept the new certificate of registration unless it is filed pursuant to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. If the applicant's certificate of registration is rejected for any reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation of why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. The county clerk shall reject any certificate of registration that does not contain the qualified elector's name, address, social security number and date of birth, along with a signature or usual mark. The county clerk shall reject any certificate of registration in which the question regarding citizenship is not answered or is answered in the negative.

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

SECTION 18. Section 1-4-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 68, as amended) is amended to read:

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

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

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

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

B. The county clerk shall, on Monday of each week, process all certificates of registration that are in proper form and that were received in [~~his~~] the county clerk's office up to 5:00 p.m. on the preceding Friday. The county clerk shall not process certificates of registration when the registration books are closed pursuant to Section 1-4-8 NMSA 1978, during the county canvass or during the period of time following the county canvass when voter credit is entered into the voter registration electronic management system, provided such credit is entered for all voters no later than forty-five days following an election.

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

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

"[NEW MATERIAL] AUTHORIZATION TO VERIFY VOTER REGISTRATION INFORMATION--INVESTIGATION AND RECONCILIATION.--

A. The secretary of state may:

(1) provide to the chief election officer of another state or a consortium of chief election officers of other states information that is requested, including social security numbers, dates of birth, driver's licenses and identification card numbers and other information that the secretary of state deems necessary for the chief election officer of that state or for the consortium to maintain a voter registration list, if the secretary of state is

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satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list; and

(2) request from the chief election officer of another state or a consortium of chief election officers of other states information that the secretary of state deems necessary to maintain the statewide voter registration list.

B. The secretary of state may enter into a written agreement with an agency or political subdivision of this state or with a department of the federal government pursuant to which the state agency, political subdivision or federal department shall provide to the secretary of state information that is in the possession of the state agency, political subdivision or federal department and that the secretary of state deems necessary to maintain the statewide voter registration list.

C. The secretary of state may enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to 42 U.S.C. Section 15483 (now 52 U.S.C. Section 21083), for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls

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into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall only disclose information received from the secretary of state pursuant to this subsection to complete an investigation pursuant to this section.

E. The county clerk shall investigate or reconcile the information received from the secretary of state. The secretary of state shall develop and maintain a manual for county clerks that describes best practices in investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters."".

3. On page 5, between lines 4 and 5, insert the following sections to read:

"SECTION 21. Section 1-5-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 103, as amended) is amended to read:

"1-5-1. SHORT TITLE.--~~[Sections 1-5-1 through 1-5-29]~~ Chapter 1, Article 5 NMSA 1978 may be cited as the "Voter Records System Act"."

SECTION 22. Section 1-5-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 118, as amended) is amended to read:

"1-5-14. FILE MAINTENANCE [~~LISTS~~] REPORTS--VOTER FILE UPDATES.--

A. At least once a month, the [~~county clerk~~] secretary of state shall have made from the state voter file a file maintenance [~~list~~] report of additions, deletions and changes, if any, to each of the county [~~register~~] registers. The file maintenance report shall indicate whether each entry listed is an addition, deletion or

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change to the county register.

B. ~~[One copy of the list]~~ A digital version of the file maintenance report shall be stored by the [county clerk] secretary of state for at least one year.

C. ~~[The county clerk shall also furnish copies of the list to the county chairman of each of the major political parties in the county. The copy of the chairman's list shall indicate whether each item is an addition, deletion or change. The file maintenance list]~~ Upon request, the secretary of state shall furnish an updated voter file to the state chair of each of the qualified political parties in the state. Upon request, the county clerk shall provide a file maintenance report or an updated voter file to the county chair of each of the qualified political parties in the county.

D. File maintenance reports and updated voter files shall be provided in a manipulable digital format and shall not include the voter's social security number, codes used to identify the agency where the voter registered, the voter's day and month of birth, the voter's email address, or, if prohibited by the voter, the voter's telephone number [if prohibited by the voter]."

4. On page 6, lines 15 and 16, strike Section 3 in its entirety and insert in lieu thereof the following sections to read:

"SECTION 24. Section 1-5-31 NMSA 1978 (being Laws 1989, Chapter 298, Section 2, as amended) is amended to read:

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

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

B. provide to each county clerk the computer software

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necessary for the use and maintenance of the [~~statewide computerized~~] voter registration electronic management system; [~~and~~]

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

[~~C.~~] D. adopt such rules [~~and regulations~~] as are necessary to establish and administer the [~~statewide computerized~~] voter registration electronic management system and to [~~require deadlines and time limits for the updating of voter files~~] regulate the use of the driver's license database by county clerks."

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

"[NEW MATERIAL] SHORT TITLE.--Sections 25 through 41 of this act may be cited as the "Uniform Military and Overseas Voters Act"."

SECTION 26. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Uniform Military and Overseas Voters Act:

A. "appropriate clerk" means a county clerk for elections conducted pursuant to the Election Code and a municipal clerk for elections conducted pursuant to the Municipal Election Code;

B. "federal postcard application" means the application prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act;

C. "federal write-in absentee ballot" means the ballot approved pursuant to the federal Uniformed and Overseas Citizens

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Absentee Voting Act;

D. "military-overseas ballot" means:

(1) a federal write-in absentee ballot; or

(2) a ballot sent to a federal qualified elector by the appropriate clerk and cast in accordance with the provisions of the Uniform Military and Overseas Voters Act;

E. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States; and

F. "United States", used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States."

SECTION 27. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] ELECTIONS COVERED--FORM OF BALLOT AND BALLOT MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.--

A. The procedures in the Uniform Military and Overseas Voters Act apply to elections conducted pursuant to the Election Code and the Municipal Election Code.

B. A federal qualified elector may vote for all candidates and on all questions as if the voter were able to cast a ballot in person.

C. The form of the military-overseas ballot shall be the same as the ballot provided to all other voters. The form of the

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military-overseas ballot materials shall be the same as the ballot materials provided to all other voters, except as required by the Uniform Military and Overseas Voters Act.

D. To receive the benefits of the Uniform Military and Overseas Voters Act, a federal qualified elector shall inform the appropriate clerk that the individual is a federal qualified elector. Methods of informing the appropriate clerk include:

(1) the use of a federal postcard application or federal write-in absentee ballot;

(2) the use of an army post office, fleet post office or diplomatic post office address in the correct format as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application;

(3) the use of an overseas address as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application; or

(4) the inclusion on a certificate of registration or an absentee ballot application or other information sufficient to identify the voter as a federal qualified elector."

SECTION 28. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

A. The secretary of state shall make available to federal qualified electors information regarding voter registration procedures for federal qualified electors and procedures for casting military-overseas ballots.

B. The secretary of state shall establish an electronic

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transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk or municipal clerk.

C. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from federal qualified electors shall be in the same form as those used in the jurisdiction where the voter is registered except as modified to comply with the Uniform Military and Overseas Voters Act or federal law. The secretary of state may, to the extent reasonably possible, coordinate with other states to develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state.

D. The secretary of state shall prescribe the form and content of a declaration for use by a federal qualified elector to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a federal qualified elector and timely and proper completion of an military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

E. The secretary of state shall prescribe to the

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appropriate clerk the form of and distribute to each county clerk a supply of:

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

(2) official mailing envelopes for use in returning the official inner envelope to the appropriate clerk; provided that only the official mailing envelope for absentee ballots in a primary election shall contain a designation of party affiliation;

(3) absentee ballot instructions describing the proper methods for completion and return of the ballot, including instructions for those federal qualified electors returning a ballot electronically;

(4) official transmittal envelopes for use by the appropriate clerk in mailing absentee ballot materials; and

(5) official holding envelopes for ballots returned electronically by federal qualified electors."

SECTION 29. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] METHODS OF REGISTERING TO VOTE.--

A. A federal qualified elector may register to vote using any of the following methods; provided that the document is received by the county clerk by the deadline for registering to vote as provided in Section 1-4-8 NMSA 1978:

(1) using the procedures provided in Article 4 of the Election Code;

(2) using a federal postcard application or the application's approved electronic equivalent; or

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(3) using the declaration accompanying a federal absentee write-in ballot.

B. A voter's certificate of registration completed pursuant to the Uniform Military and Overseas Voters Act shall remain valid until the voter's certificate of registration is canceled in accordance with the procedures specified in Article 4 of the Election Code.

C. In registering to vote, a federal qualified elector shall use and must be assigned to the voting precinct of the address of:

(1) the residence of the voter, if the voter resides in this state; or

(2) the last place of residence of the voter in this state, or the last place of residence in this state of the parent or legal guardian of the voter if the voter did not reside in this state; provided that if that address is no longer a recognized residential address, the voter shall be assigned an address or other location within that precinct or that precinct part."

SECTION 30. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] METHODS OF APPLYING FOR MILITARY-OVERSEAS BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT.--

A. A federal qualified elector who is currently registered to vote in this state may, by the deadline specified in the Absent Voter Act or Municipal Election Code for receipt of absentee ballot applications, apply for a military-overseas ballot by:

(1) using an absentee ballot application pursuant to the Absent Voter Act or Municipal Election Code;

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(2) using the federal postcard application or the application's electronic equivalent; or

(3) using the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.

B. A federal qualified elector who is not currently registered to vote in this state may, by the deadline in the Election Code for registering to vote, simultaneously register to vote and apply for a military-overseas ballot by using a federal postcard application or the application's electronic equivalent.

C. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an automatic application for a military-overseas ballot for the general election.

D. An application for a military-overseas ballot is effective as an automatic application for a military-overseas ballot for a runoff election necessary to conclude the election for which the application was submitted."

SECTION 31. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] TRANSMISSION OF UNVOTED MILITARY-OVERSEAS BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

A. Not later than forty-five days before an election, even if the forty-fifth day before an election falls on a weekend or a holiday, the appropriate clerk shall transmit a ballot and balloting materials to all federal qualified electors who by that date submit a valid military-overseas ballot application.

B. The appropriate clerk shall transmit a ballot and

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balloting materials as soon as practicable when the ballot application from a federal qualified elector arrives after the forty-fifth day before the election and before absentee ballots are transmitted to other voters pursuant to the Absent Voter Act or the provisions of the Municipal Election Code.

C. The appropriate clerk shall transmit a ballot and balloting materials in accordance with the procedures for processing of all other absentee ballot applications for that jurisdiction when the ballot application from a federal qualified elector arrives after the appropriate clerk has begun transmitting ballots and balloting materials to other voters.

D. A federal qualified elector may request that the ballot and balloting materials be sent by facsimile transmission, electronic mail delivery or other equivalent electronic transmission available to the appropriate clerk where the ballot and balloting materials are sent directly by the clerk to the federal qualified elector. The clerk shall transmit the ballot and balloting materials using the means of transmission requested by the federal qualified elector. The clerk shall determine the most reasonable expedited means of delivery for a ballot and balloting materials for a federal qualified elector who does not request a particular means of transmission."

SECTION 32. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS FROM FEDERAL QUALIFIED ELECTORS.--

A. A military-overseas ballot shall be considered timely if it is received by the appropriate clerk no later than the closing of the polls on election day.

B. A federal qualified elector may transmit, and the appropriate clerk shall accept, a military-overseas ballot by

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facsimile transmission, electronic mail delivery or other equivalent electronic delivery available to the appropriate clerk when the military-overseas ballot is sent directly by the voter to that clerk; provided that, when sending a military-overseas ballot utilizing any method described in this subsection:

(1) the federal qualified elector signs an affidavit waiving the right of secrecy of the federal qualified elector's ballot;

(2) the federal qualified elector transmits the affidavit with the military-overseas ballot; and

(3) the appropriate clerk places the received ballot in a holding envelope provided by the secretary of state for this purpose and delivers the ballot to the absent precinct board."

SECTION 33. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] EMERGENCY RESPONSE PROVIDERS.--

A. An emergency response provider may benefit from the ability to apply for an absentee ballot and to return the marked ballot in the same manner as provided in the Uniform Military and Overseas Voters Act for federal qualified electors; provided that the emergency response provider may not use the federal postcard application or the federal write-in absentee ballot.

B. The appropriate clerk shall transmit to, receive from and process an absentee ballot of an emergency response provider in the same manner as provided in the Uniform Military and Overseas Voters Act for a federal qualified elector.

C. As used in this section, "emergency response provider" means a resident of this state who otherwise satisfies this state's voter eligibility requirements and who, in response to an emergency,

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is temporarily assigned by a governmental or nongovernmental relief agency or employer to provide support to the victims of the emergency or to rebuild the infrastructure in the affected area and:

(1) the assignment is for a period beginning on or after the thirty-five days immediately prior to an election;

(2) the affected area is outside the individual's county of residence; and

(3) the president of the United States or the governor of a state has declared an emergency in the affected area."

SECTION 34. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
QUALIFICATION.--

A. A federal qualified elector may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election.

B. In completing the federal write-in absentee ballot, the federal qualified elector may designate a candidate by writing in the name of the candidate. In a general election when voting for a specified office, a federal qualified elector may in the alternate complete the federal write-in absentee ballot by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party.

C. A qualified federal write-in absentee ballot shall be processed by the canvassing board in the same manner as a provisional ballot. A federal write-in absentee ballot from a federal qualified elector shall not be qualified if the federal qualified elector voted on any other type of ballot. A federal write-in absentee ballot of an overseas voter shall not be qualified

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if the ballot is submitted from any location in the United States."

SECTION 35. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] CONFIRMATION OF RECEIPT OF APPLICATION AND VOTED BALLOT.--The secretary of state, upon the recommendation of the voting system certification committee, shall implement an electronic free-access system by which a federal qualified elector may determine by telephone, electronic mail or internet whether the federal qualified elector's:

A. federal postcard application or other registration or military-overseas ballot application has been received and accepted; and

B. military-overseas ballot has been received and the current status of the ballot."

SECTION 36. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

A. The county clerk shall request an electronic-mail address from each federal qualified elector who registers to vote. An electronic-mail address provided by a federal qualified elector shall not be made available to the public and is exempt from disclosure pursuant to the Inspection of Public Records Act. The electronic-mail address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and ballot materials if the voter has requested electronic transmission by electronic mail, and verifying the voter's mailing address and physical location. The request for an electronic-mail address shall describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is

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prohibited.

B. If an absentee ballot is transmitted to a federal qualified elector via electronic mail, the appropriate clerk shall note in the absentee ballot register the voter's registration address, that the ballot was delivered to the voter electronically and the date on which it was sent, but shall not disclose the voter's electronic-mail address.

C. A federal qualified elector who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections in the election cycle. The appropriate clerk shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable as an automatic application for a military-overseas ballot."

SECTION 37. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] PROHIBITION OF NONSUBSTANTIVE REQUIREMENTS.--

A. If the intention of the voter is clearly discernable in accordance with the provisions of Section 1-1-5.2 NMSA 1978, an abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

B. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted pursuant to the Uniform Military and Overseas Voters Act.

C. Notarization is not required for the execution of any document required by the Uniform Military and Overseas Voters Act."

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SECTION 38. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] ABSENTEE BALLOTS--REPORTS.--

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

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

SECTION 39. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] EQUITABLE RELIEF.--A court of competent jurisdiction of this state may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, the Uniform Military and Overseas Voters Act on application by:

A. a federal qualified elector alleging a grievance under the Uniform Military and Overseas Voters Act; or

B. an election official in this state."

SECTION 40. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Military and Overseas Voters Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that

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enact it."

SECTION 41. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Military and Overseas Voters Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

SECTION 42. Section 1-6-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 129, as amended) is amended to read:

"1-6-3. RIGHT TO VOTE BY ABSENTEE BALLOT.--~~[A. Any]~~ A voter may vote by absentee ballot for all candidates and on all questions appearing on the ballot as if ~~[he]~~ the voter were able to cast ~~[his]~~ the ballot in person ~~[at his regular polling place on election day.~~

~~B. Any federal qualified elector may register absentee and vote by an absentee ballot for any federal office]."~~

SECTION 43. Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

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

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

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

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

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

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

SECTION 44. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended) is amended to read:

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

A. The county clerk shall mark each completed absentee

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ballot application with the date and time of receipt in the clerk's office and enter the required information in the absentee ballot register. The county clerk shall then determine if the applicant is a voter, ~~[an absent uniformed services]~~ and if the voter is a uniformed-service voter or an overseas voter. If the applicant is a uniformed-service voter or overseas voter, the application shall be processed pursuant to the Uniform Military and Overseas Voters Act.

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

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

D. If the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who is a new registrant and who registered by mail without submitting the required voter identification, the county clerk shall notify the voter that the voter must submit with the absentee ballot the required physical form of identification. The county clerk shall note on the absentee ballot register and signature roster that the applicant's absentee ballot must be returned with the required identification.

E. If the ~~[county clerk finds that the applicant is a voter other than a federal qualified elector or overseas voter]~~ applicant has on file with the county a valid certificate of registration, the county clerk shall mark the application "accepted" and, beginning twenty-eight days before the election, deliver an absentee ballot to the voter in the county clerk's office or mail to the applicant an absentee ballot and the required envelopes for use

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in returning the ballot. [~~If the county clerk finds that the applicant is a federal qualified elector or overseas voter, the county clerk shall mark the application "accepted" and beginning forty-five days before the election, mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. Acceptance of an application of a federal qualified elector constitutes registration for the election in which the ballot is to be cast. Acceptance of an application from an overseas voter who is not an absent uniformed services voter constitutes a request for changing information on the certificate of registration of any such voter.~~] An absent voter shall not be permitted to change party affiliation during those periods when change of party affiliation is prohibited by the Election Code. Upon delivery of an absentee ballot to a voter in the county clerk's office or mailing of an absentee ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the signature roster next to the name of the voter who has been provided or mailed an absentee ballot.

F. Absentee ballots may be marked in person at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code. If the county clerk establishes an additional alternate voting location near the clerk's office, absentee ballots may be marked in person at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election. The additional alternate voting location shall be operated by the county clerk and the county clerk's staff.

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G. When marking an absentee ballot in person at the county clerk's office, the voter shall provide the required voter identification to the county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter, after subscribing an application for an absentee ballot, shall be allowed to vote by inserting the ballot into an optical scan tabulator certified for in-person absentee voting at the county clerk's office. The county clerk or the clerk's authorized representative shall make an appropriate designation indicating that the voter has voted absentee. In marking the absentee ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA 1978.

H. Absentee ballots shall be sent to applicants not later than on the Friday immediately prior to the date of the election.

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

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

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

L. It is unlawful to electioneer in the county clerk's office or in any alternate voting location."

SECTION 45. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

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

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

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

B. Absentee ballots shall be sent to applicants beginning twenty-eight days before the election. For each application for an absentee ballot received twenty-three or more days before the election, the county clerk shall send either the ballot or a notice of rejection to the applicant as soon as practicable, provided it is sent not later than twenty-two days before the election. Within twenty-two days of election day, the county clerk shall send either

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the ballot or a notice of rejection to the applicant within twenty-four hours after receipt of the voter's application for an absentee ballot.

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

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

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

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

SECTION 46. Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

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

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

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

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

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

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

B. ~~[Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the county clerk and federal qualified electors shall be printed in the form prescribed by the federal Uniformed and Overseas Citizens Absentee Voting Act.]~~ Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

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

D. The official mailing envelope shall contain a space for the voter to record the voter's name, registration address and year of birth. The envelope shall have a security flap to cover this

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information."

SECTION 47. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MANNER OF VOTING--ALTERNATE DELIVERY METHODS.--~~[A.]~~
Except as provided in [~~Subsection B of this~~] Section 1-6-5 or Section 1-6-5.7 NMSA 1978, a person voting pursuant to the Absent Voter Act shall secretly mark the absentee ballot in the manner provided in the Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope, which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth. Voters shall either deliver or mail the official mailing envelope to the county clerk of their county of residence.

~~[B. Federal qualified electors and overseas voters shall either deliver or mail the official mailing envelope or, in accordance with Subsection C of this section, electronically transmit the absentee ballot to the county clerk of their county of residence or deliver it to a person designated by federal authority to receive executed ballots for transmission to the county clerk of the county of residence or former residence as the case may be.~~

~~C. A federal qualified elector or overseas voter may return an absentee ballot by electronic transmission if:~~

~~(1) the voter signs a statement under penalty of perjury waiving the right of secrecy of the voter's ballot;~~

~~(2) the voter transmits the statement with the absentee ballot; and~~

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~~(3) the transmission of the absentee ballot and statement are received by the county clerk no later than 7:00 p.m. on election day.]"~~

SECTION 48. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

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

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the absent voter precinct board or until it is canceled and destroyed in accordance with law.

B. Completed official mailing envelopes shall be accepted until 7:00 p.m. on election day. Any completed official mailing envelope received after that time shall not be delivered to the absent voter precinct board but shall be preserved by the county clerk until the time for election contests has expired. In the absence of a restraining order after expiration of the time for election contests, the county clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the county clerk shall count the numbers of late ballots from voters, uniformed-service voters and overseas voters [~~and federal qualified electors~~] and report the number from each category to the secretary of state.

C. No later than 5:00 p.m. on the Monday immediately preceding the date of election, the county clerk shall record the numbers of unused ballots and shall publicly destroy in the county clerk's office all such unused ballots or prepare the unused ballots for delivery to precinct boards. The county clerk shall execute a certificate of destruction, which shall include the numbers on the ballots destroyed. A copy of the certificate of destruction shall

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be sent to the secretary of state."

SECTION 49. Section 1-6-22.1 NMSA 1978 (being Laws 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274, Section 1, as amended) is amended to read:

"1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING IN LIEU OF POLLING PLACE.--

A. Notwithstanding the provisions of Sections 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in November of each odd-numbered year, a board of county commissioners may designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has fewer than one hundred voters and the nearest polling place for an adjoining precinct is more than twenty miles driving distance from the boundary for the precinct in question.

B. If a precinct is designated a mail ballot election precinct, in addition to the notice required pursuant to Section 1-3-8 NMSA 1978, the county clerk shall notify by [~~registered~~] mail with delivery confirmation all voters in that precinct at least forty-two days before an election that each voter will be sent an absentee ballot twenty-eight days before the election and that there will be no polling place for the precinct on election day. The county clerk shall include in the notice a card informing the voter that if the voter does not want to receive an absentee ballot for that election, the voter should return the card before the date the county clerk is scheduled to mail out absentee ballots. The [~~card~~] notice shall also inform the voter that a voting system equipped for persons with disabilities will be available at all early voting sites before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail. In addition, the notice shall inform the voter if the county is consolidating precincts on election day and, if so, the ability of the voter to cast a ballot at any consolidated precinct on election day if the voter chooses not to receive an absentee ballot,

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or to cast a provisional ballot at any consolidated precinct if the voter does not receive an absentee ballot, which will be counted upon confirmation that the voter has not returned the absentee ballot.

C. The county clerk shall mail each voter in the mail ballot election precinct an absentee ballot on the twenty-eighth day before an election, unless the voter has requested otherwise, along with a notice that there will be no polling place in that precinct on election day.

D. The county clerk shall keep a sufficient number of ballots from a mail ballot election precinct such that if a voter from that precinct does not receive an absentee ballot before election day, the voter may vote on an absentee ballot in the office of the county clerk on election day in lieu of voting on the missing ballot."

SECTION 50. Section 1-8-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 157, as amended) is amended to read:

"1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE PRIMARY.--

A. Vacancies on the general election ballot may be filled as provided in Subsection B of this section if after a primary election there is no nominee of a major political party for a public office to be filled in the general election and if the vacancy was caused by:

(1) the death of a candidate after filing of the declaration of candidacy or after certification as a convention-designated nominee and before the primary election; or

(2) the resignation or death of a person holding a public office after the ~~[date for filing a declaration of candidacy or after the date required for certification as a convention-~~

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~~designated nominee, and before the primary election]~~ last Friday before the first Tuesday in March, when such office was not included in the governor's proclamation and is required by law to be filled at the next succeeding general election after the vacancy is created.

B. The vacancy may be filled subsequent to the primary election by the central committee of the state or county political party, as the case may be, as provided by Subsection A of Section 1-8-8 NMSA 1978. The name of the person to fill the vacancy on the general election ballot shall be filed with the proper filing officer within fifteen days after the primary election, and when so filed, it shall be placed on the general election ballot as the political party's nominee for such office."

SECTION 51. Section 1-8-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 158, as amended) is amended to read:

"1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING AFTER PRIMARY.--

A. If after a primary election a vacancy occurs, for any cause, in the list of the nominees of a qualified political party for any public office to be filled in the general election, or a vacancy occurs because of the resignation or death of a person holding a public office not included in the governor's proclamation and which office is required by law to be filled at the next succeeding general election, or a vacancy occurs because a new public office is created and was not included in the governor's proclamation but is capable by law of being filled at the next succeeding general election, the vacancy on the general election ballot may be filled by:

(1) the central committee of the state political party filing the name of its nominee for the office with the proper filing officer when the office is a federal office, state office, district office or multicounty legislative district office; and

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(2) the central committee of the county political party filing the name of its nominee for the office with the proper filing officer when the office is a magistrate office, county office or legislative district office where the district is entirely within the boundaries of a single county.

B. Appointments made pursuant to Subsection A of this section shall qualify pursuant to Section 1-8-18 NMSA 1978.

C. The county or state central committee members making the appointment pursuant to Subsection A of this section shall be as provided for in the rules of the respective party; provided that, at a minimum, the committee shall include those members residing within the boundaries of the area to be represented by the public office.

~~[C.]~~ D. Appointments to fill vacancies in the list of a party's nominees shall be made and filed at least fifty-six days prior to the general election.

~~[D.]~~ E. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

SECTION 52. Section 1-8-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 163) is amended to read:

"1-8-14. PRIMARY ELECTION LAW--PROCLAMATION--DUTIES OF SECRETARY OF STATE.--Upon the proclamation being filed, the secretary of state shall immediately:

A. publish the proclamation for five consecutive days in at least four daily newspapers of general circulation in the state; ~~[and]~~

B. post the proclamation and any amended proclamation on the secretary of state's web site; and

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[B.] C. send [~~by certified mail~~] an authenticated copy of the proclamation or any amended proclamation to each county clerk along with a copy of the text in an editable electronic format."

SECTION 53. Section 1-8-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 165, as amended) is amended to read:

"1-8-16. PRIMARY ELECTION LAW--PROCLAMATION--AMENDMENT.--The governor may amend the proclamation between the time of its issuance and the first Tuesday in March to include a newly created public office that is capable by law of being filled at the next succeeding general election, or any existing office becoming vacant by removal, resignation or death when such vacancy occurs no later than the last Friday before the first Tuesday in March, or to provide for any corrections or omissions."

SECTION 54. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended by Laws 2014, Chapter 40, Section 5 and by Laws 2014, Chapter 81, Section 5) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took

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place between the hours of 9:00 a.m. and 5:00 p.m.

D. Declarations of candidacy for retention for all affected judicial offices shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the ~~[second Tuesday in March of each even-numbered year]~~ twenty-third day after the primary election.

E. No candidate's name shall be placed on the ballot until the candidate has been notified in writing by the proper filing officer that the declaration of candidacy, the petition, if required, and the certificate of registration of the candidate on file are in proper order and that the candidate, based on those documents, is qualified to have the candidate's name placed on the ballot. The proper filing officer shall mail the notice no later than 5:00 p.m. on the Tuesday following the filing date.

F. If a candidate is notified by the proper filing officer that the candidate is not qualified to have the candidate's name appear on the ballot, the candidate may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

SECTION 55. Section 1-9-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 188, as amended) is amended to read:

"1-9-5. REQUIREMENT TO USE VOTING SYSTEMS--SUFFICIENT CHECK-IN STATIONS AND VOTING BOOTHS.--

A. Certified voting systems shall be used in all polling locations in all statewide elections.

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B. The secretary of state shall provide to the county clerk of each county at least one [~~voting system~~] optical scan tabulator for use in each polling location in the general and primary elections. At the request of a county clerk, the secretary of state shall provide additional optical scan tabulators for use in a polling place to accommodate the anticipated number of voters in that polling place and to preserve the secrecy of the ballot. The request shall be made no later than the first Monday in August of each odd-numbered year.

C. The secretary of state shall provide to the county clerk of each county a sufficient number of check-in stations for use in each polling location in the primary and general elections when electronic rosters or their equivalents are used. The number of check-in stations at a polling location shall be capable of accommodating the number of voters who appeared to vote in person on election day from the precincts represented in a consolidated precinct in the same election held four years earlier or the number of voters who actually voted in that polling location four years earlier, whichever is greater; provided that no polling location shall be provided fewer than two check-in stations. No later than the last Tuesday in June of each odd-numbered year, the secretary of state shall determine how many voters a check-in station can accommodate in a day and develop a formula so that a check-in station is in use no more than seventy-five percent of the time. No later than the first Monday in August of the odd-numbered year, the county clerk in each county shall provide to the secretary of state the number of check-in stations required per polling location based on the formula provided by the secretary of state. Nothing in this section prohibits the board of county commissioners from acquiring additional check-in stations for use in an election, in addition to those provided by the secretary of state.

[~~G.~~] D. The county clerk shall ensure that an

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adequate number of voting booths are provided to ensure that voters in each polling location may cast their ballots in secret."

SECTION 56. Section 1-9-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 190, as amended) is amended to read:

"1-9-7. VOTING SYSTEMS--ACQUISITION.--

A. The secretary of state shall provide to the county clerk of each county a sufficient number of voting systems as required by the Election Code for the conduct of primary and general elections.

B. When authorized by the state board of finance, the board of county commissioners may acquire new or previously owned voting systems. No less than ninety days prior to each primary and general election, the board of county commissioners of each county may make application to the state board of finance for any additional voting systems to be acquired by a county in excess of the number of voting systems required by the Election Code for the conduct of primary and general elections.

C. The additional voting systems shall be of a type certified by the secretary of state. They shall be purchased by the state board of finance. Unless paid in full by the county at the time of purchase, the cost of the voting systems, including all transportation costs, shall be paid out of the voting system revolving fund. The state board of finance shall cause to be delivered to each county clerk the additional voting systems.

D. Except for intercounty acquisitions of equipment approved by the secretary of state, a previously owned voting system shall have a warranty equal to the warranty required of a new voting system."

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SECTION 57. Section 1-10-5 NMSA 1978 (being Laws 1977, Chapter 222, Section 28, as amended) is amended to read:

"1-10-5. BALLOTS--PRINTING.--The county clerk shall have access to sufficient ballots to send to federal qualified electors [~~and overseas voters~~] no later than the last business day before the forty-fifth day prior to [~~a primary or general~~] an election [~~as required by federal law~~]. All other ballots shall be printed and in the possession of the county clerk at least forty days before the election. When a county is using a system that is designed to print ballots at a polling location, the system shall be programmed and capable of operation at least forty days before the election."

SECTION 58. Section 1-10-8 NMSA 1978 (being Laws 1977, Chapter 222, Section 31, as amended) is amended to read:

"1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF OFFICES.--The ballot used in the primary and general elections shall contain, when applicable, the offices to be voted on in the following order:

- A. president and vice president;
- B. United States senator;
- C. United States representative;
- D. [~~candidates for~~] non-judicial state offices to be voted on at large, in the order prescribed by the secretary of state;
- E. state senator;
- F. state representative;
- G. other [~~district candidates~~] districted offices, in

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the order prescribed by the secretary of state;

H. ~~[metropolitan and magistrate judges]~~ judicial offices in partisan contests, in the order prescribed by the secretary of state;

I. county commissioners;

J. county clerk;

K. county treasurer;

L. county assessor;

M. county sheriff;

N. probate judge; and

O. ~~[other issues as]~~ in the order prescribed by the secretary of state:

(1) judicial offices in retention elections;

(2) local government ballot questions authorized by the board of county commissioners; and

(3) other questions prescribed by the secretary of state."

SECTION 59. Section 1-10-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 209, as amended) is amended to read:

"1-10-10. BALLOTS--SAMPLE.--

A. ~~[At the time of printing the official ballots]~~ The county clerk shall ~~[cause to be printed]~~ make available in both English and Spanish a number of sample ballots in a quantity

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~~[equal to ten percent of the number of voters in each precinct]~~
and in a printed or electronic format as prescribed by the
secretary of state.

B. The sample ballots shall be the same in all respects as the official ballots, except that, if printed, they shall be printed on colored paper and shall not contain the facsimile signature of the county clerk or any endorsement on the back thereof. Each sample ballot shall be marked in large black capital letters, "SAMPLE BALLOT".

C. Printed sample ballots shall be made available in reasonable quantities to all interested persons ~~[for distribution to the voters within the appropriate precincts.~~

~~D. Nothing in this section shall preclude any person from having printed at his own expense sample ballots]~~ at the county clerk's office, in each polling place and on the county's web site, if the county maintains a web site."

SECTION 60. Section 1-12-7.1 NMSA 1978 (being Laws 1969, Chapter 240, Section 112, as amended) is amended to read:

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

A. At each election day polling location, other than a consolidated precinct where any voter in the county may vote, the precinct board [using voter lists] shall post securely at or near the entrance of the polling place one copy of an alphabetical list of voters and a map of the precincts represented in that polling place for use of the voters prior to voting. The posted copy shall not contain a listing of voter addresses, years, months or days of birth [unique identifiers] or social security numbers.

B. At each polling location where physical rosters

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

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

D. The judge or election clerk assigned to [~~the checklist of voters used for confirmation of~~] confirm registration [~~and voting~~] shall determine that each person offering to vote is registered and, in the case of a primary election, that the voter is registered in a party designated on the primary election ballot. If the person's registration is confirmed [~~by the presence of the person's name on the checklist of voters~~] and the voter provides the required voter identification, the judge or election clerk shall announce to the judges or election clerks the list number and the name of the voter as shown on the checklist of voters. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional paper ballot and shall provide the required voter identification to the county clerk's office before 5:00 p.m. on the second day following the election, or to the precinct board before the polls close, or the voter's provisional ballot shall not be qualified. If the required voter identification is provided, the voter's provisional paper ballot shall be qualified and the voter shall not vote on any other type of ballot.

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

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precinct board.

F. If the signature roster indicates that the voter is required to present a physical form of identification before voting, the judge or election clerk shall ask the voter for the required physical form of identification. If the voter does not provide the required identification, the voter shall be allowed to vote on a provisional paper ballot; provided, however, that if the voter brings the required physical form of identification to the polling place after casting a provisional paper ballot, that ballot shall be qualified. ~~[and the voter shall not vote on any other type of ballot.]~~

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

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

SECTION 61. Section 1-12-10.1 NMSA 1978 (being Laws 2003, Chapter 356, Section 2, as amended) is amended to read:

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

A. The secretary of state shall ~~[issue rules describing the voter information]~~ provide voting information, which the county clerks shall display, in accordance with the federal Help America Vote Act of 2002, in each polling place ~~[on election day]~~ and in each county clerk's office and ~~[alternate]~~ at any location where ~~[absentee or early]~~ voting is taking place.

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

SECTION 62. 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~~] a misdemeanor."

SECTION 63. Section 1-12-15 NMSA 1978 (being Laws 1969, Chapter 240, Section 267, as amended) is amended to read:

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

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

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

C. A person who provides assistance to a voter when the person knows the voter does not require assistance pursuant to Section 1-12-12 NMSA 1978 is guilty of a misdemeanor."

SECTION 64. Section 1-12-25.4 NMSA 1978 (being Laws 2003, Chapter 356, Section 7, as amended) is amended to read:

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

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

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

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

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D. If the voter was registered in the county, the registration was later canceled and the county clerk determines that the cancellation was in error, or that the voter's name should not have been placed on the list of voters whose registrations were to be canceled, the voter's registration shall be immediately restored and the provisional paper ballot counted.

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

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

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

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

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

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SECTION 65. Section 1-12-31 NMSA 1978 (being Laws 1969, Chapter 240, Section 291, as amended) is amended to read:

"1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT BOXES AND OTHER ELECTION MATERIALS.--

A. The following election returns and materials shall not be placed in the ballot box and shall be returned immediately to the county clerk along with the locked ballot box:

(1) one ballot box key in an envelope addressed to the county clerk;

(2) one signature roster;

(3) one tally sheet; and

(4) all unused election supplies not destroyed pursuant to the Election Code. [~~and~~

~~(5)]~~ B. The removable media storage device shall not be placed in the ballot box and shall be returned immediately to the county clerk either by messenger or along with the locked ballot box.

~~[B.]~~ C. The election judge of the party different from that of the presiding judge shall place the other ballot box key in the envelope addressed to the district court and immediately mail it to the district court."

SECTION 66. Section 1-12-69 NMSA 1978 (being Laws 1977, Chapter 222, Section 72, as amended) is amended to read:

"1-12-69. DISPOSITION OF PAPER BALLOTS.--

A. Paper ballots marked by voters and all records

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related to voting in any election in which a federal candidate appears on the ballot shall be retained and preserved for a period of twenty-two months from the date of the election.

B. Paper ballots marked by voters and all records related to voting in any election in which no federal candidate appears on the ballot shall be retained and preserved for forty-five days after adjournment of the state or county canvassing board, whichever is later.

C. In precincts where a recount or judicial inquiry or inspection of contents is sought, the county clerk shall hold ballots marked by voters and records related to voting in those precincts intact [~~subject to order of the district court or other authority having jurisdiction of the contest or inspection~~] until forty-five days following the recount, judicial inquiry or inspection of contents is completed, whichever is later.

D. Paper ballots marked by voters and records related to voting in any election shall only be destroyed [~~pursuant to rules promulgated~~] using a destruction method approved by the state records [center] administrator for destruction of public records.

E. The state records [~~center~~] administrator is authorized to receive for storage and destruction paper ballots marked by voters and records related to voting in any election in which a federal candidate appears on the ballot. At least three days prior to sending the ballots and records to the state records [~~center~~] administrator, the county clerk shall notify the county chair of each political party that participated in the election. The chairs or their designees may inspect the boxes prior to their sealing for delivery.

F. At least three days prior to the destruction by the county clerk of paper ballots marked by voters and records

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related to voting, 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 each political party may be present or may have the chair's accredited representative present.

G. Paper ballots marked by voters, their digitized equivalents and records related to voting are exempt from the Inspection of Public Records Act until forty-five days following any recount, contest or other judicial inquiry or until forty-five days after adjournment of the state or county canvassing board, whichever is later. Any inspection of paper ballots marked by voters, their digitized equivalents or records related to voting shall be conducted in such a manner as to secure the secrecy of the ballot."

SECTION 67. Section 1-12-71 NMSA 1978 (being Laws 1977, Chapter 222, Section 7) is amended to read:

"1-12-71. RESTRICTION ON LOCAL GOVERNMENT ELECTIONS.--No municipal, school, county or special district election shall be held within [~~forty-two~~] fifty days prior to or following any statewide election. This section does not prohibit a local government ballot question authorized by the board of county commissioners from appearing on the general election ballot."

SECTION 68. Section 1-13-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 312, as amended) is amended to read:

"1-13-9. POST-ELECTION DUTIES--COUNTY CANVASS--VOTING MACHINE RECHECK.--

A. During the official canvass of an election, the county canvassing board, upon written request of any candidate in the election or upon receipt of a written petition of twenty-five voters of the county, shall make, in the presence of the district judge, a recheck and comparison of the results

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shown on the official returns being canvassed with the results appearing [~~and registered~~] on the [~~counter dials~~] alphanumeric printout of the contest, candidates and vote totals of each voting machine used in the election.

~~[B. For the purpose of making the recheck and comparison, the county canvassing board may unlock and raise the cover of the counter compartment and check the figures shown by the counter dials on the voting machine. At the conclusion of the recheck and comparison, the voting machine shall again be locked.]~~

~~G.]~~ B. The necessary corrections, if any, shall be made on the returns, and the results of the election, as shown by the recheck and comparison, shall be declared."

SECTION 69. Section 1-13-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 316, as amended) is amended to read:

"1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--CERTIFYING RESULTS.--

A. The county canvassing board shall complete the canvass of the returns and declare the results within ten days from the date of the election. A county canvassing board in a county with more than two hundred fifty thousand voters shall complete the canvass of the returns and declare the results within thirteen days from the date of the election.

B. On the thirty-first day after any primary, general or district special election, the county canvassing board shall issue to those candidates entitled by law election certificates, or certificate of nomination in the case of the primary election, to all county officers, magistrates and to members of the legislature elected from districts wholly within the county. In addition, the county canvassing board shall declare the results, immediately after completion of the

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canvass, of the election and of all questions affecting only the county.

C. The county canvassing board, immediately after completion of the canvass, shall also certify to the state canvassing board the number of votes cast for all other candidates and questions respectively and shall immediately deliver to the county [~~chairman~~] chair of each political party that participated in the election a certificate showing the total number of votes cast for each candidate in the election in the county."

SECTION 70. Section 1-13-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 317) is amended to read:

"1-13-14. POST-ELECTION DUTIES--OPENING THE BALLOT BOX.-- Once the ballot box has been locked by the precinct board after its first count and tally, no person shall open the ballot box or remove its contents except [~~as~~] by court order or as otherwise provided by the Election Code."

SECTION 71. 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--TRANSFERRING BALLOTS.--

A. The county clerk shall not clear the votes recorded on the removable storage media devices until at least [~~thirty~~] forty-five days after adjournment of the state canvassing board.

B. The county clerk shall not clear and shall keep locked those removable media storage devices from voting systems used to tabulate votes for precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of

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the contest or inspection.

C. Beginning forty-five days after the adjournment of the state or county canvassing board, whichever is later, or forty-five days after completion of a recount or judicial inquiry, the county clerk may transfer ballots from the locked ballot boxes for disposition pursuant to Section 1-12-69 NMSA 1978."

SECTION 72. Section 1-14-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 339) is amended to read:

"1-14-6. CONTEST OF ELECTION--PRESERVATION OF BALLOTS.-- Either the contestant or contestee, within the time provided by the Election Code for the preservation of ballots, may give written notice [by registered mail] with delivery confirmation to the county clerk of those counties wherein [~~he~~] the contestant or contestee wishes the ballots preserved that a contest is pending in a designated court, and thereupon it is the duty of the county clerk to preserve the ballots of all precincts named in the notice of contest and answer until the contest has been finally determined."

SECTION 73. Section 1-14-13.2 NMSA 1978 (being Laws 2009, Chapter 233, Section 1) is amended to read:

"1-14-13.2. POST-ELECTION DUTIES--VOTING SYSTEM CHECK.--

A. At least ninety days prior to each general election, the secretary of state shall contract with an auditor qualified by the state auditor to audit state agencies to oversee a check on the accuracy of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators. The voting system check shall be conducted for all federal offices, for governor and for the statewide elective office, other than the office of the governor, for which the

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winning candidate won by the smallest percentage margin of all candidates for statewide office in New Mexico. The voting system check is waived for any office for which a recount is conducted.

B. For each selected office, the auditor shall publicly select a random sample of precincts from a pool of all precincts in the state no later than twelve days after the election. The random sample shall be chosen in a process that will ensure, with at least ninety percent probability for the selected offices, that faulty tabulators would be detected if they would change the outcome of the election for a selected office. The auditor shall select precincts starting with the statewide office with the largest winning margin and ending with the precincts for the statewide office with the smallest winning margin and then, in the same manner, select precincts from each congressional district. The size of the random sample for each office shall be determined as provided in Table 1 of this subsection. When a precinct is selected for one office, it shall be used in lieu of selecting a different precinct when selecting precincts for another office in the same congressional district, or for any statewide office. If the winning margin in none of the offices for which a voting system check is required is less than fifteen percent, a voting system check for that general election shall not be required.

Table 1

Winning margin between top two candidates for the office according to the county canvasses	Number of precincts in the state to be tested for that office
Percent greater than 15	no precincts for that office
greater than 14 but less than or equal to 15	4

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greater than 13 but less than or equal to 14	4
greater than 12 but less than or equal to 13	5
greater than 11 but less than or equal to 12	5
greater than 10 but less than or equal to 11	6
greater than 9.0 but less than or equal to 10	6
greater than 8.0 but less than or equal to 9.0	7
greater than 7.0 but less than or equal to 8.0	9
greater than 6.0 but less than or equal to 7.0	10
greater than 5.5 but less than or equal to 6.0	11
greater than 5.0 but less than or equal to 5.5	13
greater than 4.5 but less than or equal to 5.0	14
greater than 4.0 but less than or equal to 4.5	16
greater than 3.5	

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but less than or equal to 4.0	18
greater than 3.0 but less than or equal to 3.5	22
greater than 2.5 but less than or equal to 3.0	26
greater than 2.0 but less than or equal to 2.5	32
greater than 1.8 but less than or equal to 2.0	37
greater than 1.6 but less than or equal to 1.8	42
greater than 1.4 but less than or equal to 1.6	47
greater than 1.2 but less than or equal to 1.4	54
greater than 1.1 but less than or equal to 1.2	59
greater than 1.0 but less than or equal to 1.1	65
greater than 0.9 but less than or equal to 1.0	73
greater than 0.8 but less than or equal to 0.9	82
greater than 0.7 but less than or equal to 0.8	93

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greater than 0.6 but less than or equal to 0.7	109
greater than 0.5 but less than or equal to 0.6	130
0.5 or less	[automatic recount for that office] <u>165.</u>

C. The auditor shall notify the appropriate county clerks of the precincts that are to be included in the voting system check upon their selection. The auditor shall direct the appropriate county clerks to open the locked ballot boxes, remove ballots from the selected precincts and compare the original machine count precinct vote totals, including early absentee and absentee by mail machine count vote totals, for candidates for offices subject to the voting system check from the selected precincts for each office with the respective vote totals of a hand recount of the paper ballots from those precincts. The county clerks shall report their results to the auditor within ten days of the notice to conduct the voting system check unless a county clerk is aware of a recount in any office that includes one or more precincts in the county, in which case the county clerk shall report the results of the post-election audit to the auditor within ten days following the conclusion of the recount.

D. Based on the results of the voting system check and any other auditing results, the auditor shall determine the error rate in the sample for each office. If the winning margin decreases and the error rate based on the difference between the vote totals of hand recounts of the paper ballots and the original precinct vote totals exceeds ninety percent of the winning margin for an office, another sample equal in size to the original sample shall be selected and the original precinct vote totals compared to the vote totals of hand

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recounts. The error rate based on the first and second sample shall be reported, and if it exceeds ninety percent of the winning margin for the office, the state canvassing board shall order that a full hand recount of the ballots for that office be conducted.

E. The auditor shall report the results of the voting system check to the secretary of state upon completion of the voting system check and release the results to the public.

F. Persons designated as county canvass observers may observe the hand recount described in Subsection C of this section. Observers shall comply with the procedures governing county canvass observers as provided in Section 1-2-31 NMSA 1978.

G. If a recount for an office selected for a voting system check is conducted pursuant to the provisions of Chapter 1, Article 14 NMSA 1978, the vote totals from the hand count of ballots for that office in precincts selected for the voting system check may be used in lieu of recounting the same ballots for the recount.

H. All costs of a voting system check or required hand recount shall be paid in the same manner as automatic recounts."

SECTION 74. Section 1-14-16 NMSA 1978 (being Laws 2008, Chapter 41, Section 3) is amended to read:

"1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--

A. Immediately after filing of the application for recount or recheck, or notice of an automatic recount, the appropriate canvassing board shall issue an order to the county clerk of each county where a precinct specified in the

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application or notice is located commanding the county clerk to convene [~~the absent voter~~] a recount precinct board at the county seat on a day specified in the order, which date shall not be more than ten days after the filing of the application for a recount or recheck or notice of an automatic recount.

B. Upon receipt of the order, the county clerk shall appoint a recount precinct board pursuant to the provisions of Section 1-2-12 NMSA 1978 and shall send notices [~~by registered mail~~] of the names of the recount precinct board members and the date fixed for the recount or recheck to the district judge for the county [~~the absent voter precinct board members~~] and the county chair of each of the political parties that participated in the election for the office in question. The county clerk shall keep a log of how each person was notified and confirmation that the notice was received. Presiding judges and election judges on the recount precinct board shall be appointed from among those persons who served as precinct board members in the most recent election.

C. The [~~absent voter~~] recount precinct board, district judge and county clerk shall meet on the date fixed for the recount or recheck, and the ballot boxes and ballot containers or voting machines of the precincts involved in the recount or recheck shall be opened. The [~~absent voter~~] recount precinct board shall recount and retally the ballots, or recheck the votes cast on the voting machines, as the case may be, for the office in question in the presence of the county clerk, district judge [~~or person designated to act for the district judge~~] and any other person who may desire to be present.

D. After completion of the recount or recheck, the [~~absent voter~~] recount precinct board shall replace the ballots in the ballot boxes and ballot containers and lock them, or the voting machines shall be locked and resealed, and the precinct board shall certify to the [~~secretary of state~~] proper

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canvassing board the results of the recount or recheck. The district judge [~~or the person designated to act for the district judge~~] and the county clerk shall also certify that the recount or recheck was made in their presence."

SECTION 75. Section 1-14-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 347, as amended) is amended to read:

"1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING BOARDS.--

A. Immediately upon receipt of the certificate of recount or recheck from all the [~~absent voter~~] recount precinct boards making a recount or recheck, the proper canvassing board shall meet and recanvass the returns for the office in question.

B. In making the recanvass, the proper canvassing board shall be bound by the certificates of recount or recheck from the [~~absent voter~~] recount precinct boards instead of the original returns from the precinct boards.

C. After the recanvass, if it appears that fraud or error has been committed sufficient to change the winner of the election, then the proper canvassing board shall revoke the certificate of nomination or election already issued to any person for that office and shall issue a certificate of nomination or election in favor of the person receiving a plurality of the votes cast at the election as shown by the recount or recheck, and such certificate shall supersede all others and entitle the holder to the same rights and privileges as if such certificate had been originally issued by the canvassing board."

SECTION 76. Section 1-14-19 NMSA 1978 (being Laws 1969, Chapter 240, Section 348, as amended) is amended to read:

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"1-14-19. RECOUNT--RECHECK--CANDIDATE FOR DISTRICT JUDGE.--If a recount or recheck is demanded on the election of a district judge and the judge of the district was a candidate for partisan office at the election, the chief justice of the supreme court shall designate a district judge who shall act in such proceedings."

SECTION 77. Section 1-14-23 NMSA 1978 (being Laws 2007, Chapter 337, Section 2) is amended to read:

"1-14-23. 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.]~~ in a recount, 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]~~ the electronic vote tabulating ~~[system]~~ systems to be used in the recount. For statewide and federal office, the number of ballots to be tallied and tabulated shall be equal to ~~[at least]~~ the greater of one hundred, or 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. If more than one electronic vote tabulating system is to be used in a county, the ballots to be recounted shall be divided among the electronic vote tabulating systems to be used, and the above process shall be performed on each electronic vote tabulating system based on the number of votes to be recounted on each individual electronic vote tabulating system.

~~[C. For a statewide or federal office]~~ B. If the results of the hand tally and the electronic vote tabulating

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system tabulation do not differ [~~by one-fourth of one percent or less~~], the remaining ballots shall be recounted using that 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] system. If the results of the hand tally and the electronic vote tabulating system differ, the electronic vote tabulating system shall not be used in the recount and the remaining ballots shall be recounted by hand or on a different electronic vote tabulating system in which the results did not differ.~~

C. When using an electronic vote tabulating system for a recount, a county clerk may permit a visual inspection of the ballots prior to tabulation by the optical scan tabulating system for the purpose of permitting a representative of a candidate to identify individual ballots to be selected for hand tally by the precinct board."

SECTION 78. Section 1-14-24 NMSA 1978 (being Laws 2008, Chapter 41, Section 1) is amended to read:

"1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND FEDERAL OFFICES--PROCEDURES.--

A. An automatic recount of the vote is required when the canvass of returns in a primary or general election for a federal or [~~state office in a primary or general~~

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election] statewide office, or a judicial office in a county with more than two hundred thousand registered qualified electors, indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than [~~one-half~~] one-fourth of one percent of the total votes cast for that office in that election. An automatic recount of the vote is required when the canvass of returns in a primary or general election for any other state office indicates that the margin between the two candidates receiving the greatest number of votes for the office is less than one percent of the total votes cast for that office in that election.

B. For an office for which ballots were cast in more than one county, the secretary of state shall file notice with the state canvassing board [~~within five days of~~] upon the completion of the state canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office. For an office in which ballots were cast solely within one county, the secretary of state shall file notice with the state canvassing board within seven days after receiving notice from the county clerk following the completion of the county canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office.

C. Automatic recounts shall be conducted pursuant to the recount procedures established in Sections 1-14-16 and 1-14-18 through [~~1-14-22~~] 1-14-23 NMSA 1978.

D. For the purposes of this section, "state office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, secretary of state, supreme court justice, court of appeals judge, district judge, magistrate judge, public regulation commissioner, commissioner of public lands, state senator or state representative."

SECTION 79. Section 1-22-2 NMSA 1978 (being Laws 1985,

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Chapter 168, Section 4, as amended) is amended to read:

"1-22-2. DEFINITIONS.--As used in the School Election Law:

A. "board" means the governing authority of the [~~local~~] school district;

B. "county clerk" means the clerk of each county in which the school district is situate;

C. "proper filing officer" means the county clerk or, in the case of a multicounty school district, the clerk of the county in which the administrative office of the school district is situate;

D. "magistrate" means the magistrate whose office is situated in the municipality where the administrative office of the school district is located or in close proximity to the municipality;

E. "school district election" means a regular or special school district election but does not include a recall election; and

F. "superintendent" means the superintendent of schools of the [~~local~~] school district."

SECTION 80. Section 1-22-3 NMSA 1978 (being Laws 1985, Chapter 168, Section 5, as amended) is amended to read:

"1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF CANDIDATES.--

A. A school district election shall be held in each school district to elect qualified persons to membership on a [~~local school~~] board. No person shall become a candidate for

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membership on a board unless ~~[his]~~ the person's record of voter registration shows that ~~[he]~~ the person is a qualified elector of the state, physically resides in the school district in which ~~[he]~~ the person is a candidate and ~~[physically resided]~~ was registered to vote in the district on the date ~~[of]~~ the ~~[school]~~ board's proclamation calling a regular school district election is filed in the office of the county clerk.

B. A regular school district election shall be held in each school district on the first Tuesday in February of each odd-numbered year.

C. ~~[A school district]~~ An election on a ballot question held at any time other than the date for the regular school district election shall be a special school district election called, conducted and canvassed as provided in the Election Code.

D. Except as otherwise provided in the School Election Law, school district elections shall be called, conducted and canvassed as provided in the Election Code."

SECTION 81. Section 1-22-5 NMSA 1978 (being Laws 1985, Chapter 168, Section 7, as amended) is amended to read:

"1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

A. Whenever a special school district election is to be called or is required by law, the board shall by resolution issue a public proclamation in Spanish and English calling the election. The proclamation shall forthwith be filed by the superintendent with the ~~[county clerk of record]~~ proper filing officer.

B. The proclamation shall specify:

(1) the date on which the special election

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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)]~~ (2) the questions to be submitted to the
voters;

~~[(6)]~~ (3) the precincts in each county in
which the election is to be held and the location of each
polling place;

~~[(7)]~~ (4) the hours each polling place will be
open; and

~~[(8)]~~ (5) the date and time of the closing of
the registration books by the ~~[county clerk of record]~~ proper
filing officer as required by law.

C. After filing the proclamation with the ~~[county
clerk of record]~~ proper filing officer and not less than fifty
days before the date of the election, the ~~[county clerk of
record]~~ proper filing officer shall publish the proclamation at
least twice in a newspaper of general circulation in the school
district. The publication of the proclamation shall conform to
the requirements of the federal Voting Rights Act of 1965, as
amended."

SECTION 82. Section 1-22-6 NMSA 1978 (being Laws 1985,
Chapter 168, Section 8, as amended) is amended to read:

"1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

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A. The same precincts that are used in a general election shall be used in a school district election, provided that:

(1) if a precinct lies partly within and partly outside of a school district, the part of the precinct lying within the school district constitutes a precinct for a school district election; and

(2) all of the area within the exterior boundaries of a school district may constitute one precinct for a school district election.

B. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at an election and no declared write-in candidates have filed for any position and there are no questions or bond issues on the ballot, only one polling place for the election shall be designated and it shall be in [~~the office of the county clerk or~~] a designated polling place in the school district of the county in which the school district is located, which may include the county clerk's office if it is located within the school district.

C. Except as otherwise provided in the School Election Law, the county clerk shall consolidate precincts for a school district election as provided in the proclamation for that election and shall provide for a polling place within each precinct or consolidated precinct. A consolidated precinct in a school district election shall be composed of no more than twenty precincts."

SECTION 83. Section 1-22-7 NMSA 1978 (being Laws 1985, Chapter 168, Section 9, as amended) is amended to read:

"1-22-7. DECLARATION OF CANDIDACY--FILING DATE--
PENALTY.--

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A. A candidate for a [~~school~~] board position that will be filled at a regular school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the third Tuesday in December of the even-numbered year immediately preceding the date of the regular school district election and ending at 5:00 p.m. on the same day.

~~[B. A candidate for a school board position that will be filled at a special school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the forty-eighth day before the election and ending at 5:00 p.m. on the same day.]~~

~~E.]~~ B. A candidate shall file for only one [~~school~~] board position during a filing period.

~~[D.]~~ C. Whoever knowingly makes a false statement in [~~his~~] a declaration of candidacy is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 84. Section 1-22-8 NMSA 1978 (being Laws 1985, Chapter 168, Section 10, as amended) is amended to read:

"1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF INTENT--FORM.--In making a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

I, _____, (candidate's name on certificate of registration) being first duly sworn, say that I am a voter of Precinct No. _____ of the county of _____, State of New Mexico. I reside at

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_____ and was [~~a resident~~] registered to vote at that place on the date [~~of~~] the school board's proclamation calling the election [~~for which I am a candidate~~] was filed in the office of the county clerk;

I am a qualified elector of the State of New Mexico residing within _____ school district;

I desire to become a candidate for the office of [_____] School Board Position No. _____ at the school district election to be held on the date set by law;

I will be eligible and legally qualified to hold this office at the beginning of its term; and

I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me this _____ day of _____, [19] 20 _____.

_____.

(Notary Public)

My commission expires:

_____ ". "

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SECTION 85. Section 1-22-12 NMSA 1978 (being Laws 1985, Chapter 168, Section 14, as amended) is amended to read:

"1-22-12. CONDUCT OF ELECTIONS.--

A. Except as otherwise provided in the School Election Law, the county clerk shall administer and conduct school district elections pursuant to the provisions of the Election Code for the conduct of general elections.

B. Precinct board members for each polling place shall be appointed by the county clerk from among those persons who meet the qualifications set forth in Section 1-2-7 NMSA 1978 and who reside within the school district. The number of members on each precinct board shall be as provided in Section 1-2-12 NMSA 1978. Vacancies on election day shall be filled as provided in Section 1-2-15 NMSA 1978.

C. In the event that only one candidate has filed a declaration of candidacy for each position to be filled at the election, no declared write-ins have filed for any position and there are no questions or bond issues on the ballot, the county clerk [~~shall~~] may perform the duties of the precinct board [~~and no other precinct board shall be appointed~~] at the request of the school district.

D. All costs of school district elections shall be paid by the school district."

SECTION 86. Section 1-22-19 NMSA 1978 (being Laws 1985, Chapter 168, Section 21, as amended) is amended to read:

"1-22-19. ABSENTEE VOTING.--

A. A voter may vote in a school district election by absentee ballot for all candidates and on all questions appearing on the ballot in [~~his~~] the voter's precinct as if

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[~~he~~] the voter were casting [~~his~~] the ballot in person at the polling place on election day.

B. The provisions of the Absent Voter Act [~~of the Election Code~~] apply to absentee voting in school district elections, provided that absentee ballots may be marked in person during the regular hours and days of business at the county clerk's office from 8:00 a.m. on the twenty-fifth day preceding the election until 5:00 p.m. on the Friday immediately prior to the date of the election. Absentee ballots shall be printed at least thirty days prior to the date of the election. In addition, provisions may be made by the board in the proclamation for absentee voting by electronic voting machine [~~from 8:00 a.m.~~] at alternate voting locations at any time beginning on the twentieth day preceding an election [~~until 5:00 p.m. on the Friday~~] through the Saturday immediately prior to the date of the election.

C. A regular precinct board may be designated to serve as the absent voter precinct board. A member of the absent voter precinct board shall receive the same compensation as a regular precinct board member. A regular precinct board member who also serves as a member of the absent voter precinct board shall not be entitled to extra compensation for serving on the absent voter precinct board."

SECTION 87. Section 3-9-1 NMSA 1978 (being Laws 1973, Chapter 375, Section 2, as amended) is amended to read:

"3-9-1. DEFINITIONS.--As used in Chapter 3, Article 9 NMSA 1978:

[~~A. "absent uniformed services voter" means:~~

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

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vote;

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

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

~~B.]~~ A. "absentee voting" means the casting of a vote by a qualified elector for any candidate or question prior to election day;

~~[G.]~~ B. "early voter" means a voter who votes in person before election day, and not by mail;

~~[D.]~~ C. "election" means a regular or special municipal election;

~~[E.]~~ D. "federal qualified elector" means:

(1) ~~[an absent uniformed services]~~ a uniformed-service voter; or

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

~~F.]~~ E. "immediate family" means a person's spouse, children, parents, brothers and sisters;

~~[G.]~~ "member of the merchant marine" means an individual other than a member of a uniformed service or an

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~~individual employed, enrolled or maintained on the great lakes or the inland waterways who:~~

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

~~(2) is enrolled with the United States for employment or training for employment or is maintained by the United States for emergency relief service as an officer or crew member of a vessel described in Paragraph (1) of this subsection;~~

H.] F. "overseas voter" means

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

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

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

I. ~~"uniformed services" means the army, navy, air force, marine corps and coast guard and the commissioned corps of the national oceanic and atmospheric administration] an individual who is a United States citizen, who is outside the United States and who:~~

~~(1) is temporarily absent from the individual's residence in this state;~~

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(2) before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;

(3) before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or

(4) was born outside the United States, is not otherwise described in this subsection and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:

(a) the last place where a parent or legal guardian of the individual was, or under the Municipal Election Code would have been, eligible to vote before leaving the United States is within this state; and

(b) the individual has not previously registered to vote in any other state;

G. "uniformed-service voter" means an individual whose voting residence is in this state, who otherwise satisfies this state's voter eligibility requirements and who is:

(1) a member of the active or reserve components of the army, navy, air force, marine corps or coast guard of the United States who is on active duty and who by reason of that active duty is absent from the state;

(2) a member of the merchant marine, the commissioned corps of the United States public health service, the astronaut program of the national aeronautics and space

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administration or the commissioned corps of the national oceanic and atmospheric administration of the United States and who by reason of that service is absent from the state;

(3) a member on activated status of the national guard or state militia and who by reason of that active duty is absent from the member's county of residence; or

(4) a spouse or dependent of a member referred to in Paragraph (1), (2) or (3) of this subsection and who, by reason of active duty or service of the member, is absent from the state; provided the spouse or dependent is an individual recognized as a spouse or dependent by the entity under which the member is serving; and

[F.] H. "voter" means a qualified elector of the municipality."

SECTION 88. Section 3-9-3 NMSA 1978 (being Laws 1973, Chapter 375, Section 1, as amended) is amended to read:

"3-9-3. ABSENTEE VOTING--REGULAR OR SPECIAL MUNICIPAL ELECTIONS--RIGHT TO VOTE.--

A. Any voter [~~or any overseas voter or federal qualified elector~~] entitled to vote in the municipal election may vote by absentee ballot for all candidates and on all questions appearing on the ballot at such regular or special election at the voter's assigned polling place, as if the voter were able to cast a ballot in person at such polling place.

B. A federal qualified elector entitled to vote in the municipal election may vote in a municipal election pursuant to the provisions of the Uniform Military and Overseas Voters Act.

[B.] C. The provisions of this section shall also

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apply to a regular or special municipal election held in conjunction with any other political subdivision."

SECTION 89. Section 3-9-4 NMSA 1978 (being Laws 1973, Chapter 375, Section 3, as amended) is amended to read:

"3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--ACCEPTANCE--ISSUANCE OF ABSENTEE BALLOT.--

~~[A. Application by a federal qualified elector or overseas voter shall be made on the federal postcard application form to the municipal clerk.~~

~~B.]~~ A. The municipal clerk shall prescribe the form of the absentee ballot application.

~~[C.]~~ B. An application for an absentee ballot may be obtained from the municipal clerk.

~~[D.]~~ C. Upon receipt of a properly completed and delivered application for an absentee ballot, the municipal clerk shall contact the county clerk to determine if the applicant is a qualified elector of the municipality.

~~[E.]~~ D. The municipal clerk shall reject an absentee ballot application for any of the following reasons:

(1) the application is not made on the form provided by the municipal clerk;

(2) the application does not set forth the applicant's full name and address;

(3) the application does not set forth the applicant's date of birth;

(4) the application is not signed by the

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applicant; or

(5) the applicant:

(a) has no valid affidavit of registration on file with the county clerk [~~and is not a federal qualified elector or overseas voter~~]; or

(b) has a valid affidavit of registration on file with the county clerk, but is not a resident of the municipality; [~~or~~

~~(c) is a federal qualified elector or overseas voter, but is not entitled to vote in the municipal election;~~] and

[~~(d)~~] (c) cannot comply with Subparagraph (a) or (b) [~~or (e)~~] of this paragraph pursuant to Subsection B of Section 3-8-40 NMSA 1978.

[~~F.~~] E. If the municipal clerk rejects an absentee ballot application pursuant to Subsection [~~E~~] D of this section, the municipal clerk shall mark the application "rejected", enter "rejected" in the absentee ballot register and file the application in a separate file. The municipal clerk shall, within twenty-four hours of rejection of the application, notify the applicant in writing of the reasons for rejection of the application. If the application is incomplete, the municipal clerk shall immediately mail a new application for an absentee ballot.

[~~G.~~] F. If the application for absentee ballot is accepted, the municipal clerk shall:

(1) mark the application "accepted";

(2) enter the required information in the

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absentee ballot register; and

(3) issue to the applicant an absentee ballot.

[H.] G. The municipal clerk shall deliver the absentee ballot to the applicant in the office of the municipal clerk if the application for absentee ballot has been accepted and if the application is submitted in person by the applicant or mail an absentee ballot to any qualified elector [~~federal qualified elector or overseas voter~~] whose application for an absentee ballot was received by mail and has been accepted. The municipal clerk shall notify the county clerk who shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. Names of individuals that have been labeled "absentee ballot" shall appear on a separate list called the "absentee voter list". This list shall be submitted to the municipal clerk by the county clerk in the same manner as provided in Subsection B of Section 3-8-7 NMSA 1978.

[I.] H. It is the duty of the municipal clerk to verify the signature roster and absentee voter list to ensure that all names of individuals who have been issued absentee ballots have been labeled "absentee ballot" on the signature roster and their names listed on the absentee voter list. If not, the municipal clerk shall write "absentee ballot" on the signature line of the signature roster next to the name of the person who has been sent an absentee ballot. The municipal clerk shall then enter the name and all required information on the absentee voter list.

[J.] I. If the application for an absentee ballot is delivered in person to the municipal clerk during regular hours and days of business and is accepted, the municipal clerk shall issue the voter the absentee ballot and it shall be marked by the applicant in a voting booth in the municipal clerk's office, sealed in the proper envelopes and otherwise

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properly executed and returned to the municipal clerk or the clerk's authorized representative before the applicant leaves the office of the municipal clerk.

~~[K.]~~ J. The act of marking the absentee ballot in the office of the municipal clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the municipal clerk a polling place subject to the requirements of a polling place in the Municipal Election Code other than as provided in this subsection. During the period of time between the date a person may first apply in person for an absentee ballot and the final date for such application and marking of the ballot in the office of the municipal clerk, it is unlawful to solicit votes or display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office.

~~[L.]~~ ~~Absentee ballots shall be mailed to federal qualified electors and overseas voters whose applications have been accepted not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Friday immediately prior to the date of the election.~~

~~M.]~~ K. Absentee ballots shall be issued to voters whose applications have been approved not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Friday immediately prior to the date of the election.

~~[N.]~~ L. No absentee ballot shall be delivered or mailed by the municipal clerk to any person other than the applicant for such ballot."

SECTION 90. Section 3-9-5 NMSA 1978 (being Laws 1973, Chapter 375, Section 6, as amended) is amended to read:

"3-9-5. ABSENTEE BALLOT REGISTER.--

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

- (1) in numerical sequence, the name and municipal address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of delivery to the voter in person in the office of the municipal clerk, or mailing of an absentee ballot to the applicant, the method of delivery and, if mailed, the address to which the ballot was mailed;
- (5) the applicant's precinct and district number, if applicable;
- (6) whether the applicant is a voter, and whether the voter is a uniformed-service voter or an overseas voter [~~or a federal qualified elector~~];
- (7) affidavits of voters who did not receive absentee ballots; and
- (8) the date and time the completed ballot was received from the applicant by the municipal clerk.

B. The absentee ballot register is a public record open to public inspection in the municipal clerk's office during regular office hours and shall be preserved for two years after the date of the election. The municipal clerk shall have an updated absentee ballot register available for public inspection Monday through Friday during regular office

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hours."

SECTION 91. Section 3-9-6 NMSA 1978 (being Laws 1973, Chapter 375, Section 7, as amended) is amended to read:

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

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

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

C. The municipal clerk shall prescribe the form of:

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

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

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

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

D. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials

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to and from the municipal clerk [~~and overseas voters~~] and federal qualified electors shall be [~~printed in black in the form prescribed by postal regulations and the federal Uniformed and Overseas Citizens Absentee Voting~~] as prescribed in the Uniform Military and Overseas Voters Act. Official transmittal envelopes and official mailing envelopes for transmission of absentee ballot materials to and from the municipal clerk shall be printed in green in substantially similar form. All official inner envelopes shall be printed in green.

E. The reverse of each official mailing envelope shall contain a form to be signed by the person completing the absentee ballot. The form shall identify the person and shall contain the following statement: "I will not vote in this election other than by the enclosed ballot. I will not receive or offer any compensation or reward for giving or withholding any vote."."

SECTION 92. Section 3-9-7 NMSA 1978 (being Laws 1973, Chapter 375, Section 8, as amended) is amended to read:

"3-9-7. MANNER OF VOTING--USE OF AN ELECTRONIC VOTING DEVICE.--

A. Any person voting an absentee ballot under the provisions of the Municipal Election Code shall secretly mark the ballot as instructed on the ballot, place the marked ballot in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope.

B. [~~Overseas voters and federal qualified electors shall either deliver their ballots in person or mail the official mailing envelope to the municipal clerk of their municipality of residence or deliver it to a person designated~~

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~~by federal authority to receive executed ballots for transmission to the municipal clerk of the municipality of residence.]~~ A voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the municipal clerk in person or by mail, provided that the voter has subscribed the outer envelope of the absentee ballot.

C. When an electronic voting device is used by the voter to cast an absentee vote, the municipal clerk shall ensure that each absentee voting machine is located within the office of the municipal clerk. The area shall be secured by lock and key. Each day during the time the absentee voting machine is used for absentee voting, the municipal clerk shall, in the presence of one other employee of the municipality, unlock the office where the voting machine is located. Each day, at the close of regular office hours, the municipal clerk shall, in the presence of one other municipal employee, secure the office where the voting machine is located. Each day immediately after unlocking or locking the office where the voting machine is located, the municipal clerk and the employee present shall sign or initial the absentee voting daily report. The municipal clerk shall prescribe the form of the absentee voting daily report, which shall include the following information:

- (1) the voting machine serial number;
- (2) the beginning and ending public counter number for the day;
- (3) the beginning and ending protective counter number for the day;
- (4) the closing seal number, if any;
- (5) the total number of voters for the day;

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and

(6) a place for the date and signature of the municipal clerk and the municipal employee.

D. Voting shall be conducted substantially in the manner provided in the Municipal Election Code. The absentee voting daily report shall be submitted to the absent voter precinct on election day, along with any voting machines used."

SECTION 93. Section 3-9-8 NMSA 1978 (being Laws 1973, Chapter 375, Section 9, as amended) is amended to read:

"3-9-8. CARE OF ABSENTEE BALLOTS--DESTRUCTION OF UNUSED BALLOTS BY MUNICIPAL CLERK.--

A. The municipal clerk shall mark on each completed official outer envelope the date and time of receipt in the municipal clerk's office, record this information in the absentee ballot register and safely and securely keep the official outer envelope unopened until it is delivered on election day to the proper precinct board or until it is canceled and destroyed in accordance with law. Once a ballot is officially accepted by the municipal clerk and recorded in the absentee ballot register, it cannot be returned to the voter for any reason.

B. The municipal clerk shall accept completed official outer envelopes received by mail or delivered in person to the municipal clerk's office by the voter signing the official outer envelope, by a member of the voter's immediate family or by the caregiver to the voter until 7:00 p.m. on election day. Any completed outer envelope received after that time and date shall be marked as to the time and date received, shall not be delivered to the precinct board and shall be preserved until the time for election contests has expired. In the absence of a court order, after the expiration of the time

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for election contests, the municipal clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the municipal clerk shall count the numbers of late ballots from voters, uniformed-service voters and overseas voters [~~and federal-qualified electors~~] and record the number from each category in the absentee ballot register.

C. After 5:00 p.m. and not later than 8:00 p.m. on the Friday immediately preceding the date of the election, the municipal clerk shall record the numbers of the unused absentee ballots and shall publicly destroy in the municipal clerk's office all unused ballots. The municipal clerk shall execute a certificate of such destruction, which shall include the numbers on the ballots destroyed, and the certificate shall be placed within the absentee ballot register.

D. At 7:00 p.m. on the day of the election, the municipal clerk shall determine the number of ballots that were mailed and have not been received and execute a "certificate of unreceived absentee ballots". The certificate shall be placed in the absentee ballot register and shall become an official part of the register. The municipal clerk shall determine the form of the certificate of unreceived absentee ballots."

SECTION 94. Section 3-9-11 NMSA 1978 (being Laws 1985, Chapter 208, Section 99, as amended) is amended to read:

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

A. Before opening any official mailing envelope, an election judge shall determine that the required signature has been executed on the reverse side of the official mailing envelope.

B. If the signature is missing, an election judge

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shall write "rejected" on the front of the official mailing envelope. The election clerks shall write the notation "rejected -- missing signature" in the "notations" column on the absentee voter list. An election judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope, write the voter's name on the front of the envelope and deposit it in the locked ballot box.

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

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

(2) the person offering to vote is not ~~[an overseas voter, federal qualified elector or]~~ a voter as provided in the Municipal Election Code; or

(3) the person offering to vote is not a federal qualified elector authorized to vote in a municipal election.

Upon the challenge of an absentee ballot, an election judge shall generally follow the same procedure as when ballots are challenged when a person offers to vote in person. If a challenged ballot is not to be counted, it shall not be opened and shall be placed in an envelope provided for challenged ballots.

D. If the official mailing envelopes have properly executed signatures and the voters have not been challenged:

(1) an election judge shall open the official

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mailing envelopes and deposit the ballots in their still sealed official inner envelopes in the locked ballot box; and

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

E. Prior to the closing of the polls, an election judge may remove the absentee ballots from the official inner envelopes and either count and tally the results of absentee balloting by hand or register the results of each absentee ballot on a voting machine the same as if the absent voter had been present and voted in person. It shall be unlawful for any person to disclose the results of such count and tally or such registration on a voting machine of absentee ballots prior to the closing of the polls.

F. The municipal clerk shall, prior to the opening of the polls on election day, notify the absent voter precinct board in writing whether absentee ballots are to be counted and tallied or registered on a voting machine. The procedures shall be such as to ensure the secrecy of the ballot.

G. Absent voter precinct polls shall be closed at 7:00 p.m. on the day of the election by the absent voter precinct board."

SECTION 95. Section 22-5-3 NMSA 1978 (being Laws 1969, Chapter 103, Section 2, as amended) is amended to read:

"22-5-3. SCHOOL BOARD MEMBERSHIP--OPTIONAL FORM.--

A. The local school board of any school district in this state may by resolution provide for the local board of that district to be composed of seven qualified electors of the state who reside within the district. The resolution shall provide that the board consist of seven separate positions, and

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each such position shall be designated by number. Qualified electors seeking election to the school board shall file and run for only one of the numbered positions.

B. If the resolution provided for in this section is adopted, it shall go into effect within thirty days after its adoption unless a petition signed by the qualified electors of the school district in a number equal to twenty percent of all the voters in the district voting at the last regular school board election is presented to the local board within such thirty days asking that an election be held on the question of increasing the membership of the local board to seven members.

C. Upon receipt and verification of the petition, the local school board shall within thirty days call a special school election to vote upon the question of increasing the membership of the local school board in that district to seven members.

D. If the voters of the school district approve the increase in the local school board's membership to seven members, the resolution shall be in effect.

E. A resolution adopted pursuant to Subsection A of this section shall conform to the requirements of Section 1-22-5 NMSA 1978 and shall provide for the election of two additional school board members at [~~a special~~] the next regular school district election. One new member shall be elected to serve until the [~~second~~] first regular school board election following the [~~special school district~~] member's election. The second new member shall be elected to serve until the [~~third~~] second regular school board election following [~~such special school district~~] the member's election. Thereafter, persons elected to fill the additional new positions on the board shall be elected for terms as provided by law."

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SECTION 96. Section 22-5-3.1 NMSA 1978 (being Laws 1981, Chapter 302, Section 1) is amended to read:

"22-5-3.1. LOCAL SCHOOL BOARDS--REVERSION TO FIVE MEMBERS.--

A. Any seven-member local school board of a school district in the state may by resolution provide for the local school board of that school district to be composed of five qualified electors of the state who reside within the school district.

B. If the resolution specified in Subsection A of this section is adopted, the existing local school board at the first election at which the terms of three members expire shall by lot:

(1) eliminate two positions if the next succeeding election is one at which the terms of two members expire;

(2) eliminate two positions if the next succeeding election is one at which the term of one member expires, and at the next election at which the terms of three members expire designate one position for a two-year term; provided that thereafter all terms shall be [~~six-year~~] four-year terms; or

(3) eliminate two positions if the next succeeding election is one at which the terms of three members expire, and at the succeeding election designate one position for a two-year term; provided that thereafter all terms shall be [~~six-year~~] four-year terms.

C. Any resolution adopted pursuant to the provisions of this section shall be effective thirty days after its adoption unless a petition signed by the qualified electors

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of the school district in a number equal to at least twenty percent of all voters in the school district voting at the last regular school board election is presented to the local school board on or before the thirtieth day asking that an election be held on the question of decreasing the membership of the local school board to five members.

D. Upon receipt and verification of the petition, the local school board shall within thirty days call a special [~~school~~] election to vote upon the question of decreasing the membership of the local school board in that school district to five members.

E. If the voters of the school district approve the decrease in the local school board's membership to five members, the resolution shall be in effect, and the elimination of two members at subsequent elections as provided in Subsection B of this section shall be valid."

SECTION 97. Section 22-5-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 32, as amended) is amended to read:

"22-5-9. LOCAL SCHOOL BOARD VACANCIES.--

A. A vacancy occurring in the membership of a local school board shall be filled at an open meeting, at which a quorum of the membership is present, by a majority vote of the remaining members appointing a qualified [~~person~~] elector to fill the vacancy.

B. A qualified [~~person~~] elector appointed to fill a vacancy occurring in the membership of a local school board shall hold that office until the next regular school district election when an election shall be held to fill the vacancy for the unexpired term.

C. If a qualified [~~person~~] elector is not appointed

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to fill the vacancy within forty-five days from the date the vacancy occurred, the [~~state board~~] department shall appoint a qualified [~~person~~] elector to fill the vacancy until the next regular school district election.

D. In the event vacancies occur in a majority of the full membership of a local school board, the [~~state board~~] department shall appoint qualified [~~persons~~] electors to fill the vacancies. Those persons appointed shall hold office until the next regular [~~or special~~] school district election when an election shall be held to fill the vacancies for the unexpired terms."

SECTION 98. Section 22-7-13 NMSA 1978 (being Laws 1977, Chapter 308, Section 13, as amended) is amended to read:

"22-7-13. SPECIAL RECALL ELECTION.--

A. The date of the special recall election shall be set no later than [~~ninety~~] one hundred twenty days after the date of the determination by the county clerk but in no event shall the election be held within the period of time prohibited for local government elections pursuant to Section 1-12-71 NMSA 1978.

B. The question to be submitted to the voters at the special recall election shall be whether [~~or not~~] the named member shall be recalled.

C. A special recall election may be held in conjunction with a regular or a special school district election.

D. Whenever a special recall election is called, the county clerk shall give public notice of the special recall election by publishing information regarding the election once each week for four consecutive weeks. The first publication of

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the information shall be made between forty-five and sixty days before the date of the special recall election. Information regarding the election shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall include the date when the special recall election will be held, the question to be submitted to the voters, a brief description of the boundaries of each precinct, the location of each polling place, the hours each polling place will be open and the date and time of the closing of the registration books by the county clerk as required by law.

E. The ballot shall be in compliance with the federal Voting Rights Act of 1965, as amended, and shall present the voter the choice of voting "for the removal of the named member" or "against the removal of the named member".

F. All special recall elections shall be held in compliance with the federal Voting Rights Act of 1965, as amended.

G. Except as otherwise provided in the Local School Board Member Recall Act, special recall elections in a school district shall be conducted as provided in the Election Code."

SECTION 99. Section 27-5-9 NMSA 1978 (being Laws 1965, Chapter 234, Section 9, as amended) is amended to read:

"27-5-9. TAX LEVIES AUTHORIZED.--

A. Subject to the provisions of Subsection B of this section, the board of county commissioners, upon the certification of the county as to the amount needed to provide health care to indigent residents of the county or to support the state's medicaid program, shall impose a levy against the net taxable value, as that term is defined in the Property Tax Code, of the property in the county sufficient to raise the amount certified by the county.

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B. The question of imposing an indigent and medicaid health care levy for the purpose of the Indigent Hospital and County Health Care Act shall be submitted to the electors and voted upon as a separate question at the next subsequent general election or any special election called prior thereto for such purpose.

C. Upon finding by the board of county commissioners that an election will be necessary, the board of county commissioners shall meet and order an election to be held at a designated time in the county upon the question of imposing an indigent and medicaid health care levy for the purpose of the Indigent Hospital and County Health Care Act in the county. If the question is to be voted upon at a special election, the election shall be held not less than thirty nor more than fifty days after the finding, but in no event shall the election be held within [~~five~~] fifty days preceding or succeeding any general election held in the county. The order for the election shall be made a part of the official minutes of the board of county commissioners. A copy of the order shall be published in a newspaper of general circulation in the county at least fifteen days before the date set for the election, and an affidavit of publication shall be obtained. At least five days prior to the date for holding the election, the board of county commissioners shall publish in a newspaper of general circulation in the county and post in five conspicuous places in the county a notice of election, which shall be in substantially the following form:

"NOTICE OF ELECTION ON SPECIAL INDIGENT

AND MEDICAID HEALTH CARE LEVY

Notice is given on the _____ day of _____, 20____, there will be held in _____ county of New Mexico an election on the question of imposing an indigent and medicaid health care

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levy to provide health care to indigent residents of the county or to support the state's medicaid program, such levy to be made annually against the taxable value of the property in the county and limited to an amount sufficient to provide funds necessary to support the state's medicaid program or to provide health care to indigent residents of the county who do not qualify for medicaid.

Official Title of the Authority".

The election shall be held on the date specified in the notice and shall be, if a special election, conducted and canvassed in substantially the same manner as general elections are conducted and canvassed in the county; provided that the ballot used in any election shall be a special and separate ballot and shall be in substantially the following form:

"BALLOT

On the question of imposing an indigent and medicaid health care levy for the purposes of the Indigent Hospital and County Health Care Act, such levy to be made annually against the taxable value of the property in _____ county of New Mexico, and limited to an amount sufficient to provide funds budgeted and certified as necessary for health care for indigent residents of the county in addition to those services provided by the state or to support the state's medicaid program:

FOR THE LEVY..... _____
AGAINST THE LEVY..... _____".

D. If the electors vote in favor of an indigent and medicaid health care levy, the levy shall become effective in the same manner prescribed by law for all levies upon property within that county, and a levy for those purposes in such an

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amount as will provide sufficient money for the fund shall be made for each year thereafter.

E. Any board of county commissioners that has, prior to the effective date of this section, made a valid imposition of a property tax for the purpose of the Indigent Hospital and County Health Care Act shall not be required to hold an election on the existing tax, and that tax may be imposed and continue to be imposed in accordance with the provisions of law existing at the time of its imposition. However, if any such tax is not imposed in a given property tax year or if the authorization for its imposition terminates or expires, the election requirements of Subsections B and C of this section shall apply to any subsequent proposed imposition of a property tax for indigent health care for county residents or to support the state's medicaid program."

SECTION 100. TEMPORARY PROVISION.--The Uniform Military and Overseas Voters Act shall be compiled as a separate article in the Election Code.

SECTION 101. REPEAL.--Sections 1-6-2, 1-6-4.1, 1-6-4.2, 1-6-5.1, 1-6-18.1 and 3-9-2 NMSA 1978 (being Laws 1987, Chapter 327, Sections 6 and 9, Laws 2003, Chapter 355, Section 1, Laws 1991, Chapter 105, Section 10, Laws 2003, Chapter 356, Section 8 and Laws 1973, Chapter 375, Section 4, as amended) are repealed.

SECTION 102. APPLICABILITY.--The Uniform Military and Overseas Voters Act is applicable to any federal postcard application received as of the first day of the current election cycle.

SECTION 103. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 34 and 36 through 102 of this act is July 1, 2015.

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B. The effective date of the provisions of Section 35 of this act is January 1, 2018."

5. Renumber all sections to correspond with these amendments.

Lisa A. Torracco

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____