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HOUSE BILL 312

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Nora Espinoza and Cathrynn N. Brown

AN ACT

RELATING TO ELECTIONS; CHANGING VOTER IDENTIFICATION
REQUIREMENTS FOR VOTING IN PERSON OR BY MAIL; PROVIDING FOR
ISSUANCE OF IDENTIFICATION CARDS WITHOUT CHARGE; PROVIDING FOR
REIMBURSEMENT OF THE COSTS OF ISSUING IDENTIFICATION CARDS;
CHANGING PROCEDURES FOR THE ISSUANCE OF TEMPORARY LICENSES;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

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

A. As used in the Election Code, when a person
offers to vote in person, "required voter identification"
means: ~~[any of the following forms of identification as chosen~~
~~by the voter:~~

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1 A. ~~a physical form of identification, which may be:~~
2 (1) ~~an original or copy of a current and valid~~
3 ~~photo identification with or without an address, which address~~
4 ~~is not required to match the voter's certificate of~~
5 ~~registration; or~~

6 (2) ~~an original or copy of a utility bill,~~
7 ~~bank statement, government check, paycheck, student~~
8 ~~identification card or other government document, including~~
9 ~~identification issued by an Indian nation, tribe or pueblo,~~
10 ~~that shows the name and address of the person, the address of~~
11 ~~which is not required to match the voter's certificate of~~
12 ~~registration; or~~

13 B. ~~a verbal or written statement by the voter of~~
14 ~~the voter's name, registration address and year of birth;~~
15 ~~provided, however, that the statement of the voter's name need~~
16 ~~not contain the voter's middle initial or suffix.]~~

17 (1) a physical form of identification that is
18 issued by a government, including a federally recognized Indian
19 nation, tribe or pueblo, or by an educational institution and
20 that:

21 (a) contains the name of the voter,
22 which reasonably matches the name on the voter's certificate of
23 registration and is presumed to match unless a challenge is
24 successfully interposed;

25 (b) contains a photograph of the voter,

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1 which resembles the person offering to vote and is presumed to
2 resemble the person unless a challenge is successfully
3 interposed; provided that, in the case of identification or a
4 letter of enrollment issued by a federally recognized Indian
5 nation, tribe or pueblo, a photograph of the voter is not
6 required;

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

10 (d) may or may not contain an expiration
11 date, and if it does, the expiration date is not required to be
12 a date on or after the election in which the identification is
13 used; or

14 (2) a picture of the voter contained in the
15 voter registration database available to the election clerk at
16 the time the voter offers to vote, along with a written or
17 verbal statement by the voter of the voter's name, registration
18 address and year of birth; provided that:

19 (a) the name reasonably matches the name
20 on the voter's certificate of registration and is presumed to
21 match unless a challenge is interposed; and

22 (b) the picture resembles the person
23 offering to vote and is presumed to resemble the person unless
24 a challenge is interposed.

25 B. As used in the Election Code, when a person

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1 offers to vote by mail, "required voter identification" means a
2 form containing the following information filled out and signed
3 by the voter that contains the voter's name and registration
4 address, and:

5 (1) the driver's license number or the
6 identification card number on the most recent driver's license
7 or identification card issued to the voter by the motor vehicle
8 division of the taxation and revenue department, whether
9 expired or unexpired; provided that the address on file with
10 the motor vehicle division is not required to match the address
11 on the voter's certificate of registration; or

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

14 (a) the voter's month, day and year of
15 birth matches the date of birth listed on the voter's
16 certificate of registration; and

17 (b) the voter's full social security
18 number matches the social security number listed on the voter's
19 certificate of registration."

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

22 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
23 CERTIFICATES.--

24 A. Upon receipt of a complete certificate of
25 registration, if the certificate of registration is in proper

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

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

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1 Code.

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

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

15 SECTION 3. Section 1-6-4 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 130, as amended) is amended to read:

17 "1-6-4. ABSENTEE BALLOT APPLICATION.--

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

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1 B. Each application for an absentee ballot shall be
2 signed by the applicant and shall require the applicant's
3 ~~[printed name, registration address and year of birth to be~~
4 ~~supplied by the applicant, which shall constitute the required~~
5 ~~form of identification, except for new registrants who have~~
6 ~~registered by mail and at that time did not provide acceptable~~
7 ~~identification. The secretary of state shall issue rules to~~
8 ~~exempt voters from submitting identification only as required~~
9 ~~by federal law and shall review and, if necessary, update these~~
10 ~~rules no later than March 15 of even-numbered years] required~~
11 voter identification as provided in Subsection B of Section
12 1-1-24 NMSA 1978.

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

20 SECTION 4. Section 1-6-5 NMSA 1978 (being Laws 1969,
21 Chapter 240, Section 131, as amended) is amended to read:

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

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

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1 absentee ballot register. The county clerk shall then
2 determine if the applicant is a voter, and if the voter is a
3 uniformed-service voter or an overseas voter. If the applicant
4 is a uniformed-service voter or overseas voter, the application
5 shall be processed pursuant to the Uniform Military and
6 Overseas Voters Act.

7 B. If the applicant does not have a valid
8 certificate of registration on file in the county, an absentee
9 ballot shall not be issued and the county clerk shall mark the
10 application "rejected" and file the application in a separate
11 file from those accepted.

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

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

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1 ~~E.]~~ D. If the applicant has on file with the county
2 a valid certificate of registration, the county clerk shall
3 mark the application "accepted" and, beginning twenty-eight
4 days before the election, deliver an absentee ballot to the
5 voter in the county clerk's office or mail to the applicant an
6 absentee ballot and the required envelopes for use in returning
7 the ballot. An absent voter shall not be permitted to change
8 party affiliation during those periods when change of party
9 affiliation is prohibited by the Election Code. Upon delivery
10 of an absentee ballot to a voter in the county clerk's office
11 or mailing of an absentee ballot to an applicant who is a
12 voter, an appropriate designation shall be made on the
13 signature line of the signature roster next to the name of the
14 voter who has been provided or mailed an absentee ballot.

15 ~~[F.]~~ E. Absentee ballots may be marked in person at
16 the county clerk's office during the regular hours and days of
17 business beginning on the twenty-eighth day preceding the
18 election and from 10:00 a.m. to 6:00 p.m. on the Saturday
19 immediately prior to the date of the election. The act of
20 marking the absentee ballot in the office of the county clerk
21 shall be a convenience to the voter in the delivery of the
22 absentee ballot and does not make the office of the county
23 clerk a polling place subject to the requirements of a polling
24 place in the Election Code. If the county clerk establishes an
25 additional alternate voting location near the clerk's office,

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1 absentee ballots may be marked in person at that location
2 during the regular hours and days of business beginning on the
3 twenty-eighth day preceding the election and during the hours
4 for voting at alternate voting locations commencing on the
5 third Saturday prior to the election through the Saturday
6 immediately prior to the election. The additional alternate
7 voting location shall be operated by the county clerk and the
8 county clerk's staff.

9 ~~[G.]~~ F. When marking an absentee ballot in person
10 at the county clerk's office, the voter shall provide the
11 required voter identification set forth in Subsection A of
12 Section 1-1-24 NMSA 1978 to the county clerk or the clerk's
13 authorized representative. If the voter does not provide the
14 required voter identification, the voter shall be allowed to
15 vote on a provisional ballot. If the voter provides the
16 required voter identification, the voter, after subscribing an
17 application for an absentee ballot, shall be allowed to vote by
18 inserting the ballot into an optical scan tabulator certified
19 for in-person absentee voting at the county clerk's office.
20 The county clerk or the clerk's authorized representative shall
21 make an appropriate designation indicating that the voter has
22 voted absentee. In marking the absentee ballot, the voter may
23 be assisted pursuant to the provisions of Section 1-12-15 NMSA
24 1978.

25 ~~[H.]~~ G. Absentee ballots shall be sent to

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1 applicants not later than on the Friday immediately prior to
2 the date of the election.

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

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

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

14 ~~[L.]~~ J. It is unlawful to electioneer in the county
15 clerk's office or in any alternate voting location."

16 SECTION 5. Section 1-6-6 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 132, as amended) is amended to read:

18 "1-6-6. ABSENTEE BALLOT REGISTER.--

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

22 (1) the name and address of each absentee
23 ballot applicant;

24 (2) the date and time of receipt of the
25 application;

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1 (3) whether the application was accepted or
2 rejected;

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

6 (5) the applicant's precinct;

7 (6) whether the applicant is a voter and
8 whether the voter is a uniformed-service voter or an overseas
9 voter; and

10 [~~(7) whether the voter is required to submit~~
11 ~~identification pursuant to Section 1-6-5 NMSA 1978; and~~

12 ~~(8)] (7) the date and time the completed
13 absentee ballot was received from the applicant by the county
14 clerk or the absent voter voted early in person in the county
15 clerk's office or at an alternate location.~~

16 B. Absentee ballots shall be sent to applicants
17 beginning twenty-eight days before the election. For each
18 application for an absentee ballot received twenty-three or
19 more days before the election, the county clerk shall send
20 either the ballot or a notice of rejection to the applicant as
21 soon as practicable, provided it is sent not later than
22 twenty-two days before the election. Within twenty-two days of
23 election day, the county clerk shall send either the ballot or
24 a notice of rejection to the applicant within twenty-four hours
25 after receipt of the voter's application for an absentee

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1 ballot.

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

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

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

22 F. If the county clerk has available the technology
23 to do so, at the request of a candidate or chair of a political
24 party of the county, the county clerk shall electronically
25 transmit to the candidate or chair via the internet the

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1 information, when updated, on the absentee ballot register
2 indicating voters who have requested absentee ballots, returned
3 their absentee ballots or voted early in person."

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

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

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

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

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

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

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

21 B. Official transmittal envelopes and official
22 mailing envelopes for transmission of absentee ballot materials
23 to and from the county clerk and voters shall be printed in
24 black in substantially similar form. All official inner
25 envelopes shall be printed in black.

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

8 ~~D. The official mailing envelope shall contain a]~~
9 sufficient space for the ~~[voter to record the voter's name,~~
10 ~~registration address and year of birth]~~ voter's required voter
11 identification as provided in Subsection B of Section 1-1-24
12 NMSA 1978. The envelope shall have a security flap to cover
13 this information."

14 SECTION 7. Section 1-6-14 NMSA 1978 (being Laws 1971,
15 Chapter 317, Section 11, as amended) is amended to read:

16 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
17 PRECINCT BOARDS.--

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

22 B. If the voter's signature is missing, the
23 presiding judge shall write "Rejected" on the front of the
24 official mailing envelope. The judge or election clerk shall
25 enter the voter's name in the signature rosters or register and

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1 shall write the notation "Rejected--Missing Signature" in the
2 "Notations" column of the signature rosters or register. The
3 presiding judge shall place the official mailing envelope
4 unopened in an envelope provided for rejected ballots, seal the
5 envelope and write the voter's name on the front of the
6 envelope and deposit it in the locked ballot box.

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

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

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

15 (3) the person offering to vote is not a voter
16 as provided in the Election Code; or

17 (4) the person offering to vote did not
18 provide the required voter identification.

19 D. If a challenge is upheld by unanimous vote of
20 the presiding judge and the election judges, the official
21 mailing envelope shall not be opened but shall be placed in an
22 envelope provided for challenged ballots. If the reason for
23 the challenge is satisfied by the voter before the conclusion
24 of the county canvass, the official mailing envelope shall be
25 opened and the vote counted. The same procedure shall be

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1 followed in canvassing and determining the validity of
2 challenged absentee ballots as with other challenged ballots.

3 E. If the official mailing envelope has been
4 properly [~~subscribed~~] signed and the voter has not been
5 challenged:

6 (1) the judges or election clerks shall enter
7 the absent voter's name and residence address as shown on the
8 official mailing envelope in the signature rosters and shall
9 mark the notation "AB" opposite the voter's name in the
10 "Notations" column of the signature rosters or register; and

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

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

23 G. Absentee ballots shall be counted and tallied,
24 where possible, on an electronic voting machine as provided in
25 the Election Code.

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

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

10 SECTION 8. Section 1-6-16.2 NMSA 1978 (being Laws 1993,
11 Chapter 353, Section 1, as amended) is amended to read:

12 "1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

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

22 B. The alternative ballot shall be made available
23 by the county clerk of the county in which the voter resides to
24 any authorized representative of the voter who through [~~his~~]
25 the representative has presented the written request to the

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1 office of the county clerk.

2 ~~[G. Before releasing the alternative ballot, the~~
3 ~~county clerk shall compare the signature on the written request~~
4 ~~with the signature on the voter's affidavit of registration.~~
5 ~~If the county clerk determines that the signature on the~~
6 ~~written request is not the signature of the voter, he shall~~
7 ~~reject the request for an alternative ballot.~~

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

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

20 ~~[F.]~~ E. The secretary of state shall prescribe the
21 form of alternative [~~ballots~~] ballot envelopes and shall
22 distribute an appropriate number of alternative [~~ballots~~]
23 ballot envelopes to each county clerk."

24 **SECTION 9.** Section 1-12-7.1 NMSA 1978 (being Laws 1969,
25 Chapter 240, Section 112, as amended) is amended to read:

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

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

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

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

20 D. The judge or election clerk assigned to confirm
21 registration shall determine that each person offering to vote
22 is registered and, in the case of a primary election, that the
23 voter is registered in a party designated on the primary
24 election ballot. If the person's registration is confirmed and
25 the voter provides the required voter identification, the judge

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

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

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

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1 ~~identification to the polling place after casting a provisional~~
2 ~~paper ballot, that ballot shall be qualified.~~

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

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

11 **SECTION 10.** Section 1-12-8 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 247, as amended) is amended to read:

13 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

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

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

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

23 (3) the person executes a statement swearing
24 or affirming to the best of the person's knowledge that the
25 person is a qualified elector, is currently registered and

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1 eligible to vote in that county and has not cast a ballot or
2 voted in that election.

3 ~~[B. A voter shall vote on a provisional paper~~
4 ~~ballot if the voter:~~

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

7 ~~(2) registered to vote by mail;~~

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

11 ~~(4) does not present to the election judge a~~
12 ~~physical form of the required voter identification.~~

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

17 ~~[D.]~~ C. A judge or election clerk shall have the
18 voter sign the signature roster and issue the voter a
19 provisional paper ballot, an outer envelope and an official
20 inner envelope. The voter shall vote on the provisional paper
21 ballot in secrecy and, when done, place the ballot in the
22 official inner envelope and place the official inner envelope
23 in the outer envelope and return it to the judge or election
24 clerk. The judge or election clerk shall ensure that the
25 required information is completed on the outer envelope, have

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1 the voter sign it in the appropriate place and place it in an
2 envelope designated for provisional paper ballots.

3 ~~[E-]~~ D. Knowingly executing a false statement
4 constitutes perjury as provided in the Criminal Code, and
5 voting on the basis of such falsely executed statement
6 constitutes fraudulent voting."

7 **SECTION 11.** Section 1-12-10.1 NMSA 1978 (being Laws 2003,
8 Chapter 356, Section 2, as amended) is amended to read:

9 "1-12-10.1. CONDUCT OF ELECTIONS--VOTING INFORMATION.--

10 A. The secretary of state shall provide voting
11 information, including voter identification requirements for
12 voters as well as provisional paper ballot rights for persons
13 offering to vote, which the county clerks shall display, in
14 accordance with the federal Help America Vote Act of 2002, in
15 each polling place and in each county clerk's office and at any
16 location where voting is taking place.

17 B. The county clerk shall ensure that in each
18 polling place there is posted the phone numbers of the county
19 clerk and the secretary of state.

20 C. The secretary of state and the county clerk of
21 each county that maintains a website shall provide notice of
22 the voter identification requirements on each entity's
23 respective website in each language in which voter registration
24 materials are available. The secretary of state shall
25 prescribe the wording of the notice to be included on the

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1 websites.

2 D. The secretary of state shall conduct a statewide
3 effort to educate voters regarding voter identification
4 requirements.

5 E. The county clerk of each county shall post in a
6 prominent location at the clerk's office a physical copy of the
7 notice prescribed by Subsection C of this section in each
8 language in which voter registration materials are available."

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

11 "1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER
12 IN MARKING BALLOT.--

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

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

21 C. After noting the request for assistance in the
22 signature roster, the voter shall be permitted assistance in
23 filling out forms necessary to vote, in marking the ballot or
24 in using the voting system as provided in Section 1-12-15 NMSA
25 1978.

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1 D. Any person who swears falsely in order to secure
2 assistance is guilty of a misdemeanor."

3 SECTION 13. Section 1-12-20 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 273, as amended) is amended to read:

5 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
6 challenge may be interposed by a member of the precinct board
7 or by a party challenger for the following reasons:

8 A. the person offering to vote is not registered to
9 vote;

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

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

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

16 E. the person offering to vote did not provide the
17 required voter identification; or

18 [~~E.~~] F. in the case of a primary election, the
19 person [~~desiring~~] offering to vote is not affiliated with a
20 political party represented on the ballot."

21 SECTION 14. Section 1-12-25.2 NMSA 1978 (being Laws 2003,
22 Chapter 356, Section 3, as amended) is amended to read:

23 "1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--
24 INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

25 A. If a voter is required to vote on a provisional

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1 paper ballot, the presiding judge or election judge shall give
2 the voter written instructions on how the voter may determine
3 whether the vote was counted and, if the vote was not counted,
4 the reason it was not counted.

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

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

23 D. A provisional paper ballot that was rejected for
24 failure of the voter to provide the required voter
25 identification shall be qualified if the voter provides the

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1 required voter identification as provided in Subsection A or B
2 of Section 1-1-24 NMSA 1978 at the time of the hearing. Any
3 voter whose provisional paper ballot is not counted may appeal
4 to the district court and shall receive free process in any
5 such proceeding."

6 SECTION 15. Section 1-12-25.3 NMSA 1978 (being Laws 2003,
7 Chapter 356, Section 6, as amended) is amended to read:

8 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
9 INFORMATION.--

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

- 12 (1) the name and signature of the voter;
13 (2) the voter's registered address [~~both~~
14 ~~present and former if applicable~~];
15 (3) the voter's date of birth;
16 (4) the voter's social security number;
17 [~~(4)~~] (5) the reason for using the provisional
18 paper ballot;
19 [~~(5)~~] (6) the [~~precinct and the~~] polling place
20 at which the voter has voted; and
21 [~~(6)~~] (7) sufficient space to list the
22 disposition of the ballot after review by the county clerk.

23 B. [A] In the case of a provisional paper ballot
24 issued for failure of the voter to provide the required voter
25 identification, the provisional paper ballot shall be

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1 qualified as long as the voter provides a signature and the
2 required voter identification as provided in Subsection B of
3 Section 1-1-24 NMSA 1978.

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

10 SECTION 16. Section 1-12-25.4 NMSA 1978 (being Laws
11 2003, Chapter 356, Section 7, as amended) is amended to read:

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

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

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

20 C. If there is no record of the [~~voter~~] person
21 who voted ever having been registered in the county, the
22 [~~voter~~] person shall be offered the opportunity to register
23 and the provisional paper ballot shall not be counted.

24 D. If the voter was registered in the county, the
25 registration was later canceled and the county clerk

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1 determines that the cancellation was in error, or that the
2 voter's name should not have been placed on the list of
3 voters whose registrations were to be canceled, the voter's
4 registration shall be immediately restored and the
5 provisional paper ballot counted.

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

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

17 G. If the person is registered to vote in the
18 county, but has voted on a provisional paper ballot for
19 failure to provide the required voter identification, the
20 provisional paper ballot shall be counted if the voter
21 provides the information required pursuant to Subsection B of
22 Section 1-1-24 NMSA 1978 on the provisional ballot outer
23 envelope.

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

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1 failure to provide the required voter identification, the
2 provisional paper ballot shall be counted if the voter
3 executes an affidavit under penalty of perjury that states
4 that the voter does not have the required voter
5 identification as a result of a natural disaster that was
6 declared by the president of the United States or the
7 governor and the disaster occurred not earlier than
8 forty-five days before the date the ballot was cast and
9 caused the destruction of or inability of the voter to access
10 the voter's required identification.

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

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

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

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1 process."

2 SECTION 17. Section 1-19A-10 NMSA 1978 (being Laws
3 2003, Chapter 14, Section 10, as amended) is amended to read:

4 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

5 A. There is created in the state treasury the
6 "public election fund" solely for the purposes of:

7 (1) financing the election campaigns of
8 certified candidates for covered offices;

9 (2) paying administrative and enforcement
10 costs of the Voter Action Act; ~~and~~

11 (3) carrying out all other specified
12 provisions of the Voter Action Act; and

13 (4) reimbursing the motor vehicle division
14 of the taxation and revenue department for the cost of
15 issuing identification cards to voters without charge
16 pursuant to the provisions of Section 66-5-408 NMSA 1978.

17 B. The state treasurer shall invest the funds as
18 other state funds are invested, and all income derived from
19 the fund shall be credited directly to the fund. Remaining
20 balances at the end of a fiscal year shall remain in the
21 public election fund and not revert to the general fund.

22 C. Money received from the following sources
23 shall be deposited directly into the fund:

24 (1) qualifying contributions that have been
25 submitted to the secretary;

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1 (2) any recurring balance of unspent fund
2 money distributed to a certified candidate who does not
3 remain a candidate through the primary or general election
4 period for which the money was distributed;

5 (3) money that remains unspent or
6 unencumbered by a certified candidate following the date of
7 the primary election;

8 (4) money that remains unspent or
9 unencumbered by a certified candidate following the date of
10 the general election;

11 (5) unspent seed money that cannot be used
12 for any other purpose;

13 (6) money distributed to the fund from funds
14 received pursuant to the Uniform Unclaimed Property Act
15 (1995); and

16 (7) money appropriated by the legislature.

17 D. A subaccount shall be established in the fund,
18 and money in the subaccount shall only be used to pay the
19 costs of carrying out the provisions of the Voter Action Act
20 related to public regulation commission elections.

21 E. Two hundred thousand dollars (\$200,000) per
22 year shall be collected and deposited in the subaccount for
23 public regulation commission elections as follows:

24 (1) one hundred thousand dollars (\$100,000)
25 from inspection and supervision fees collected pursuant to

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1 Section 62-8-8 NMSA 1978; and

2 (2) one hundred thousand dollars (\$100,000)
3 from utility and carrier inspection fees collected pursuant
4 to Section 63-7-20 NMSA 1978."

5 SECTION 18. Section 3-8-2 NMSA 1978 (being Laws 1985,
6 Chapter 208, Section 10, as amended) is amended to read:

7 "3-8-2. DEFINITIONS.--

8 A. The definitions in Section 3-1-2 NMSA 1978
9 shall apply to the Municipal Election Code in addition to
10 those definitions set forth in the Municipal Election Code.

11 B. The definition of "required voter
12 identification" in the Election Code shall apply to the
13 Municipal Election Code in addition to those definitions set
14 forth in the Municipal Election Code.

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

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

19 (2) "ballot" means a system for arranging
20 and designating for the voter the names of candidates and
21 questions to be voted on and for the marking, casting or
22 otherwise recording of such votes. "Ballot" includes paper
23 ballots, absentee ballots, ballot sheets and paper ballots
24 used in lieu of voting machines;

25 (3) "ballot sheet" means the material placed

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1 on the front of the voting machine containing the names of
2 the candidates, the offices the candidates are seeking and a
3 statement of the proposed questions to be voted upon;

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

7 (5) "county clerk" means the clerk of the
8 county or the county clerk's designee within which the
9 municipality is located;

10 (6) "election returns" means all
11 certificates of the precinct board, including the certificate
12 showing the total number of votes cast for each candidate, if
13 any, and for or against each question, if any, and shall
14 include statements of canvass, signature rosters, registered
15 voter lists, machine-printed returns, paper ballots used in
16 lieu of voting machines, absentee ballots, absentee ballot
17 registers and absentee voter lists or absent voter machine-
18 printed returns;

19 (7) "municipal clerk" means the municipal
20 clerk or any deputy or assistant municipal clerk;

21 (8) "municipal clerk's office" means the
22 office of the municipal clerk or any other room used in the
23 process of absentee voting, counting and tallying of absentee
24 ballots or canvassing the election results within the
25 confines of the building where the municipal clerk's office

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1 is located;

2 (9) "paper ballot" means a ballot manually
3 marked by the voter and counted by hand without the
4 assistance of a machine or optical-scan vote tabulating
5 device;

6 (10) "precinct" means a portion of a county
7 situated entirely in or partly in a municipality that has
8 been designated by the county as a precinct for election
9 purposes and that is entitled to a polling place and a
10 precinct board. If a precinct includes territory both inside
11 and outside the boundaries of a municipality, "precinct", for
12 municipal elections, shall mean only that portion of the
13 precinct lying within the boundaries of the municipality;

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

16 (12) "qualified elector" means any person
17 whose affidavit of voter registration has been filed by the
18 county clerk, who is registered to vote in a general election
19 precinct established by the board of county commissioners
20 that is wholly or partly within the municipal boundaries and
21 who is a resident of the municipality. Persons who would
22 otherwise be qualified electors if land on which they reside
23 is annexed to a municipality shall be deemed to be qualified
24 electors:

25 (a) upon the effective date of the

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1 municipal ordinance effectuating the terms of the annexation
2 as certified by the board of arbitration pursuant to Section
3 3-7-10 NMSA 1978;

4 (b) upon thirty days after the filing
5 of an order of annexation by the municipal boundary
6 commission pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978,
7 if no appeal is filed or, if an appeal is filed, upon the
8 filing of a nonappealable court order effectuating the
9 annexation; or

10 (c) upon thirty days after the filing
11 of an ordinance pursuant to Section 3-7-17 NMSA 1978, if no
12 appeal is filed or, if an appeal is filed, upon the filing of
13 a nonappealable court order effectuating the annexation;

14 (13) "recheck" pertains to voting machines
15 and means a verification procedure where the counter
16 compartment of the voting machine is opened and the results
17 of the balloting as shown on the counters of the machine are
18 compared with the results shown on the official returns;

19 (14) "recount" pertains to ballots and
20 absentee ballots and means a retabulation and retallying of
21 individual ballots;

22 (15) "voter" means a qualified elector of
23 the municipality; and

24 (16) "voting machine" means any electronic
25 recording and tabulating voting system as tested and approved

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1 by the secretary of state."

2 SECTION 19. Section 3-8-41 NMSA 1978 (being Laws 1985,
3 Chapter 208, Section 49, as amended) is amended to read:

4 "3-8-41. CONDUCT OF ELECTION--VOTER'S NAME, ADDRESS,
5 SIGNATURE--ENTRIES BY PRECINCT BOARD.--

6 A. When a person goes to the polls to vote, the
7 person shall announce the person's name and address in an
8 audible tone of voice and [~~locate the person's name and~~
9 ~~number in the registered voter list posted for such purpose~~]
10 provide the required voter identification. An election clerk
11 shall locate the person's name and number in the signature
12 roster. The person shall then sign the person's name in the
13 signature roster or, if the person is unable to write, the
14 election clerk shall sign the person's name in the signature
15 roster, which shall be initialed by an election judge in the
16 signature roster. Thereupon, a challenge may be interposed
17 as provided in the Municipal Election Code.

18 B. If no challenge is interposed, an election
19 clerk shall issue a voting machine permit to the person, upon
20 which shall be written the person's voter registration list
21 number. The person shall present the voting machine permit
22 to the precinct board member monitoring the machine or
23 issuing ballots, and the person shall be allowed to vote.
24 The precinct board member shall enter the public counter
25 number onto the voting machine permit as shown on the voting

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1 machine after the person has voted. All voting machine
2 permits shall be retained in consecutive order and made part
3 of the election returns."

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

6 "3-8-43. CONDUCT OF ELECTION--CHALLENGES--REQUIRED
7 CHALLENGES--ENTRIES--DISPOSITION.--

8 A. A challenge may be interposed by a member of
9 the precinct board or by a challenger for the following
10 reasons, which shall be stated in an audible tone by the
11 person making the challenge:

12 (1) the person offering to vote is not
13 registered;

14 (2) the person offering to vote is listed
15 among those persons in the precinct to whom an absentee
16 ballot was issued;

17 (3) the person offering to vote is not a
18 qualified elector;

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

21 (5) the person offering to vote did not
22 provide the required voter identification;

23 [~~5~~] (6) in the case of an absentee ballot,
24 the official mailing envelope containing an absentee ballot
25 has been opened prior to delivery of absentee ballots to the

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1 absent voter precinct board; or

2 [~~(6)~~] (7) the person offering to vote is a
3 qualified elector of the municipality but does not reside in
4 the district where the person is offering to vote.

5 B. When a person has offered to vote and a
6 challenge is interposed and the person's name appears in the
7 signature roster or the person's name has been entered in the
8 signature roster pursuant to Subsection C of Section 3-8-40
9 NMSA 1978, the election clerk shall write the word
10 "challenged" above the person's signature in the signature
11 roster and:

12 (1) if the challenge is unanimously affirmed
13 by the election judges:

14 (a) the election clerk shall write the
15 word "affirmed" above the person's signature next to the
16 challenge notation in the signature roster;

17 (b) the person shall nevertheless be
18 furnished a paper ballot, whether or not voting machines are
19 being used at the polling place, and the election clerk shall
20 write the number of the ballot so furnished next to the
21 person's signature in the signature roster;

22 (c) the person shall be allowed to
23 mark and prepare the ballot. The person shall return the
24 paper ballot to an election judge who shall announce the
25 person's name in an audible tone and in the person's presence

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1 place the challenged ballot in an envelope marked "rejected",
2 which shall be sealed and the person's name shall be written
3 on the envelope; ~~and~~

4 (d) if the ballot was rejected for any
5 reason other than failure to provide the required voter
6 identification, the envelope containing the rejected ballot
7 shall then be deposited in the ballot box and shall not be
8 counted; ~~or~~ and

9 (e) if the ballot was rejected for
10 failure to provide the required voter identification, the
11 envelope containing the rejected ballot shall then be
12 deposited in the ballot box and shall be counted if the voter
13 provides the required voter identification pursuant to
14 Subsection B of Section 1-1-24 NMSA 1978, and the information
15 is verified in accordance with rules issued by the secretary
16 of state; or

17 (2) if the challenge is not unanimously
18 affirmed by the election judges:

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

22 (b) the person shall be allowed to
23 vote in the manner allowed by law as if the challenge had not
24 been interposed.

25 C. A required challenge shall be interposed by

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1 the precinct board when a person attempts to offer to vote
2 and demands to vote and the person's name does not appear on
3 the signature roster and cannot be entered pursuant to
4 Subsection B of Section 3-8-40 NMSA 1978. A required
5 challenge shall be interposed by the precinct board as
6 follows:

7 (1) the election judge shall cause the
8 election clerks to enter the person's name and address under
9 the heading "name and address" in the signature roster in the
10 first blank space immediately below the last name and address
11 that appears in the signature roster;

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

15 (3) the person shall sign the person's name
16 in the signature roster;

17 (4) the person shall nevertheless be
18 furnished a paper ballot, whether or not voting machines are
19 being used at the polling place, and the election clerk shall
20 write the number of the ballot so furnished next to the
21 person's signature in the signature roster; and

22 (5) the person shall be allowed to mark and
23 prepare the ballot. The person shall return the paper ballot
24 to an election judge who shall announce the person's name in
25 an audible tone and in the person's presence place the

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1 required challenge ballot in an envelope marked "rejected--
2 required challenge" that shall be sealed. The person's name
3 shall be written on the envelope and the envelope containing
4 the rejected ballot shall then be deposited in the ballot box
5 and shall not be counted."

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

8 "3-9-6. FORM OF ABSENTEE BALLOT--FORM OF ABSENTEE
9 BALLOT ENVELOPES.--

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

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

21 C. The municipal clerk shall prescribe the form
22 of:

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

25 (2) official mailing envelopes for use in

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1 returning the official inner envelope to the municipal clerk;

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

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

7 D. Official transmittal envelopes and official
8 mailing envelopes for transmission of absentee ballot
9 materials to and from the municipal clerk and federal
10 qualified electors shall be as prescribed in the Uniform
11 Military and Overseas Voters Act. Official transmittal
12 envelopes and official mailing envelopes for transmission of
13 absentee ballot materials to and from the municipal clerk
14 shall be printed in green in substantially similar form. All
15 official inner envelopes shall be printed in green.

16 E. The reverse of each official mailing envelope
17 shall contain ~~[a form to be signed by the person completing~~
18 ~~the absentee ballot. The form shall identify the person and~~
19 ~~shall contain the following statement: "I will not vote in~~
20 ~~this election other than by the enclosed ballot. I will not~~
21 ~~receive or offer any compensation or reward for giving or~~
22 ~~withholding any vote."]~~ sufficient space for the voter's
23 required voter identification. The envelope shall have a
24 security flap to cover this information."

25 SECTION 22. Section 3-9-11 NMSA 1978 (being Laws 1985,

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1 Chapter 208, Section 99, as amended) is amended to read:

2 "3-9-11. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
3 PRECINCT BOARDS.--

4 A. Before opening any official mailing envelope,
5 an election judge shall determine that the required voter
6 identification is included and the signature has been
7 executed on the reverse side of the official mailing
8 envelope.

9 B. If the required voter identification or
10 signature is missing, an election judge shall write
11 "rejected" on the front of the official mailing envelope.
12 The election clerks shall write the notation "rejected --
13 missing signature" in the "notations" column on the absentee
14 voter list. An election judge shall place the official
15 mailing envelope unopened in an envelope provided for
16 rejected ballots, seal the envelope, write the voter's name
17 on the front of the envelope and deposit it in the locked
18 ballot box.

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

23 (1) the required voter identification or
24 signature is missing;

25 [~~(1)~~] (2) the official mailing envelope has

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1 been opened by someone other than the voter prior to being
2 received by the absent voter precinct board;

3 [~~2~~] (3) the person offering to vote is not
4 a voter as provided in the Municipal Election Code; or

5 [~~3~~] (4) the person offering to vote is not
6 a federal qualified elector authorized to vote in a municipal
7 election.

8 D. Upon the rejection or challenge of an absentee
9 ballot, an election judge shall generally follow the same
10 procedure as when ballots are challenged when a person offers
11 to vote in person. If a challenged ballot is not to be
12 counted, it shall not be opened and shall be placed in an
13 envelope provided for challenged ballots. If the ballot was
14 rejected or challenged for failure to provide the required
15 voter identification, the envelope shall not be counted or
16 opened unless the voter provides the required voter
17 identification to the absent voter precinct board before the
18 polls close or to the municipal clerk's office before 5:00
19 p.m. on the second day following the election.

20 [~~D-~~] E. If the official mailing envelopes contain
21 the required voter identification and have properly executed
22 signatures and the voters have not been challenged:

23 (1) an election judge shall open the
24 official mailing envelopes and deposit the ballots in their
25 still sealed official inner envelopes in the locked ballot

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1 box; and

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

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

14 ~~[F-]~~ G. The municipal clerk shall, prior to the
15 opening of the polls on election day, notify the absent voter
16 precinct board in writing whether absentee ballots are to be
17 counted and tallied or registered on a voting machine. The
18 procedures shall be such as to ensure the secrecy of the
19 ballot.

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

23 **SECTION 23.** Section 3-9-13.1 NMSA 1978 (being Laws
24 2003, Chapter 244, Section 19, as amended) is amended to
25 read:

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1 "3-9-13.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN
2 NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND
3 COUNTING.--

4 A. A voter who has submitted an application for
5 an absentee ballot that was accepted by the municipal clerk
6 but who has not received the absentee ballot by mail as of
7 the date of the election may go to the assigned polling place
8 and, after executing an affidavit of nonreceipt of absentee
9 ballot, shall be issued a ballot in lieu of an absentee
10 ballot by the presiding judge, and shall be allowed to mark
11 the ballot.

12 B. The voter shall place the completed ballot
13 issued in lieu of an absentee ballot in an official inner
14 envelope, substantially in the form prescribed pursuant to
15 Section 3-9-6 NMSA 1978, which shall be sealed by the voter.
16 The official inner envelope shall then be placed by the
17 voter, in the presence of the presiding judge, in an official
18 outer envelope substantially as prescribed for a transmittal
19 envelope or mailing envelope pursuant to Section 3-9-6 NMSA
20 1978. The presiding judge shall fill in the information on
21 the back of the envelope that identifies the voter by name
22 and signature roster number and contains the printed
23 affidavit that the voter made application for an absentee
24 ballot, which the voter believes to have been accepted by the
25 municipal clerk, that the voter swears an absentee ballot had

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1 not been received as of the date of the election and that the
2 voter was issued a ballot in lieu of an absentee ballot, that
3 the voter provided the required voter identification and that
4 the ballot was marked by the voter and submitted to the
5 presiding judge.

6 C. The presiding judge shall place all ballots
7 issued in lieu of absentee ballots in a special envelope
8 provided for that purpose by the municipal clerk, seal the
9 envelope and return it to the municipal clerk along with the
10 machine tally sheets after the closing of the polls. The
11 sealed envelope shall not be placed in the locked ballot box.

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

17 (1) if the voter did in fact make
18 application for an absentee ballot that was accepted by the
19 municipal clerk;

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

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

25 E. If the municipal clerk determines that the

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1 ballot in lieu of absentee ballot is valid, that an absentee
2 ballot was mailed to the voter and that no absentee ballot
3 was received from the voter by the municipal clerk, the
4 municipal clerk shall remove the inner envelope without
5 opening it, retain the transmittal envelope with the other
6 election returns and place the inner envelope, unopened, in a
7 secure and locked container to be transmitted to the
8 canvassing board to be tallied and included in the canvass of
9 the election returns for the municipality.

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

24 G. The municipal clerk shall furnish and shall
25 prescribe the form of the necessary envelopes to be used in

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1 accordance with the purposes of this section, and shall take
2 steps to preserve the secrecy of any ballots cast pursuant to
3 this section."

4 SECTION 24. [NEW MATERIAL] IDENTIFICATION CARDS--
5 REIMBURSEMENT COSTS--INFORMATION SHARING.--

6 A. The motor vehicle division of the taxation and
7 revenue department shall provide the secretary of state with
8 a record of all identification cards issued to voters
9 pursuant to the provisions of Section 66-5-408 NMSA 1978.

10 B. The secretary of state shall reimburse the
11 motor vehicle division of the taxation and revenue department
12 with money from the public election fund for the costs of
13 issuing identification cards to voters without charge
14 pursuant to the provisions of Section 66-5-408 NMSA 1978.

15 SECTION 25. Section 66-5-408 NMSA 1978 (being Laws
16 1978, Chapter 35, Section 335, as amended) is amended to
17 read:

18 "66-5-408. FEES--EXCEPTIONS.--

19 A. Upon application for an identification card
20 with a four-year term, there shall be paid to the department
21 a fee of five dollars (\$5.00). Upon application for an
22 identification card with an eight-year term, there shall be
23 paid to the department a fee of ten dollars (\$10.00). A fee
24 shall not be charged to an applicant for an identification
25 card if the applicant:

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1 (1) is at least seventy-five years of age;
2 or

3 (2) states that the applicant is obtaining
4 the identification card for the purpose of voting and does
5 not possess any other form of identification required by the
6 Election Code for the applicant to vote in person and the
7 applicant is:

8 (a) currently registered to vote in
9 the state; or

10 (b) a qualified elector and submits a
11 certificate of registration form to the department for
12 processing by the requisite county clerk.

13 B. The department with the approval of the
14 governor may increase the amount of the identification card
15 fee by an amount not to exceed three dollars (\$3.00) for the
16 purpose of implementing an enhanced licensing system;
17 provided that for an identification card issued for an eight-
18 year period, the amount of the fee shall be twice the amount
19 charged for other identification cards. The additional
20 amounts collected pursuant to this subsection are
21 appropriated to the department to defray the expense of the
22 new system of licensing and for use as set forth in the
23 provisions of Subsection F of Section 66-6-13 NMSA 1978.
24 Unexpended and unencumbered balances from fees collected
25 pursuant to the provisions of this subsection at the end of

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1 any fiscal year shall not revert to the general fund but
2 shall be expended by the department in fiscal year 2010 and
3 subsequent fiscal years."

4 SECTION 26. Section 66-8-111.1 NMSA 1978 (being Laws
5 1984, Chapter 72, Section 7, as amended) is amended to read:

6 "66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR
7 DEPARTMENT--WRITTEN NOTICE OF REVOCATION AND OF RIGHT TO A
8 HEARING.--

9 A. On behalf of the department, a law enforcement
10 officer requesting a chemical test or directing the
11 administration of a chemical test pursuant to Section
12 66-8-107 NMSA 1978 shall serve immediate written notice of
13 revocation and of right to a hearing before the
14 administrative hearings office pursuant to the Implied
15 Consent Act on a person who refuses:

16 (1) to permit chemical testing; or [~~on a~~
17 ~~person who~~]

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

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

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

25 (c) two one hundredths or more if the

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1 person is less than twenty-one years of age. [~~Upon serving]~~

2 B. The written notice of revocation [~~the law~~
3 ~~enforcement officer shall take the license or permit of the~~
4 ~~driver, if any, and issue]~~ and of a right to a hearing served
5 on the driver shall be a temporary license valid for twenty
6 days or, if the driver requests a hearing pursuant to Section
7 66-8-112 NMSA 1978, valid until the date the administrative
8 hearings office issues the order following that hearing;
9 provided that a written notice of revocation and right to a
10 hearing shall not be a temporary license [~~shall not be issued~~
11 ~~to]~~ for a driver without [~~a valid license or permit]~~ any
12 otherwise valid driving privileges in this state.

13 C. The law enforcement officer shall send [~~the~~
14 ~~person's driver's license]~~ to the department [~~along with]~~ the
15 signed statement required pursuant to Section 66-8-111 NMSA
16 1978."

17 **SECTION 27. REPEAL.**--Section 1-12-4.1 NMSA 1978 (being
18 Laws 2005, Chapter 270, Section 59) is repealed.

19 **SECTION 28. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 15, 2016.