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AN ACT

RELATING TO ELECTIONS; ENACTING THE LOCAL ELECTION ACT;
PROVIDING FOR A SINGLE ELECTION DAY AND UNIFORM PROCESSES FOR
CERTAIN LOCAL GOVERNMENT ELECTIONS; PROVIDING THAT CERTAIN
BALLOT MEASURE ELECTIONS THAT ARE HELD AT TIMES OTHER THAN
WITH REGULAR LOCAL ELECTIONS ONLY BE CONDUCTED BY MAILED
BALLOT; REQUIRING SPECIAL STATEWIDE BALLOT QUESTION ELECTIONS
TO BE CONDUCTED BY MAILED BALLOT; PROHIBITING ADVISORY
QUESTIONS ON THE BALLOT; UPDATING CIRCUMSTANCES CAUSING A
VACANCY IN LOCAL OFFICE; NAMING CHAPTER 1, ARTICLE 24 NMSA
1978 THE "SPECIAL ELECTION ACT"; CHANGING THE LIMITS ON SOIL
AND WATER CONSERVATION LEVIES; REPEALING THE SCHOOL ELECTION
LAW, THE MAIL BALLOT ELECTION ACT, THE MUNICIPAL ELECTION
CODE AND OTHER PROVISIONS OF LAW IN CONFLICT WITH THE LOCAL
ELECTION ACT; MAKING CONFORMING AMENDMENTS TO OTHER SECTIONS
OF LAW; MAKING AN APPROPRIATION.

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

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

"1-1-19. ELECTIONS COVERED BY CODE.--

A. The Election Code applies to the following:

- (1) general elections;
- (2) primary elections;
- (3) special elections;

1 (4) elections to fill vacancies in the
2 office of United States representative;

3 (5) local elections included in the Local
4 Election Act; and

5 (6) recall elections of county officers,
6 school board members or applicable municipal officers.

7 B. To the extent procedures are incorporated or
8 adopted by reference by separate laws governing such
9 elections or to the extent procedures are not specified by
10 such laws, certain provisions of the Election Code shall also
11 apply to special district elections not covered by the Local
12 Election Act."

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

15 "1-2-1.1. ATTORNEY GENERAL REQUIRED TO ASSIST SECRETARY
16 OF STATE--DISTRICT ATTORNEYS REQUIRED TO ASSIST SECRETARY OF
17 STATE AND COUNTY CLERKS.--

18 A. The attorney general shall, upon request of the
19 secretary of state, provide legal advice, assistance,
20 services and representation as counsel in any action to
21 enforce the provisions of the Election Code.

22 B. Upon the request of the secretary of state or a
23 county clerk, the attorney general and the several district
24 attorneys of the state shall assign investigators or lawyers
25 to aid the secretary of state and county clerks to ensure the

1 proper conduct of an election.

2 C. Each district attorney shall assign a lawyer to
3 be the elections prosecutor for the judicial district or for
4 each county in the judicial district. The district attorney
5 shall communicate and maintain current the name and contact
6 information of the assigned elections prosecutor to the
7 secretary of state and to each county clerk in the judicial
8 district. The assigned elections prosecutor shall receive
9 from the county clerk in the prosecutor's county or judicial
10 district referrals of suspected violations of the Election
11 Code. The assigned elections prosecutor shall each month
12 report in writing to the county clerk and the district
13 attorney the status of each referral until the matter is
14 concluded."

15 SECTION 3. Section 1-3-2 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 51, as amended) is amended to read:

17 "1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

18 A. In June or July of each odd-numbered year, the
19 board of county commissioners shall by resolution:

20 (1) designate the polling place of each
21 precinct that shall provide individuals with physical
22 mobility limitations an unobstructed access to at least one
23 voting machine;

24 (2) consolidate any precincts for the next
25 succeeding primary and general elections pursuant to Section

1 1-3-4 NMSA 1978;

2 (3) designate any mail ballot election
3 precincts for the next succeeding primary and general
4 elections;

5 (4) consolidate precincts for the regular
6 local elections following the next succeeding general
7 election as provided in Section 1-3-4 NMSA 1978;

8 (5) designate any mail ballot election
9 precincts for the regular local election following the next
10 succeeding general election;

11 (6) create additional precincts to meet the
12 requirements of Section 1-3-1 NMSA 1978 or upon petition
13 pursuant to Section 4-38-21 NMSA 1978;

14 (7) create additional polling places in
15 existing precincts as necessary pursuant to Section 1-3-7.1
16 NMSA 1978; and

17 (8) divide any precincts as necessary to
18 meet legal and constitutional requirements for redistricting.

19 B. Polling places, consolidated precincts and mail
20 ballot election precinct designations established in the
21 resolution adopted pursuant to Subsection A of this section
22 for primary and general elections shall be the same used for
23 any special election for the office of United States
24 representative held in the two succeeding calendar years
25 following adoption of the resolution.

1 C. The county clerk shall notify the secretary of
2 state in writing of any proposed changes in precincts or the
3 designation of polling places made by the board of county
4 commissioners and shall furnish a copy of the map showing the
5 current geographical boundaries, designation and word
6 description of each new polling place and each new or changed
7 precinct.

8 D. The secretary of state shall review all new or
9 changed precinct maps submitted pursuant to this section for
10 compliance under the Precinct Boundary Adjustment Act. Any
11 necessary precinct boundary adjustments shall be made and
12 submitted to the secretary of state no later than the first
13 Monday in December of each odd-numbered year. Upon approval
14 of the new or changed precincts by the secretary of state,
15 the precincts and polling places as changed by the resolution
16 of the boards of county commissioners and approved by the
17 secretary of state shall be the official precincts and
18 polling places for the next succeeding primary and general
19 elections and the regular local election following the next
20 succeeding general election."

21 **SECTION 4.** Section 1-3-4 NMSA 1978 (being Laws 1975,
22 Chapter 255, Section 30, as amended) is amended to read:

23 "1-3-4. CONSOLIDATION OF PRECINCTS.--

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

1 (1) primary and general elections; and

2 (2) local elections.

3 B. When precincts are consolidated for a primary
4 and general election or a regular local election, the
5 resolution required by Section 1-3-2 NMSA 1978, in addition
6 to the other matters required by law, shall state therein
7 which precincts have been consolidated and the designation of
8 the polling place. In addition, when consolidating
9 precincts:

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

13 (2) each consolidated precinct in a primary
14 or general election shall be composed of no more than ten
15 precincts;

16 (3) each consolidated precinct in a local
17 election shall be composed of no more than twenty precincts;

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

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

24 (6) the county clerk may maintain any
25 alternative voting locations previously used in the same

1 election open for voting on election day for any voter in the
2 county, in addition to the polling location established in
3 each consolidated precinct; and

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

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

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

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

1 consolidated precinct;

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

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

8 (5) have sufficient check-in stations to
9 accommodate voters throughout the day as provided in Section
10 1-9-5 NMSA 1978;

11 (6) have a secure area for storage of
12 preprinted ballots or for storage of paper ballot stock and a
13 system designed to print ballots at a polling location;

14 (7) issue a ballot to voters who have
15 provided the required voter identification after the voter
16 has signed a signature roster or an electronic equivalent
17 approved by the voting system certification committee or
18 after the voter has subscribed an application to vote on a
19 form approved by the secretary of state; and

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

23 D. As a prerequisite to consolidation, the
24 authorizing resolution must find that consolidation will make
25 voting more convenient and accessible to voters of the

1 consolidated precinct and will not result in delays for
2 voters in the voting process and that the consolidated
3 precinct voting location will be centrally located within the
4 consolidated precinct."

5 SECTION 5. Section 1-3-7 NMSA 1978 (being Laws 1969,
6 Chapter 240, Section 57, as amended) is amended to read:

7 "1-3-7. POLLING PLACES.--

8 A. No less than one polling place shall be
9 provided for each precinct that is not a mail ballot election
10 precinct; provided that in a local election, a precinct that
11 lies partly within and partly without a district may be
12 located in a single polling place and use a single precinct
13 board.

14 B. The board of county commissioners shall
15 designate as the polling place or places, as the case may be,
16 in each precinct, other than a mail ballot election precinct,
17 the most convenient and suitable public building or public
18 school building in the precinct that can be obtained.

19 C. If no public building or public school
20 building is available, the board of county commissioners
21 shall provide some other suitable place, which shall be the
22 most convenient and appropriate place obtainable in the
23 precinct, considering the purpose for which it is to be used
24 pursuant to the Election Code.

25 D. If, in a precinct that is not a mail ballot

1 election precinct or a consolidated precinct, there is no
2 public building or public school building available in the
3 precinct, and there is no other suitable place obtainable in
4 the precinct, the board of county commissioners may designate
5 as a polling place for the precinct the most convenient and
6 suitable building or public school building nearest to that
7 precinct that can be obtained. No polling place shall be
8 designated outside the boundary of the precinct as provided
9 in this subsection until such designated polling place is
10 approved by written order of the district court of the county
11 in which the precinct is located.

12 E. Upon application of the board of county
13 commissioners, the governing board of any school district
14 shall permit the use of any school building or a part thereof
15 for registration purposes and the conduct of any election;
16 provided that the building or the part used for the election
17 complies with the standards set out in the federal Voting
18 Accessibility for the Elderly and Handicapped Act.

19 F. Public schools may be closed for elections at
20 the discretion of local school boards."

21 **SECTION 6.** Section 1-6-1 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 127) is amended to read:

23 "1-6-1. ABSENT VOTER ACT--SHORT TITLE.-- Chapter 1,
24 Article 6 NMSA 1978 may be cited as the "Absent Voter Act"."

25 **SECTION 7.** Section 1-6B-1 NMSA 1978 (being Laws 2015,

1 Chapter 145, Section 25) is amended to read:

2 "1-6B-1. SHORT TITLE.--Chapter 1, Article 6B NMSA 1978
3 may be cited as the "Uniform Military and Overseas Voters
4 Act"."

5 **SECTION 8.** Section 1-6B-2 NMSA 1978 (being Laws 2015,
6 Chapter 145, Section 26) is amended to read:

7 "1-6B-2. DEFINITIONS.--As used in the Uniform Military
8 and Overseas Voters Act:

9 A. "appropriate clerk" means the county clerk of
10 the county in which the federal qualified elector is eligible
11 to vote;

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

15 C. "federal write-in absentee ballot" means the
16 ballot approved pursuant to the federal Uniformed and
17 Overseas Citizens Absentee Voting Act;

18 D. "military-overseas ballot" means:

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

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

24 E. "state" means a state of the United States,
25 the District of Columbia, Puerto Rico, the United States

1 Virgin Islands or any territory or insular possession subject
2 to the jurisdiction of the United States; and

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

8 SECTION 9. Section 1-6B-3 NMSA 1978 (being Laws 2015,
9 Chapter 145, Section 27) is amended to read:

10 "1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT
11 MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS
12 VOTERS ACT.--

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

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

19 C. The form of the military-overseas ballot shall
20 be the same as the ballot provided to all other voters. The
21 form of the military-overseas ballot materials shall be the
22 same as the ballot materials provided to all other voters,
23 except as required by the Uniform Military and Overseas
24 Voters Act.

25 D. To receive the benefits of the Uniform

1 Military and Overseas Voters Act, a federal qualified elector
2 shall inform the appropriate clerk that the individual is a
3 federal qualified elector. Methods of informing the
4 appropriate clerk include:

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

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

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

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

18 **SECTION 10.** Section 1-6B-4 NMSA 1978 (being Laws 2015,
19 Chapter 145, Section 28) is amended to read:

20 "1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED
21 AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

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

1 B. The secretary of state shall establish an
2 electronic transmission system through which a federal
3 qualified elector may apply for and receive voter
4 registration materials, military-overseas ballots and other
5 information pursuant to the Uniform Military and Overseas
6 Voters Act. The secretary of state shall ensure that the
7 electronic transmission system is capable of accepting a
8 federal postcard application, any other approved electronic
9 registration application and any other approved electronic
10 military-overseas ballot application sent to a county clerk.

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

24 D. The secretary of state shall prescribe the
25 form and content of a declaration for use by a federal

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

13 E. The secretary of state shall prescribe to the
14 appropriate clerk the form of and distribute to each county
15 clerk a supply of:

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

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

23 (3) absentee ballot instructions describing
24 the proper methods for completion and return of the ballot,
25 including instructions for those federal qualified electors

1 returning a ballot electronically;

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

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

7 **SECTION 11.** Section 1-6B-6 NMSA 1978 (being Laws 2015,
8 Chapter 145, Section 30) is amended to read:

9 "1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS
10 BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR
11 MILITARY-OVERSEAS BALLOT.--

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

16 (1) using an absentee ballot application
17 pursuant to the Absent Voter Act;

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

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

24 B. A federal qualified elector who is not
25 currently registered to vote in this state may, by the

1 deadline in the Election Code for registering to vote,
2 simultaneously register to vote and apply for a
3 military-overseas ballot by using a federal postcard
4 application or the application's electronic equivalent.

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

9 D. An application for a military-overseas ballot
10 is effective as an automatic application for a military-
11 overseas ballot for a top-two runoff election necessary to
12 conclude the election for which the application was
13 submitted."

14 SECTION 12. Section 1-6B-7 NMSA 1978 (being Laws 2015,
15 Chapter 145, Section 31) is amended to read:

16 "1-6B-7. TRANSMISSION OF UNVOTED MILITARY-OVERSEAS
17 BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

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

24 B. The appropriate clerk shall transmit a ballot
25 and balloting materials as soon as practicable when the

1 ballot application from a federal qualified elector arrives
2 after the forty-fifth day before the election and before
3 absentee ballots are transmitted to other voters pursuant to
4 the Absent Voter Act.

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

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

24 SECTION 13. Section 1-12-71 NMSA 1978 (being Laws
25 1977, Chapter 222, Section 7, as amended) is amended to read:

1 "1-12-71. RESTRICTION ON LOCAL GOVERNMENT
2 ELECTIONS.--No municipal, county or special district election
3 or special local election shall be held within seventy days
4 prior to or following any statewide election and no municipal
5 top-two runoff election may be held within fifty days prior
6 to any statewide election. This section does not prohibit a
7 local government ballot question authorized by the board of
8 county commissioners from appearing on the general election
9 ballot or regular local election ballot. As used in this
10 section, "statewide election" means a primary, general or
11 special statewide election or a regular local election as
12 provided in the Local Election Act."

13 SECTION 14. Section 1-14-14 NMSA 1978 (being Laws
14 1969, Chapter 240, Section 343, as amended) is amended to
15 read:

16 "1-14-14. RECOUNTS--RECHECKS--APPLICATION.--
17 A. Whenever any candidate believes that any error
18 or fraud has been committed by any precinct board in counting
19 or tallying the ballots, in the verification of the votes
20 cast on the voting machines or in the certifying of the
21 results of any election whereby the results of the election
22 in the precinct have not been correctly determined, declared
23 or certified, the candidate, within six days after completion
24 of the canvass by the proper canvassing board, may have a
25 recount of the ballots, or a recheck of the votes shown on

1 the voting machines, that were cast in the precinct.

2 B. In the case of any office for which the state
3 canvassing board issues a certificate of nomination or
4 election, application for recount or recheck shall be filed
5 with the secretary of state.

6 C. In the case of any office for which the county
7 canvassing board or secretary of state issues a certificate
8 of nomination or election, application for recount or recheck
9 shall be filed with the district judge for the county in
10 which the applicant resides."

11 **SECTION 15.** Section 1-16-8 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 380, as amended) is amended to read:

13 "1-16-8. OTHER QUESTIONS.--

14 A. The form for ballots on questions other than
15 proposed constitutional amendments to be submitted to the
16 voters of the entire state shall be prescribed by the
17 secretary of state. The form for ballots on those questions
18 not statewide in application to be submitted to the voters of
19 a county or local government shall be furnished by the county
20 clerk, and a copy of the resolution proposing the question
21 shall be sent by the county clerk to the secretary of state
22 not less than seventy days prior to the election. In each
23 case, the ballots shall conform as nearly as practicable to
24 the form required for ballots on proposed constitutional
25 amendments.

1 B. In no case shall a nonbinding or merely
2 advisory question be placed on the ballot for any election
3 held pursuant to the Election Code."

4 **SECTION 16.** Section 1-22-1 NMSA 1978 (being Laws 1985,
5 Chapter 168, Section 3) is repealed and a new Section 1-22-1
6 NMSA 1978 is enacted to read:

7 "1-22-1. SHORT TITLE.--Chapter 1, Article 22 NMSA 1978
8 may be cited as the "Local Election Act"."

9 **SECTION 17.** Section 1-22-2 NMSA 1978 (being Laws 1985,
10 Chapter 168, Section 4, as amended) is repealed and a new
11 Section 1-22-2 NMSA 1978 is enacted to read:

12 "1-22-2. DEFINITIONS.--As used in the Local Election
13 Act:

14 A. "local election" means a local government
15 election;

16 B. "local governing body" means a board, council
17 or commission, as appropriate for a given local government;

18 C. "local government" means a school district, a
19 special hospital district, a community college district, a
20 technical and vocational institute district, a learning
21 center district, an arroyo flood control district, a special
22 zoning district, a soil and water conservation district, a
23 water and sanitation district and a municipality, including a
24 home rule municipality governed pursuant to Article 10,
25 Section 6 of the constitution of New Mexico, a municipality

1 operating pursuant to a territorial charter or special
2 charter and, beginning July 1, 2022, a conservancy district
3 governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978
4 and a watershed district governed pursuant to the Watershed
5 District Act;

6 D. "municipal officers" means the local governing
7 body and any executive and judicial officers of a
8 municipality; and

9 E. "proper filing officer" means the clerk of the
10 county in which the candidate resides."

11 **SECTION 18.** Section 1-22-3 NMSA 1978 (being Laws 1985,
12 Chapter 168, Section 5, as amended) is repealed and a new
13 Section 1-22-3 NMSA 1978 is enacted to read:

14 "1-22-3. REGULAR LOCAL ELECTIONS--SPECIAL LOCAL
15 ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

16 A. A regular local election shall be held on the
17 first Tuesday after the first Monday in November of each odd-
18 numbered year.

19 B. A local election shall be held to elect
20 qualified persons to membership on a local governing body
21 and, where applicable, to municipal executive office and to
22 municipal judicial office. No person shall become a
23 candidate in a local election unless the person's record of
24 voter registration shows that the person is a qualified
25 elector of the state, physically resides in the district in

1 which the person is a candidate and was registered to vote in
2 the district on the date the proclamation calling a local
3 election is filed in the office of the secretary of state.

4 C. In addition to candidates in the election, a
5 regular local election ballot may contain ballot questions
6 proposed by the state, county or local government or as
7 otherwise provided by law. An election on a ballot question
8 held at any time other than the date for a regular local
9 election shall be held with the general election, as provided
10 by law, or municipal officer election if authorized by the
11 governing body of the municipality; or shall be a special
12 local election called, conducted and canvassed as provided in
13 Chapter 1, Article 24 NMSA 1978.

14 D. Provisions in a territorial charter
15 supplemental to the Local Election Act may be implemented
16 pursuant to authorization by the secretary of state in the
17 proclamation for the regular local election.

18 E. Except as otherwise provided in the Local
19 Election Act, local elections shall be called, conducted and
20 canvassed as provided in the Election Code."

21 **SECTION 19.** Section 1-22-4 NMSA 1978 (being Laws 1985,
22 Chapter 168, Section 6, as amended) is repealed and a new
23 Section 1-22-4 NMSA 1978 is enacted to read:

24 "1-22-4. REGULAR LOCAL ELECTION--MUNICIPAL OFFICER
25 ELECTION--PROCLAMATION--PUBLICATION.--

1 A. The secretary of state shall by resolution
2 issue a public proclamation in Spanish and English calling a
3 regular local election on the date prescribed by the Local
4 Election Act. The proclamation shall be filed by the
5 secretary of state in the office of the secretary of state
6 ninety days preceding the date of the regular local election.

7 B. Between one hundred twenty and one hundred
8 fifty days before the next local election, each local
9 government shall notify the secretary of state of all local
10 government positions that are to be filled at the next
11 election for that local government.

12 C. The proclamation shall specify the:

- 13 (1) date when the election will be held;
14 (2) positions on each local governing body
15 to be filled;
16 (3) executive and judicial positions to be
17 filled;
18 (4) date on which declarations of candidacy
19 are to be filed;
20 (5) date on which declarations of intent to
21 be a write-in candidate are to be filed; and
22 (6) municipalities subject to a ranked-
23 choice voting runoff election and those subject to a top-two
24 runoff election, and the date of the top-two runoff election
25 should one be necessary.

1 D. After receipt of the proclamation from the
2 secretary of state, the county clerk shall post the entire
3 proclamation on the county clerk's website and, not less than
4 seventy-five days before the date of the election, shall
5 publish portions of the proclamation relevant to the county
6 at least once in a newspaper of general circulation within
7 the county. The publication of the proclamation shall
8 conform to the requirements of the federal Voting Rights Act
9 of 1965, as amended, and shall specify the:

10 (1) date when the election will be held;

11 (2) positions on each local governing body
12 of a district situated in whole or in part in the county;

13 (3) elective executive and judicial
14 positions of each local government situated in whole or in
15 part in the county;

16 (4) date on which declarations of candidacy
17 are to be filed;

18 (5) location of each polling place;

19 (6) location of each alternate voting
20 location for early voting;

21 (7) hours each polling place and alternate
22 voting location will be open; and

23 (8) date and time of the closing of the
24 registration books by the county as required by law.

25 E. Whenever two or more members of a local

1 governing body are to be elected at large for terms of the
2 same length of time, the secretary of state shall numerically
3 designate the positions on the ballot as "position one",
4 "position two" and such additional consecutively numbered
5 positions as are necessary, but only one member shall be
6 elected for each position. Whenever two or more members of a
7 local governing body are to be elected to represent the same
8 area with terms of different lengths of time, the secretary
9 of state shall list the office with the shorter length of
10 time first and shall designate each position with "for a
11 term expiring ____".

12 SECTION 20. Section 1-22-7 NMSA 1978 (being Laws 1985,
13 Chapter 168, Section 9, as amended) is repealed and a new
14 Section 1-22-7 NMSA 1978 is enacted to read:

15 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--
16 PENALTY.--

17 A. A candidate for a position that will be filled
18 at a local election shall file a declaration of candidacy
19 with the proper filing officer during the period commencing
20 at 9:00 a.m. on the seventieth day before the date of the
21 local election and ending at 5:00 p.m. on the same day.

22 B. A candidate shall file for only one position
23 in the same local government but may file for a position in
24 more than one local government during a filing period.

25 C. A declaration of candidacy shall not be

1 amended after it has been filed with the proper filing
2 officer.

3 D. Whoever knowingly makes a false statement in a
4 declaration of candidacy is guilty of a fourth degree felony
5 and shall be sentenced pursuant to the provisions of Section
6 31-18-15 NMSA 1978."

7 SECTION 21. Section 1-22-8 NMSA 1978 (being Laws 1985,
8 Chapter 168, Section 10, as amended) is repealed and a new
9 Section 1-22-8 NMSA 1978 is enacted to read:

10 "1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF
11 INTENT--FORM.--In making a declaration of candidacy, the
12 candidate shall submit a sworn statement of intent in
13 substantially the following form:

14 "DECLARATION OF CANDIDACY--STATEMENT OF INTENT

15 I, _____ (candidate's name on certificate
16 of registration), being first duly sworn, say that I am a
17 voter of the county of _____, State of New
18 Mexico. I reside at

19 _____
20 and was registered to vote at that place on the date of the
21 proclamation calling this election;

22 I reside within and am registered to vote in the area
23 to be represented;

24 I desire to become a candidate for the office of
25 _____ at the local election to be held on the

1 date set by law;

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

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

7 _____

8 (Signature of Declarant)

9 _____

10 (Mailing Address)

11 _____

12 (Residence Address)

13 Subscribed and sworn to before me by _____ this
14 _____ day of _____, 20 _____.

15 _____.

16 (Notary Public)

17 My commission expires:

18 _____"."

19 **SECTION 22.** A new section of the Local Election Act,
20 Section 1-22-8.1 NMSA 1978, is enacted to read:

21 "1-22-8.1. WRITE-IN CANDIDATES.--

22 A. Write-in candidates shall be permitted in
23 local elections.

24 B. A person may be a write-in candidate only if
25 the person has the qualifications to be a candidate for the

1 position for which the person is running.

2 C. A person desiring to be a write-in candidate
3 for an office shall file with the proper filing officer a
4 declaration of candidacy. The declaration shall be filed
5 between 9:00 a.m. and 5:00 p.m. on the sixty-third day
6 preceding the date of the election. The county clerk shall
7 ensure that a declaration of candidacy filed pursuant to this
8 section specifies that it is for a write-in candidate.

9 D. A write-in vote shall be counted and canvassed
10 only if:

11 (1) the name written in is the name of a
12 declared write-in candidate and shows two initials and last
13 name; first name, middle initial or name and last name; first
14 and last name; or the full name as it appears on the
15 declaration of candidacy and if misspellings of those
16 combinations can be reasonably determined by a majority of
17 the members of the precinct board to identify a declared
18 write-in candidate; and

19 (2) the name is written on the proper line
20 provided on the ballot for write-in votes for the office and
21 position for which the candidate has declared intent and the
22 voter has followed the directions for voting for the write-in
23 candidate.

24 E. At the time of filing the declaration of
25 candidacy, the write-in candidate shall be considered a

1 candidate for all purposes and provisions relating to
2 candidates in the Local Election Act except that the write-in
3 candidate's name shall not be printed on the ballot nor
4 posted in any polling place.

5 F. A write-in vote shall be cast by writing in
6 the name. As used in this section, "write-in" does not
7 include the imprinting of any name by rubber stamp or similar
8 device or the use of a preprinted sticker or label.

9 G. No unopposed write-in candidate shall have an
10 election certified unless the candidate receives at least the
11 number of write-in votes equal to ten percent of the total
12 number of ballots on which the office appears on the ballot
13 that are cast in the local election, or one hundred."

14 **SECTION 23.** Section 1-22-9 NMSA 1978 (being Laws 1985,
15 Chapter 168, Section 11) is repealed and a new Section 1-22-9
16 NMSA 1978 is enacted to read:

17 "1-22-9. WITHDRAWAL OF CANDIDATES.--A candidate
18 seeking to withdraw from a local election shall withdraw no
19 later than the sixty-third day before that election by filing
20 a signed and notarized statement of withdrawal with the
21 proper filing officer."

22 **SECTION 24.** Section 1-22-10 NMSA 1978 (being Laws
23 1985, Chapter 168, Section 12, as amended) is repealed and a
24 new Section 1-22-10 NMSA 1978 is enacted to read:

25 "1-22-10. BALLOTS.--

1 A. The proper filing officer shall determine
2 whether a candidate filing a declaration of candidacy is
3 registered to vote within the local election district and, if
4 required for the office being sought, whether the candidate's
5 nominating petition for that office has been filed with a
6 number of signatures that is equal to or greater than the
7 number required for that office. If the candidate is so
8 qualified and no withdrawal of candidacy has been filed as
9 provided in the Local Election Act, the proper filing officer
10 shall place the candidate's name on the ballot for the
11 position specified in the declaration of candidacy and notify
12 each candidate in writing no later than 5:00 p.m. on the
13 sixtieth day before the local election.

14 B. Ballots for the local election shall be
15 prepared by the proper filing officer and printed in
16 accordance with the provisions of Section 1-10-5 NMSA 1978.
17 The printed ballot shall contain the name of each person who
18 is a candidate and the position for which the person is a
19 candidate. The ballot shall also contain all questions
20 permitted by the board of county commissioners pursuant to
21 Section 1-22-10.1 NMSA 1978 that are to be submitted to the
22 voters as certified to the county clerk in each county in
23 which the local government is situate by the local governing
24 body and shall conform to the requirements of Section 1-16-8
25 NMSA 1978.

1 C. Paper ballots shall be printed in a form in
2 substantial compliance with the provisions of Section 1-10-12
3 NMSA 1978 and in compliance with the provisions of the
4 federal Voting Rights Act of 1965, as amended.

5 D. A local election shall be a nonpartisan
6 election, and the names of all candidates shall be listed on
7 the ballot without party or slate designation. The order in
8 which the names of candidates are listed on the ballot shall
9 be determined by the secretary of state either by lot or by
10 randomization as provided by rule.

11 E. Space shall be provided on each ballot for a
12 voter to write in the name of one candidate for each position
13 to be filled when a declaration of candidacy by a write-in
14 candidate has been filed."

15 **SECTION 25.** A new Section 1-22-10.1 NMSA 1978 is
16 enacted to read:

17 "1-22-10.1. BALLOT ORDER.--

18 A. The Local Election Act ballot shall list
19 offices in the following order, when applicable:

20 (1) municipal elections, with executive
21 officers listed first, governing board members listed second
22 and judicial officers listed third;

23 (2) school board elections;

24 (3) community college elections;

25 (4) special district elections listed in

1 order by voting population of each special district, with the
2 most populous listed first and the least populous listed
3 last; and

4 (5) in the order prescribed by the
5 secretary of state:

- 6 (a) county questions;
- 7 (b) local government questions; and
- 8 (c) other ballot questions authorized
9 by law.

10 B. A board of county commissioners shall permit
11 local government questions on the local election ballot;
12 provided that there is sufficient space on a single page
13 ballot to accommodate the questions using both sides of the
14 page. If there is not sufficient room, then questions shall
15 be included in the order received by the county clerk until
16 space on the ballot is exhausted. For multicounty districts,
17 exclusion from one county's ballot excludes that question
18 from the local election ballot in all counties comprising the
19 special district.

20 C. A local government question that would require
21 a second ballot page shall be permitted if the local
22 government requesting the inclusion of the question pays the
23 additional costs of the second ballot page; provided that if
24 more than one local government has a question included on the
25 second ballot page, the local governments with questions on

1 the second ballot page shall share the costs of providing the
2 second ballot page."

3 **SECTION 26.** Section 1-22-11 NMSA 1978 (being Laws
4 1985, Chapter 168, Section 13, as amended) is repealed and a
5 new Section 1-22-11 NMSA 1978 is enacted to read:

6 "1-22-11. PUBLICATION.--Each county clerk shall issue
7 and publish the proclamation listing the name of each local
8 government that has a candidate or question appearing on the
9 ballot in that county; the name of each candidate for
10 membership on each local governing body; the name of each
11 candidate for executive or judicial office; each question to
12 be submitted to the voters; and the names of the precinct
13 board members for the election. The publication shall be
14 made once each week for two successive weeks, with the last
15 publication being made within twelve days but not later than
16 five days before the date of the local election. The names
17 of the candidates shall be published in the same order and
18 for the same positions as will appear on the ballot. The
19 publication shall be in a newspaper of general circulation in
20 the county and shall conform to the provisions of the federal
21 Voting Rights Act of 1965, as amended."

22 **SECTION 27.** Section 1-22-13 NMSA 1978 (being Laws
23 1985, Chapter 168, Section 15) is repealed and a new Section
24 1-22-13 NMSA 1978 is enacted to read:

25 "1-22-13. WATCHERS--OBSERVERS--CHALLENGERS.--

1 A. Upon written notice filed with the county
2 clerk no later than seven days before the election, any group
3 of three candidates in a local election may appoint watchers
4 in a county who shall have the powers and be subject to the
5 restrictions provided for watchers in the Election Code.

6 B. Election observers shall be allowed as
7 otherwise provided by the Election Code.

8 C. Election challengers appointed by political
9 parties shall not be permitted for elections held pursuant to
10 the Local Election Act."

11 **SECTION 28.** Section 1-22-15 NMSA 1978 (being Laws
12 1985, Chapter 168, Section 17, as amended by Laws 1987,
13 Chapter 249, Section 49 and also by Laws 1987, Chapter 338,
14 Section 3) is repealed and a new Section 1-22-15 NMSA 1978 is
15 enacted to read:

16 "1-22-15. CANVASSING BOARD--DUTIES.--

17 A. The canvassing board for the canvass of the
18 results of a local election shall be composed of the board of
19 county commissioners of the county in which the votes were
20 cast in that election.

21 B. Within ten days after the date of the
22 election, the canvassing board shall meet and shall:

23 (1) canvass the returns in the same manner
24 as county election returns are canvassed; and

25 (2) issue a certificate of canvass of the

1 results of the election and send one copy of the certified
2 results to:

- 3 (a) each local governing body
4 receiving votes in the county;
- 5 (b) the secretary of state;
- 6 (c) the county clerk; and
- 7 (d) the state canvassing board, if the
8 results are for candidates or ballot questions voted on by
9 the voters of more than one county.

10 C. The state canvassing board shall meet in the
11 state capitol on the second Tuesday after each local election
12 and proceed to canvass and declare the results of the
13 election or nomination of each candidate or ballot question
14 voted upon by the voters of more than one county. Upon the
15 completion of the state canvass, the secretary of state shall
16 notify each county clerk of the results of the state canvass.

17 D. In the event of a tie vote between any
18 candidates in the election for the same office, the
19 determination as to which of the candidates shall be declared
20 to have been elected shall be decided by lot. The method of
21 determining by lot shall be agreed upon by a majority of a
22 committee consisting of the tied candidates and the county
23 clerk and district judge of the county in which the
24 administrative office of the local government is situate.

25 The secretary of state shall issue the certificate of

1 election to the candidate chosen by lot.

2 E. If a top-two runoff election is required in a
3 municipal election, the canvassing board shall notify the
4 relevant municipality within ten days following the local
5 election.

6 F. Except in the case of a top-two runoff
7 election, on the twenty-first day following the election, the
8 secretary of state shall issue a certificate of election or
9 nomination to each candidate who received the most votes for
10 each position on the ballot and shall certify the passage or
11 defeat of each ballot question."

12 **SECTION 29.** Section 1-22-16 NMSA 1978 (being Laws
13 1985, Chapter 168, Section 18) is repealed and a new Section
14 1-22-16 NMSA 1978 is enacted to read:

15 "1-22-16. MUNICIPAL RUNOFF ELECTIONS.--

16 A. All runoff elections authorized by Article 7,
17 Section 5 of the constitution of New Mexico shall be
18 conducted pursuant to this section as a top-two runoff
19 election or as a ranked-choice runoff election as follows:

20 (1) a top-two runoff election shall be
21 conducted on a separate ballot when the candidate receiving
22 the most votes for an office did not receive the percentage
23 of votes required by the laws of the municipality to be
24 elected in the first round of voting. When ordered, the
25 top-two runoff election shall be held following the regular

1 local election or municipal officer election and allow the
2 voter to select between the two candidates who in the first
3 round of voting received the highest number of votes for an
4 office; and

5 (2) a ranked-choice runoff election shall
6 be conducted on the same ballot as the regular local election
7 or municipal officer election and allow the voter to rank the
8 candidates for an office in the order of preference for the
9 voter.

10 B. If a municipality whose laws provide for
11 top-two runoff elections is notified by the canvassing board
12 that a runoff election is required following the regular
13 local election or municipal officer election, the top-two
14 runoff election shall be conducted in accordance with the
15 provisions of the municipality's ordinance or charter that
16 supplement the Local Election Act, provided that:

17 (1) in the case of a municipality in which
18 the first round of voting is conducted at the regular local
19 election, the county clerk shall perform the duties of
20 administering the top-two runoff election; and

21 (2) in the case of a municipality in which
22 the first round of voting is conducted at the municipal
23 officer election, the municipal clerk shall perform the
24 duties of administering the top-two runoff election.

25 C. A municipality whose laws provide for a runoff

1 election shall conduct the election in the manner provided by
2 the municipality's ordinance or charter, provided that a
3 municipality may by ordinance choose between conducting a
4 top-two runoff election and a ranked-choice runoff election.
5 The ordinance shall be filed with the secretary of state no
6 later than January 30 of the year the next regular local
7 election or municipal officer election is scheduled.

8 D. The secretary of state shall issue rules to
9 implement top-two and ranked-choice runoff elections."

10 **SECTION 30.** Section 1-22-17 NMSA 1978 (being Laws
11 1985, Chapter 168, Section 19, as amended) is repealed and a
12 new Section 1-22-17 NMSA 1978 is enacted to read:

13 "1-22-17. RECORDS.--The returns and certificates of
14 the result of the canvass of a regular or special local
15 election are public documents, subject to inspection and
16 retention as provided by Section 1-12-69 NMSA 1978. The
17 certificate of results of the canvass of the election shall,
18 forty-five days after the election or recount after any
19 contest has been settled by the court, be preserved as a
20 permanent record in the state records center. A copy of the
21 certificate of results of the canvass of the election shall
22 be preserved as a permanent record in the office of the
23 county clerk in a separate book maintained for recording the
24 results of elections."

25 **SECTION 31.** Section 1-22-18 NMSA 1978 (being Laws

1 1985, Chapter 168, Section 20, as amended) is repealed and a
2 new Section 1-22-18 NMSA 1978 is enacted to read:

3 "1-22-18. LOCAL ELECTION--DATE TERM OF OFFICE
4 BEGINS.--The term of office of a candidate elected in a
5 regular local election or ensuing top-two runoff election
6 shall begin on January 1 following the candidate's election,
7 and the candidate to whom a certificate of election has been
8 issued shall take the oath of office before entering upon the
9 duties of office."

10 SECTION 32. Section 1-22-19 NMSA 1978 (being Laws
11 1985, Chapter 168, Section 21, as amended) is repealed and a
12 new Section 1-22-19 NMSA 1978 is enacted to read:

13 "1-22-19. ABSENTEE VOTING--ALTERNATE VOTING
14 LOCATIONS.--

15 A. The provisions of the Absent Voter Act and
16 Uniform Military and Overseas Voter Act apply to absentee
17 voting in local elections.

18 B. Early voting shall be conducted in each office
19 of the county clerk pursuant to Section 1-6-5 NMSA 1978 and
20 at such alternate voting locations as may be established by
21 the county clerk pursuant to the provisions of Section
22 1-6-5.7 NMSA 1978.

23 C. A county clerk shall provide at least one
24 alternate early voting or mobile alternate voting location in
25 a municipality when requested by a municipality in the

1 county; provided that the:

2 (1) municipality submits a written request
3 to the county clerk no later than January 30 of the year of
4 the local election;

5 (2) alternate early voting or mobile
6 alternate voting location may operate for less than the full
7 early voting period, to be decided upon between the
8 municipality and the county clerk;

9 (3) location of the alternate early voting
10 or mobile alternate voting location in the municipality
11 conforms to the requirements for alternate early voting
12 locations; and

13 (4) municipality provides the facility and
14 services for the alternate early voting or mobile alternate
15 voting location."

16 **SECTION 33.** A new section of the Local Election Act is
17 enacted to read:

18 "COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT--LOCAL
19 ELECTION FUND ESTABLISHED.--

20 A. There is created in the state treasury the
21 "local election fund" solely for the purposes of:

22 (1) reimbursing the counties for the costs
23 of conducting and administering regular local elections
24 required by the Local Election Act;

25 (2) paying the administrative costs of the

1 office of the secretary of state for administering elections
2 required by the Local Election Act and for administering the
3 local election fund; and

4 (3) carrying out all other specified
5 provisions of the Local Election Act.

6 B. The state treasurer shall invest the local
7 election fund as other state funds are invested, and all
8 income derived from the fund shall be credited directly to
9 the fund. Remaining balances at the end of a fiscal year
10 shall remain in the fund and not revert to the general fund.

11 C. Money received from the following sources
12 shall be deposited directly into the local election fund:

13 (1) annual assessments imposed on local
14 governments pursuant to Subsection F of this section; and

15 (2) money appropriated to the fund by the
16 legislature.

17 D. Money in the local election fund is
18 appropriated to the secretary of state for the purposes
19 authorized in Subsection A of this section and for
20 distribution to the counties for reimbursement of reasonable
21 costs associated with conducting and administering regular
22 local elections required by the Local Election Act. Money in
23 the fund shall only be expended on warrants of the department
24 of finance and administration pursuant to vouchers signed by
25 the secretary of state or the secretary's designee.

1 E. In the event that current year balances in the
2 local election fund do not cover the costs of local
3 elections, the secretary of state may apply to the state
4 board of finance for an emergency grant to cover those costs
5 pursuant to Section 6-1-2 NMSA 1978.

6 F. Each local government whose local governing
7 body is elected in the regular local election shall pay an
8 annual assessment to the secretary of state for deposit into
9 the local election fund. The first one-half of the annual
10 assessment shall be paid no later than thirty days following
11 the close of the sixth month of each fiscal year, and the
12 second one-half of the annual assessment shall be paid no
13 later than thirty days following the close of each fiscal
14 year. Assessments are based on a local government's general
15 fund expenditures for each fiscal year; provided that no
16 assessment shall be made on federal funds received by a local
17 government nor on capital expenditures. The annual
18 assessment shall be equal to two hundred fifty dollars (\$250)
19 per one million dollars (\$1,000,000) or minor fraction
20 thereof of the local government's general fund expenditures;
21 provided that:

22 (1) for a municipality that adopts an
23 ordinance pursuant to Section 1-22-16 NMSA 1978 to have a
24 top-two runoff election, the annual assessment shall be equal
25 to five hundred dollars (\$500) per one million dollars

1 (\$1,000,000) or minor fraction thereof of the municipality's
2 general fund expenditures; and

3 (2) no assessment shall be paid by a local
4 government with general fund expenditures less than one
5 hundred thousand dollars (\$100,000)."

6 **SECTION 34.** A new section of the Local Election Act is
7 enacted to read:

8 "MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--
9 EXCEPTIONS.--

10 A. All municipalities shall elect their municipal
11 officers on the municipal officer election day, which is the
12 first Tuesday in March of even-numbered years.

13 B. Except as provided in Subsection C of this
14 section, any municipality may by ordinance opt in to the
15 election of its municipal officers in the regular local
16 election if the municipality passes an ordinance and files
17 the ordinance with the secretary of state no later than
18 January 30 of the year in which the next regular local
19 election is scheduled. The ordinance shall also determine if
20 the terms of office for current office holders will be
21 lengthened or shortened to correspond with the new election
22 date. A municipality that has passed an ordinance pursuant
23 to this subsection may at any time rescind the ordinance
24 opting in to the election of its municipal officers in the
25 regular local election upon filing the rescission with the

1 secretary of state no later than January 30 of the year in
2 which the next regular local election is scheduled.

3 C. A home rule municipality that pursuant to its
4 charter is implementing a form of required voter
5 identification that supersedes the provisions of Section
6 1-1-24 NMSA 1978 shall not elect its municipal officers at
7 the regular local election.

8 D. For municipalities that elect their officers
9 on municipal officer election day, all provisions of the
10 Local Election Act as supplemented by the Election Code
11 apply, except as provided in this section and except for
12 those election procedures contained in the charter of a home
13 rule municipality that operate in lieu of or in addition to
14 the provisions of the Election Code.

15 E. Except as otherwise provided in this
16 subsection, declarations of candidacy for municipal officer
17 elections shall be filed between 9:00 a.m. and 5:00 p.m. on
18 the fifty-sixth day before the election. For a home rule
19 municipality whose charter or ordinance requires that a
20 candidate file a declaration of candidacy before qualifying
21 for public financing, declarations of candidacy shall be
22 filed on the date provided in the municipality's charter.
23 Write-in candidates for municipal officer elections shall
24 file declarations of candidacy between 9:00 a.m. and 5:00
25 p.m. on the forty-ninth day before the election. The last

1 day to file a statement of withdrawal for a municipal officer
2 election is forty-nine days before the election.

3 F. Except for municipalities that, pursuant to
4 Section 1-22-16 NMSA 1978, have chosen to have a top-two
5 runoff election, the term of office for municipalities
6 holding elections pursuant to this section shall begin the
7 first day of the month following the election. For home rule
8 municipalities that hold a top-two runoff election, the term
9 of office for municipalities holding elections pursuant to
10 this section shall begin the first day of the month following
11 the runoff election.

12 G. A municipality holding municipal officer
13 elections pursuant to this section may place ballot questions
14 on the ballot of an election held pursuant to this section
15 and as otherwise provided in the Local Election Act.

16 H. The municipal clerk shall fulfill the duties
17 of the county clerk in the conduct of elections held pursuant
18 to this section and, except for recall elections, special
19 local elections held pursuant to Section 1-24-3 NMSA 1978.
20 The county clerk shall maintain accurate voter registration
21 information for each municipality located in the county. The
22 county clerk shall provide to the municipal clerk, in advance
23 of an election held pursuant to this section, the names of
24 only those voters entitled to vote in the municipal election.
25 The municipality shall bear the reasonable cost of

1 preparation of the voter lists, signature rosters and voter
2 registration in electronic format and all other costs of
3 administering municipal officer and special elections held
4 pursuant to this section.

5 I. The secretary of state shall issue the
6 proclamation calling for an election pursuant to this section
7 in accordance with the provisions of Section 1-22-4 NMSA
8 1978. The municipal clerk shall publish the proclamation in
9 accordance with the schedule and procedures provided in
10 Subsection D of Section 1-22-4 NMSA 1978. Each county clerk
11 shall post the entire proclamation on the county clerk's
12 website along with a notice of which municipalities in the
13 county are conducting elections pursuant to this section.

14 J. The governing body of the municipality may act
15 in relation to the duties of the board of county
16 commissioners set forth in Section 1-3-2 NMSA 1978 that are
17 applicable to the conduct of an election held pursuant to
18 this section."

19 **SECTION 35.** A new section of the Local Election Act is
20 enacted to read:

21 "MUNICIPALITIES--ADJUSTMENT OF DATES FOR PROCEDURES
22 AFFECTED BY THE LOCAL ELECTION ACT.--

23 A. A municipality that has enacted provisions or
24 procedures in an ordinance or its charter that are
25 supplemental to provisions in the Election Code shall adjust

1 the calendar dates that implement those provisions and
2 procedures to accord with the schedules imposed by the Local
3 Election Act for the conduct of local or municipal officer
4 elections. The municipal clerk shall post the conforming
5 dates on the municipality's website no later than January 30
6 of each odd-numbered year.

7 B. A municipality may change its charter by
8 ordinance or as otherwise provided by the municipality to
9 conform its election schedule with the requirements of this
10 section."

11 **SECTION 36.** Section 1-22A-2 NMSA 1978 (being Laws
12 2013, Chapter 180, Section 2) is amended to read:

13 "1-22A-2. DEFINITIONS.--As used in the School District
14 Campaign Reporting Act:

15 A. "campaign committee" means one or more persons
16 authorized by a candidate to raise, collect or expend
17 contributions on the candidate's behalf for the purpose of
18 electing the candidate to office;

19 B. "candidate" means a person who seeks or
20 considers an office in an election covered by the School
21 District Campaign Reporting Act and who either has filed a
22 declaration of candidacy or has received contributions or
23 made expenditures of five hundred dollars (\$500) or more or
24 authorized another person or campaign committee to receive
25 contributions or make expenditures of five hundred dollars

1 (\$500) or more for the purpose of seeking election to a
2 covered office;

3 C. "contribution" means a gift, subscription,
4 loan, advance or deposit of money or other thing of value,
5 including the estimated value of an in-kind contribution,
6 that is made or received for a political purpose, including
7 payment of a debt incurred in an election campaign; but
8 "contribution" does not include the value of services
9 provided without compensation or unreimbursed travel or other
10 personal expenses of individuals who volunteer a portion or
11 all of their time on behalf of a candidate or campaign
12 committee;

13 D. "covered office" means the position of board
14 of education member of a school district that has an
15 enrollment of twelve thousand students or more or the
16 position of board member of a community college organized or
17 operating pursuant to the provisions of Chapter 21, Article
18 13 or Article 16 NMSA 1978;

19 E. "election cycle" means the period beginning
20 thirty days after an election for an office and ending thirty
21 days following the subsequent election day for that office;

22 F. "expenditure" means a payment, transfer or
23 distribution or obligation or promise to pay, transfer or
24 distribute any money or other thing of value for a political
25 purpose, including payment of a debt incurred in an election

1 campaign;

2 G. "political purpose" means advocating the
3 election or defeat of a candidate in an election;

4 H. "prescribed form" means a form or electronic
5 format prepared and prescribed by the secretary of state; and

6 I. "reporting individual" means a candidate or
7 treasurer of a campaign committee."

8 **SECTION 37.** Section 1-22A-3 NMSA 1978 (being Laws
9 2013, Chapter 180, Section 3) is amended to read:

10 "1-22A-3. REPORTS REQUIRED--TIME AND PLACE OF
11 FILING.--

12 A. A candidate or campaign committee that has
13 received contributions or made expenditures of five hundred
14 dollars (\$500) or more shall file with the secretary of state
15 a report of all contributions received and expenditures made
16 on a prescribed form, and the report shall be filed in the
17 same or similar electronic system as that used for the
18 Campaign Reporting Act. Except as otherwise provided in this
19 section, all reports pursuant to the School District Campaign
20 Reporting Act shall be filed electronically and
21 electronically authenticated by the candidate using an
22 electronic signature in conformance with the Electronic
23 Authentication of Documents Act and the Uniform Electronic
24 Transactions Act.

25 B. A candidate or campaign committee shall file a

HLELC/HB 98
Page 50

1 campaign report of all contributions received and
2 expenditures made during an election cycle and not previously
3 reported by midnight on the twenty-first day before the
4 election and on the thirtieth day following the election.

5 C. If a reporting date set by Subsection B of
6 this section falls on a holiday, the report shall be filed on
7 the next business day.

8 D. If a candidate or campaign committee has not
9 received any contributions and has not made any expenditures
10 since the last report filed with the secretary of state, the
11 candidate or campaign committee shall only be required to
12 file a statement of no activity, which shall not be required
13 to be notarized, in lieu of a full report when that report
14 would otherwise be due.

15 E. A report of expenditures and contributions
16 filed after a deadline set forth in this section shall not be
17 deemed to have been timely filed.

18 F. Except for candidates and campaign committees
19 that file a statement of no activity, each candidate or
20 campaign committee shall file a report of expenditures and
21 contributions pursuant to the filing schedules set forth in
22 this section, regardless of whether any expenditures were
23 made or contributions were received during the reporting
24 period. Reports shall be required until the candidate or
25 campaign committee delivers a report to the secretary of

1 state stating that:

2 (1) there are no outstanding campaign
3 debts;

4 (2) all money has been expended in
5 accordance with the provisions of Section 1-22A-10 NMSA 1978;
6 and

7 (3) the bank account for campaign funds
8 maintained by the candidate or campaign committee has been
9 closed.

10 G. A candidate who does not ultimately file a
11 declaration of candidacy and does not file a statement of no
12 activity shall file reports in accordance with Subsection B
13 of this section.

14 H. A candidate may apply to the secretary of
15 state for exemption from electronic filing in case of
16 hardship, which shall be defined by the secretary of state."

17 **SECTION 38.** Section 1-24-1 NMSA 1978 (being Laws 1989,
18 Chapter 295, Section 1) is amended to read:

19 "1-24-1. SHORT TITLE--SPECIAL ELECTION
20 ACT--APPLICATION--EXCEPTION.--

21 A. Chapter 1, Article 24 NMSA 1978 may be cited
22 as the "Special Election Act".

23 B. Notwithstanding any state or local laws to the
24 contrary, the provisions of the Special Election Act govern
25 the conduct of all special elections conducted by the state

1 or a local government, except for ballot questions printed on
2 a general election ballot or a ballot on which local
3 governing body members are elected pursuant to the Local
4 Election Act."

5 **SECTION 39.** A new section of the Special Election Act
6 is enacted to read:

7 "DEFINITION.--As used in the Special Election Act,
8 "local government" means:

9 A. a county;

10 B. a local government subject to the Local
11 Election Act; or

12 C. a special district not subject to the Local
13 Election Act."

14 **SECTION 40.** Section 1-24-2 NMSA 1978 (being Laws 1989,
15 Chapter 295, Section 2, as amended) is amended to read:

16 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--
17 PUBLICATION.--

18 A. Whenever a local government special election
19 is to be called or is required by law, the governing body
20 shall by resolution issue a public proclamation calling the
21 election. The proclamation shall forthwith be filed with the
22 county clerk. The proclamation shall specify:

23 (1) the date on which the special election
24 will be held;

25 (2) the purpose for which the special

1 election is called;

2 (3) the text of any questions to be voted
3 on; and

4 (4) the date and time of closing the
5 registration books by the county clerk as required by law.

6 B. After filing with the county clerk the
7 proclamation issued pursuant to Subsection A of this section,
8 and beginning not less than sixty-three days before the date
9 of the election, the county clerk shall publish the
10 proclamation once each week for two consecutive weeks in a
11 newspaper of general circulation within the boundaries of the
12 local government or special district. The proclamation shall
13 conform to the requirements of the federal Voting Rights Act
14 of 1965, as amended.

15 C. Whenever a statewide special election is to be
16 called or is required by law, the governor shall by
17 resolution issue a public proclamation calling the election.
18 Whenever an election to fill a vacancy in the office of
19 United States representative is to be called or is required
20 by law, the governor shall by resolution issue a public
21 proclamation calling the election pursuant to the
22 requirements of Section 1-15-18.1 NMSA 1978. The
23 proclamation shall forthwith be filed with the secretary of
24 state. The proclamation shall specify:

25 (1) the date on which the special election

1 will be held;

2 (2) the purpose for which the special
3 election is called;

4 (3) if a vacancy in the office of United
5 States representative is to be filled, the date on which
6 declarations of candidacy are to be filed;

7 (4) the text of any questions to be voted
8 upon; and

9 (5) the date and time of closing the
10 registration books by the county clerk as required by law.

11 D. After the proclamation issued pursuant to
12 Subsection C of this section is filed with the secretary of
13 state, the secretary of state shall within five days certify
14 the proclamation to each county clerk in the state.
15 Beginning not less than sixty-three days before the date of
16 the election, the county clerk shall publish the proclamation
17 once each week for two consecutive weeks in a newspaper of
18 general circulation.

19 E. For an election called pursuant to Subsection
20 F of Section 1-15-18.1 NMSA 1978, the proclamation shall be
21 published consistent with this subsection not less than
22 thirty-six days before the date of the election. The
23 proclamation shall conform to the requirements of the federal
24 Voting Rights Act of 1965, as amended."

25 **SECTION 41.** Section 1-24-3 NMSA 1978 (being Laws 1989, HLELC/HB 98
Page 55

1 Chapter 295, Section 3) is amended to read:

2 "1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--

3 A. The county clerk shall conduct by mailed
4 ballot any special election called by the state or a local
5 government except for a special election for the office of
6 United States representative.

7 B. Upon the calling of an election by a mailed
8 ballot, the county clerk shall send each voter of the
9 relevant jurisdiction an absentee ballot along with a
10 statement that there will be no polling place for the
11 election. The voter shall not be required to file an
12 application for the absentee ballot. The ballot shall be
13 mailed to each voter on the twenty-eighth day before the
14 election or as soon as practicable thereafter. The return
15 envelope for the ballot shall be postage-paid.

16 C. Mailed ballot elections shall be used
17 exclusively for voting in special elections on a ballot
18 question, including a recall election.

19 D. The state shall pay all costs of a statewide
20 special election and a special election for the office of
21 United States representative. A local government shall
22 reimburse the county for all costs associated with the
23 conduct of the local government's special election."

24 **SECTION 42.** A new section of Chapter 1, Article 24
25 NMSA 1978 is enacted to read:

1 "SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--
2 PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

3 A. The costs of conducting a special election
4 shall be paid for by the state or local government calling
5 for the election.

6 B. No individual, corporation, person, political
7 action committee or other nongovernmental entity shall pay
8 for or reimburse the state or a local government for the
9 costs associated with conducting a special election.

10 C. Upon a finding of a violation of this section,
11 the district court shall nullify the votes cast in the
12 special election and shall void the result of the special
13 election."

14 SECTION 43. Section 3-1-5 NMSA 1978 (being Laws 1985,
15 Chapter 208, Section 2, as amended) is amended to read:

16 "3-1-5. PETITIONS--EXAMINATIONS OF SIGNATURES--
17 PURGING--JUDICIAL REVIEW.--

18 A. All petitions, filing of petitions,
19 verification of petitions and all other acts to be performed
20 by petitioners, public officers or employees, regarding only
21 those petitions that trigger a municipal special or regular
22 election as authorized in the Municipal Code or otherwise
23 authorized by law, shall comply with the terms of this
24 section, except as otherwise expressly provided by law.

25 B. Each page or group of pages of a petition

1 shall be accepted for filing by a municipal clerk, a county
2 clerk, a governing body or a board of county commissioners
3 only if:

4 (1) the municipal clerk has approved the
5 form of petitions to be filed with the municipality prior to
6 circulation of the petition; or

7 (2) the county clerk has approved the form
8 of petitions to be filed with the county prior to circulation
9 of the petition; and

10 (3) each page of the petition to be filed
11 contains the approval or facsimile approval of the municipal
12 or county clerk and the petition heading and penalty
13 statement are legible when submitted for filing.

14 C. The municipal or county clerk shall approve a
15 petition as to form if the proposed petition form contains:

16 (1) a heading that complies with a
17 particular form of heading required by law; or

18 (2) a heading that clearly conveys the
19 purpose for signing the petition if no particular form of
20 heading is required by law;

21 (3) a place for the person signing the
22 petition to write the date and the person's name (printed),
23 address and signature, unless other requirements are mandated
24 by law, and then the petition shall comply with those
25 requirements; and

1 (4) a statement that any person knowingly
2 providing or causing to be provided any false information on
3 a petition, forging a signature or signing a petition when
4 that person knows that person is not a qualified elector in
5 the municipality is guilty of a fourth degree felony.

6 D. The requirements of Subsection B of this
7 section shall be deemed complied with if an original form of
8 petition is submitted to a municipal or county clerk for
9 approval prior to circulation and after approval by the clerk
10 that the original form is reproduced by photocopying or other
11 similar means so that the form and clerk's approval are
12 unchanged from the original and are legible on each page of
13 the petition to be filed.

14 E. A petition filed with a municipal clerk, a
15 county clerk, a governing body or a board of county
16 commissioners shall include all individual pages of a
17 petition complying with the provisions of this section,
18 regardless of whether the pages are filed singly or in a
19 group. Pages complying with the provisions of this section
20 may be filed at different times so long as filing is within
21 the time period allowed by law for the filing of the
22 particular petition to be filed. If no time period is
23 established by law, petition signatures may not span a period
24 of time greater than sixty days from the date of the earliest
25 signature on the petition, and the petition shall be filed

1 within sixty-five days from the date of the earliest
2 signature on the petition.

3 F. Upon approval of a proposed petition as to
4 form, the municipal clerk shall notify the county clerk of
5 the approval, and the county clerk shall furnish a current
6 voter registration list of qualified electors entitled to
7 vote in municipal elections to the municipal clerk within
8 fourteen days of the notification.

9 G. When a petition is filed with a municipal
10 clerk, a county clerk, a governing body or a board of county
11 commissioners, the governing body or board of county
12 commissioners shall either certify the petition as valid or
13 order an examination of the petition and the names, addresses
14 and signatures on the petition.

15 H. When an examination of the petition and the
16 names, addresses and signatures on the petition is ordered,
17 the municipal clerk, county clerk, governing body or board of
18 county commissioners shall:

19 (1) resolve issues of residency and major
20 infractions in accordance with the Election Code;

21 (2) determine the minimum number of valid
22 names, addresses and signatures, as mandated by law, that
23 must be contained in the particular petition filed in order
24 for it to be declared a valid petition;

25 (3) examine the petition and the names,

1 addresses and signatures on the petition, purge from the
2 petition the signature of any person who is not shown as a
3 qualified elector of the municipality on the list of
4 registered voters provided by the county clerk, purge any
5 signature that is a forgery or that is illegible, purge any
6 signature that appears more than once or that cannot be
7 matched to the name, address and signature as shown on the
8 voter registration lists and the original affidavit of
9 registration, purge the signature of any person who has not
10 signed within the time limits set by law and purge the
11 signature of any person who does not meet the qualifications
12 for signing the petition as prescribed by law; and

13 (4) certify, no later than ten days after
14 the petition is filed or after the expiration of the period
15 within which the petition can be filed as prescribed by law,
16 whichever occurs last, whether the petition contains the
17 minimum number of valid names, addresses and signatures as
18 mandated by law.

19 I. Nothing in this section shall preclude a
20 person with a disability or an illiterate person from causing
21 another person to sign a petition on a person with a
22 disability's or an illiterate person's behalf, so long as the
23 person signing for the person with a disability or illiterate
24 person executes an affidavit acknowledged before a notary
25 public that the person is authorized to sign the petition for

1 the person with a disability or illiterate person. In order
2 for the signature on behalf of the person with a disability
3 or illiterate person to be counted and not purged, the
4 original affidavit shall be submitted along with the petition
5 containing the signature on behalf of the illiterate person
6 or person with a disability.

7 J. If the petition is certified as valid pursuant
8 to Subsection G of this section or is certified as containing
9 in excess of the minimum number of valid names, addresses and
10 signatures mandated by law, then such certification shall be
11 recorded as part of the minutes at the next meeting of the
12 governing body or the board of county commissioners.

13 K. If the petition is certified as containing
14 less than the minimum number of valid names, addresses and
15 signatures mandated by law, then the municipal clerk, county
16 clerk, governing body or board of county commissioners shall:

17 (1) cause the names, addresses and
18 signatures that were purged from the petition to be posted in
19 the municipal or county clerk's office no later than on the
20 day the petition is certified;

21 (2) determine the total number of people
22 signing the petition, the number purged, the number that were
23 not purged and the minimum number of valid names, addresses
24 and signatures required by law for such a petition and post
25 this information along with and at the same time as the

1 posting required in Paragraph (1) of this subsection;

2 (3) publish once, pursuant to the provisions
3 of Subsection J of Section 3-1-2 NMSA 1978, within one week
4 of the certification, the information compiled pursuant to
5 Paragraphs (1) and (2) of this subsection; and

6 (4) cause the information compiled pursuant
7 to Paragraphs (1) and (2) of this subsection and the date and
8 place of publication pursuant to Paragraph (3) of this
9 subsection to be recorded as part of the minutes at the next
10 meeting of the governing body or the board of county
11 commissioners after publication has occurred.

12 L. The following rules shall govern reinstatement
13 of purged signatures:

14 (1) within ten days after the petition is
15 certified as containing less than the minimum number of valid
16 names, addresses and signatures mandated by law, any person
17 whose signature has been purged from a petition may present
18 evidence to the clerk to show that the person's signature has
19 been wrongfully purged;

20 (2) if the clerk fails to reinstate that
21 person's signature within three days of demand, then that
22 person may, within ten days of the clerk's refusal to
23 reinstate, petition the district court for an order to
24 reinstate the person's signature on the petition. Upon a
25 prima facie showing by the petitioner of the right to have

1 that person's signature included upon the petition, the
2 district court shall issue an order to the municipal clerk,
3 county clerk, governing body or board of county commissioners
4 to require reinstatement of the signature of the petitioner;

5 (3) within ten days after receiving the
6 order of the district court, the municipal clerk, county
7 clerk, governing body or board of county commissioners shall
8 reinstate the signature of the petitioner on the petition or
9 show cause why the signature of the petitioner has not been
10 reinstated. Upon hearing, if the district court finds that
11 the person whose signature has been purged meets the
12 qualifications for signing the petition, the district court
13 shall make final its order of reinstatement to the municipal
14 clerk, county clerk, governing body or board of county
15 commissioners; and

16 (4) if a sufficient number of signatures are
17 reinstated by the clerk, the district court or both to make
18 the petition valid, then the reinstatement by the clerk or
19 the district court, whichever occurs last, shall be deemed
20 the date of certification of the validity of the petition for
21 the purposes of adopting election resolutions, calling
22 elections or for other matters as provided in the Municipal
23 Code or otherwise provided by law.

24 M. Any petition that contains an insufficient
25 number of signatures after all signatures have been

1 reinstated pursuant to Subsection L of this section is
2 invalid.

3 N. When a petition governed by this section is
4 filed with the municipal clerk or the governing body of a
5 municipality, the governing body or municipal clerk shall
6 perform or cause to be performed the duties required under
7 this section, except as otherwise prohibited by law. When a
8 petition governed by this section is required to be filed
9 with the county clerk or board of county commissioners, the
10 board of county commissioners or county clerk shall perform
11 or cause to be performed the duties required under this
12 section, except as otherwise prohibited by law.

13 O. Any person or any municipal or county official
14 knowingly violating the provisions of this section, knowingly
15 providing or causing to be provided any false information on
16 a petition or forging a signature or otherwise signing a
17 petition when that person knows the person is not a qualified
18 elector in the municipality is guilty of a fourth degree
19 felony.

20 P. The provisions of this section shall not be
21 binding upon a municipality to the extent such provisions are
22 inconsistent with or superseded by the terms and provisions
23 of:

24 (1) the charter of a municipality
25 incorporated by a special act;

1 (2) the charter of a municipality adopted
2 pursuant to Article 10, Section 6 of the constitution of New
3 Mexico;

4 (3) the charter of a municipality adopted
5 pursuant to the Municipal Charter Act; or

6 (4) the charter of a combined municipal
7 organization.

8 Q. Once a petition has been filed with a
9 municipal clerk, a county clerk, a governing body or a board
10 of county commissioners, no name on the petition may be
11 withdrawn except those names purged pursuant to Subsection H
12 of this section."

13 SECTION 44. Section 3-2-5 NMSA 1978 (being Laws 1965,
14 Chapter 300, Section 14-2-4, as amended) is amended to read:

15 "3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS
16 AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--
17 RIGHT OF APPEAL TO DISTRICT COURT.--

18 A. After the petition for incorporation, together
19 with the accompanying map or plat, the municipal services and
20 revenue plan and the amount of money sufficient to pay the
21 cost of a census have been filed with the board of county
22 commissioners, the board of county commissioners, in lieu of
23 complying with the requirements of Section 3-1-5 NMSA 1978,
24 shall determine within thirty days after the filing of the
25 petition:

1 (1) from the voter registration list in the
2 office of the county clerk if the signers of the petition are
3 qualified electors residing in the territory proposed to be
4 incorporated; or

5 (2) from the tax schedules of the county if
6 any of the owners of the real estate who signed the petition
7 are delinquent in the payment of property taxes; and

8 (3) if the territory proposed to be
9 incorporated is within an existing municipality or within the
10 urbanized area of a municipality.

11 B. If the board of county commissioners
12 determines that the territory proposed to be incorporated is:

13 (1) not within the boundary of an existing
14 municipality and not within the urbanized area of a
15 municipality; or

16 (2) within the urbanized area of another
17 municipality and in compliance with Section 3-2-3 NMSA 1978,
18 the board of county commissioners shall cause a census to be
19 taken of the persons residing within the territory proposed
20 to be incorporated.

21 C. The census shall be completed and filed with
22 the board of county commissioners within thirty days after
23 the board of county commissioners authorizes the taking of
24 the census.

25 D. Within fifteen days after the date the results

1 of the census and the municipal incorporation review team's
2 report have been filed with the board of county
3 commissioners, the board of county commissioners shall
4 determine if the conditions for incorporation of the
5 territory as a municipality have been met as required in
6 Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its
7 determination recorded in the minutes of its meeting.

8 E. Based on the census results and the municipal
9 incorporation review team's report, if the board of county
10 commissioners determines that the conditions for
11 incorporation have not been met, the board of county
12 commissioners shall notify the petitioners of its
13 determination by publishing in a newspaper of general
14 circulation in the territory proposed to be incorporated,
15 once, not more than ten days after its determination, a
16 notice of its determination that the conditions for
17 incorporation have not been met. If there is no newspaper of
18 general circulation in the territory proposed to be
19 incorporated, notice of the determination shall be posted in
20 eight public places within the territory proposed to be
21 incorporated.

22 F. After the board of county commissioners has
23 determined that all of the conditions for incorporation of
24 the territory as a municipality have been met, the board of
25 county commissioners shall hold an election on the question

1 of incorporating the territory as a municipality. Special
2 elections for the incorporation of municipalities shall only
3 be held in June or July in odd-numbered years or July or
4 August in even-numbered years and shall be held pursuant to
5 the provisions of the Local Election Act. The county clerk
6 shall notify the secretary of finance and administration and
7 the secretary of taxation and revenue of the date of the
8 incorporation election within ten days after the adoption of
9 the resolution calling the election.

10 G. The signers of the petition or a municipality
11 within whose urbanized area the territory proposed to be
12 incorporated is located may appeal any determination of the
13 board of county commissioners to the district court pursuant
14 to the provisions of Section 39-3-1.1 NMSA 1978."

15 SECTION 45. Section 3-2-8 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-2-7, as amended) is amended to read:

17 "3-2-8. INCORPORATION--ELECTION OF FIRST OFFICERS--
18 DUTIES OF BOARD OF COUNTY COMMISSIONERS AND COUNTY CLERK--
19 SELECTION OF TERMS OF FIRST OFFICERS.--

20 A. If a majority of the votes cast favors the
21 incorporation of the territory as a municipality, the board
22 of county commissioners shall call an election for the
23 purpose of electing municipal officers at the first regular
24 local or general election following approval. The election
25 shall be conducted pursuant to the provisions of the Local

1 Election Act. The county clerk shall notify the secretary of
2 finance and administration and the secretary of taxation and
3 revenue of the date of the first election of municipal
4 officers within ten days after the county commissioners have
5 called the election.

6 B. At the first election for municipal officers
7 following a vote in favor of incorporating territory as a
8 municipality, the terms of office for the mayor and the
9 municipal judge shall be until the next regular local
10 election. The terms of office for one-half of the members of
11 the governing body shall be until the next regular local
12 election and for the remaining one-half of the members of the
13 governing body until the second regular local election is
14 held. The elected municipal officers shall continue in
15 office until their successors are elected and qualified. The
16 length of the terms of the first members shall be determined
17 by lot."

18 **SECTION 46.** Section 3-3-2 NMSA 1978 (being Laws 1965,
19 Chapter 300, Section 14-3-2, as amended) is amended to read:

20 "3-3-2. MUNICIPALITIES INCORPORATED UNDER SPECIAL
21 ACT--PETITION FOR REORGANIZATION--ELECTION.--Any municipality
22 incorporated under a special act may abandon its organization
23 and organize itself under the provisions of the general law
24 relating to municipalities.

25 A. If a petition signed by qualified electors of

1 the municipality equal in number to not less than one-eighth
2 of the total number of votes at the last preceding regular
3 municipal election requests the governing body to submit to
4 the qualified electors the question of reorganizing the
5 municipality under the provisions of the Municipal Code, the
6 governing body shall, within fourteen days after the petition
7 is certified as valid, adopt an election resolution calling
8 for a special election in the manner provided in the Local
9 Election Act on the question of reorganizing the municipality
10 under the provisions of general law. The special election
11 shall only be held in June or July in odd-numbered years or
12 July or August in even-numbered years in accordance with the
13 provisions of the Local Election Act.

14 B. The petition may further propose that the
15 boundary of the municipality incorporated by special act be
16 extended by including any or all territory that is:

17 (1) laid off or platted;
18 (2) adjoining or contiguous to the
19 municipality or any addition or subdivision of the
20 municipality; and

21 (3) not within the boundary of another
22 municipality.

23 C. The petition shall describe the boundary of
24 the municipality as it would exist if the municipality
25 incorporated by special act is reorganized under general law.

1 The registered voters residing within the boundary of the
2 municipality as it would exist if the municipality
3 incorporated by special act is reorganized may vote in the
4 election authorized in this section."

5 SECTION 47. Section 3-3-4 NMSA 1978 (being Laws 1965,
6 Chapter 300, Section 14-3-4, as amended) is amended to read:

7 "3-3-4. MUNICIPALITIES INCORPORATED UNDER SPECIAL
8 ACT--REORGANIZATION APPROVED--ELECTION FOR NEW OFFICERS--TERM
9 OF OFFICE.--

10 A. If a majority of the votes cast on the
11 question of reorganizing a municipality incorporated by a
12 special act favors reorganizing the municipality under
13 general law, the governing body shall adopt an election
14 resolution calling for an election of officers, which shall
15 be held at the first regular local or general election
16 following approval of reorganization. The election shall be
17 called, conducted and canvassed in the manner provided in the
18 Local Election Act.

19 B. The terms of office for the mayor, municipal
20 judge and one-half of the members of the governing body shall
21 be until the next regular local election. The terms of
22 office for the remaining one-half of the governing body shall
23 be until the second regular local election is held. The
24 elected municipal officers shall continue in office until
25 their successors are elected and qualified. The length of

1 terms of the first members shall be determined by lot."

2 SECTION 48. Section 3-4-1 NMSA 1978 (being Laws 1965,
3 Chapter 300, Section 14-4-1, as amended) is amended to read:

4 "3-4-1. DISINCORPORATION--PETITION--NOTICE OF
5 ELECTION.--

6 A. If one-fourth of the registered voters of a
7 municipality petition the board of county commissioners of
8 the county in which the municipality is situated to
9 disincorporate the municipality, the board of county
10 commissioners shall, within fourteen days after the petition
11 has been certified as valid, adopt an election resolution
12 calling for a special election to be held within the
13 municipality on the question of disincorporating the
14 municipality. At the top of each page of a disincorporation
15 petition, the following heading shall be printed in
16 substantially the following form:

17 "PETITION TO DISINCORPORATE THE MUNICIPALITY OF.

18 We, the undersigned registered voters of the
19 municipality of, pursuant to Section 3-4-1 NMSA 1978,
20 petition the board of county commissioners of.....county to
21 conduct a special election on the question of
22 disincorporating the municipality of.....

23 Date Name--Printed Address Usual
24 As Registered As Registered Signature."

25 The day for holding the election shall not be less than

1 fifty days or more than sixty days after the board of county
2 commissioners adopts the election resolution.

3 B. Notice of the election shall be published as
4 required in the Local Election Act."

5 SECTION 49. Section 3-4-3 NMSA 1978 (being Laws 1965,
6 Chapter 300, Section 14-4-3, as amended) is amended to read:

7 "3-4-3. DISINCORPORATION--CONDUCT OF ELECTION.--The
8 election for disincorporation shall be conducted pursuant to
9 the provisions of the Local Election Act."

10 SECTION 50. Section 3-5-1 NMSA 1978 (being Laws 1965,
11 Chapter 300, Section 14-5-1, as amended) is amended to read:

12 "3-5-1. MUNICIPAL CONSOLIDATION--COMMISSIONERS--
13 ORDINANCES--SPECIAL ELECTION--DECLARATION OF CONSOLIDATION--
14 PAYMENT OF BONDED INDEBTEDNESS OR JUDGMENT LEVY.--

15 A. Whenever any two or more contiguous
16 municipalities wish to consolidate as one municipality, the
17 governing body of each municipality shall appoint three
18 commissioners who shall prepare the terms for consolidation
19 and submit the terms for consolidation to the respective
20 governing bodies. If each governing body approves the terms
21 for consolidation, it shall adopt an ordinance declaring
22 approval of the terms for consolidation and shall provide for
23 an election on the question of consolidation. The election
24 shall be conducted pursuant to the provisions of the Local
25 Election Act.

1 B. If a majority of the votes cast in each
2 municipality favors consolidation, the governing body of each
3 municipality shall declare, by ordinance, that consolidation
4 has been approved between the municipalities and proceed to
5 consolidate under the terms for consolidation. The municipal
6 clerk of each municipality shall notify the secretary of
7 finance and administration and the secretary of taxation and
8 revenue that the consolidation has been approved by the
9 electorate. If the question of consolidating the
10 municipalities fails to receive a majority vote favoring
11 consolidation in any one of the municipalities, the
12 consolidation shall fail.

13 C. If on the day of the election on consolidation
14 any municipality proposing to consolidate has outstanding
15 indebtedness or a judgment payable from a tax on property and
16 the consolidation is approved, a tax sufficient to pay the
17 interest and principal on such indebtedness or judgment shall
18 continue to be levied on the property within the boundary of
19 the municipality as it existed on the day of the election on
20 the question of consolidation. Indebtedness created by the
21 issuance of revenue bonds and the current obligations of each
22 municipality shall be assumed by the consolidated
23 municipality. The consolidated municipality may refund the
24 indebtedness of the municipalities that are consolidated.

25 D. Certified copies of the entire proceedings for

1 consolidation shall be filed with the clerk of the
2 municipality so consolidated, the county clerk and the
3 secretary of state. When certified copies of the
4 consolidation have been filed as required in this section,
5 the consolidation is complete."

6 **SECTION 51.** Section 3-10-1 NMSA 1978 (being Laws 1965,
7 Chapter 300, Section 14-9-1, as amended) is amended to read:

8 "3-10-1. OFFICERS--ELECTIVE--TERM OF OFFICE.--

9 A. The elective officers of a municipality having a
10 mayor-council form of government are:

- 11 (1) one mayor;
- 12 (2) the members of the governing body; and
- 13 (3) a municipal judge.

14 B. The elective officers of a municipality having a
15 commission-manager form of government are:

- 16 (1) five commissioners; and
- 17 (2) a municipal judge.

18 C. Notwithstanding the provisions of Subsection A
19 of this section, a municipality with a population of five
20 hundred persons or less in the last federal decennial census
21 shall not have a municipal judge if it adopts an effective
22 ordinance in accordance with the provisions of Subsection B
23 of Section 35-14-1 NMSA 1978.

24 D. In every noncharter municipality, except those
25 noncharter municipalities having a commission-manager form of

1 government or electing members of the governing body from
2 districts, the terms of office for the mayor and members of
3 the governing body shall be four years. The term of office
4 for members of the governing body shall be staggered so that
5 the terms of office for one-half of the members of the
6 governing body will expire every two years.

7 E. Any elected municipal official whose term of
8 office has expired shall continue in that office until a
9 successor is elected and has taken office pursuant to the
10 provisions of the Local Election Act."

11 **SECTION 52.** Section 3-11-5 NMSA 1978 (being Laws 1965,
12 Chapter 300, Section 14-10-5, as amended) is amended to read:

13 "3-11-5. MAYOR--APPOINTMENT OF OFFICERS AFTER
14 ELECTION.--

15 A. At the organizational meeting of the governing
16 body, the mayor shall submit, for confirmation by the
17 governing body, the names of persons who shall fill the
18 appointive offices of the municipality and the names of
19 persons who shall be employed by the municipality. If the
20 governing body fails to confirm any person as an appointive
21 official or employee of the municipality, the mayor at the
22 next regular meeting of the governing body shall submit the
23 name of another person to fill the appointed office or to be
24 employed by the municipality.

25 B. Any person holding an appointed office at the

1 time of the municipal election shall continue in that office
2 until the person's successor has been appointed and is
3 qualified."

4 **SECTION 53.** Section 3-12-1 NMSA 1978 (being Laws 1965,
5 Chapter 300, Section 14-11-1, as amended) is amended to read:

6 "3-12-1. VACANCY ON GOVERNING BODY.--

7 Any vacancy on the governing body of a mayor-council
8 municipality shall be filled by appointment of a qualified
9 elector by the mayor of the municipality, with the advice and
10 consent of the governing body. Any qualified elector
11 appointed to fill a vacancy on the governing body shall serve
12 until the next regular local election, at which time a
13 qualified elector shall be elected to fill the remaining
14 unexpired term, if any."

15 **SECTION 54.** Section 3-13-1 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-12-1, as amended) is amended to read:

17 "3-13-1. CLERK--DUTIES.--

18 A. The clerk of the municipality shall:

19 (1) keep in custody all minutes, ordinances
20 and resolutions approved by the governing body;

21 (2) attend all meetings of the governing body;

22 (3) record all proceedings, ordinances and
23 resolutions of the governing body; and

24 (4) upon request, furnish copies of municipal
25 records. The clerk may charge a reasonable fee for the cost

1 of furnishing copies of municipal records.

2 B. The mayor with the consent of the governing body
3 may designate other municipal employees to be deputy
4 municipal clerks who shall have the right and duty to perform
5 all of the duties of the municipal clerk."

6 SECTION 55. Section 3-14-2 NMSA 1978 (being Laws 1965,
7 Chapter 300, Section 14-13-2, as amended) is amended to read:

8 "3-14-2. COMMISSION-MANAGER--SPECIAL ELECTION FOR
9 ADOPTION.--

10 A. Upon petition signed by qualified electors, not
11 less in number than fifteen percent of the votes cast for the
12 office of mayor at the last regular municipal election, filed
13 with the municipal clerk and verified by the municipal clerk
14 to contain a sufficient number of legal signatures, the
15 governing body shall, within ten days of verification, adopt
16 an election resolution calling for the holding of a special
17 election on the question of organizing the municipality under
18 the commission-manager form of government, or the governing
19 body may submit to the qualified electors of the municipality
20 the question of organizing the municipality under the
21 commission-manager form of government. The election shall be
22 held in June or July in odd-numbered years or July or August
23 in even-numbered years in accordance with the provisions of
24 the Local Election Act.

25 B. The question to be placed shall read

1 substantially as follows:

2 "For the commission-manager form of government and
3 providing for the election of five commissioners ____; and

4 Against the commission-manager form of government
5 and providing for the election of five commissioners ____".

6 **SECTION 56.** Section 3-14-8 NMSA 1978 (being Laws 1965,
7 Chapter 300, Section 14-13-8, as amended) is amended to read:

8 "3-14-8. COMMISSIONERS--SPECIAL ELECTION--TERMS.--

9 A. Within ten days after the adoption of the
10 commission-manager form of government, the governing body
11 shall adopt an election resolution calling for the holding of
12 an election for the purpose of electing five commissioners at
13 the first regular or local or general election following
14 adoption of the resolution. The election shall be conducted
15 in the same manner as are regular local elections pursuant to
16 the terms of the Local Election Act. The commissioners so
17 elected shall determine their terms of office by lot, so that
18 three commissioners shall serve until the next regular local
19 election and two commissioners shall serve until the
20 succeeding regular local election.

21 B. Their respective successors shall hold office
22 for staggered periods of four years and until their
23 successors are elected and take office as provided in the
24 Local Election Act."

25 **SECTION 57.** Section 3-14-9 NMSA 1978 (being Laws 1965,

1 Chapter 300, Section 14-13-9, as amended) is amended to read:

2 "3-14-9. VACANCIES IN COMMISSION.--If a vacancy occurs
3 in the commission, the remaining elected and appointed
4 commissioners shall, by a majority vote, appoint a qualified
5 elector to fill the vacancy until the next regular local
6 election, at which time a qualified elector shall be elected
7 to fill the remaining unexpired term, if any."

8 **SECTION 58.** Section 3-14-19 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-13-19, as amended) is amended to
10 read:

11 "3-14-19. ABANDONMENT OF COMMISSION-MANAGER
12 GOVERNMENT.--

13 A. Within ten days of the verification of a
14 petition submitted to the municipal clerk and signed by
15 thirty percent of the qualified electors of the municipality,
16 the commission shall adopt an election resolution calling for
17 the holding of a special election to vote on the question of
18 abandoning the commission-manager form of government. The
19 election shall be held in June or July in odd-numbered years
20 or July or August in even-numbered years in accordance with
21 the provisions of the Local Election Act.

22 B. If a majority of the votes cast at the special
23 election favors abandonment of the commission-manager form of
24 government, the form of government reverts to that form of
25 government existing immediately preceding the adoption of the

1 commission-manager form of government after the election and
2 taking office of the new officers and the commission shall
3 adopt an election resolution calling for the holding of an
4 election to elect new officers, which shall be held at the
5 first regular local or general election following adoption of
6 the resolution.

7 C. The election shall be held in the same manner as
8 regular local elections are held as provided in the Local
9 Election Act. The mayor and one-half of the members of the
10 governing body shall hold office until the next regular local
11 election and the remaining one-half of the members of the
12 governing body shall hold office until the succeeding regular
13 local election. The terms of the members of the governing
14 body shall be determined by lot after their election.

15 D. No election shall be held upon the question of
16 abandoning the commission-manager form of government within
17 two years after an election has been held adopting the
18 commission-manager form of government or confirming its
19 continued existence."

20 **SECTION 59.** Section 3-15-10 NMSA 1978 (being Laws 1965,
21 Chapter 300, Section 14-14-8) is amended to read:

22 "3-15-10. QUALIFICATIONS OF VOTERS--BALLOTS--CONDUCT OF
23 ELECTION--EFFECT OF ADOPTION.--All qualified electors
24 residing within the municipality shall be qualified to vote
25 at the special election held under the Municipal Charter Act,

1 and the vote shall be by separate ballots, one of which shall
2 be:

3 "In favor of adoption of charter "; and the other:

4 "Against adoption of charter .

5 The special election shall be conducted in accordance with
6 the Local Election Act and if a majority of all the votes
7 cast shall favor the adoption of the charter, the charter
8 shall take effect immediately insofar as necessary to
9 authorize the election of officers, but shall not take effect
10 otherwise until such date as may be specified in the charter,
11 which date shall not be less than sixty days after the
12 special election. After the date fixed by the charter, the
13 municipality shall be deemed reorganized under the provisions
14 of the charter, and the powers and duties of all officers
15 elected or appointed under the former laws shall cease."

16 **SECTION 60.** Section 3-15-11 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-14-9) is amended to read:

18 "3-15-11. FIRST ELECTION OF OFFICERS--TIME--LAW
19 GOVERNING.--In case the charter is adopted pursuant to
20 Section 3-15-10 NMSA 1978, it shall be the duty of the
21 presiding officer of the governing body of the municipality
22 to issue a proclamation calling a special election for the
23 election of such elective officers as may be provided for in
24 the charter. The election shall be at least ten days before
25 the date specified in the charter for it to go into effect,

1 and the election shall be held in accordance with the
2 provisions of the Local Election Act and the charter."

3 **SECTION 61.** Section 3-21-19 NMSA 1978 (being Laws 1965,
4 Chapter 206, Section 5) is amended to read:

5 "3-21-19. ZONING COMMISSION.--A zoning commission
6 consisting of five members shall be elected by the registered
7 electors residing within the district in accordance with the
8 provisions of the Local Election Act. Members of the
9 commission shall be residents of the district, and each shall
10 be elected for a term of two years. Any vacancy on the
11 commission shall be filled by the remaining members
12 appointing a new member to fill the unexpired term. Members
13 of the commission shall serve without compensation."

14 **SECTION 62.** Section 3-21-20 NMSA 1978 (being Laws 1965,
15 Chapter 206, Section 6) is amended to read:

16 "3-21-20. ELECTION OF MEMBERS TO THE COMMISSION.--
17 Election of members to the commission shall be conducted
18 pursuant to the Local Election Act."

19 **SECTION 63.** Section 3-23-2 NMSA 1978 (being Laws 1965,
20 Chapter 300, Section 14-22-2, as amended) is amended to read:

21 "3-23-2. ELECTION ON QUESTION OF ACQUIRING UTILITY.--

22 A. No municipality shall acquire a municipal
23 utility from funds acquired from the issuance of revenue
24 bonds until the question of acquiring the utility is
25 submitted, at a regular local election or special election,

1 to a vote of the qualified electors of the municipality, and
2 a majority of the votes cast on the question favors the
3 acquisition of the utility. No special election shall be set
4 for a date ninety days prior to the day of a regular local
5 election. The acquisition by a municipality, which owns
6 municipal electric facilities on July 1, 1979, of a
7 generating facility or any interest in a jointly owned
8 generating facility from funds acquired from the issuance of
9 revenue bonds shall not be subject to the election
10 requirement of this section.

11 B. Each question shall be listed separately on the
12 ballot. The ballot shall:

13 (1) contain a general description of the
14 property to be acquired; and

15 (2) allow each voter to indicate whether the
16 voter favors or opposes the acquisition.

17 C. The election shall be called and conducted as
18 provided in the Local Election Act.

19 D. If a majority of the votes cast on the question
20 favors the acquisition of the utility, the governing body may
21 acquire the utility.

22 E. If, pursuant to Article 9, Section 12 of the
23 constitution of New Mexico and Sections 3-30-1 through 3-30-9
24 NMSA 1978, the qualified electors of the municipality and
25 nonresident municipal electors have voted in favor of

1 creating a debt for the acquisition of a municipal utility
2 and the municipality has incurred the debt, the municipality
3 need not hold the election required in this section and it
4 shall be presumed that the acquisition of a municipal utility
5 has been approved, or, if the municipality has owned and
6 operated a municipal utility for a period of more than one
7 year, it shall be presumed that the acquisition of the
8 municipal utility has been approved."

9 **SECTION 64.** Section 3-23-5.1 NMSA 1978 (being Laws 2001,
10 Chapter 179, Section 1) is amended to read:

11 "3-23-5.1. MUNICIPAL UTILITY PERMANENT FUND.--

12 A. The governing body of a municipality may by
13 ordinance establish a municipal utility permanent fund for
14 each utility owned and operated by the municipality.

15 B. The municipal utility permanent fund shall be a
16 fund in the municipal treasury into which may be deposited
17 money from the sale of municipal utility assets or any
18 portion of the unappropriated utility fund cash surplus that
19 is in excess of fifty percent of the prior fiscal year's
20 municipal utility budget. Money in the fund may be invested
21 by the municipal board of finance as provided in Sections
22 6-10-10, 6-10-36 and 6-10-44 NMSA 1978.

23 C. Earnings from investment of a municipal utility
24 permanent fund may be budgeted and appropriated by the
25 governing body of the municipality for expenditure for any

1 purpose related to the operation, maintenance and improvement
2 of the municipal utility or deposited in the municipal
3 utility permanent fund.

4 D. Money in the municipal utility permanent fund
5 may be appropriated or expended only pursuant to approval of
6 the voters of the municipality. The municipality may adopt a
7 resolution calling for an election on the question of the
8 expenditure of a specified amount of the municipal utility
9 permanent fund for a specified purpose. The election shall
10 be held within sixty days after the adoption of the
11 resolution by the governing body. The election shall be
12 called, conducted, counted and canvassed pursuant to the
13 provisions of the Local Election Act. If a majority of the
14 voters of the municipality voting on the question votes to
15 approve the expenditure, that amount of money shall be
16 available for appropriation from the municipal utility
17 permanent fund for expenditure by the municipality for the
18 specified purpose. If a majority of the voters of the
19 municipality voting on the question votes against the
20 expenditure, no money in the municipal utility permanent fund
21 may be appropriated or expended for that purpose. Following
22 an election at which the question was not approved, that
23 question shall not again be submitted to the voters of the
24 municipality for at least one year from the date of that
25 election."

1 **SECTION 65.** Section 3-30-6 NMSA 1978 (being Laws 1965,
2 Chapter 300, Section 14-29-6, as amended) is amended to read:

3 "3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS--
4 SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

5 A. Before bonds are issued, the governing body of
6 the municipality shall submit to a vote of the registered
7 qualified electors of the municipality and the nonresident
8 municipal electors the question of issuing the bonds. The
9 election may be held at the same time as the regular local
10 election or at any special election held pursuant to Article
11 9, Section 12 of the constitution of New Mexico.

12 B. The governing body of the municipality shall
13 give notice of the time and place of holding the election and
14 the purpose for which the bonds are to be issued. The
15 election shall be conducted pursuant to the provisions of the
16 Local Election Act.

17 C. The question shall state the purpose for which
18 the bonds are to be issued and the amount of the issue. If
19 bonds are to be issued for more than one purpose, a separate
20 question shall be submitted to the voter for each purpose to
21 be voted upon. The ballots shall contain words indicating
22 the purpose of the bond issue and a place for a vote "For . .
23 . (designate type) bonds" and "Against . . . (designate type)
24 bonds" for each bond issue. The ballots shall be deposited
25 in a separate ballot box unless voting machines are used."

1 **SECTION 66.** Section 3-30-7 NMSA 1978 (being Laws 1965,
2 Chapter 300, Section 14-29-7, as amended) is amended to read:

3 "3-30-7. CANVASS OF BOND ELECTION--CERTIFICATION OF
4 RESULTS--EFFECT.--

5 A. The vote upon each question proposing to issue
6 negotiable bonds shall be canvassed as provided in the Local
7 Election Act, and the municipal clerk shall file the
8 certificate of canvass in the official minute book of the
9 municipality.

10 B. If a majority of those voting on the question
11 favors the creation of the debt, the governing body of the
12 municipality may proceed to issue the negotiable bonds."

13 **SECTION 67.** Section 3-31-4 NMSA 1978 (being Laws 1965,
14 Chapter 300, Section 14-30-4, as amended) is amended to read:

15 "3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--THREE-
16 FOURTHS MAJORITY REQUIRED--RESOLUTION AUTHORIZING REVENUE
17 BONDS TO BE ISSUED AND SOLD TO THE NEW MEXICO FINANCE
18 AUTHORITY.--

19 A. At a regular or special meeting called for the
20 purpose of issuing revenue bonds as authorized in Section
21 3-31-1 NMSA 1978, the governing body may adopt an ordinance
22 that:

23 (1) declares the necessity for issuing revenue
24 bonds;

25 (2) authorizes the issuance of revenue bonds

1 by an affirmative vote of three-fourths of all the members of
2 the governing body; and

3 (3) designates the source of the pledged
4 revenues.

5 B. If a majority of the governing body, but less
6 than three-fourths of all the members, votes in favor of
7 adopting the ordinance authorizing the issuance of revenue
8 bonds, the ordinance is adopted but shall not become
9 effective until the question of issuing the revenue bonds is
10 submitted to a vote of the qualified electors for their
11 approval at a special or regular local election. If an
12 election is necessary, the election shall be conducted in the
13 manner provided in the Local Election Act.

14 C. In addition and as an alternative to adopting an
15 ordinance as required by the provisions of Subsections A and
16 B of this section, at a regular or special meeting called for
17 the purpose of issuing revenue bonds as authorized in Section
18 3-31-1 NMSA 1978, the governing body may authorize the
19 issuance and sale, from time to time, of revenue bonds in
20 amounts not to exceed one million dollars (\$1,000,000) at any
21 one time to the New Mexico finance authority by adoption of a
22 resolution that:

23 (1) declares the necessity for issuing and
24 selling revenue bonds to the New Mexico finance authority;

25 (2) authorizes the issuance and sale of

1 revenue bonds to the New Mexico finance authority by an
2 affirmative vote of a majority of all the members of the
3 governing body; and

4 (3) designates the source of the pledged
5 revenues.

6 At the option of the governing body, revenue bonds in an
7 amount in excess of one million dollars (\$1,000,000) may be
8 authorized by an ordinance adopted in accordance with
9 Subsections A and B of this section and issued and sold to
10 the New Mexico finance authority.

11 D. No ordinance or resolution may be adopted under
12 the provisions of this section that uses as pledged revenues
13 the municipal gross receipts tax authorized by Section
14 7-19D-9 NMSA 1978 for a purpose that would be inconsistent
15 with the purpose for which that municipal gross receipts tax
16 revenue was dedicated. Any revenue in excess of the amount
17 necessary to meet all principal and interest payments and
18 other requirements incident to repayment of the bonds shall
19 be used for the purposes to which the revenue was dedicated."

20 **SECTION 68.** Section 3-41-2 NMSA 1978 (being Laws 1965,
21 Chapter 300, Section 14-42-2, as amended) is amended to read:

22 "3-41-2. FLOOD CONTROL--TAX LEVY--LIMITATIONS--
23 ELECTION--RESULT--BOND ISSUE MAY SUPPLEMENT--LEVY.--

24 A. A municipality may levy a tax upon all property
25 subject to property taxation within the municipality for such

1 length of time as is necessary to accomplish the purpose
2 authorized in Sections 3-41-1 and 3-41-3 NMSA 1978. The rate
3 of the tax authorized by this subsection shall not exceed
4 five dollars (\$5.00), or any lower maximum amount required by
5 operation of the rate limitation provisions of Section
6 7-37-7.1 NMSA 1978 upon a tax levied under this section, on
7 each one thousand dollars (\$1,000) of net taxable value, as
8 that term is defined in the Property Tax Code.

9 B. Before levying the tax, the municipality shall
10 submit to the qualified electors of the municipality the
11 question of levying the tax. The question may be submitted
12 at any regular or special local election called for that
13 purpose. Notice of the election shall be given as provided
14 in the Local Election Act.

15 C. The municipality shall print the words "For tax
16 levy for flood protection purposes" and "Against tax levy for
17 flood protection purposes" or words of like import. The vote
18 upon the question shall be separately canvassed as other
19 municipal elections are canvassed.

20 D. If a majority of the votes cast favors the levy
21 of the tax, the governing body shall levy and certify the
22 levy as any other tax is levied for municipal purposes.

23 E. Nothing in this section shall be construed as
24 prohibiting the issuance of negotiable bonds as authorized in
25 Section 3-30-5 NMSA 1978 to pay the cost of preventing flood

1 damage.

2 F. If a county has levied a tax for flood control
3 purposes as authorized in Sections 4-50-1 through 4-50-9 NMSA
4 1978 or any other law, the municipality is not prohibited
5 from levying a tax as authorized in this section."

6 **SECTION 69.** Section 3-54-1 NMSA 1978 (being Laws 1983,
7 Chapter 115, Section 1, as amended) is amended to read:

8 "3-54-1. AUTHORITY TO SELL OR LEASE MUNICIPAL UTILITY
9 FACILITIES OR REAL PROPERTY--NOTICE--REFERENDUM.--

10 A. A municipality may lease or sell and exchange
11 any municipal utility facilities or real property having a
12 value of twenty-five thousand dollars (\$25,000) or less by
13 public or private sale or lease any municipal facility or
14 real property of any value normally leased in the regular
15 operations of such facility or real property, and such sale
16 or lease shall not be subject to referendum.

17 B. A municipality may lease or sell and exchange
18 any municipal utility facilities or real property having an
19 appraised value in excess of twenty-five thousand dollars
20 (\$25,000) by public or private sale or lease, subject to the
21 referendum provisions set forth in this section. The value
22 of municipal utility facilities or real property to be leased
23 or sold and exchanged shall be determined by the appraised
24 value of the municipal utility facilities or real property
25 and not by the value of the lease. An appraisal shall be

1 made by a qualified appraiser and submitted in writing to the
2 governing body. If the sale price is less than the appraised
3 value, the governing body shall cause a detailed written
4 explanation of that difference to be prepared, and the
5 written explanation shall be made available to any interested
6 member of the public upon demand.

7 C. If a public sale is held, the bid of the highest
8 responsible bidder shall be accepted unless the terms of the
9 bid do not meet the published terms and conditions of the
10 proposed sale, in which event the highest bid that does meet
11 the published terms and conditions shall be accepted;
12 provided, however, a municipality may reject all bids. Terms
13 and conditions for a proposed public sale or lease shall be
14 published at least twice, not less than seven days apart,
15 with the last publication no less than fourteen days prior to
16 the bid opening, and in accordance with the provisions of
17 Subsection J of Section 3-1-2 NMSA 1978.

18 D. Any sale or lease of municipal utility
19 facilities or real property entered into pursuant to
20 Subsection B of this section shall be by ordinance of the
21 municipality. Such an ordinance shall be effective forty-
22 five days after its adoption, unless a referendum election is
23 held pursuant to this section. The ordinance shall be
24 published prior to adoption pursuant to the provisions of
25 Subsection J of Section 3-1-2 NMSA 1978 and Section 3-17-3

1 NMSA 1978 and shall be published after adoption at least once
2 within one week after adoption pursuant to the provisions of
3 Subsection J of Section 3-1-2 NMSA 1978. Such publications
4 shall concisely set forth at least:

5 (1) the terms of the sale or lease;

6 (2) the appraised value of the municipal
7 utility facilities or real property;

8 (3) the time and manner of payments on the
9 lease or sale;

10 (4) the amount of the lease or sale;

11 (5) the identities of the purchasers or
12 lessees; and

13 (6) the purpose for the municipality making
14 the lease or sale.

15 E. In order to call for a referendum election on a
16 sale or lease ordinance, a petition shall be filed with the
17 municipal clerk:

18 (1) no later than thirty days after the
19 adoption of the sale or lease ordinance;

20 (2) containing the names, addresses and
21 signatures of at least fifteen percent of the qualified
22 electors of the municipality; and

23 (3) containing the following heading on each
24 page of the petition reprinted as follows:

25 "PETITION FOR A REFERENDUM

1 We, the undersigned registered voters of
2 (insert name of
3 municipality) petition the governing body of
4 (insert name of municipality)
5 to conduct a referendum election on ordinance number
6 Ordinance number would cause a . .
7 (insert "sale" or "lease") of
8 municipal (insert
9 "real property" or "utility facilities").

10 Date Name (printed) Address Signature".

11 F. Section 3-1-5 NMSA 1978 shall apply to all
12 petitions filed calling for a referendum election on a sale
13 or lease ordinance.

14 G. If the municipal clerk certifies to the
15 municipal governing body that the petition does contain the
16 minimum number of valid names, addresses and signatures
17 required to call a referendum election on the sale or lease
18 ordinance, the municipal governing body shall adopt an
19 election resolution within fourteen days after the date the
20 clerk makes such certification, calling for a referendum
21 election on the sale or lease ordinance. The election
22 resolution shall be adopted and published pursuant to the
23 provisions of the Local Election Act and shall also concisely
24 set forth:

- 25 (1) the terms of the sale or lease;

1 (2) the appraised value of the municipal
2 utility facilities or real property;

3 (3) the time and manner of payments on the
4 lease or sale;

5 (4) the amount of the lease or sale;

6 (5) the identities of all purchasers or
7 lessees; and

8 (6) the purpose for the municipality making
9 the lease or sale.

10 H. The referendum election on the sale or lease
11 ordinance shall be held not later than ninety days after the
12 election resolution is adopted. Such election shall be held
13 at a special or regular local election and shall be conducted
14 pursuant to the provisions of the Local Election Act. Any
15 qualified elector of the municipality may vote in such a
16 referendum election.

17 I. If a majority of the votes cast is to approve
18 the sale or lease ordinance, the sale or lease ordinance
19 shall be effective after the election results have been
20 canvassed and certified. If a majority of the votes cast is
21 to disapprove the sale or lease ordinance, the ordinance
22 shall not be effective."

23 **SECTION 70.** Section 4-48A-16 NMSA 1978 (being Laws 1978,
24 Chapter 29, Section 16, as amended) is amended to read:

25 "4-48A-16. SPECIAL TAX IMPOSED FOR SPECIAL HOSPITAL

1 DISTRICT.--

2 A. In each special hospital district, the board of
3 trustees may adopt a resolution calling for an election for
4 the purpose of authorizing the imposition of an ad valorem
5 tax on all taxable property within the special hospital
6 district. The election shall be held pursuant to the Local
7 Election Act. The revenue from such tax shall be used to pay
8 for current operations and maintenance of hospitals,
9 including hospital facilities owned and operated by the
10 special hospital district or hospitals operated and
11 maintained by the special hospital district pursuant to an
12 agreement with a political subdivision as provided in
13 Subsection B of Section 4-48A-11 NMSA 1978, and to pay the
14 operational costs of the special hospital district.

15 B. In the case of a special hospital district
16 located wholly within one county, if authorized by a majority
17 of the qualified electors of the special hospital district
18 voting on the question, the board of county commissioners of
19 the county in which the special hospital district is located
20 shall levy such tax at the same time and in the same manner
21 as levies for ad valorem taxes for school districts are made
22 and in the amount certified by the board of trustees as
23 necessary to meet its approved annual budget, but in no event
24 shall the tax levied exceed the rate limitation approved by
25 the voters or the rate limitations provided in Subsection D

1 of this section.

2 C. In the case of a special hospital district that
3 is composed of all or a portion of two or more counties, if a
4 majority of the qualified electors in the special hospital
5 district of each county voting on the question authorizes a
6 tax levy, the boards of county commissioners of the counties
7 that agreed to form the special hospital district shall levy
8 such tax in the manner provided in Subsection B of this
9 section.

10 D. The tax authorized in this section shall not
11 exceed four dollars twenty-five cents (\$4.25), or any lower
12 maximum amount required by operation of the rate limitation
13 provisions of Section 7-37-7.1 NMSA 1978 upon any tax imposed
14 under this section, on each one thousand dollars (\$1,000) of
15 net taxable value as that term is defined in the Property Tax
16 Code, of all taxable property of the county within the
17 hospital district for a period of time greater than four
18 years. An election upon the question of continuing the levy
19 may be called by the board of trustees pursuant to the Local
20 Election Act."

21 **SECTION 71.** Section 4-48A-17 NMSA 1978 (being Laws 1978,
22 Chapter 29, Section 17, as amended) is amended to read:

23 "4-48A-17. ELECTION PROCEDURES.--All elections of the
24 special hospital district, unless otherwise provided in the
25 Special Hospital District Act, shall be called, conducted and

1 canvassed pursuant to the Local Election Act."

2 **SECTION 72.** Section 4-49-8 NMSA 1978 (being Laws 1891,
3 Chapter 83, Section 4, as amended) is amended to read:

4 "4-49-8. ELECTION ON BOND QUESTION--PETITION--NOTICE--
5 ELECTION WITHOUT PETITION.--

6 A. Whenever a petition signed by not less than two
7 hundred qualified electors of any county in this state is
8 presented to the board of county commissioners asking that a
9 vote be taken on the question or proposition of building,
10 remodeling or making additions to necessary public buildings
11 or necessary public projects, setting forth in general terms
12 the object of the petition and the amount of bonds asked to
13 be voted for, the board of county commissioners of the county
14 to which the petition is presented shall, within ten days
15 after the presentation, call an election to be held within
16 sixty days thereafter in the county. Except as provided in
17 Chapter 4, Article 49 NMSA 1978, such elections shall be held
18 and conducted pursuant to the provisions of the Local
19 Election Act.

20 B. After the defeat of any proposition once voted for, a
21 second special election upon any question or proposition
22 under the provisions of Chapter 4, Article 49 NMSA 1978 shall
23 not be held for a term of two years unless a petition
24 requesting another election, containing the names of
25 qualified electors of the county equal to ten percent of the

1 votes cast for governor in the last preceding election and
2 otherwise conforming to the requirements of this section, is
3 presented to the board of county commissioners; provided,
4 however, that in no event shall more than two elections upon
5 any proposition or question under Chapter 4, Article 49 NMSA
6 1978 be held in any term of two years. A bond election as
7 provided in this section may also be called by the board of
8 county commissioners, without any petition, after the board
9 has adopted a resolution calling such an election, which
10 resolution shall set forth the object of the election and the
11 amount of bonds to be issued."

12 **SECTION 73.** Section 5-10-4 NMSA 1978 (being Laws 1993,
13 Chapter 297, Section 4, as amended) is amended to read:

14 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
15 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

16 A. No local or regional government shall provide
17 public support for economic development projects as permitted
18 pursuant to Article 9, Section 14 of the constitution of
19 New Mexico except as provided in the Local Economic
20 Development Act or as otherwise permitted by law.

21 B. The total amount of public money expended and
22 the value of credit pledged in the fiscal year in which that
23 money is expended by a local government for economic
24 development projects pursuant to Article 9, Section 14 of the
25 constitution of New Mexico and the Local Economic Development

1 Act shall not exceed ten percent of the annual general fund
2 expenditures of the local government in that fiscal year.

3 The limits of this subsection shall not apply to:

4 (1) the value of any land or building
5 contributed to any project pursuant to a project
6 participation agreement;

7 (2) revenue generated through the imposition
8 of the municipal infrastructure gross receipts tax pursuant
9 to the Municipal Local Option Gross Receipts Taxes Act for
10 furthering or implementing economic development plans and
11 projects as defined in the Local Economic Development Act or
12 projects as defined in the Statewide Economic Development
13 Finance Act; provided that no more than the greater of fifty
14 thousand dollars (\$50,000) or ten percent of the revenue
15 collected shall be used for promotion and administration of
16 or professional services contracts related to the
17 implementation of any such economic development plan adopted
18 by the governing body;

19 (3) revenue generated through the imposition
20 of a county infrastructure gross receipts tax pursuant to the
21 County Local Option Gross Receipts Taxes Act for furthering
22 or implementing economic development plans and projects as
23 defined in the Local Economic Development Act or projects as
24 defined in the Statewide Economic Development Finance Act;
25 provided that no more than the greater of fifty thousand

1 dollars (\$50,000) or ten percent of the revenue collected
2 shall be used for promotion and administration of or
3 professional services contracts related to the implementation
4 of any such economic development plan adopted by the
5 governing body;

6 (4) the proceeds of a revenue bond issue to
7 which municipal infrastructure gross receipts tax revenue is
8 pledged;

9 (5) the proceeds of a revenue bond issue to
10 which county infrastructure gross receipts tax revenue is
11 pledged; or

12 (6) funds donated by private entities to be
13 used for defraying the cost of a project.

14 C. A regional or local government that generates
15 revenue for economic development projects to which the limits
16 of Subsection B of this section do not apply shall create an
17 economic development fund into which such revenues shall be
18 deposited. The economic development fund and income from the
19 economic development fund shall be deposited as provided by
20 law. Money in the economic development fund may be expended
21 only as provided in the Local Economic Development Act or the
22 Statewide Economic Development Finance Act.

23 D. In order to expend money from an economic
24 development fund for arts and cultural district purposes,
25 cultural facilities or retail businesses, the governing body

1 of a municipality or county that has imposed a municipal or
2 county local option infrastructure gross receipts tax for
3 furthering or implementing economic development plans and
4 projects as defined in the Local Economic Development Act or
5 projects as defined in the Statewide Economic Development
6 Finance Act by referendum of the majority of the voters
7 voting on the question approving the ordinance imposing the
8 municipal or county infrastructure gross receipts tax before
9 July 1, 2013 shall be required to adopt a resolution. The
10 resolution shall call for an election to approve arts and
11 cultural districts as a qualifying purpose and cultural
12 facilities or retail businesses as a qualifying entity before
13 any revenue generated by the municipal or county local option
14 gross receipts tax for furthering or implementing economic
15 development plans and projects as defined in the Local
16 Economic Development Act or projects as defined in the
17 Statewide Economic Development Finance Act can be expended
18 from the economic development fund for arts and cultural
19 district purposes, cultural facilities or retail businesses.

20 E. The governing body shall adopt a resolution
21 calling for an election within seventy-five days of the date
22 the ordinance is adopted on the question of approving arts
23 and cultural districts as a qualifying purpose and cultural
24 facilities or retail businesses as a qualifying entity
25 eligible to utilize revenue generated by the Municipal Local

1 Option Gross Receipts Taxes Act or the County Local Option
2 Gross Receipts Taxes Act for furthering or implementing
3 economic development plans and projects as defined in the
4 Local Economic Development Act or projects as defined in the
5 Statewide Economic Development Finance Act.

6 F. The question shall be submitted to the voters of
7 the municipality or county as a separate question at a
8 regular local or county election or at a special election
9 called for that purpose by the governing body. A special
10 local election shall be called, conducted and canvassed as
11 provided in the Local Election Act. A special county
12 election shall be called, conducted and canvassed in
13 substantially the same manner as provided by law for general
14 elections.

15 G. If a majority of the voters voting on the
16 question approves the ordinance adding arts and cultural
17 districts and cultural facilities or retail businesses as an
18 approved use of the local option municipal or county economic
19 development infrastructure gross receipts tax fund, the
20 ordinance shall become effective on July 1 or January 1,
21 whichever date occurs first after the expiration of three
22 months from the date of the adopted ordinance. The ordinance
23 shall include the effective date."

24 **SECTION 74.** Section 6-6-19 NMSA 1978 (being Laws 1989,
25 Chapter 276, Section 3, as amended) is amended to read:

1 "6-6-19. LOCAL GOVERNMENT PERMANENT FUND.--

2 A. The local governing body of a county or
3 municipality may by ordinance establish a local government
4 permanent fund and a local government income fund.

5 B. The local government permanent fund shall
6 constitute a fund in the treasury of the county or
7 municipality into which may be deposited at the end of a
8 fiscal year an amount of the unappropriated general fund
9 surplus. The amount that may be deposited into the local
10 government permanent fund is any portion of the
11 unappropriated general fund surplus that is in excess of
12 fifty percent of the prior fiscal year's budget of the county
13 or municipality. Money in the permanent fund may be
14 appropriated or expended only pursuant to approval of the
15 voters of the county or municipality as provided in
16 Subsection E of this section.

17 C. Money in the local government permanent fund may
18 be invested by the local board of finance for the county or
19 municipality in the types of investments specified in Section
20 6-10-10 NMSA 1978 and as specified in Sections 6-10-36 and
21 6-10-44 NMSA 1978, except as provided in Paragraph (2) of
22 Subsection D of this section. Earnings from the investment
23 of the permanent fund shall be deposited in the local
24 government income fund in the treasury of the county or
25 municipality. Money in the income fund may be budgeted and

1 appropriated by the local governing body for expenditure for
2 any purpose of the county or municipality or may be deposited
3 in the permanent fund.

4 D. Investment authority for a local government
5 permanent fund shall be as follows:

6 (1) if the fund is less than forty million
7 dollars (\$40,000,000), it shall be invested as other funds of
8 the local government; and

9 (2) if the fund is forty million dollars
10 (\$40,000,000) or over, it may be invested as funds of class A
11 counties are invested and, if the fund is managed by an
12 investment advisor that is registered with the federal
13 securities and exchange commission and that currently manages
14 assets with a value of at least five hundred million dollars
15 (\$500,000,000), the fund may also be invested in the
16 following:

17 (a) corporate debt securities, provided
18 that: 1) the total amount invested in securities issued by
19 the same corporation or related corporate affiliates shall
20 not exceed five percent of the market value of the permanent
21 fund; 2) the securities shall be denominated in United States
22 currency; 3) the securities shall be rated AA- or higher by a
23 nationally recognized statistical rating organization; 4) the
24 final maturity of the securities may not exceed five years;
25 and 5) the total amount invested pursuant to this

1 subparagraph and Subparagraph (b) of this paragraph in the
2 aggregate shall not exceed thirty percent of the market value
3 of the permanent fund;

4 (b) commercial paper, provided that: 1)
5 the total amount invested in securities issued by the same
6 corporation or related corporate affiliates shall not exceed
7 five percent of the market value of the permanent fund; 2)
8 the securities shall be denominated in United States
9 currency; 3) the securities shall be rated in the highest
10 rating category by a nationally recognized statistical rating
11 organization; 4) the final maturity of the securities may not
12 exceed two hundred seventy days; and 5) the total amount
13 invested pursuant to this subparagraph and Subparagraph (a)
14 of this paragraph in the aggregate shall not exceed thirty
15 percent of the market value of the permanent fund; and

16 (c) asset-backed securities, mortgage-
17 backed securities, collateralized mortgage obligations or
18 commercial mortgage-backed securities, provided that: 1) the
19 total amount invested pursuant to this subparagraph shall not
20 exceed five percent of the market value of the permanent
21 fund; 2) the securities shall be denominated in United States
22 currency; 3) the securities shall be rated AAA by a
23 nationally recognized statistical rating organization; and 4)
24 the final stated maturity of the securities may not exceed
25 ten years.

1 E. The governing body of a county or municipality
2 may adopt a resolution calling for an election on the
3 question of expenditure of any amount of the local government
4 permanent fund for a specified county or municipal purpose.
5 The election shall be held within sixty days after the action
6 of the governing body. The election shall be called,
7 conducted, counted and canvassed substantially in the manner
8 provided by law for general elections within the county or
9 special municipal elections under the Local Election Act. If
10 a majority of the registered voters of the county or
11 municipality voting on the question votes for the expenditure
12 of a specified amount of the local government permanent fund
13 for a specified county or municipal purpose, then that amount
14 of money shall be available for appropriation and expenditure
15 by the county or municipality for that purpose. If a
16 majority of the registered voters of the county or
17 municipality voting on the question votes against the
18 expenditure of a specified amount of the local government
19 permanent fund for a specified county or municipal purpose,
20 then money in the local government permanent fund shall not
21 be expended or appropriated for that purpose. Following an
22 election at which the question was not approved, the question
23 shall not again be submitted to the voters of that county or
24 municipality within one year of the date of that election."

25 **SECTION 75.** Section 6-15-26 NMSA 1978 (being Laws 1971,

1 Chapter 132, Section 3, as amended) is amended to read:

2 "6-15-26. BOND ELECTIONS.--

3 A. Each proposition to issue bonds shall be
4 submitted by a single set of ballots to all voters of the
5 municipality, school district, county, junior college
6 district or branch community college district, but the Bond
7 Election Act does not prevent the submission of more than one
8 proposition on the same ballot.

9 B. Except as expressly provided in the Bond
10 Election Act, any bond election shall be called, conducted
11 and canvassed pursuant to applicable statutes governing
12 elections for the bonds; provided, however, absentee ballot
13 provisions in the Election Code governing regular elections
14 of the board shall apply. A bond election called by a
15 municipality shall be called, conducted and canvassed
16 pursuant to the applicable provisions of the Local Election
17 Act, and the absentee ballot provisions of the Local Election
18 Act shall apply."

19 **SECTION 76.** Section 7-19D-9 NMSA 1978 (being Laws 1978,
20 Chapter 151, Section 1, as amended) is amended to read:

21 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO
22 IMPOSE RATE.--

23 A. The majority of the members of the governing
24 body of any municipality may impose by ordinance an excise
25 tax not to exceed a rate of one and one-half percent of the

1 gross receipts of any person engaging in business in the
2 municipality for the privilege of engaging in business in the
3 municipality. A tax imposed pursuant to this section shall
4 be imposed by the enactment of one or more ordinances, each
5 imposing any number of municipal gross receipts tax rate
6 increments, but the total municipal gross receipts tax rate
7 imposed by all ordinances shall not exceed an aggregate rate
8 of one and one-half percent of the gross receipts of a person
9 engaging in business. Municipalities may impose increments
10 of one-eighth of one percent.

11 B. The tax imposed pursuant to Subsection A of this
12 section may be referred to as the "municipal gross receipts
13 tax".

14 C. The governing body of a municipality may, at the
15 time of enacting an ordinance imposing the tax authorized in
16 Subsection A of this section, dedicate the revenue for a
17 specific purpose or area of municipal government services,
18 including police protection, fire protection, public
19 transportation or street repair and maintenance. If the
20 governing body proposes to dedicate such revenue, the
21 ordinance and, if any election is held, the ballot shall
22 clearly state the purpose to which the revenue will be
23 dedicated, and any revenue so dedicated shall be used by the
24 municipality for that purpose unless a subsequent ordinance
25 is adopted to change the purpose to which dedicated or to

1 place the revenue in the general fund of the municipality.

2 D. An election shall be called on the questions of
3 disapproval or approval of any ordinance enacted pursuant to
4 Subsection A of this section or any ordinance amending such
5 ordinance:

6 (1) if the governing body chooses to provide
7 in the ordinance that it shall not be effective until the
8 ordinance is approved by the majority of the registered
9 voters voting on the question at an election to be held
10 pursuant to the provisions of the Local Election Act; or

11 (2) if the ordinance does not contain a
12 mandatory election provision as provided in Paragraph (1) of
13 this subsection, upon the filing of a petition requesting
14 such an election if the petition is filed:

15 (a) pursuant to the requirements of a
16 referendum provision contained in a municipal home-rule
17 charter and signed by the number of registered voters in the
18 municipality equal to the number of registered voters
19 required in its charter to seek a referendum; or

20 (b) in all other municipalities, with the
21 municipal clerk within thirty days after the adoption of such
22 ordinance and the petition has been signed by a number of
23 registered voters in the municipality equal to at least five
24 percent of the number of the voters in the municipality who
25 were registered to vote in the most recent regular municipal

1 election.

2 E. The signatures on the petition filed in
3 accordance with Subsection D of this section shall be
4 verified by the municipal clerk. If the petition is verified
5 by the municipal clerk as containing the required number of
6 signatures of registered voters, the governing body shall
7 adopt an election resolution calling for the holding of a
8 special election on the question of approving or disapproving
9 the ordinance unless the ordinance is repealed before the
10 adoption of the election resolution. An election held
11 pursuant to Subparagraph (a) or (b) of Paragraph (2) of
12 Subsection D of this section shall be called, conducted and
13 canvassed as provided in the Local Election Act, and the
14 election shall be held within seventy-five days after the
15 date the petition is verified by the municipal clerk or it
16 may be held in conjunction with a regular local election if
17 such election occurs within seventy-five days after the date
18 of verification by the municipal clerk.

19 F. If at an election called pursuant to Subsection
20 D of this section a majority of the registered voters voting
21 on the question approves the ordinance imposing the tax, the
22 ordinance shall become effective in accordance with the
23 provisions of the Municipal Local Option Gross Receipts Taxes
24 Act. If at such an election a majority of the registered
25 voters voting on the question disapproves the ordinance, the

1 ordinance imposing the tax shall be deemed repealed and the
2 question of imposing any increment of the municipal gross
3 receipts tax authorized in this section shall not be
4 considered again by the governing body for a period of one
5 year from the date of the election.

6 G. Any municipality that has lawfully imposed by
7 the requirements of the Special Municipal Gross Receipts Tax
8 Act a rate of at least one-fourth of one percent shall be
9 deemed to have imposed one-fourth of one percent municipal
10 gross receipts tax pursuant to this section. Any rate of tax
11 deemed to be imposed pursuant to this subsection shall
12 continue to be dedicated to the payment of outstanding bonds
13 issued by the municipality that pledged the tax revenues by
14 ordinance until such time as the bonds are fully paid. A
15 municipality may by ordinance change the purpose for any rate
16 of tax deemed to be imposed at any time the revenues are not
17 committed to payment of bonds.

18 H. Any law that imposes or authorizes the
19 imposition of a municipal gross receipts tax or that affects
20 the municipal gross receipts tax, or any law supplemental
21 thereto or otherwise appertaining thereto, shall not be
22 repealed or amended or otherwise directly or indirectly
23 modified in such a manner as to impair adversely any
24 outstanding revenue bonds that may be secured by a pledge of
25 such municipal gross receipts tax unless such outstanding

1 revenue bonds have been discharged in full or provision has
2 been fully made therefor."

3 SECTION 77. Section 7-19D-11 NMSA 1978 (being Laws
4 1991, Chapter 9, Section 3, as amended) is amended to read:

5 "7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS
6 TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE
7 REQUIREMENTS--ELECTION.--

8 A. A majority of the members of the governing body
9 of a municipality may enact an ordinance imposing an excise
10 tax on any person engaging in business in the municipality
11 for the privilege of engaging in business. The rate of the
12 tax shall not exceed one-fourth of one percent of the gross
13 receipts of the person engaging in business and may be
14 imposed in one-sixteenth of one percent increments by
15 separate ordinances. Any ordinance enacting any increment of
16 the first one-eighth of one percent of the tax is not subject
17 to a referendum of any kind, notwithstanding any requirement
18 of any charter municipality, except that an increment that is
19 imposed after July 1, 1998 for economic development purposes
20 set forth in Paragraph (5) of Subsection C of this section
21 shall be subject to a referendum as provided in Subsection D
22 of this section.

23 B. The tax imposed pursuant to Subsection A of this
24 section may be referred to as the "municipal infrastructure
25 gross receipts tax".

1 C. The governing body of a municipality, at the
2 time of enacting any ordinance imposing the rate of the tax
3 authorized in Subsection A of this section, may dedicate the
4 revenue for:

5 (1) payment of special obligation bonds issued
6 pursuant to a revenue bond act;

7 (2) repair, replacement, construction or
8 acquisition of infrastructure improvements, including
9 sanitary sewer lines, storm sewers and other drainage
10 improvements, water, water rights, water lines and utilities,
11 streets, alleys, rights of way, easements, international
12 ports of entry and land within the municipality or within the
13 extraterritorial zone of the municipality;

14 (3) municipal general purposes;

15 (4) acquiring, constructing, extending,
16 bettering, repairing or otherwise improving or operating or
17 maintaining public transit systems or regional transit
18 systems or authorities; and

19 (5) furthering or implementing economic
20 development plans and projects as defined in the Local
21 Economic Development Act or projects as defined in the
22 Statewide Economic Development Finance Act, and use of not
23 more than the greater of fifty thousand dollars (\$50,000) or
24 ten percent of the revenue collected for promotion and
25 administration of or professional services contracts related

1 to implementation of an economic development plan adopted by
2 the governing body pursuant to the Local Economic Development
3 Act and in accordance with law.

4 D. An ordinance imposing any increment of the
5 municipal infrastructure gross receipts tax in excess of the
6 first one-eighth of one percent or any increment imposed
7 after July 1, 1998 for economic development purposes set
8 forth in Paragraph (5) of Subsection C of this section shall
9 not go into effect until after an election is held and a
10 majority of the voters of the municipality voting in the
11 election votes in favor of imposing the tax. The governing
12 body shall adopt a resolution calling for an election within
13 seventy-five days of the date the ordinance is adopted on the
14 question of imposing the tax. The question shall be
15 submitted to the voters of the municipality as a separate
16 question at a regular local election or at a special election
17 called for that purpose by the governing body. An election
18 shall be called, conducted and canvassed as provided in the
19 Local Election Act. If a majority of the voters voting on
20 the question approves the ordinance imposing the municipal
21 infrastructure gross receipts tax, then the ordinance shall
22 become effective in accordance with the provisions of the
23 Municipal Local Option Gross Receipts Taxes Act. If the
24 question of imposing the municipal infrastructure gross
25 receipts tax fails, the governing body shall not again

1 propose the imposition of any increment of the tax in excess
2 of the first one-eighth of one percent for a period of one
3 year from the date of the election."

4 **SECTION 78.** Section 7-19D-15 NMSA 1978 (being Laws
5 2006, Chapter 15, Section 14) is amended to read:

6 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS
7 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

8 A. A majority of the members of the governing body
9 of a municipality that desires to become a member of a
10 regional spaceport district pursuant to the Regional
11 Spaceport District Act shall impose by ordinance an excise
12 tax at a rate not to exceed one-half percent of the gross
13 receipts of a person engaging in business in the municipality
14 for the privilege of engaging in business. A tax imposed
15 pursuant to this section may be imposed by one or more
16 ordinances, each imposing any number of tax rate increments,
17 but an increment shall not be less than one-sixteenth percent
18 of the gross receipts of a person engaging in business in the
19 municipality, and the aggregate of all rates shall not exceed
20 one-half percent of the gross receipts of a person engaging
21 in business in the municipality. The tax may be referred to
22 as the "municipal regional spaceport gross receipts tax".

23 B. A governing body, at the time of enacting an
24 ordinance imposing a tax authorized in Subsection A of this
25 section, shall dedicate a minimum of seventy-five percent of

1 the revenue to a regional spaceport district for the
2 financing, planning, designing, engineering and construction
3 of a regional spaceport pursuant to the Regional Spaceport
4 District Act and may dedicate no more than twenty-five
5 percent of the revenue for spaceport-related projects as
6 approved by resolution of the governing body of the
7 municipality.

8 C. An ordinance imposing a municipal regional
9 spaceport gross receipts tax shall not go into effect until
10 after an election is held and a majority of the voters of the
11 municipality voting in the election votes in favor of
12 imposing the tax. The governing body shall adopt a
13 resolution calling for an election within seventy-five days
14 of the date the ordinance is adopted on the question of
15 imposing the tax. The question shall be submitted to the
16 voters of the municipality as a separate question at a
17 regular local election or at a special election called for
18 that purpose by the governing body. An election shall be
19 called, conducted and canvassed as provided in the Local
20 Election Act. If a majority of the voters voting on the
21 question approves the ordinance imposing the municipal
22 regional spaceport gross receipts tax, the ordinance shall
23 become effective in accordance with the provisions of the
24 Municipal Local Option Gross Receipts Taxes Act. If the
25 question of imposing the municipal regional spaceport gross

1 receipts tax fails, the governing body shall not again
2 propose the imposition of an increment of the tax for a
3 period of one year from the date of the election.

4 D. The governing body of a municipality imposing
5 the municipal regional spaceport gross receipts tax shall
6 transfer a minimum of seventy-five percent of all proceeds
7 from the tax to the regional spaceport district of which it
8 is a member for regional spaceport purposes in accordance
9 with the provisions of the Regional Spaceport District Act.
10 The governing body of a municipality imposing the municipal
11 regional spaceport gross receipts tax may retain no more than
12 twenty-five percent of the municipal regional spaceport gross
13 receipts tax for spaceport-related projects as approved by
14 resolution of the governing body."

15 **SECTION 79.** Section 7-19D-17 NMSA 1978 (being Laws
16 2012, Chapter 58, Section 1) is amended to read:

17 "7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--
18 AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

19 A. A majority of the members of the governing body
20 of a municipality may enact an ordinance imposing an excise
21 tax on any person engaging in business in the municipality
22 for the privilege of engaging in business. The rate of the
23 tax shall not exceed one-fourth percent of the gross receipts
24 of the person engaging in business. An ordinance enacting
25 the tax authorized by this section is subject to a positive

1 referendum.

2 B. The tax imposed pursuant to this section may be
3 referred to as the "federal water project gross receipts
4 tax".

5 C. The governing body of a municipality, at the
6 time of enacting an ordinance imposing the rate of the tax
7 authorized in this section, shall dedicate the revenue for
8 the repayment of loan obligations to the federal government
9 for the construction, expansion, operation and maintenance of
10 a water delivery system and for the expansion, operation and
11 maintenance of that water delivery system after the loan
12 obligation to the federal government is retired or repaid.
13 The revenue from the federal water project gross receipts tax
14 shall not be dedicated to repay revenue bonds or any other
15 form of bonds.

16 D. An ordinance imposing the federal water project
17 gross receipts tax shall not go into effect until an election
18 is held and a majority of the voters of the municipality
19 voting in the election votes in favor of imposing the tax.
20 The governing body shall adopt a resolution calling for an
21 election within seventy-five days of the date the ordinance
22 is adopted on the question of imposing the tax. The question
23 shall be submitted to the voters of the municipality as a
24 separate question at a regular local election or at a special
25 election called for that purpose by the governing body. An

1 election shall be called, conducted and canvassed as provided
2 in the Local Election Act. If a majority of the voters
3 voting on the question approves the ordinance imposing the
4 federal water project gross receipts tax, then the ordinance
5 shall become effective on January 1 or July 1 in accordance
6 with the provisions of the Municipal Local Option Gross
7 Receipts Taxes Act. If the question of imposing the federal
8 water project gross receipts tax fails, the governing body
9 shall not again propose the imposition of the tax for a
10 period of one year from the date of the election.

11 E. A municipality that imposed a federal water
12 project gross receipts tax pursuant to this section shall not
13 also impose a municipal capital outlay gross receipts tax.

14 F. As used in this section, "municipality" means an
15 incorporated municipality that has a population pursuant to
16 the most recent federal decennial census of greater than
17 twenty thousand but less than twenty-five thousand and is
18 located in a class B county."

19 **SECTION 80.** Section 7-24A-11 NMSA 1978 (being Laws
20 1978, Chapter 182, Section 11, as amended) is amended to
21 read:

22 "7-24A-11. MUNICIPAL GASOLINE TAX--PROCEDURE FOR
23 ADOPTION OF ORDINANCE--ELECTION.--

24 A. The ordinance imposing a municipal gasoline tax
25 shall not go into effect until after an election is held and

1 a simple majority of the qualified electors of the
2 municipality voting on the question votes in favor of
3 imposing the municipal gasoline tax. The governing body of
4 the municipality shall provide for an election on the
5 question of imposing the municipal gasoline tax within sixty
6 days after the day the ordinance is adopted. Such question
7 may be submitted to the electors and voted upon as a separate
8 question at any regular or special election or at any special
9 election called for that purpose by the governing body. The
10 election upon the question shall be called, held, conducted
11 and canvassed in substantially the same manner as provided by
12 law for special elections as provided in the Local Election
13 Act. If the question of imposing a municipal gasoline tax
14 fails, the governing body shall not again propose a municipal
15 gasoline tax ordinance for a period of one year after the
16 election.

17 B. After passage of a municipal gasoline tax
18 ordinance, the governing body of the municipality shall
19 submit a certified copy of the ordinance to the taxation and
20 revenue department."

21 **SECTION 81.** Section 10-3-1 NMSA 1978 (being Laws 1909,
22 Chapter 36, Section 3, as amended) is amended to read:

23 "10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL
24 OFFICE.--Any office belonging to the class mentioned in
25 Section 10-4-1 NMSA 1978 becomes vacant under any of the

1 following circumstances:

2 A. by death of the party in office;

3 B. removal of the officer as provided by Sections
4 10-4-1 through 10-4-29 NMSA 1978;

5 C. failure of the officer to qualify as provided by
6 law;

7 D. expiration of the term of office when no
8 successor has been chosen as provided by law;

9 E. when the officer removes from the area from
10 which the officer was elected to represent and, in case of an
11 officer serving pursuant to an appointment, when the officer
12 removes from the area the officer was appointed to represent;

13 F. absence from the political subdivision in which
14 the officer serves for six consecutive months; but this
15 provision does not apply to those officers wherein the law
16 provides that the duties may be discharged by a deputy, when
17 such absence is due to illness or other unavoidable cause;

18 G. by resignation of the officer; or

19 H. by an officer accepting and undertaking to
20 discharge the duties of another incompatible office."

21 **SECTION 82.** Section 10-4-1 NMSA 1978 (being Laws 1909,
22 Chapter 36, Section 1, as amended) is amended to read:

23 "10-4-1. LOCAL OFFICERS SUBJECT TO REMOVAL.--Any
24 officer of a political subdivision of the state elected by
25 the people and any officer appointed to fill out the

1 unexpired term of any such officer may be removed from office
2 on any of the grounds mentioned in and according to the
3 provisions of Sections 10-4-1 through 10-4-29 NMSA 1978."

4 **SECTION 83.** Section 21-13-8 NMSA 1978 (being Laws 1963,
5 Chapter 17, Section 7, as amended) is amended to read:

6 "21-13-8. COMMUNITY COLLEGE BOARD.--

7 A. Community college board members shall be
8 qualified electors and residents of the community college
9 district.

10 B. Community college board members shall be elected
11 for staggered terms of six years. Elections shall be held
12 pursuant to the Local Election Act.

13 C. All vacancies caused in any other manner than by
14 the expiration of the term of office shall be filled by
15 appointment by the remaining members. An individual
16 appointed by the remaining members of the board to fill a
17 vacancy in office shall serve until the next community
18 college board election, at which time candidates shall file
19 for and be elected to fill the vacant position to serve the
20 remainder of the unexpired term.

21 D. A community college board shall select from its
22 members a chair and secretary who shall serve in these
23 offices until the next regular community college board
24 election. After each community college board election, the
25 members shall proceed to reorganize."

1 **SECTION 84.** Section 21-16-5.1 NMSA 1978 (being Laws
2 1994, Chapter 83, Section 3, as amended) is amended to read:

3 "21-16-5.1. BOARD MEMBERS--ELECTED FROM DISTRICTS--
4 ELECTIONS.--

5 A. A district board shall be composed of five or
6 seven members elected for four-year terms who shall reside in
7 and be elected from single-member districts as provided in
8 this section. If the board is a seven-member board, board
9 members shall be elected for all seven positions on the
10 board, with the board members elected to positions 1, 3, 5
11 and 7 to be elected for initial terms of two years and the
12 board members elected to positions 2, 4 and 6 to be elected
13 for initial terms of four years. If the board is a five-
14 member board, board members elected to positions 1, 3 and 5
15 shall be elected for initial terms of two years and board
16 members elected to positions 2 and 4 shall be elected for
17 initial terms of four years. After the initial election for
18 a district board, each board member shall be elected for a
19 term of four years.

20 B. All election proceedings for technical and
21 vocational institute district elections shall be conducted
22 pursuant to the provisions of the Local Election Act.

23 C. Once following each federal decennial census,
24 the board shall redistrict the technical and vocational
25 institute district into election districts to ensure that the

1 districts remain as equal in population as is practicable and
2 shall notify the county clerk of the new boundaries upon
3 completion of the redistricting process. The new districts
4 shall go into effect at the first regular board election
5 thereafter. Candidates for the new single-member districts
6 that are scheduled to be voted on at the election shall
7 reside in and be elected from the appropriate new single-
8 member district. Incumbent board members whose districts
9 before redistricting were not scheduled to be voted on at the
10 election need not reside in the new single-member districts
11 corresponding to their position numbers and may serve out
12 their terms. At the second regular board election held after
13 the redistricting, all candidates for the new single-member
14 districts that are scheduled to be voted on shall reside in
15 and be elected from the appropriate single-member district.

16 D. All election districts covered by this section
17 shall be contiguous, compact and as equal in population as is
18 practicable.

19 E. A vacancy occurring on the board shall be filled
20 in the same manner as provided for school board vacancies in
21 Section 22-5-9 NMSA 1978; provided, however, that a vacancy
22 that occurs in an election district where a nonresident board
23 member had been serving shall be filled by a resident of that
24 district."

25 SECTION 85. Section 21-16-14 NMSA 1978 (being Laws

1 1963, Chapter 108, Section 11, as amended) is amended to
2 read:

3 "21-16-14. ADDITION OF SCHOOL DISTRICTS OR PORTIONS OF
4 SCHOOL DISTRICTS TO EXISTING TECHNICAL AND VOCATIONAL
5 INSTITUTE DISTRICTS.--

6 A. A technical and vocational institute district
7 may be expanded by either the procedure in Subsections B, C
8 and D of this section or the procedure in Subsections E and F
9 of this section.

10 B. The qualified voters of a school district,
11 portion of a school district, group of school districts
12 within a county containing a technical and vocational
13 institute district or in an adjoining county, not included in
14 the technical and vocational institute district as originally
15 formed, may petition the public education department to be
16 added to the technical and vocational institute district.
17 The department shall examine the petition, and if it finds
18 that the petition is signed by a number of qualified voters
19 residing within the pertinent school district or portion of a
20 school district equal to ten percent of the votes cast for
21 governor in such school district or portion of such school
22 district in the last preceding general election, the
23 department shall cause a survey to be made of the petitioning
24 district or districts to determine the desirability of the
25 proposed expansion of the technical and vocational institute

1 district.

2 C. In conducting the survey, the public education
3 department, in conjunction with the higher education
4 department, shall ascertain the attitude of the technical and
5 vocational institute board and collect other information it
6 deems necessary. If, on the basis of the survey, the public
7 education department finds that the proposed addition of the
8 petitioning area will promote an improved education service
9 in the area, it shall approve the petition. The secretary of
10 public education shall proceed to issue a proclamation and
11 call an election pursuant to the provisions of the Local
12 Election Act within the petitioning area and in the
13 established technical and vocational institute district on
14 the question of the inclusion of the petitioning area in the
15 institute district.

16 D. If a majority of the votes cast in the
17 petitioning area and a majority of the votes cast within the
18 established institute district are in favor of the addition
19 of the area, the public education department shall notify the
20 local school board of each affected school district and the
21 technical and vocational institute board of the results of
22 the election and shall declare the extension of the
23 boundaries of the institute district to include the
24 petitioning area in which the proposed addition referendum
25 carried by a majority vote.

1 E. If a technical and vocational institute district
2 includes less than all of a school district, the institute
3 board, by resolution of a majority of the members of the
4 board, may call an election within the institute district and
5 in the portion of the school district that is not included in
6 the institute district on the question of the addition of the
7 excluded portion of the school district to the established
8 institute district. Such election shall be conducted
9 pursuant to the provisions of the Local Election Act.

10 F. If a majority of the votes cast in the institute
11 district and the portion of the school district that is
12 outside the institute district are in favor of the addition
13 of the excluded portion of the school district to the
14 institute district, the board of the institute district shall
15 declare the institute district to be expanded to include all
16 of such school district.

17 G. Each area added to an existing technical and
18 vocational institute district shall automatically be subject
19 to any special levy on taxable property approved for the
20 institute district for the maintenance of facilities and
21 services and for support of bond issues."

22 **SECTION 86.** Section 21-16-20 NMSA 1978 (being Laws 1964
23 (1st S.S.), Chapter 12, Section 5) is amended to read:

24 "21-16-20. SUBMISSION AT ELECTION--NOTICE--
25 CERTIFICATION.--If a question is submitted pursuant to

1 Section 21-16-16 NMSA 1978 at an election, the submitting
2 board shall notify the county clerk pursuant to the Local
3 Election Act. The submitting board shall furnish to the
4 county clerk of each county in which an affected school
5 district is situate a certificate specifying the question to
6 be submitted."

7 **SECTION 87.** Section 21-16A-6 NMSA 1978 (being Laws
8 2000, Chapter 105, Section 6) is amended to read:

9 "21-16A-6. LEARNING CENTER TAX LEVY AUTHORIZED--
10 ELECTION.--

11 A. A board may adopt a resolution authorizing, for
12 learning center operational purposes, the imposition of a
13 property tax upon the taxable value of property in the
14 district. The total tax imposition that may be authorized
15 under the Learning Center Act shall not exceed a rate of five
16 dollars (\$5.00) on each one thousand dollars (\$1,000) of
17 taxable value of property in each district. The tax
18 authorized pursuant to this section may not be imposed for a
19 period of more than six years.

20 B. The tax authorized in Subsection A of this
21 section shall not be imposed in a district unless the
22 question of authorizing the imposition of the tax is
23 submitted to the voters of the district at an election held
24 pursuant to the Local Election Act.

25 C. A resolution adopted pursuant to Subsection A of HLELC/HB 98
Page 131

1 this section shall specify:

2 (1) the rate of the proposed tax;

3 (2) the date of the election at which the
4 question of imposition of the tax will be submitted to the
5 voters of the district;

6 (3) the period of time the tax is authorized
7 to be imposed; and

8 (4) the proposed use of the revenues from the
9 proposed tax.

10 D. The election required by this section shall be
11 called, conducted and canvassed as provided in the Local
12 Election Act.

13 E. If a majority of the voters voting on the
14 question votes for a learning center tax levy pursuant to a
15 resolution adopted under the Learning Center Act, the tax
16 shall be imposed. The tax rate shall be certified by the
17 department of finance and administration and imposed,
18 administered and collected in accordance with the provisions
19 of the Oil and Gas Ad Valorem Production Tax Act, the Oil and
20 Gas Production Equipment Ad Valorem Tax Act, the Copper
21 Production Ad Valorem Tax Act and the Property Tax Code.

22 F. If a majority of the voters voting on the
23 question votes against a learning center tax levy pursuant to
24 a resolution adopted under the Learning Center Act, the tax
25 shall not be imposed. The board shall not again adopt a

1 resolution authorizing the imposition of a tax levy pursuant
2 to the Learning Center Act for at least two years after the
3 date of the resolution that the voters rejected.

4 G. The board may discontinue by resolution the
5 imposition of any tax authorized pursuant to the Learning
6 Center Act. The discontinuance resolution shall be mailed to
7 the department of finance and administration no later than
8 June 15 of the year in which a tax rate pursuant to that act
9 is not to be certified."

10 **SECTION 88.** Section 22-5-8 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 31, as amended) is amended to read:

12 "22-5-8. TERM OF OFFICE.--

13 A. The full term of office of a member of a local
14 school board shall be four years succeeding the member's
15 election to office at a regular local election held pursuant
16 to the Local Election Act.

17 B. Any member of a local school board whose term of
18 office has expired shall continue in that office until a
19 successor is elected and qualified."

20 **SECTION 89.** Section 22-7-1 NMSA 1978 (being Laws 1977,
21 Chapter 308, Section 1) is amended to read:

22 "22-7-1. SHORT TITLE.--Chapter 22, Article 7 NMSA 1978
23 may be cited as the "Local School Board Member Recall Act"."

24 **SECTION 90.** Section 22-7-13 NMSA 1978 (being Laws 1977,
25 Chapter 308, Section 13, as amended) is amended to read:

1 "22-7-13. SPECIAL RECALL ELECTION.--

2 A. The date of the special recall election shall be
3 set no later than one hundred twenty days after the date of
4 the determination by the county clerk, but in no event shall
5 the election be held within the period of time prohibited for
6 local government elections pursuant to Section 1-12-71 NMSA
7 1978.

8 B. The question to be submitted to the voters at
9 the special recall election shall be whether the named member
10 shall be recalled.

11 C. A special recall election may be held in
12 conjunction with a regular or local special election.

13 D. Except as otherwise provided in the Local School
14 Board Member Recall Act, special recall elections in a school
15 district shall be conducted pursuant to the provisions of the
16 Local Election Act.

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

22 **SECTION 91.** Section 22-18-2 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 229, as amended) is amended to read:

24 "22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--
25 CALLING FOR BOND ELECTIONS.--

1 A. Before any general obligation bonds are issued,
2 a local school board of a school district shall submit to a
3 vote of the qualified electors of the school district the
4 question of creating a debt by issuing the bonds, and a
5 majority of those persons voting on the question shall vote
6 for issuing the general obligation bonds.

7 B. The election on the question of creating a debt
8 by issuing general obligation bonds shall be held pursuant to
9 the provisions of the Local Election Act. The question shall
10 be submitted to a vote at a district election upon the
11 initiative of a local school board or upon a petition being
12 filed with a local school board signed by qualified electors
13 of the school district. The number of signatures required on
14 the petition shall be at least ten percent of the number of
15 votes cast for governor in the school district in the last
16 preceding general election. For the purpose of determining
17 the number of votes cast for governor in the school district
18 at the last preceding general election, any portion of a
19 voting division within the school district shall be construed
20 to be wholly within the school district. A local school
21 board shall call for a bond election at the next regular
22 local or special election within ninety days following the
23 date a properly signed petition is filed with it; provided
24 that the timing of the election does not conflict with the
25 provisions of Section 1-12-71 NMSA 1978."

1 **SECTION 92.** Section 22-18-4 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 231, as amended) is amended to read:

3 "22-18-4. BOND ELECTIONS--CONDUCT.--

4 A. A person is required to be a registered
5 qualified elector to vote in a bond election in a school
6 district.

7 B. Bond elections in a school district shall be
8 conducted pursuant to the Local Election Act."

9 **SECTION 93.** Section 22-18-8 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 235) is amended to read:

11 "22-18-8. RESTRICTION ON BOND ELECTIONS.--In the event
12 a majority of those persons voting on a question submitted to
13 the voters in a bond election votes against creating a debt
14 by issuing general obligation bonds, no bond election shall
15 be held on the same question for a period of two years from
16 the date of the bond election."

17 **SECTION 94.** Section 22-25-5 NMSA 1978 (being Laws 1975
18 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

19 "22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

20 A. An election on the question of imposing a tax
21 under the Public School Capital Improvements Act shall be
22 held as prescribed in the Local Election Act.

23 B. The proclamation required to be published as
24 notice of the election under Section 1-22-11 NMSA 1978 shall
25 include as the question to be submitted to the voters whether

1 a property tax at a rate not to exceed the rate specified in
2 the authorizing resolution should be imposed for the
3 specified number of property tax years not exceeding six
4 years upon the net taxable value of all property allocated to
5 the school district for the capital improvements specified in
6 the authorizing resolution.

7 C. The ballot shall include the information
8 specified in Subsection B of this section and shall present
9 the voter the choice of voting "for the public school capital
10 improvements tax" or "against the public school capital
11 improvements tax".

12 **SECTION 95.** Section 22-26-5 NMSA 1978 (being Laws 1983,
13 Chapter 163, Section 5, as amended) is amended to read:

14 "22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

15 A. An election on the question of imposing a tax
16 under the Public School Buildings Act shall be held as
17 prescribed in the Local Election Act.

18 B. The resolution required to be published as
19 notice of the election under Section 1-22-11 NMSA 1978 shall
20 include as the question to be submitted to the voters whether
21 a property tax at a rate not to exceed the rate specified in
22 the authorizing resolution should be imposed for the
23 specified number of property tax years not exceeding six
24 years upon the net taxable value of all property allocated to
25 the school district for capital improvements.

1 C. The ballot shall include the information
2 specified in Subsection B of this section and shall present
3 the voter the choice of voting "for the public school
4 buildings tax" or "against the public school buildings tax"."

5 **SECTION 96.** Section 22-26A-10 NMSA 1978 (being Laws
6 2007, Chapter 173, Section 10, as amended) is amended to
7 read:

8 "22-26A-10. CONDUCT OF ELECTION--NOTICE--BALLOT.--

9 A. An election on the question of imposing a tax
10 under Sections 22-26A-8 through 22-26A-12 NMSA 1978 shall be
11 held as prescribed in the Local Election Act.

12 B. The resolution required to be published as
13 notice of the election under Section 1-22-11 NMSA 1978 shall
14 include as the question to be submitted to the voters whether
15 a property tax at a rate not to exceed the rate specified in
16 the authorizing resolution should be imposed for the
17 specified number of property tax years not exceeding thirty
18 years upon the net taxable value of all property allocated to
19 the school district for payments due under lease purchase
20 arrangements.

21 C. The ballot shall include the information
22 specified in Subsection B of this section and shall present
23 the voter the choice of voting "for the lease purchase tax"
24 or "against the lease purchase tax"."

25 **SECTION 97.** Section 22-26A-11 NMSA 1978 (being Laws

1 2007, Chapter 173, Section 11) is amended to read:

2 "22-26A-11. ELECTION RESULTS--CERTIFICATION.--The
3 certification of the results of an election held on the
4 question of imposition of a lease purchase tax shall be made
5 in accordance with the Local Election Act, and a copy of the
6 certificate of results shall be mailed immediately to the
7 secretary."

8 **SECTION 98.** Section 60-5A-1 NMSA 1978 (being Laws 1981,
9 Chapter 39, Section 15, as amended) is amended to read:

10 "60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality
11 containing over five thousand persons according to the latest
12 United States census, whether the county in which that
13 municipality is situated has adopted the local option
14 provisions of the Liquor Control Act or any former act or
15 not, or any county in the state may adopt local option in the
16 county or municipality upon the following terms and
17 conditions:

18 A. at any time after the effective date of the
19 Liquor Control Act, the registered qualified electors of a
20 proposed local option district may petition the governing
21 body by filing one or more petitions in the appropriate
22 office to hold an election for the purpose of determining
23 whether the county or municipality shall adopt the local
24 option provisions of the Liquor Control Act. If the
25 aggregate of the signatures of such electors on all the

1 petitions equals or exceeds five percent of the number of
2 registered voters of the district, the governing body shall
3 call an election within seventy-five days of the verification
4 of the petition. The date of the filing of the petition
5 shall be the date of the filing of the last petition that
6 brings the number of signatures up to the required five
7 percent; provided, however, that the governing body shall
8 refuse to recognize the petition if more than three months
9 have elapsed between the date of the first signature and the
10 filing of the last petition necessary to bring the number of
11 signatures on the petition up to five percent;

12 B. the election shall be called, conducted, counted
13 and canvassed substantially in the manner provided by law for
14 general elections within the county or special elections
15 within the municipality, except as otherwise provided in this
16 section;

17 C. the votes at the election shall be counted,
18 returned and canvassed as provided for in the case of general
19 elections within the county or special elections within the
20 municipality;

21 D. except as otherwise provided in this section,
22 contests, recounts and rechecks shall be permitted as
23 provided for in the case of candidates for county office in
24 general elections or as provided for in the case of special
25 elections within the municipality. Applications for

1 contests, recounts or rechecks may be filed by any person who
2 voted in the election, and service shall be made upon the
3 county clerk or municipal clerk as the case may be;

4 E. if a majority of all the votes cast at the
5 election is cast in favor of the sale, service or public
6 consumption of alcoholic beverages in the county or
7 municipality, the chair of the governing body shall declare
8 by order entered upon the records of the county or
9 municipality that the county or municipality has adopted the
10 local option provisions of the Liquor Control Act and shall
11 notify the department of the results;

12 F. no election held pursuant to this section shall
13 be held within forty-two days of a primary or general
14 election. If within sixty days from the verification of a
15 petition as provided in Subsection A of this section a
16 primary or general election is held, the governing body may
17 call an election for a day not less than sixty days after the
18 primary or general election;

19 G. if an election is held under the provisions of
20 the Liquor Control Act in a county that contains within its
21 limits a municipality of more than five thousand persons
22 according to the latest United States census, it is not
23 necessary for the registered qualified electors in the
24 municipality to file a separate petition asking for a
25 separate or different vote on the question of adopting the

1 local option provisions of the Liquor Control Act by the
2 municipality. The election in the county shall be conducted
3 so as to separate the votes in the municipality from those in
4 the remaining parts of the county. If a majority of the
5 voters in the county, including the voters in the
6 municipality, votes against the sale, service or public
7 consumption of alcoholic beverages in the county, the county
8 shall not adopt the local option provisions of the Liquor
9 Control Act; but if a majority of the votes in the
10 municipality is in favor of the sale, service or public
11 consumption of alcoholic beverages, the municipality shall
12 have adopted the local option provisions of the Liquor
13 Control Act. Nothing contained in this subsection shall
14 prevent any municipality from having a separate election
15 under the terms of this section;

16 H. a county or municipality composing a local
17 option district under the provisions of the Liquor Control
18 Act or a former act may vote to discontinue the sale, service
19 or public consumption of alcoholic beverages in the local
20 option district; the discontinuance shall become effective on
21 the ninetieth day after the local option election is held;
22 and

23 I. nothing in this section shall invalidate any
24 local option election held pursuant to any former act prior
25 to July 1, 1981."

1 SECTION 99. Section 60-7A-1 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 47, as amended by Laws 2017, Chapter 9,
3 Section 1 and by Laws 2017, Chapter 49, Section 1) is amended
4 to read:

5 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--
6 CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED
7 PREMISES--ELECTIONS.--

8 A. Provided that nothing in this section shall
9 prohibit the consumption at any time of alcoholic beverages
10 in guest rooms of hotels, alcoholic beverages shall be sold,
11 served and consumed on licensed premises only during the
12 following hours and days:

13 (1) on Mondays from 7:00 a.m. until midnight;

14 (2) on Tuesdays through Saturdays from after
15 midnight of the previous day until 2:00 a.m., then from 7:00
16 a.m. until midnight, except as provided in Subsections E and
17 G of this section; and

18 (3) on Sundays only after midnight of the
19 previous day until 2:00 a.m., except as provided in
20 Subsections D and F of this section and Section 60-7A-2 NMSA
21 1978.

22 B. Except as provided in Subsection C of this
23 section, alcoholic beverages may be sold by a dispenser or a
24 retailer in unbroken packages, for consumption off the
25 licensed premises and not for resale, only on Mondays through

1 Saturdays from 7:00 a.m. until midnight, except as provided
2 in Subsections E and G of this section.

3 C. The governing body of a local option district
4 that is a class B county with a population greater than
5 seventy thousand and less than seventy-six thousand according
6 to the most recent federal decennial census or that is a
7 municipality located within a class B county with a
8 population greater than seventy thousand and less than
9 seventy-six thousand according to the most recent federal
10 decennial census may pass an ordinance to place restrictions,
11 in addition to those provided in this section, on the hours
12 during which a dispenser or retailer may sell alcoholic
13 beverages in unbroken packages for consumption off the
14 licensed premises and not for resale. The ordinance may
15 restrict sales between 7:00 a.m. and 10:00 a.m. and shall
16 provide the hours between 7:00 a.m. and 10:00 a.m., if any,
17 during which a dispenser or retailer may sell alcoholic
18 beverages in unbroken packages for consumption off the
19 licensed premises and not for resale.

20 D. A dispenser, restaurant licensee or club may,
21 upon payment of an additional fee of one hundred dollars
22 (\$100), obtain a permit to sell, serve or permit the
23 consumption of alcoholic beverages by the drink on the
24 licensed premises on Sundays, subject to approval obtained
25 pursuant to the process set forth in Subsection F of this

1 section. Alcoholic beverages may be sold, served and
2 consumed from 11:00 a.m. until midnight as set forth in the
3 licensee's Sunday sales permit, and in those years when
4 December 31 falls on a Sunday, from 11:00 a.m. until 2:00
5 a.m. of the following day, except as otherwise provided for a
6 restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday
7 sales permit shall expire on June 30 of each year and may be
8 renewed from year to year upon application for renewal and
9 payment of the required fee. The permit fee shall not be
10 prorated. Sales made pursuant to this subsection or
11 Subsection H of this section shall be called "Sunday sales".

12 E. Retailers, dispensers, canopy licensees that
13 were replaced by dispenser's licensees pursuant to Section
14 60-6B-16 NMSA 1978, restaurant licensees, club licensees and
15 governmental licensees or their lessees shall not sell,
16 serve, deliver or allow the consumption of alcoholic
17 beverages on the licensed premises from 2:00 a.m. on
18 Christmas day until 7:00 a.m. on the day after Christmas,
19 except as permitted pursuant to Subsection G of this section.

20 F. Sunday sales pursuant to the provisions of
21 Subsection D of this section are permitted in a local option
22 district that voted to permit them. If in that election a
23 majority of the voters in a local option district voted "no"
24 on the question "Shall Sunday sales of alcoholic beverages by
25 the drink for consumption on the licensed premises of

1 licenses be allowed in this local option district?", Sunday
2 sales are unlawful in that local option district upon
3 certification of the election returns unless the provisions
4 of Subsection K of this section apply. The question shall
5 not again be placed on the ballot in that local option
6 district until:

7 (1) at least one year has passed; and

8 (2) a petition is filed with the local
9 governing body bearing the signatures of registered qualified
10 electors of the local option district equal in number to ten
11 percent of the number of votes cast and counted in the local
12 option district for governor in the last preceding general
13 election in which a governor was elected. The signatures on
14 the petition shall be verified by the clerk of the county in
15 which the local option district is situated.

16 G. On and after July 1, 2002, dispensers, canopy
17 licensees that were replaced by dispenser's licensees
18 pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees,
19 club licensees and governmental licensees or lessees of these
20 licensees, provided that the licensees have current, valid
21 food service establishment permits, may sell, serve or allow
22 the consumption of alcoholic beverages by the drink on
23 licensed premises from noon until 10:00 p.m. on Christmas
24 day, except in a local option district in which, pursuant to
25 petition and election under this subsection, a majority of

1 the voters voting on the question votes against continuing
2 such sales or consumption on Christmas day. An election
3 shall be held on the question of whether to continue to allow
4 the sale, service or consumption of alcoholic beverages by
5 the drink on licensed premises from noon until 10:00 p.m. on
6 Christmas day in a local option district, if a petition
7 requesting the governing body of that district to call the
8 election is signed by at least ten percent of the registered
9 voters of the district and is filed with the clerk of the
10 governing body of the district. Upon verification by the
11 clerk that the petition contains the required number of
12 signatures of registered voters, the governing body shall
13 adopt a resolution calling an election on the question of
14 allowing the sale, service or consumption of alcoholic
15 beverages by the drink on licensed premises from noon until
16 10:00 p.m. on Christmas day. The election may be held in
17 conjunction with a regular election of the governing body or
18 a regular local or special election held pursuant to the
19 Local Election Act. The election shall be called, conducted,
20 counted and canvassed in substantially the same manner as
21 provided for general elections in the county under the
22 Election Code or for special elections in a municipality
23 under the Local Election Act. If a majority of the voters
24 voting on the question votes against continuing the sale,
25 service or consumption of alcoholic beverages by the drink on

1 licensed premises from noon until 10:00 p.m. on Christmas
2 day, then such sales and consumption shall be prohibited. If
3 a majority of the voters voting on the question votes to
4 allow continued sale, service and consumption of alcoholic
5 beverages by the drink on licensed premises from noon until
6 10:00 p.m. on Christmas day, then such sales and consumption
7 shall be allowed to continue. The question then shall not be
8 submitted again to the voters within two years of the date of
9 the last election on the question.

10 H. Notwithstanding the provisions of Subsection F
11 of this section, any Indian nation, tribe or pueblo whose
12 lands are wholly situated within the state that has, by
13 statute, ordinance or resolution, elected to permit the sale,
14 possession or consumption of alcoholic beverages on lands
15 within the territorial boundaries of the Indian nation, tribe
16 or pueblo may, by statute, ordinance or resolution of the
17 governing body of the Indian nation, tribe or pueblo, permit
18 Sunday sales by the drink on the licensed premises of
19 licensees on lands within the territorial boundaries of the
20 Indian nation, tribe or pueblo; provided that a certified
21 copy of such enactment is filed with the office of the
22 director and with the secretary of state.

23 I. Subject to the provisions of Subsection J of
24 this section, a dispenser or retailer, upon payment of an
25 additional fee of one hundred dollars (\$100), may obtain a

1 permit to sell alcoholic beverages in unbroken packages for
2 consumption off the licensed premises on Sundays from noon
3 until midnight, and in those years when December 31 falls on
4 a Sunday, from noon on December 31 until 2:00 a.m. of the
5 following day. The permit shall expire on June 30 of each
6 year and may be renewed from year to year upon application
7 for renewal and payment of the required fee. The permit fee
8 shall not be prorated. Sales made pursuant to the provisions
9 of this subsection shall be called "Sunday package sales".

10 J. If a petition requesting the governing body of a
11 local option district to call an election on the question of
12 continuing to allow sales of alcoholic beverages in unbroken
13 packages for consumption off the licensed premises on Sundays
14 is filed with the clerk of the governing body and that
15 petition is signed by at least ten percent of the number of
16 registered voters of the local option district and the clerk
17 of the governing body verifies the petition signatures, the
18 governing body shall adopt a resolution calling an election
19 on the question. The election shall be held within sixty
20 days of the date that the petition is verified, or it may be
21 held in conjunction with a regular election of the governing
22 body, if the regular election occurs within sixty days of the
23 petition verification. The election shall be called,
24 conducted, counted and canvassed substantially in the manner
25 provided by law for general elections within a county or for

1 special elections within a municipality pursuant to the Local
2 Election Act. If a majority of the voters of the local
3 option district voting in the election votes to allow the
4 sale of alcoholic beverages in unbroken packages for
5 consumption off the licensed premises, then those sales shall
6 continue to be allowed. If a majority of the voters of the
7 local option district voting in the election votes not to
8 allow the Sunday package sales, then those Sunday package
9 sales shall be prohibited commencing the first Sunday after
10 the results of the election are certified. Following the
11 election, the question of allowing the Sunday package sales
12 shall not be submitted again to the voters within two years
13 of the date of the last election on the question.

14 K. Sunday sales of alcoholic beverages shall be
15 permitted at resorts and at horse racetracks statewide
16 pursuant to the provisions of Section 60-7A-2 NMSA 1978."

17 **SECTION 100.** Section 62-6-5 NMSA 1978 (being Laws 1941,
18 Chapter 84, Section 17A, as amended) is amended to read:

19 "62-6-5. LOCAL OPTION.--Notwithstanding any of the
20 provisions in Section 62-6-4 NMSA 1978, any municipality
21 desiring to avail itself of all the benefits of the Public
22 Utility Act and of the regulatory services of the commission
23 may elect to come within the provisions of that act and to
24 have the utilities owned and operated by it, either directly
25 or through a municipally owned corporation, regulated and

1 supervised under the provisions of that act. When a
2 municipality so elects, in the manner provided in this
3 section, it shall be subject to all the provisions of the
4 Public Utility Act. The election shall be held as follows:

5 A. at any time after the effective date of the
6 Public Utility Act, the legal voters of any municipality may
7 petition in writing the governing body of the municipality by
8 filing a petition in the office of the municipal clerk to
9 hold an election for the purpose of determining whether the
10 municipality shall be subject to the provisions of that act.
11 If the aggregate of the names signed to the petition equals
12 or exceeds twenty-five percent of the number of legal votes
13 cast in the municipality for governor at the last preceding
14 general election, the governing body of the municipality
15 shall call an election to be held within sixty days of the
16 filing of the petition in accordance with the provisions of
17 the Local Election Act. Provided, however, that if a local
18 election is to be held within six months of the filing of the
19 petition, the election provided for in this section shall be
20 held at the same time as that election;

21 B. the election shall be held in the same manner as
22 and with the same registration books as for other municipal
23 elections. The ballots to be submitted to the voters at the
24 election shall present the following questions:

25 "For regulation of municipally owned

1 utilities by the public
2 regulation commission _____
3 Against regulation of municipally owned
4 utilities by the public
5 regulation commission _____".

6 The votes at the election shall be counted, returned and
7 canvassed as provided for in the Local Election Act. If the
8 majority of all the votes are in favor of regulation of
9 municipally owned utilities, the governing body of the
10 municipality shall declare, by order entered upon the records
11 of the municipality, that it is subject to all the provisions
12 of the Public Utility Act. If the majority of all the votes
13 are against such regulation, the result of the election shall
14 be declared and entered in the same manner; and

15 C. no elections for the same purpose shall be held
16 within two years of each other."

17 **SECTION 101.** Section 72-16-1 NMSA 1978 (being Laws
18 1963, Chapter 311, Section 1) is amended to read:

19 "72-16-1. SHORT TITLE.--Chapter 72, Article 16 NMSA
20 1978 may be cited as the "Arroyo Flood Control Act"."

21 **SECTION 102.** Section 72-16-4 NMSA 1978 (being Laws
22 1963, Chapter 311, Section 4) is amended to read:

23 "72-16-4. DEFINITIONS.--Except where the context
24 otherwise requires, as used in the Arroyo Flood Control Act:

25 A. "act" means the Arroyo Flood Control Act;

1 B. "acquisition" or "acquire" means the opening,
2 laying out, establishment, purchase, construction, securing,
3 installation, reconstruction, lease, gift, grant from the
4 federal government or any public body or person, endowment,
5 bequest, devise, condemnation, transfer, assignment, option
6 to purchase, other contract or other acquirement, or any
7 combination of those, of facilities, other property or any
8 project, or an interest in them, authorized by the Arroyo
9 Flood Control Act;

10 C. "authority" means the Albuquerque metropolitan
11 arroyo flood control authority;

12 D. "board" means the board of directors of the
13 Albuquerque metropolitan arroyo flood control authority;

14 E. "chair" means the chair of the board and
15 president of the authority;

16 F. "condemnation" or "condemn" means the
17 acquisition by the exercise of the power of eminent domain of
18 property for any facilities, other property or project, or an
19 interest in them, authorized by the Arroyo Flood Control Act.
20 The authority may exercise in the state the power of eminent
21 domain, either within or without the authority, and in the
22 manner provided by law for the condemnation of private
23 property for public use, may take any property necessary to
24 carry out any of the objects or purposes of the Arroyo Flood
25 Control Act. In the event the construction of any facility

1 or project authorized by that act, or any part of the act
2 makes necessary the removal and relocation of any public
3 utilities, whether on private or public right of way, the
4 authority shall reimburse the owner of the public utility
5 facility for the expense of removal and relocation, including
6 the cost of any necessary land or rights in land;

7 G. "cost" or "cost of the project", or words of
8 similar import, means any part designated by the board of the
9 cost of any facilities, project or interest being acquired
10 and of any property, rights, easements, privileges,
11 agreements and franchises deemed by the authority to be
12 necessary or useful and convenient or in connection
13 therewith, which cost, at the option of the board, may
14 include any part of the incidental costs pertaining to the
15 project, including without limiting the generality of the
16 foregoing, preliminary expenses advanced by any municipality
17 from funds available for use in the making of surveys,
18 preliminary plans, estimates of cost and other preliminaries;
19 for the costs of appraising and printing and employing
20 engineers, architects, fiscal agents, attorneys at law,
21 clerical help or other agents or employees; for the costs of
22 capitalizing interest or any discount on securities, of
23 inspection, of any administrative, operating and other
24 expenses of the authority prior to the levy and collection of
25 taxes and of reserves for working capital, operation,

1 maintenance or replacement expenses or for payment or
2 security of principal of or interest on any securities; for
3 the costs of making, publishing, posting, mailing and
4 otherwise giving any notice in connection with the project,
5 the taking of options, the issuance of securities, the filing
6 or recordation of instruments and the levy and collection of
7 taxes and installments; for the costs of reimbursements by
8 the authority to any public body, the federal government or
9 any person of any money expended for or in connection with
10 any facility or project; and for all other expenses necessary
11 or desirable and appertaining to any project, as estimated or
12 otherwise ascertained by the board;

13 H. "director" means a member of the board;

14 I. "disposal" or "dispose" means the sale,
15 destruction, razing, loan, lease, gift, grant, transfer,
16 assignment, mortgage, option to sell, other contract or other
17 disposition, or any combination thereof, of facilities, other
18 property or any project, or an interest in them, authorized
19 by the Arroyo Flood Control Act;

20 J. "engineer" means any engineer in the permanent
21 employ of the authority or any independent competent engineer
22 or firm of engineers employed by the authority in connection
23 with any facility, property project or power authorized by
24 the Arroyo Flood Control Act;

25 K. "equipment" or "equip" means the furnishing of

1 all necessary or desirable, related or appurtenant
2 facilities, or any combination of them, appertaining to any
3 facilities, property or project or interest in them,
4 authorized by the Arroyo Flood Control Act;

5 L. "facility" means any of the water facilities,
6 sewer facilities or other property appertaining to the flood
7 control system of the authority;

8 M. "federal government" means the United States or
9 any agency, instrumentality or corporation of the United
10 States;

11 N. "federal securities" means the bills,
12 certificates of indebtedness, notes or bonds that are direct
13 obligations of, or the principal and interest of which
14 obligations are unconditionally guaranteed by, the United
15 States;

16 O. "governing body" means the city council, city
17 commission, board of commissioners, board of trustees, board
18 of directors or other legislative body of the public body
19 proceeding under the Arroyo Flood Control Act, in which body
20 the legislative powers of the public body are vested;

21 P. "hereby", "herein", "hereinabove",
22 "hereinafter", "hereinbefore", "hereof", "hereto" and
23 "hereunder" refer to the Arroyo Flood Control Act and not
24 solely to the particular portion of the act in which such
25 word is used;

1 Q. "improvement" or "improve" means the extension,
2 widening, lengthening, betterment, alteration,
3 reconstruction, repair or other improvement, or any
4 combination, of facilities, other property or project or any
5 interest in them, authorized by the Arroyo Flood Control Act;

6 R. "mailed notice" or "notice by mail" means the
7 giving by the engineer, secretary or any deputy, as
8 determined by the board, of any designated written or printed
9 notice addressed to the last known owner of each tract of
10 real property in question or other designated person at the
11 owner's last known address, by deposit, at least ten days
12 prior to the designated hearing or other time or event, in
13 the United States mails, postage prepaid, as first-class
14 mail. In the absence of fraud, the failure to mail a notice
15 shall not invalidate any proceedings under the Arroyo Flood
16 Control Act. The names and addresses of the property owners
17 shall be obtained from the records of the county assessor or
18 from such other source as the secretary or the engineer deems
19 reliable. Any list of names and addresses may be revised
20 from time to time, but the list need not be revised more
21 frequently than at twelve-month intervals. Any mailing of
22 notice required shall be verified by the affidavit or
23 certificate of the engineer, secretary, deputy or other
24 person mailing the notice, which verification shall be
25 retained in the records of the authority at least until all

1 taxes and securities appertaining to taxes have been paid in
2 full or any claim is barred by a statute of limitations;

3 S. "may" is permissive;

4 T. "municipality" means the city of Albuquerque or
5 any other incorporated city, town or village in the state,
6 whether incorporated or governed under a general act, special
7 legislative act or special charter of any type. "Municipal"
8 pertains thereto;

9 U. "person" means any human being, association,
10 partnership, firm or corporation, excluding a public body and
11 excluding the federal government;

12 V. "president" means the president of the authority
13 and the chair of the board;

14 W. "project" means any structure, facility,
15 undertaking or system that the authority is authorized to
16 acquire, improve, equip, maintain or operate. A project may
17 consist of all kinds of personal and real property. A
18 project shall appertain to the flood control system that the
19 authority is authorized and directed to provide within and
20 without the authority's boundaries;

21 X. "property" means real property and personal
22 property;

23 Y. "publication" or "publish" means publication in
24 at least the one newspaper designated as the authority's
25 official newspaper and published in the authority in the

1 English language at least once a week and of general
2 circulation in the authority. Except as otherwise
3 specifically provided or necessarily implied, "publication"
4 or "publish" also means publication for at least once a week
5 for three consecutive weeks by three weekly insertions, the
6 first publication being at least fifteen days prior to the
7 designated time or event, unless otherwise stated. It is not
8 necessary that publication be made on the same day of the
9 week in each of the three calendar weeks, but not less than
10 fourteen days shall intervene between the first publication
11 and the last publication, and publication shall be complete
12 on the day of the last publication. Any publication required
13 shall be verified by the affidavit of the publisher and filed
14 with the secretary;

15 Z. "public body" means the state or any agency,
16 instrumentality or corporation of the state, or any
17 municipality, school district or other type district or any
18 other political subdivision of the state, excluding the
19 authority and excluding the federal government;

20 AA. "qualified elector" means a person qualified
21 and registered to vote in general elections in the state who
22 is a resident of the authority at the time of any election
23 held under the provisions of the Arroyo Flood Control Act or
24 at any other time in reference to which the term "qualified
25 elector" is used;

1 BB. "real property" means:

2 (1) land, including land under water;

3 (2) buildings, structures, fixtures and
4 improvements on land;

5 (3) any property appurtenant to or used in
6 connection with land; and

7 (4) every estate, interest, privilege,
8 easement, franchise and right in land, legal or equitable,
9 including without limiting the generality of the foregoing,
10 rights of way, terms for years and liens, charges or
11 encumbrances by way of judgment, mortgage or otherwise, and
12 the indebtedness secured by the liens;

13 CC. "secretary" means the secretary of the
14 authority;

15 DD. "secretary of state" means the secretary of the
16 state of New Mexico;

17 EE. "securities" means any notes, warrants, bonds,
18 temporary bonds or interim debentures or other obligations of
19 the authority or any public body appertaining to any project,
20 or interest in a project authorized by the Arroyo Flood
21 Control Act;

22 FF. "sewer facilities" means any one or more of the
23 various devices used in the collection, channeling,
24 impounding or disposition of storm, flood or surface drainage
25 waters, including all inlets, collection, drainage or

1 disposal lines, canals, intercepting sewers, outfall sewers,
2 all pumping, power and other equipment and appurtenances; all
3 extensions, improvements, remodeling, additions and
4 alterations; and any rights or interest in such sewer
5 facilities;

6 GG. "sewer improvement" or "improve any sewer"
7 means the acquisition, reacquisition, improvement,
8 reimprovement or repair of any storm sewer, or combination
9 storm and sanitary sewer, including collecting and
10 intercepting sewer lines or mains, submains, trunks,
11 laterals, outlets, ditches, ventilation stations, pumping
12 facilities, ejector stations and all other appurtenances and
13 machinery necessary, useful or convenient for the collection,
14 transportation and disposal of storm water;

15 HH. "shall" is mandatory;

16 II. "state" means the state of New Mexico or any
17 agency, instrumentality or corporation of the state of New
18 Mexico;

19 JJ. "street" means any street, avenue, boulevard,
20 alley, highway or other public right of way used for any
21 vehicular traffic;

22 KK. "taxes" means general (ad valorem) taxes
23 pertaining to any project authorized by the Arroyo Flood
24 Control Act; and

25 LL. "treasurer" means the treasurer of the

1 authority."

2 **SECTION 103.** Section 72-16-8 NMSA 1978 (being Laws
3 1963, Chapter 311, Section 8) is amended to read:

4 "72-16-8. BOARD OF DIRECTORS.--The governing body of
5 the authority hereby created is a board of directors
6 consisting of five qualified electors of the authority. All
7 powers, rights, privileges and duties vested in or imposed
8 upon the authority are exercised and performed by and through
9 the board of directors; provided that the exercise of any
10 executive, administrative and ministerial powers may be, by
11 the board, delegated and redelegated to officers and
12 employees of the authority. Except for the first directors
13 appointed as provided for in Section 72-16-9 NMSA 1978, and
14 except for any director chosen to fill an unexpired term, the
15 term of each director runs for six years. Each director,
16 subject to such exceptions, shall serve a six-year term, and
17 each director shall serve until a successor has been duly
18 chosen and qualified."

19 **SECTION 104.** Section 72-16-10 NMSA 1978 (being Laws
20 1963, Chapter 311, Section 10, as amended) is amended to
21 read:

22 "72-16-10. ELECTION OF DIRECTORS.--

23 A. Elections shall be held pursuant to the
24 provisions of the Local Election Act. Directors shall be
25 elected from single-member districts in which they reside.

1 The board shall ensure that the districts remain contiguous,
2 compact and as equal in population as is practicable,
3 assessing the existing districts following each federal
4 decennial census to accomplish that objective. A
5 redistricting shall be effective at the following regular
6 board election. Incumbent board members whose residences are
7 redistricted out of their districts may serve out their term
8 of office.

9 B. The qualified electors of the authority shall
10 elect similarly one or two qualified electors as directors to
11 serve six-year terms as directors and as successors to the
12 directors whose terms end following each election. Nothing
13 may be construed as preventing qualified electors of the
14 authority from single-member districts from being elected or
15 reelected as directors to succeed themselves."

16 **SECTION 105.** Section 72-16-11 NMSA 1978 (being Laws
17 1963, Chapter 311, Section 11, as amended) is amended to
18 read:

19 "72-16-11. NOMINATION OF DIRECTORS.-- Written
20 nominations of any candidate as director may be filed in
21 accordance with the provisions of the Local Election Act.
22 Each nomination of any candidate shall be signed by not less
23 than fifty qualified electors who reside within the district
24 for which the candidate has been nominated, shall designate
25 the name of the candidate nominated and shall recite that the

1 subscribers are qualified electors of the district for which
2 the candidate is nominated and that the candidate designated
3 is a qualified elector of the authority and resides within
4 the district for which the candidate is nominated. No
5 qualified elector may nominate more than one candidate for
6 any vacancy. "

7 **SECTION 106.** Section 72-16-13 NMSA 1978 (being Laws
8 1963, Chapter 311, Section 13) is amended to read:

9 "72-16-13. ORGANIZATIONAL MEETINGS.--Except for the
10 first board, each board shall meet on the first business day
11 following the first day of the month that the term of office
12 begins for members elected in the immediately preceding
13 election at the office of the board within the authority.
14 Each member of the board, before entering upon the member's
15 official duties, shall take and subscribe on oath to support
16 the constitution of the United States and the constitution
17 and laws of New Mexico and to discharge faithfully and
18 impartially the duties of office to the best of the member's
19 ability, which oath shall be filed in the office of the
20 secretary of state. Each director shall, before entering
21 upon the director's official duties, give a bond to the
22 authority in the sum of ten thousand dollars (\$10,000) with
23 good and sufficient surety, conditioned for the faithful
24 performance of all of the duties of office, without fraud,
25 deceit or oppression, and the accounting for all money and

1 property coming into the director's hands and the prompt and
2 faithful payment of all money and the delivering of all
3 property coming into the director's custody or control
4 belonging to the authority to the director's successors in
5 office. Premiums on all bonds provided for in this section
6 shall be paid by the authority, and all such bonds shall be
7 kept on file in the office of the secretary of state."

8 **SECTION 107.** Section 72-16-22 NMSA 1978 (being Laws
9 1963, Chapter 311, Section 22, as amended) is amended to
10 read:

11 "72-16-22. **ADDITIONAL POWERS OF THE AUTHORITY.**--The
12 authority may exercise the following duties, privileges,
13 immunities, rights, liabilities and disabilities appertaining
14 to a public body politic and corporate and constituting a
15 quasi-municipal corporation and political subdivision of the
16 state established as an instrumentality exercising public and
17 essential governmental and proprietary functions to provide
18 for the public health, safety and general welfare:

19 A. have perpetual existence and succession;

20 B. adopt, have and use a corporate seal and alter
21 the same at pleasure;

22 C. sue and be sued and be a party to suits, actions
23 and proceedings;

24 D. commence, maintain, intervene in, defend,
25 compromise, terminate by settlement or otherwise, and

1 otherwise participate in, and assume the cost and expense of,
2 any and all actions and proceedings now or hereafter begun
3 and appertaining to the authority, its board, its officers,
4 agents or employees, or any of the authority's duties,
5 privileges, immunities, rights, liabilities and disabilities,
6 or the authority's flood control system, other property of
7 the authority or any project;

8 E. enter into contracts and agreements, including
9 contracts with the federal government, the state and any
10 other public body;

11 F. borrow money and issue securities evidencing any
12 loan to or amount due by the authority, provide for and
13 secure the payment of any securities and the rights of the
14 holders thereof, and purchase, hold and dispose of
15 securities, as hereinafter provided;

16 G. refund any loan or obligation of the authority
17 and issue refunding securities to evidence such loan or
18 obligation without any election;

19 H. purchase, trade, exchange, encumber and
20 otherwise acquire, maintain and dispose of property and
21 interests therein;

22 I. levy and cause to be collected general (ad
23 valorem) taxes on all property subject to property taxation
24 within the authority; provided that the total tax levy,
25 excluding any levy for the payment of any debt of the

1 authority authorized pursuant to the Arroyo Flood Control
2 Act, for any fiscal year shall not exceed an aggregate total
3 of fifty cents (\$.50), or any lower amount required by
4 operation of the rate limitation provisions of Section
5 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand
6 dollars (\$1,000) of net taxable value, as that term is
7 defined in the Property Tax Code, by certifying, on or before
8 the fifteenth day of July in each year in which the board
9 determines to levy a tax, to the board of county
10 commissioners of Bernalillo county, or by such other date as
11 the laws of the state may prescribe to such other body having
12 authority to levy taxes within each county wherein the
13 authority has any territory, the rate so fixed, with
14 directions that, at the time and in the manner required by
15 law for levying taxes for other purposes, such body having
16 authority to levy taxes shall levy the tax upon the net
17 taxable value of all property subject to property taxation
18 within the authority, in addition to such other taxes as may
19 be levied by such body, as provided in Sections 72-16-23
20 through 72-16-27 NMSA 1978. No taxes may be levied and
21 collected for any purpose, or any contract made, until a bond
22 issue has been submitted to and approved by the qualified
23 electors as hereinafter provided;

24 J. hire and retain officers, agents, employees,
25 engineers, attorneys and any other persons, permanent or

1 temporary, necessary or desirable to effect the purposes
2 hereof, defray any expenses incurred thereby in connection
3 with the authority, and acquire office space, equipment,
4 services, supplies, fire and extended coverage insurance, use
5 and occupancy insurance, workers' compensation insurance,
6 property damage insurance, public liability insurance for the
7 authority and its officers, agents and employees, and other
8 types of insurance, as the board may determine; provided,
9 however, that no provision herein authorizing the acquisition
10 of insurance shall be construed as waiving any immunity of
11 the authority or any director, officer or agent thereof and
12 otherwise existing under the laws of the state;

13 K. condemn property for public use;

14 L. acquire, improve, equip, hold, operate, maintain
15 and dispose of a flood control system, storm sewer
16 facilities, project and appurtenant works, or any interest
17 therein, wholly within the authority, or partially within and
18 partially without the authority, and wholly within, wholly
19 without or partially within and partially without any public
20 body all or any part of the area of which is situated within
21 the authority;

22 M. pay or otherwise defray the cost of any project;

23 N. pay or otherwise defray and contract so to pay
24 or defray, for any term not exceeding fifty years, without an
25 election, except as hereinafter otherwise provided, the

1 principal of, any interest on, and any other charges
2 appertaining to, any securities or other obligations of the
3 federal government or any public body or person incurred in
4 connection with any such property so acquired by the
5 authority;

6 O. establish and maintain facilities within or
7 without the authority, across or along any public street,
8 highway, bridge, viaduct or other public right of way, or in,
9 upon, under or over any vacant public lands, which public
10 lands are now, or may become, the property of the state, or
11 across any stream of water or water course, without first
12 obtaining a franchise from the municipality, county or other
13 public body having jurisdiction over the same; provided that
14 the authority shall cooperate with any public body having
15 such jurisdiction, shall promptly restore any such street,
16 highway, bridge, viaduct or other public right of way to its
17 former state of usefulness as nearly as may be and shall not
18 use the same in such manner as to impair completely or
19 unnecessarily the usefulness thereof;

20 P. deposit any money of the authority, subject to
21 the limitations in Article 8, Section 4 of the constitution
22 of New Mexico, in any banking institution within or without
23 the state and secured in such manner and subject to such
24 terms and conditions as the board may determine, with or
25 without the payment of any interest on any such deposit;

1 Q. invest any surplus money in the authority
2 treasury, including such money in any sinking or reserve fund
3 established for the purpose of retiring any securities of the
4 authority, not required for the immediate necessities of the
5 authority, in its own securities or in federal securities, by
6 direct purchase of any issue of such securities, or part
7 thereof, at the original sale of the same, or by the
8 subsequent purchase of such securities;

9 R. sell any such securities thus purchased and
10 held, from time to time;

11 S. reinvest the proceeds of any such sale in other
12 securities of the authority or in federal securities, as
13 provided in Subsection Q of this section;

14 T. sell in season from time to time such securities
15 thus purchased and held, so that the proceeds may be applied
16 to the purposes for which the money with which such
17 securities were originally purchased was placed in the
18 treasury of the authority;

19 U. accept contributions or loans from the federal
20 government for the purpose of financing the planning,
21 acquisition, improvement, equipment, maintenance and
22 operation of any enterprise in which the authority is
23 authorized to engage, and enter into contracts and cooperate
24 with, and accept cooperation and participation from, the
25 federal government for these purposes;

1 V. enter, without any election, into joint
2 operating or service contracts and agreements, acquisition,
3 improvement, equipment or disposal contracts or other
4 arrangements, for any term not exceeding fifty years, with
5 the federal government, any public body or any person
6 concerning storm sewer facilities, or any project, whether
7 acquired by the authority or by the federal government, any
8 public body or any person, and accept grants and
9 contributions from the federal government, any public body or
10 any person in connection therewith;

11 W. enter into and perform, without any election,
12 when determined by the board to be in the public interest and
13 necessary for the protection of the public health, contracts
14 and agreements, for any term not exceeding fifty years, with
15 the federal government, any public body or any person for the
16 provision and operation by the authority of storm sewer
17 facilities;

18 X. enter into and perform, without any election,
19 contracts and agreements with the federal government, any
20 public body or any person for or concerning the planning,
21 construction, lease or other acquisition, improvement,
22 equipment, operation, maintenance, disposal, and the
23 financing of any project, including any contract or agreement
24 for any term not exceeding fifty years;

25 Y. enter upon any land, make surveys, borings,

1 soundings and examinations for the purposes of the authority,
2 and locate the necessary works of any project and roadways
3 and other rights of way appertaining to any project herein
4 authorized; acquire all property necessary or convenient for
5 the acquisition, improvement or equipment of such works;

6 Z. cooperate with and act in conjunction with the
7 state, or any of its engineers, officers, boards, commissions
8 or departments, or with the federal government or any of its
9 engineers, officers, boards, commissions or departments, or
10 with any other public body or any person in the acquisition,
11 improvement or equipment of any project for the controlling
12 of flood or storm waters of the authority, or for the
13 protection of life or property therein, or for any other
14 works, acts or purposes provided for herein, and adopt and
15 carry out any definite plan or system of work for any such
16 purpose;

17 AA. cooperate with the federal government or any
18 public body by an agreement therewith by which the authority
19 may:

20 (1) acquire and provide, without cost to the
21 operating entity, the land, easements and rights of way
22 necessary for the acquisition, improvement or equipment of
23 the flood control system or any project;

24 (2) hold and save harmless the cooperating
25 entity free from any claim for damages arising from the

1 acquisition, improvement, equipment, maintenance and
2 operation of the flood control system or any project;

3 (3) maintain and operate any project in
4 accordance with regulations prescribed by the cooperating
5 entity; and

6 (4) establish and enforce flood channel limits
7 and regulations, if any, satisfactory to the cooperating
8 entity;

9 BB. carry on technical and other investigations of
10 all kinds, make measurements, collect data and make analyses,
11 studies and inspections pertaining to control of floods,
12 sewer facilities, and any project, both within and without
13 the authority, and for this purpose the authority has the
14 right of access through its authorized representative to all
15 lands and premises within the state;

16 CC. have the right to provide from revenues or
17 other available funds an adequate fund for the improvement
18 and equipment of the authority's flood control system or of
19 any parts of the works and properties of the authority;

20 DD. prescribe and enforce reasonable rules and
21 regulations for the prevention of further encroachment upon
22 existing defined waterways, by their enlargement or other
23 modification, for additional waterway facilities to prevent
24 flooding;

25 EE. require any person desiring to make a

1 connection to any storm water drain or flood control facility
2 of the authority or to cause storm waters to be emptied into
3 any ditch, drain, canal, floodway or other appurtenant
4 structure of the authority firstly to make application to the
5 board to make the connection, to require the connection to be
6 made in such manner as the board may direct;

7 FF. refuse, if reasonably justified by the
8 circumstances, permission to make any connection designated
9 in Subsection DD or Subsection EE of this section;

10 GG. make and keep records in connection with any
11 project or otherwise concerning the authority;

12 HH. arbitrate any differences arising in connection
13 with any project or otherwise concerning the authority;

14 II. have the management, control and supervision of
15 all the business and affairs appertaining to any project
16 herein authorized, or otherwise concerning the authority, and
17 of the acquisition, improvement, equipment, operation and
18 maintenance of any such project;

19 JJ. prescribe the duties of officers, agents,
20 employees and other persons and fix their compensation;
21 provided that the compensation of employees and officers
22 shall be established at prevailing rates of pay for
23 equivalent work;

24 KK. enter into contracts of indemnity and guaranty,
25 in such form as may be approved by the board, relating to or

1 connected with the performance of any contract or agreement
2 that the authority is empowered to enter into under the
3 provisions hereof or of any other law of the state;

4 LL. provide, by any contract for any term not
5 exceeding fifty years, or otherwise, without an election:

6 (1) for the joint use of personnel, equipment
7 and facilities of the authority and any public body,
8 including without limitation public buildings constructed by
9 or under the supervision of the board of the authority or the
10 governing body of the public body concerned, upon such terms
11 and agreements and within such areas within the authority as
12 may be determined, for the promotion and protection of
13 health, comfort, safety, life, welfare and property of the
14 inhabitants of the authority and any such public body; and

15 (2) for the joint employment of clerks,
16 stenographers and other employees appertaining to any
17 project, now existing or hereafter established in the
18 authority, upon such terms and conditions as may be
19 determined for the equitable apportionment of the expenses
20 therefrom resulting;

21 MM. obtain financial statements, appraisals,
22 economic feasibility reports and valuations of any type
23 appertaining to any project or any property pertaining
24 thereto;

25 NN. adopt any resolution authorizing a project or

1 the issuance of securities, or both, or otherwise
2 appertaining thereto, or otherwise concerning the authority;

3 OO. make and execute a mortgage, deed of trust,
4 indenture or other trust instrument appertaining to a project
5 or to any securities herein authorized, or to both, except as
6 provided in Subsection PP of this section and in Section
7 72-16-54 NMSA 1978;

8 PP. make all contracts, execute all instruments and
9 do all things necessary or convenient in the exercise of the
10 powers granted herein, or in the performance of the
11 authority's covenants or duties, or in order to secure the
12 payment of its securities; provided that no encumbrance,
13 mortgage or other pledge of property, excluding any money, of
14 the authority is created thereby; and provided further that
15 no property, excluding money, of the authority is liable to
16 be forfeited or taken in payment of such securities;

17 QQ. have and exercise all rights and powers
18 necessary or incidental to or implied from the specific
19 powers granted herein, which specific powers shall not be
20 considered as a limitation upon any power necessary or
21 appropriate to carry out the purposes and intent hereof; and

22 RR. exercise all or any part or combination of the
23 powers herein granted."

24 **SECTION 108.** Section 72-16-28 NMSA 1978 (being Laws
25 1963, Chapter 311, Section 28, as amended) is amended to

1 read:

2 "72-16-28. ELECTIONS.--Each biennial election of
3 directors, each election proposition to issue bonds and all
4 other elections shall be conducted in accordance with the
5 Local Election Act."

6 **SECTION 109.** Section 72-16-89 NMSA 1978 (being Laws
7 1963, Chapter 311, Section 89) is amended to read:

8 "72-16-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF
9 BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation
10 or other provision herein, whenever a majority of the
11 qualified electors of the authority voting on a proposal to
12 issue bonds has authorized the authority to issue bonds for
13 any purpose herein authorized, the authority is authorized to
14 borrow money without any other election in anticipation of
15 taxes, the proceeds of the bonds or any other revenues of the
16 authority, or any combination thereof, and to issue interim
17 debentures to evidence the amount so borrowed. Interim
18 debentures may mature at such time not exceeding a period of
19 time equal to the estimated time needed to effect the purpose
20 for which the bonds are so authorized to be issued, plus two
21 years, as the board may determine. Except as otherwise
22 provided in this section and in Sections 72-16-90 and 72-16-
23 91 NMSA 1978, interim debentures shall be issued as provided
24 herein for securities in Sections 72-16-47 through 72-16-80
25 NMSA 1978. Taxes, other revenues of the authority, including

1 without limiting the generality of the foregoing, proceeds of
2 bonds to be thereafter issued or reissued or bonds issued for
3 the purpose of securing the payment of interim debentures may
4 be pledged for the purpose of securing the payment of the
5 interim debentures. Any bonds pledged as collateral security
6 for the payment of any interim debentures shall mature at
7 such time as the board may determine, but in no event
8 exceeding forty years from the date of either any of such
9 bonds or any of such interim debentures, whichever date is
10 the earlier. Any such bonds pledged as collateral security
11 shall not be issued in an aggregate principal amount
12 exceeding the aggregate principal amount of the interim
13 debenture secured by a pledge of such bonds, nor shall they
14 bear interest at any time that with any interest accruing at
15 the same time on the interim debenture so secured exceeds six
16 percent per year."

17 **SECTION 110.** Section 72-17-1 NMSA 1978 (being Laws
18 1967, Chapter 156, Section 1) is amended to read:

19 "72-17-1. SHORT TITLE.--Chapter 72, Article 17 NMSA
20 1978 may be cited as the "Las Cruces Arroyo Flood Control
21 Act"."

22 **SECTION 111.** Section 72-17-4 NMSA 1978 (being Laws
23 1967, Chapter 156, Section 4) is amended to read:

24 "72-17-4. DEFINITIONS.--Except where the context
25 otherwise requires, as used in the Las Cruces Arroyo Flood

1 Control Act:

2 A. "act" means the Las Cruces Arroyo Flood Control
3 Act;

4 B. "acquisition" or "acquire" means the opening,
5 laying out, establishment, purchase, construction, securing,
6 installation, reconstruction, lease, gift, grant from the
7 federal government or any public body or person, endowment,
8 bequest, devise, condemnation, transfer, assignment, option
9 to purchase, other contract or other acquirement, or any
10 combination thereof, of facilities, other property or any
11 project or an interest in any facilities, other property or
12 project authorized;

13 C. "authority" means the Las Cruces metropolitan
14 arroyo flood control authority hereby created;

15 D. "board" means the board of directors of the Las
16 Cruces metropolitan arroyo flood control authority;

17 E. "chair" means the chair of the board and
18 president of the authority;

19 F. "condemnation" or "condemn" means the
20 acquisition by the exercise of the power of eminent domain of
21 property for any facilities, other property or project or an
22 interest in any facilities, other property or project
23 authorized. The authority may exercise in the state the
24 power of eminent domain, either within or without the
25 authority and in the manner provided by law for the

1 condemnation of private property for public use, and may take
2 any property necessary to carry out any of the objects or
3 purposes of the act. In the event the construction of any
4 facility or project herein authorized, or any part thereof,
5 makes necessary the removal and relocation of any public
6 utilities, whether on private or public right of way, the
7 authority shall reimburse the owner of the public utility
8 facility for the expense of removal and relocation, including
9 the cost of any necessary land or rights in land;

10 G. "cost" or "cost of the project" or words of
11 similar import, means all or any part designated by the board
12 of the cost of any facilities or project, or interest in the
13 facilities or project, being acquired, and all or any
14 property, rights, easements, privileges, agreements and
15 franchises deemed by the authority to be necessary or useful
16 and convenient or in connection with the facilities or
17 project, which cost, at the option of the board, may include
18 all or any part of the incidental costs pertaining to the
19 project, including, without limiting the generality of the
20 foregoing, preliminary expenses advanced by any municipality
21 from funds available for use in the making of surveys,
22 preliminary plans, estimates of cost and other preliminaries;
23 for the costs of appraising and printing and employing
24 engineers, architects, fiscal agents, attorneys at law,
25 clerical help and other agents or employees; for the costs of

1 capitalizing interest or any discount on securities, of
2 inspection, of any administrative, operating and other
3 expenses of the authority prior to the levy and collection of
4 taxes and of reserves for working capital, operation,
5 maintenance or replacement expenses or for payment or
6 security of principal of or interest on any securities; for
7 the costs of making, publishing, posting, mailing and
8 otherwise giving any notice in connection with the project,
9 the taking of options, the issuance of securities, the filing
10 or recordation of instruments and the levy and collection of
11 taxes and installments; for the costs of reimbursements by
12 the authority to any public body, the federal government or
13 any person of any money expended for or in connection with
14 any facility or project; and for all other expenses necessary
15 or desirable and appertaining to any project, as estimated or
16 otherwise ascertained by the board;

17 H. "director" means a member of the board;

18 I. "disposal" or "dispose" means the sale,
19 destruction, razing, loan, lease, gift, grant, transfer,
20 assignment, mortgage, option to sell, other contract or other
21 disposition, or any combination thereof, of facilities, other
22 property or any project or an interest in the facilities,
23 property or project, herein authorized;

24 J. "engineer" means any engineer in the permanent
25 employ of the authority or any independent competent engineer

1 or firm of engineers employed by the authority in connection
2 with any facility, property, project or power herein
3 authorized;

4 K. "equipment" or "equip" means the furnishing of
5 all necessary or desirable, related or appurtenant
6 facilities, or any combination thereof, appertaining to any
7 facilities, property or project or interest in the
8 facilities, property or project, herein authorized;

9 L. "facility" means any of the water facilities,
10 sewer facilities or other property appertaining to the flood
11 control system of the authority;

12 M. "federal government" means the United States or
13 any agency, instrumentality or corporation of the United
14 States;

15 N. "federal securities" means the bills,
16 certificates of indebtedness, notes or bonds that are direct
17 obligations of, or the principal and interest of which
18 obligations are unconditionally guaranteed by, the United
19 States;

20 O. "governing body" means the city council, city
21 commission, board of commissioners, board of trustees, board
22 of directors or other legislative body of the public body
23 proceeding under the Las Cruces Arroyo Flood Control Act, in
24 which body the legislative powers of the public body are
25 vested;

1 P. "hereby", "herein", "hereinabove",
2 "hereinafter", "hereinbefore", "hereof", "hereto" and
3 "hereunder" refer to the Las Cruces Arroyo Flood Control Act
4 and not solely to the particular portion in which the word is
5 used;

6 Q. "improvement" or "improve" means the extension,
7 widening, lengthening, betterment, alteration,
8 reconstruction, repair or other improvement, or any
9 combination thereof, of facilities, other property or project
10 or any interest in the facilities, property or project,
11 herein authorized;

12 R. "mailed notice" or "notice by mail" means the
13 giving by the engineer, secretary or any deputy of the
14 engineer or secretary, as determined by the board, of any
15 designated written or printed notice addressed to the last
16 known owner of each tract of real property in question or
17 other designated person at the person's last known address,
18 by deposit, at least ten days prior to the designated hearing
19 or other time or event, in the United States mails, postage
20 prepaid, as first-class mail. In the absence of fraud, the
21 failure to mail a notice shall not invalidate any proceedings
22 hereunder. The names and addresses of the property owners
23 shall be obtained from the records of the county assessor or
24 from such other source as the secretary or the engineer deems
25 reliable. Any list of names and addresses may be revised

1 from time to time, but the list need not be revised more
2 frequently than at twelve-month intervals. Any mailing of a
3 notice herein required shall be verified by the affidavit or
4 certificate of the engineer, secretary, the deputy or other
5 person mailing the notice, which verification shall be
6 retained in the records of the authority at least until all
7 taxes and securities appertaining to them have been paid in
8 full or any claim is barred by a statute of limitations;

9 S. "may" is permissive;

10 T. "municipality" means the city of Las Cruces or
11 any other incorporated city, town or village in the state,
12 whether incorporated or governed under a general act, special
13 legislative act or special charter of any type. "Municipal"
14 pertains thereto;

15 U. "person" means any human being, association,
16 partnership, firm or corporation, excluding a public body and
17 excluding the federal government;

18 V. "president" means the president of the authority
19 and the chair of the board;

20 W. "project" means any structure, facility,
21 undertaking or system that the authority is authorized to
22 acquire, improve, equip, maintain or operate. A project may
23 consist of all kinds of personal and real property. A
24 project shall appertain to the flood control system that the
25 authority is authorized and directed to provide within and

1 without the authority's boundaries;

2 X. "property" means real property and personal
3 property;

4 Y. "publication" or "publish" means publication in
5 at least the one newspaper designated as the authority's
6 official newspaper and published in the authority in the
7 English language at least once a week and of general
8 circulation in the authority. Except as otherwise
9 specifically provided or necessarily implied, "publication"
10 or "publish" also means publication for at least once a week
11 for three consecutive weeks by three weekly insertions, the
12 first publication being at least fifteen days prior to the
13 designated time or event, unless otherwise stated. It is not
14 necessary that publication be made on the same day of the
15 week in each of the three calendar weeks, but not less than
16 fourteen days shall intervene between the first publication
17 and the last publication, and publication shall be complete
18 on the day of the last publication. Any publication required
19 shall be verified by the affidavit of the publisher and filed
20 with the secretary;

21 Z. "public body" means the state or any agency,
22 instrumentality or corporation of the state or any
23 municipality, school district or other type district or any
24 other political subdivision of the state, excluding the
25 authority and excluding the federal government;

1 AA. "qualified elector" means a person qualified
2 and registered to vote in general elections in the state, who
3 is a resident of the authority at the time of any election
4 held under the provisions of the Las Cruces Arroyo Flood
5 Control Act or at any other time in reference to which the
6 term "qualified elector" is used;

7 BB. "real property" means:

8 (1) land, including land under water;

9 (2) buildings, structures, fixtures and
10 improvements on land;

11 (3) any property appurtenant to or used in
12 connection with land; and

13 (4) every estate, interest, privilege,
14 easement, franchise and right in land, legal or equitable,
15 including without limiting the generality of the foregoing,
16 rights of way, terms for years and liens, charges or
17 encumbrances by way of judgment, mortgage or otherwise, and
18 the indebtedness secured by liens;

19 CC. "secretary" means the secretary of the
20 authority;

21 DD. "secretary of state" means the secretary of the
22 state of New Mexico;

23 EE. "securities" means any notes, warrants, bonds,
24 temporary bonds or interim debentures or other obligations of
25 the authority or any public body appertaining to any project

1 or interest in any project herein authorized;

2 FF. "sewer facilities" means any one or more of the
3 various devices used in the collection, channeling,
4 impounding or disposition of storm, flood or surface drainage
5 waters, including all inlets, collection, drainage or
6 disposal lines, canals, intercepting sewers, outfall sewers,
7 all pumping, power and other equipment and appurtenances, all
8 extensions, improvements, remodeling, additions and
9 alterations thereof, and any and all rights or interest in
10 the sewer facilities;

11 GG. "sewer improvement" or "improve any sewer"
12 means the acquisition, reacquisition, improvement,
13 reimprovement or repair of any storm sewer or combination
14 storm and sanitary sewer, including collecting and
15 intercepting sewer lines or mains, submains, trunks,
16 laterals, outlets, ditches, ventilation stations, pumping
17 facilities, ejector stations and all other appurtenances and
18 machinery necessary, useful or convenient for the collection,
19 transportation and disposal of storm water;

20 HH. "shall" is mandatory;

21 II. "state" means the state of New Mexico or any
22 agency, instrumentality or corporation of the state of New
23 Mexico;

24 JJ. "street" means any street, avenue, boulevard,
25 alley, highway or other public right of way used for any

1 vehicular traffic;

2 KK. "taxes" means general (ad valorem) taxes
3 pertaining to any project herein authorized; and

4 LL. "treasurer" means the treasurer of the
5 authority."

6 SECTION 112. Section 72-17-8 NMSA 1978 (being Laws
7 1967, Chapter 156, Section 8) is amended to read:

8 "72-17-8. BOARD OF DIRECTORS.--The governing body of
9 the authority hereby created is a board of directors
10 consisting of five qualified electors of the authority. All
11 powers, rights, privileges and duties vested in or imposed
12 upon the authority are exercised and performed by and through
13 the board of directors; provided that the exercise of any
14 executive, administrative and ministerial powers may be, by
15 the board, delegated and redelegated to officers and
16 employees of the authority. Except for the first directors
17 appointed as provided and except for any director chosen to
18 fill an unexpired term, the term of each director runs for
19 six years. Each director, subject to such exceptions, shall
20 serve a six-year term, and each director shall serve until a
21 successor has been duly chosen and qualified."

22 SECTION 113. Section 72-17-10 NMSA 1978 (being Laws
23 1967, Chapter 156, Section 10) is amended to read:

24 "72-17-10. ELECTION OF DIRECTORS.--At the time that a
25 proposal to incur debt is first submitted to the qualified

1 electors, the qualified electors of the authority shall elect
2 five qualified directors, two to serve a term ending January
3 1, 1969, two to serve a term ending January 1, 1971 and one
4 to serve a term ending January 1, 1973. At the first
5 election, the five candidates receiving the highest number of
6 votes shall be elected as directors. The terms of the
7 directors shall be determined by lot at their organizational
8 meeting. At each election thereafter, the qualified electors
9 of the authority shall elect similarly one or two qualified
10 electors as directors to serve six-year terms as directors
11 and as successors to the directors whose terms end following
12 each election. Nothing in this section may be construed as
13 preventing qualified electors of the authority from being
14 elected or reelected as directors to succeed themselves."

15 **SECTION 114.** Section 72-17-11 NMSA 1978 (being Laws
16 1967, Chapter 156, Section 11) is amended to read:

17 "72-17-11. NOMINATION OF DIRECTORS.-- Written
18 nominations of any candidate as director may be filed with
19 the proper filing officer in accordance with the provisions
20 of the Local Election Act. Each nomination of any candidate
21 shall be signed by not less than fifty qualified electors
22 regardless of whether or not nominated, shall designate the
23 name of the candidates and shall recite that the subscribers
24 are qualified electors and that the candidates designated are
25 qualified electors of the authority. No written nomination

1 may designate more qualified electors as candidates than
2 there are vacancies. No qualified elector may nominate more
3 than one candidate for any vacancy."

4 **SECTION 115.** Section 72-17-13 NMSA 1978 (being Laws
5 1967, Chapter 156, Section 13) is amended to read:

6 "72-17-13. ORGANIZATIONAL MEETINGS.--Except for the
7 first board, each board shall meet on the first business day
8 next following the first day of the month that the term of
9 office begins for members elected in the immediately
10 preceding election at the office of the board within the
11 authority. Each member of the board, before entering upon
12 the member's official duties, shall take and subscribe an
13 oath that the member will support the constitution of the
14 United States and the constitution and laws of New Mexico and
15 that the member will faithfully and impartially discharge the
16 duties of office to the best of the member's ability, which
17 oath shall be filed in the office of the secretary of state.
18 Each director shall, before entering upon the director's
19 official duties, give a bond to the authority in the sum of
20 ten thousand dollars (\$10,000) with good and sufficient
21 surety, conditioned for the faithful performance of each of
22 the duties of office, without fraud, deceit or oppression,
23 and the accounting for all money and property coming into the
24 director's hands, and the prompt and faithful payment of all
25 money and the delivering of all property coming into the

1 director's custody or control belonging to the authority of
2 the director's successors in office. Premiums on all bonds
3 provided for in this section shall be paid by the authority,
4 and all such bonds shall be kept on file in the office of the
5 secretary of state."

6 **SECTION 116.** Section 72-17-22 NMSA 1978 (being Laws
7 1967, Chapter 156, Section 22, as amended) is amended to
8 read:

9 "72-17-22. **ADDITIONAL POWERS OF AUTHORITY.**--The
10 authority may exercise the following powers:

11 A. have duties, privileges, immunities, rights,
12 liabilities and disabilities appertaining to a public body
13 politic and corporate and constituting a quasi-municipal
14 corporation and political subdivision of the state
15 established as an instrumentality exercising public and
16 essential governmental and proprietary functions to provide
17 for the public health, safety and general welfare;

18 B. have perpetual existence and succession;

19 C. adopt, have and use a corporate seal and alter
20 the same at pleasure;

21 D. sue and be sued and be a party to suits, actions
22 and proceedings;

23 E. commence, maintain, intervene in, defend,
24 compromise, terminate by settlement or otherwise and
25 otherwise participate in and assume the cost and expense of

1 any actions and proceedings now or hereafter begun and
2 appertaining to the authority, its board, its officers,
3 agents or employees or any of the authority's duties,
4 privileges, immunities, rights, liabilities and disabilities
5 or the authority's flood control system, other property of
6 the authority or any project;

7 F. enter into contracts and agreements, including
8 contracts with the federal government, the state and any
9 other public body;

10 G. borrow money and issue securities evidencing any
11 loan to or amount due by the authority, provide for and
12 secure the payment of any securities and the rights of the
13 holders thereof and purchase, hold and dispose of securities
14 as hereinafter provided;

15 H. refund any loan or obligation of the authority
16 and issue refunding securities to evidence such loan or
17 obligation without any election;

18 I. purchase, trade, exchange, encumber and
19 otherwise acquire, maintain and dispose of property and
20 interests therein;

21 J. levy and cause to be collected general (ad
22 valorem) taxes on all property subject to property taxation
23 within the authority; provided that the total tax levy,
24 excluding any levy for the payment of any debt of the
25 authority authorized by the qualified electors of the

1 authority, for any fiscal year shall not exceed an aggregate
2 total of fifty cents (\$.50), or any lower maximum amount
3 required by operation of the rate limitation provisions of
4 Section 7-37-7.1 NMSA 1978 upon this tax levy, on each one
5 thousand dollars (\$1,000) of net taxable value, as that term
6 is defined in the Property Tax Code, by certifying, on or
7 before July 15 of each year in which the board determines to
8 levy a tax, to the board of county commissioners of Dona Ana
9 county, or by such other date as the laws of the state may
10 prescribe to such other body having authority to levy taxes
11 within each county wherein the authority has any territory,
12 the rate so fixed, with directions that, at the time and in
13 the manner required by law for levying taxes for other
14 purposes, such body having authority to levy taxes shall levy
15 such tax upon the net taxable value of all property subject
16 to property taxation within the authority, in addition to
17 such other taxes as may be levied by such body as provided in
18 Sections 72-17-23 through 72-17-27 NMSA 1978. No taxes may
19 be levied and collected for any purpose and no contract may
20 be made until a bond issue has been submitted to and approved
21 by the qualified electors as hereinafter provided;

22 K. hire and retain officers, agents, employees,
23 engineers, attorneys and any other persons, permanent or
24 temporary, necessary or desirable to effect the purposes
25 hereof, defray any expenses incurred thereby in connection

1 with the authority and acquire office space, equipment,
2 services, supplies, fire and extended coverage insurance, use
3 and occupancy insurance, workers' compensation insurance,
4 property damage insurance, public liability insurance for the
5 authority and its officers, agents and employees and other
6 types of insurance as the board may determine; provided,
7 however, that no provision herein authorizing the acquisition
8 of insurance shall be construed as waiving any immunity of
9 the authority or any director, officer or agent thereof and
10 otherwise existing under the laws of the state;

11 L. condemn property for public use;

12 M. acquire, improve, equip, hold, operate, maintain
13 and dispose of a flood control system, sewer facilities,
14 project and appurtenant works or any interest therein wholly
15 within the authority, or partially within and partially
16 without the authority, and wholly within, wholly without or
17 partially within and partially without any public body all or
18 any part of the area of which is situated within the
19 authority;

20 N. pay or otherwise defray the cost of any project;

21 O. pay or otherwise defray and contract so to pay
22 or defray for any term not exceeding fifty years, without an
23 election, except as hereinafter otherwise provided, the
24 principal of, any interest on and any other charges
25 appertaining to any securities or other obligations of the

1 federal government, any public body or person incurred in
2 connection with any such property so acquired by the
3 authority;

4 P. establish and maintain facilities within or
5 without the authority, across or along any public street,
6 highway, bridge, viaduct or other public right of way or in,
7 upon, under or over any vacant public lands, which public
8 lands are now or may become the property of the state, or
9 across any stream of water or water course, without first
10 obtaining a franchise from the municipality, county or other
11 public body having jurisdiction over the same; provided that
12 the authority shall cooperate with any public body having
13 such jurisdiction, shall promptly restore any such street,
14 highway, bridge, viaduct or other public right of way to its
15 former state of usefulness as nearly as may be and shall not
16 use the same in such manner as to impair completely or
17 unnecessarily the usefulness thereof;

18 Q. deposit any money of the authority, subject to
19 the limitations in Article 8, Section 4 of the constitution
20 of New Mexico, in any banking institution within or without
21 the state and secured in such manner and subject to such
22 terms and conditions as the board may determine, with or
23 without the payment of any interest on any such deposit;

24 R. invest any surplus money in the authority
25 treasury, including such money in any sinking or reserve fund

1 established for the purpose of retiring any securities of the
2 authority, not required for the immediate necessities of the
3 authority, in its own securities or in federal securities, by
4 direct purchase of any issue of such securities, or part
5 thereof, at the original sale of the same or by the
6 subsequent purchase of such securities;

7 S. sell any such securities thus purchased and held
8 from time to time;

9 T. reinvest the proceeds of any such sale in other
10 securities of the authority or in federal securities, as
11 provided in Subsection R of this section;

12 U. sell in season from time to time such securities
13 thus purchased and held, so that the proceeds may be applied
14 to the purpose for which the money with which such securities
15 were originally purchased was placed in the treasury of the
16 authority;

17 V. accept contributions or loans from the federal
18 government for the purpose of financing the planning,
19 acquisition, improvement, equipment, maintenance and
20 operation of any enterprise in which the authority is
21 authorized to engage and enter into contracts and cooperate
22 with, and accept cooperation and participation from, the
23 federal government for these purposes;

24 W. enter, without any election, into joint
25 operating or service contracts and agreements, acquisition,

1 improvement, equipment or disposal contracts or other
2 arrangements for any term not exceeding fifty years with the
3 federal government, any public body or any person concerning
4 sewer facilities, or any project, whether acquired by the
5 authority or by the federal government, any public body or
6 any person, and accept grants and contributions from the
7 federal government, any public body or any person in
8 connection herewith;

9 X. enter into and perform, without any election,
10 when determined by the board to be in the public interest and
11 necessary for the protection of the public health, contracts
12 and agreements for any term not exceeding fifty years with
13 the federal government, any public body or any person for the
14 provision and operation by the authority of sewer facilities;

15 Y. enter into and perform, without any election,
16 contracts and agreements with the federal government, any
17 public body and any person for or concerning the planning,
18 construction, lease or other acquisition, improvement,
19 equipment, operation, maintenance, disposal and the financing
20 of any project, including any contract or agreement for any
21 term not exceeding fifty years;

22 Z. enter upon any land, make surveys, borings,
23 soundings and examinations for the purposes of the authority
24 and locate the necessary works of any project and roadways
25 and other rights of way appertaining to any project herein

1 authorized and acquire all property necessary or convenient
2 for the acquisition, improvement or equipment of such works;

3 AA. cooperate with and act in conjunction with the
4 state or any of its engineers, officers, boards, commissions
5 or departments or with the federal government or any of its
6 engineers, officers, boards, commissions or departments or
7 with any other public body or any person in the acquisition,
8 improvement or equipment of any project for the controlling
9 of flood or storm waters of the authority or for the
10 protection of life or property therein or for any other
11 works, acts or purposes provided for herein and adopt and
12 carry out any definite plan or system of work for any such
13 purpose;

14 BB. cooperate with the federal government or any
15 public body by an agreement therewith by which the authority
16 may:

17 (1) acquire and provide, without cost to the
18 operating entity, the land, easements and rights of way
19 necessary for the acquisition, improvement or equipment of
20 the flood control system or any project;

21 (2) hold and save harmless the cooperating
22 entity free from any claim for damages arising from the
23 acquisition, improvement, equipment, maintenance and
24 operation of the flood control system or any project;

25 (3) maintain and operate any project in

1 accordance with regulations prescribed by the cooperating
2 entity; and

3 (4) establish and enforce flood channel limits
4 and regulations, if any, satisfactory to the cooperating
5 entity;

6 CC. carry on technical and other investigations of
7 all kinds, make measurements, collect data and make analyses,
8 studies and inspections pertaining to control of floods,
9 sewer facilities and any project, both within and without the
10 authority, and for this purpose the authority has the right
11 of access through its authorized representative to all lands
12 and premises within the state;

13 DD. have the right to provide from revenues or
14 other available funds an adequate fund for the improvement
15 and equipment of the authority's flood control system or of
16 any parts of the works and properties of the authority;

17 EE. prescribe and enforce reasonable rules and
18 regulations for the prevention of further encroachment upon
19 existing defined waterways, by their enlargement or other
20 modification, for additional waterway facilities to prevent
21 flooding;

22 FF. require any person desiring to make a
23 connection to any storm water drain or flood control facility
24 of the authority or to cause storm waters to be emptied into
25 any ditch, drain, canal, floodway or other appurtenant

1 structure of the authority firstly to make application to the
2 board to make the connection, to require the connection to be
3 made in such manner as the board may direct;

4 GG. refuse, if reasonably justified by the
5 circumstances, permission to make any connection designated
6 in Subsection EE or Subsection FF of this section;

7 HH. make and keep records in connection with any
8 project or otherwise concerning the authority;

9 II. arbitrate any differences arising in connection
10 with any project and otherwise concerning the authority;

11 JJ. have the management, control and supervision of
12 all the business and affairs appertaining to any project
13 herein authorized, or otherwise concerning the authority, and
14 of the acquisition, improvement, equipment, operation and
15 maintenance of any such project;

16 KK. prescribe the duties of officers, agents,
17 employees and other persons and fix their compensation;
18 provided that the compensation of employees and officers
19 shall be established at prevailing rates of pay for
20 equivalent work;

21 LL. enter into contracts of indemnity and guaranty
22 in such form as may be approved by the board relating to or
23 connected with the performance of any contract or agreement
24 that the authority is empowered to enter into under the
25 provisions hereof or of any other law of the state;

1 MM. provide, by any contract for any term not
2 exceeding fifty years, or otherwise, without an election:

3 (1) for the joint use of personnel, equipment
4 and facilities of the authority and any public body,
5 including without limitation public buildings constructed by
6 or under the supervision of the board of the authority or the
7 governing body of the public body concerned, upon such terms
8 and agreements and within such areas within the authority as
9 may be determined, for the promotion and protection of
10 health, comfort, safety, life, welfare and property of the
11 inhabitants of the authority and any such public body; and

12 (2) for the joint employment of clerks,
13 stenographers and other employees appertaining to any
14 project, now existing or hereafter established in the
15 authority, upon such terms and conditions as may be
16 determined for the equitable apportionment of the expenses
17 therefrom resulting;

18 NN. obtain financial statements, appraisals,
19 economic feasibility reports and valuations of any type
20 appertaining to any project or any property pertaining
21 thereto;

22 OO. adopt any resolution authorizing a project or
23 the issuance of securities, or both, or otherwise
24 appertaining thereto, or otherwise concerning the authority;

25 PP. make and execute a mortgage, deed of trust,

1 indenture or other trust instrument appertaining to a project
2 or to any securities herein authorized, or to both, except as
3 provided in Subsection QQ of this section and in Section
4 72-17-54 NMSA 1978;

5 QQ. make all contracts, execute all instruments and
6 do all things necessary or convenient in the exercise of the
7 powers granted herein or in the performance of the
8 authority's covenants or duties or in order to secure the
9 payment of its securities; provided that no encumbrance,
10 mortgage or other pledge of property, excluding any money, of
11 the authority is created thereby; and provided further that
12 no property, excluding money, of the district is liable to be
13 forfeited or taken in payment of such securities;

14 RR. have and exercise all rights and powers
15 necessary or incidental to or implied from the specific
16 powers granted herein, which specific powers shall not be
17 considered as a limitation upon any power necessary or
18 appropriate to carry out the purposes and intent hereof; and

19 SS. exercise all or any part or combination of the
20 powers herein granted."

21 **SECTION 117.** Section 72-17-28 NMSA 1978 (being Laws
22 1967, Chapter 156, Section 28) is amended to read:

23 "72-17-28. ELECTIONS.--Elections shall be held pursuant
24 to the provisions of the Local Election Act."

25 **SECTION 118.** Section 72-17-44 NMSA 1978 (being Laws

1 1967, Chapter 156, Section 44) is amended to read:

2 "72-17-44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--

3 The authority is authorized to borrow money in anticipation
4 of taxes or other revenues, or both, and to issue bonds to
5 evidence the amount so borrowed. No bonded indebtedness or
6 any other indebtedness not payable in full within one year,
7 except for interim debentures as provided in Sections
8 72-17-46 and 72-17-89 through 72-17-91 NMSA 1978, shall be
9 created by the authority without first submitting a
10 proposition of issuing such bonds to the qualified electors
11 of the authority and being approved by a majority of such
12 electors voting thereon at an election held for that purpose
13 in accordance with Sections 72-17-28 through 72-17-34 NMSA
14 1978 and all laws amendatory thereof and supplemental
15 thereto. Bonds so authorized may be issued in one series or
16 more and may mature at such time or times not exceeding forty
17 years from their issuance as the board may determine. The
18 total of all outstanding indebtedness at any one time shall
19 not exceed twelve million five hundred thousand dollars
20 (\$12,500,000) without prior approval of the state
21 legislature."

22 **SECTION 119.** Section 72-17-89 NMSA 1978 (being Laws
23 1967, Chapter 156, Section 89) is amended to read:

24 "72-17-89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF
25 BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation

1 or other provision herein, whenever a majority of the
2 qualified electors of the authority voting on a proposal to
3 issue bonds has authorized the authority to issue bonds for
4 any purpose herein authorized, the authority is authorized to
5 borrow money without any other election in anticipation of
6 taxes, the proceeds of such bonds or any other revenues of
7 the authority, or any combination thereof, and to issue
8 interim debentures to evidence the amount so borrowed.

9 Interim debentures may mature at such time or times not
10 exceeding a period of time equal to the estimated time needed
11 to effect the purpose for which the bonds are so authorized
12 to be issued, plus two years, as the board may determine.

13 Except as otherwise provided in this section and in Sections
14 72-17-90 and 72-17-91 NMSA 1978, interim debentures shall be
15 issued as provided herein for securities in Sections 72-17-47
16 through 72-17-80 NMSA 1978. Taxes, other revenues of the
17 authority, including without limiting the generality of the
18 foregoing, proceeds of bonds to be thereafter issued or
19 reissued or bonds issued for the purpose of securing the
20 payment of interim debentures may be pledged for the purpose
21 of securing the payment of the interim debentures. Any bonds
22 pledged as collateral security for the payment of any interim
23 debentures shall mature at such time or times as the board
24 may determine, but in no event exceeding forty years from the
25 date of either any of such bonds or any of such interim

1 debentures, whichever date be the earlier. Any such bonds
2 pledged as collateral security shall not be issued in an
3 aggregate principal amount exceeding the aggregate principal
4 amount of the interim debenture or interim debenture secured
5 by a pledge of such bonds, nor shall they bear interest at
6 any time that, with any interest accruing at the same time on
7 the interim debenture or interim debentures so secured,
8 exceeds six percent per year."

9 SECTION 120. Section 72-18-1 NMSA 1978 (being Laws
10 1981, Chapter 377, Section 1) is amended to read:

11 "72-18-1. SHORT TITLE.--Chapter 72, Article 18 NMSA
12 1978 may be cited as the "Flood Control District Act"."

13 SECTION 121. Section 72-18-13 NMSA 1978 (being Laws
14 1981, Chapter 377, Section 13) is amended to read:

15 "72-18-13. ORGANIZATION OF BOARD--INITIAL TERMS OF
16 DIRECTORS.--

17 A. After taking oath and filing bonds, the board
18 shall choose one of its members as chair of the board and
19 shall choose a secretary and a treasurer of the board and of
20 the district. The secretary and treasurer may be one person.

21 B. The terms of the members of the initial board of
22 directors shall be determined by lot at their organizational
23 meeting. Two members shall serve an initial term of two
24 years following organization of the district, two members
25 shall serve an initial term of four years following

1 organization of the district and one member shall serve an
2 initial term of six years following organization of the
3 district."

4 **SECTION 122.** Section 72-18-14 NMSA 1978 (being Laws
5 1981, Chapter 377, Section 14) is amended to read:

6 "72-18-14. ELECTION OF DIRECTORS.-- Flood control
7 district elections shall be held pursuant to the Local
8 Election Act. At each local election after organization of
9 the district, there shall be elected by the qualified
10 registered electors of the district one or two members of the
11 board to serve for a term of six years. Except for the
12 initial board of directors and except for any director chosen
13 to fill an unexpired term, the term of each director runs for
14 six years. Each director shall serve until a successor has
15 been duly chosen and qualified."

16 **SECTION 123.** Section 72-18-15 NMSA 1978 (being Laws
17 1981, Chapter 377, Section 15) is amended to read:

18 "72-18-15. VACANCIES ON THE BOARD.--Any vacancy on the
19 board shall be filled by appointment by a majority of the
20 remaining members of the board. The appointee shall serve
21 until the next local election pursuant to the Local Election
22 Act when the vacancy shall be filled by election. If the
23 board fails to fill any vacancy within thirty days after it
24 occurs, the court declaring the organization of the district
25 shall fill the vacancy."

1 **SECTION 124.** Section 72-18-35 NMSA 1978 (being Laws
2 1981, Chapter 377, Section 35) is amended to read:

3 "72-18-35. ELECTION.--Wherever in the Flood Control
4 District Act an election of the qualified registered electors
5 of a district is permitted or required, the election shall be
6 held pursuant to the Local Election Act."

7 **SECTION 125.** Section 72-18-35.1 NMSA 1978 (being Laws
8 1985, Chapter 177, Section 2) is amended to read:

9 "72-18-35.1. ELECTION OF DIRECTORS--ESTABLISHED
10 DISTRICT.--In a district established pursuant to the Flood
11 Control District Act, the election of directors shall be
12 conducted in accordance with the provisions of the Local
13 Election Act."

14 **SECTION 126.** Section 72-19-1 NMSA 1978 (being Laws
15 1990, Chapter 14, Section 1) is amended to read:

16 "72-19-1. SHORT TITLE.--Chapter 72, Article 19 NMSA
17 1978 may be cited as the "Southern Sandoval County Arroyo
18 Flood Control Act".

19 **SECTION 127.** Section 72-19-4 NMSA 1978 (being Laws
20 1990, Chapter 14, Section 4, as amended) is amended to read:

21 "72-19-4. DEFINITIONS.--Except where the context
22 otherwise requires, as used in the Southern Sandoval County
23 Arroyo Flood Control Act:

24 A. "acquisition" or "acquire" means the opening,
25 laying out, establishment, purchase, construction, securing,

1 installation, reconstruction, lease, gift, grant from the
2 federal government or any public body or person, endowment,
3 bequest, devise, condemnation, transfer, assignment, option
4 to purchase, other contract or other acquirement, or any
5 combination thereof, of facilities, other property or any
6 project or an interest in the facilities, other property or
7 project authorized by the Southern Sandoval County Arroyo
8 Flood Control Act;

9 B. "authority" means the southern Sandoval county
10 arroyo flood control authority;

11 C. "board" means the board of directors of the
12 authority;

13 D. "chair" means the chair of the board and
14 president of the authority;

15 E. "condemnation" or "condemn" means the
16 acquisition by the exercise of the power of eminent domain of
17 property for any facilities, other property or project or an
18 interest in the facilities, other property or project
19 authorized by the Southern Sandoval County Arroyo Flood
20 Control Act. The authority may exercise in the state the
21 power of eminent domain, either within or without the
22 authority, and, in the manner provided by law for the
23 condemnation of private property for public use, may take any
24 property necessary to carry out any of the objects or
25 purposes of that act. In the event the construction of any

1 facility or project authorized by that act, or any part
2 thereof, makes necessary the removal and relocation of any
3 public utilities, whether on private or public right of way,
4 the authority shall reimburse the owner of the public utility
5 facility for the expense of removal and relocation, including
6 the cost of any necessary land or rights in land;

7 F. "cost" or "cost of the project", or words of
8 similar import, means all, or any part designated by the
9 board, of the cost of any facilities or project or interest
10 in the facilities or project being acquired and of all or any
11 property, rights, easements, privileges, agreements and
12 franchises deemed by the authority to be necessary or useful
13 and convenient to or in connection with the facilities or
14 project, which cost, at the option of the board, may include
15 all or any part of the incidental costs pertaining to the
16 project, including without limiting the generality of the
17 foregoing, preliminary expenses advanced by any municipality
18 or other public body from funds available for use [therefor]
19 in the making of surveys, preliminary plans, estimates of
20 cost or other preliminaries; for the costs of appraising and
21 printing and employing engineers, architects, fiscal agents,
22 attorneys at law, clerical help and other agents or
23 employees; for the costs of capitalizing interest or any
24 discount on securities, of inspection, of any administrative,
25 operating and other expenses of the authority prior to the

1 levy and collection of taxes and of reserves for working
2 capital, operation, maintenance or replacement expenses or
3 for payment or security of principal of or interest on any
4 securities; for the costs of making, publishing, posting,
5 mailing and otherwise giving any notice in connection with
6 the project, the taking of options, the issuance of
7 securities, the filing or recordation of instruments and the
8 levy and collection of taxes and installments of taxes; for
9 the costs of reimbursements by the authority to any public
10 body, the federal government or any person of any money
11 expended for or in connection with any facility or project;
12 and for all other expenses necessary or desirable and
13 appertaining to any project, as estimated or otherwise
14 ascertained by the board;

15 G. "director" means a member of the board;

16 H. "disposal" or "dispose" means the sale,
17 destruction, razing, loan, lease, gift, grant, transfer,
18 assignment, mortgage, option to sell, other contract or other
19 disposition, or any combination thereof, of facilities, other
20 property or any project, or an interest in the facilities,
21 other property or project authorized by the Southern Sandoval
22 County Arroyo Flood Control Act;

23 I. "engineer" means any engineer in the permanent
24 employ of the authority or any independent competent engineer
25 or firm of engineers employed by the authority in connection

1 with any facility, property, project or power authorized by
2 the Southern Sandoval County Arroyo Flood Control Act;

3 J. "equipment" or "equip" means the furnishing of
4 all necessary or desirable, related or appurtenant
5 facilities, or any combination thereof, appertaining to any
6 facilities, property, project or interest authorized by the
7 Southern Sandoval County Arroyo Flood Control Act;

8 K. "facility" means any of the water facilities,
9 sewer facilities or other property appertaining to the flood
10 control system of the authority;

11 L. "federal government" means the United States or
12 any agency, instrumentality or corporation of the United
13 States;

14 M. "federal securities" means the bills,
15 certificates of indebtedness, notes or bonds that are direct
16 obligations of, or the principal and interest of which
17 obligations are unconditionally guaranteed by, the United
18 States;

19 N. "governing body" means the city council, city
20 commission, board of commissioners, board of trustees, board
21 of directors or other legislative body of the public body
22 proceeding under the Southern Sandoval County Arroyo Flood
23 Control Act, in which body the legislative powers of the
24 public body are vested;

25 O. "improvement" or "improve" means the extension,

1 widening, lengthening, betterment, alteration,
2 reconstruction, repair or other improvement, or any
3 combination thereof, of facilities, other property or project
4 or any interest in the facilities, other property or project
5 authorized by the Southern Sandoval County Arroyo Flood
6 Control Act;

7 P. "mailed notice" or notice by "mail" means the
8 giving by the engineer, secretary or any deputy, as
9 determined by the board, of any designated written or printed
10 notice addressed to the last known owner of each tract of
11 real property in question or other designated person at the
12 person's last known address, by deposit, at least ten days
13 prior to the designated hearing or other time or event, in
14 the United States mails, postage prepaid, as first-class
15 mail. In the absence of fraud, the failure to mail the
16 notice shall not invalidate any proceedings under the
17 Southern Sandoval County Arroyo Flood Control Act. The names
18 and addresses of those property owners shall be obtained from
19 the records of the county assessor or from such other source
20 as the secretary or the engineer deems reliable. Any list of
21 names and addresses may be revised from time to time, but the
22 list need not be revised more frequently than at twelve-month
23 intervals. Any mailing of any notice required shall be
24 verified by the affidavit or certificate of the engineer,
25 secretary, deputy or other person mailing the notice, which

1 verification shall be retained in the records of the
2 authority at least until all taxes and securities
3 appertaining thereto have been paid in full or any claim is
4 barred by a statute of limitations;

5 Q. "municipality" means any incorporated city, town
6 or village in the state, whether incorporated or governed
7 under a general act, special legislative act or special
8 charter of any type. "Municipal" pertains to municipality;

9 R. "person" means any human being, association,
10 partnership, firm or corporation, excluding a public body and
11 excluding the federal government;

12 S. "president" means the president of the authority
13 and the chair of the board;

14 T. "project" means any structure, facility,
15 undertaking or system that the authority is authorized to
16 acquire, improve, equip, maintain or operate. A project may
17 consist of all kinds of personal and real property. A
18 project shall appertain to the flood control system that the
19 authority is authorized and directed to provide within and
20 without the authority's boundaries;

21 U. "property" means real property and personal
22 property;

23 V. "publication" or "publish" means publication in
24 at least the one newspaper designated as the authority's
25 official newspaper and published in the authority in the

1 English language at least once a week and of general
2 circulation in the authority. Except as otherwise
3 specifically provided or necessarily implied, "publication"
4 or "publish" also means publication for at least once a week
5 for three consecutive weeks by three weekly insertions, the
6 first publication being at least fifteen days prior to the
7 designated time or event, unless otherwise stated. It is not
8 necessary that publication be made on the same day of the
9 week in each of the three calendar weeks, but not less than
10 fourteen days shall intervene between the first publication
11 and the last publication, and publication shall be complete
12 on the day of the last publication. Any publication required
13 shall be verified by the affidavit of the publisher and filed
14 with the secretary;

15 W. "public body" means the state or any agency,
16 instrumentality or corporation of the state or any
17 municipality, school district or other type district or any
18 other political subdivision of the state, excluding the
19 authority and excluding the federal government;

20 X. "qualified elector" means a person qualified and
21 registered to vote in general elections in the state who is a
22 resident of the authority at the time of any election held
23 under the provisions of the Southern Sandoval County Arroyo
24 Flood Control Act or at any other time in reference to which
25 the term "qualified elector" is used;

1 Y. "real property" means:

2 (1) land, including land under water;

3 (2) buildings, structures, fixtures and
4 improvements on land;

5 (3) any property appurtenant to or used in
6 connection with land; and

7 (4) every estate, interest, privilege,
8 easement, franchise and right in land, legal or equitable,
9 including without limiting the generality of the foregoing,
10 rights of way, terms for years and liens, charges or
11 encumbrances by way of judgment, mortgage or otherwise and
12 the indebtedness secured by such liens;

13 Z. "secretary" means the secretary of the
14 authority;

15 AA. "secretary of state" means the secretary of the
16 state of New Mexico;

17 BB. "securities" means any notes, warrants, bonds,
18 temporary bonds or interim debentures or other obligations of
19 the authority or any public body appertaining to any project
20 or interest in a project authorized by the Southern Sandoval
21 County Arroyo Flood Control Act;

22 CC. "sewer facilities" means any one or more of the
23 various devices used in the collection, channeling,
24 impounding or disposition of storm, flood or surface drainage
25 waters, including all inlets, collection, drainage or

1 disposal lines, canals, intercepting sewers, outfall sewers,
2 all pumping, power and other equipment and appurtenances, all
3 extensions, improvements, remodeling, additions and
4 alterations thereof and any rights or interest in such sewer
5 facilities;

6 DD. "sewer improvement" or "improve any sewer"
7 means the acquisition, reacquisition, improvement,
8 reimprovement or repair of any storm sewer or combination
9 storm and sanitary sewer, including collecting and
10 intercepting sewer lines or mains, submains, trunks,
11 laterals, outlets, ditches, ventilation stations, pumping
12 facilities, ejector stations and all other appurtenances and
13 machinery necessary, useful or convenient for the collection,
14 transportation and disposal of storm water;

15 EE. "state" means the state of New Mexico or any
16 agency, instrumentality or corporation of the state;

17 FF. "street" means any street, avenue, boulevard,
18 alley, highway or other public right of way used for any
19 vehicular traffic;

20 GG. "taxes" means general (ad valorem) taxes
21 pertaining to any project authorized by the Southern Sandoval
22 County Arroyo Flood Control Act; and

23 HH. "treasurer" means the treasurer of the
24 authority."

25 SECTION 128. Section 72-19-8 NMSA 1978 (being Laws

1 1990, Chapter 14, Section 8, as amended) is amended to read:

2 "72-19-8. BOARD OF DIRECTORS.--The governing body of
3 the authority is a board of directors consisting of five
4 qualified electors of the authority. All powers, rights,
5 privileges and duties vested in or imposed upon the authority
6 are exercised and performed by and through the board of
7 directors; provided that the exercise of any executive,
8 administrative and ministerial powers may be, by the board,
9 delegated and redelegated to officers and employees of the
10 authority. Except for the first directors appointed as
11 provided for in Section 72-19-9 NMSA 1978 or elected as
12 provided for in Section 72-19-10 NMSA 1978 and except for any
13 director chosen to fill an unexpired term, the term of each
14 director runs for six years. Each director, subject to such
15 exceptions, shall serve a six-year term, and each director
16 shall serve until a successor has been duly chosen and
17 qualified."

18 **SECTION 129.** Section 72-19-10 NMSA 1978 (being Laws
19 1990, Chapter 14, Section 10, as amended) is amended to read:

20 "72-19-10. ELECTION OF DIRECTORS.--At the time that a
21 proposal to incur debt is first submitted to the qualified
22 electors, the qualified electors of the authority shall elect
23 five qualified directors, two to serve a term ending January
24 1, 1993, two to serve a term ending January 1, 1995 and one
25 to serve a term ending January 1, 1997. At the first

1 election, the five candidates receiving the highest number of
2 votes shall be elected as directors. The terms of the
3 directors shall be determined by lot at their organizational
4 meeting. At each local election thereafter, the qualified
5 electors of the authority shall elect similarly one or two
6 qualified electors as directors to serve six-year terms as
7 directors. Elections shall be held pursuant to the
8 provisions of the Local Election Act. Nothing in the
9 Southern Sandoval County Arroyo Flood Control Act shall be
10 construed as preventing qualified electors of the authority
11 from being elected or reelected as directors to succeed
12 themselves."

13 **SECTION 130.** Section 72-19-11 NMSA 1978 (being Laws
14 1990, Chapter 14, Section 11, as amended) is amended to read:

15 "72-19-11. NOMINATION OF DIRECTORS.--Written
16 nominations of any candidate as director may be filed with
17 the proper filing officer in accordance with the provisions
18 of the Local Election Act. Each nomination of any candidate
19 shall be signed by not less than fifty qualified electors,
20 regardless of whether or not nominated, shall designate the
21 name of the candidates nominated and shall recite that the
22 subscribers are qualified electors and that the candidates
23 designated are qualified electors of the authority. No
24 written nomination may designate more qualified electors as
25 candidates than there are vacancies. No qualified elector

1 may nominate more than one candidate for any vacancy."

2 **SECTION 131.** Section 72-19-13 NMSA 1978 (being Laws
3 1990, Chapter 14, Section 13) is amended to read:

4 "72-19-13. ORGANIZATIONAL MEETINGS.--Except for the
5 first board, each board shall meet on the first business day
6 next following the first day of the month that the term of
7 office begins for members elected in the immediately
8 preceding election at the office of the board within the
9 authority. Each member of the board, before entering upon
10 official duties, shall take and subscribe on oath that the
11 member will support the constitution of the United States and
12 the constitution and laws of New Mexico and will faithfully
13 and impartially discharge the duties of office to the best of
14 the member's ability, which oath shall be filed in the office
15 of the secretary of state. Each director shall, before
16 entering upon official duties, give a bond to the authority
17 in the sum of ten thousand dollars (\$10,000) with good and
18 sufficient surety, conditioned for the faithful performance
19 of all of the duties of office, without fraud, deceit or
20 oppression, and the accounting for all money and property
21 coming into the director's hands, and the prompt and faithful
22 payment of all money and the delivering of all property
23 coming into the director's custody or control belonging to
24 the authority, to the director's successors in office.

25 Premiums on all bonds provided for in this section shall be

1 paid by the authority, and all such bonds shall be kept on
2 file in the office of the secretary of state."

3 **SECTION 132.** Section 72-19-28 NMSA 1978 (being Laws
4 1990, Chapter 14, Section 28, as amended) is amended to read:

5 "72-19-28. ELECTIONS.--Each biennial election of
6 directors and other election of the authority, including an
7 election to seek approval for the issuance of bonds, shall be
8 conducted pursuant to the Local Election Act."

9 **SECTION 133.** Section 72-20-4 NMSA 1978 (being Laws
10 2007, Chapter 99, Section 4) is amended to read:

11 "72-20-4. DEFINITIONS.--Except where the context
12 otherwise requires, as used in the Eastern Sandoval County
13 Arroyo Flood Control Act:

14 A. "acquisition" or "acquire" means the opening,
15 laying out, establishment, purchase, construction, securing,
16 installation, reconstruction, lease, gift, grant from the
17 federal government or any public body or person, endowment,
18 bequest, devise, condemnation, transfer, assignment, option
19 to purchase, other contract or other acquirement, or any
20 combination thereof, of facilities, other property or any
21 project or an interest therein authorized by the Eastern
22 Sandoval County Arroyo Flood Control Act;

23 B. "authority" means the eastern Sandoval county
24 arroyo flood control authority;

25 C. "board" means the board of directors of the

1 authority;

2 D. "chair" means the chair of the board and
3 president of the authority;

4 E. "condemnation" or "condemn" means the
5 acquisition by the exercise of the power of eminent domain of
6 property for any facilities, other property or project or an
7 interest therein authorized by the Eastern Sandoval County
8 Arroyo Flood Control Act. The authority may exercise in the
9 state the power of eminent domain, either within or without
10 the authority and, in the manner provided by law for the
11 condemnation of private property for public use, may take any
12 property necessary to carry out any of the objects or
13 purposes of the Eastern Sandoval County Arroyo Flood Control
14 Act. In the event the construction of any facility or
15 project authorized by the Eastern Sandoval County Arroyo
16 Flood Control Act, or any part thereof, makes necessary the
17 removal and relocation of any public utilities, whether on
18 private or public right of way, the authority shall reimburse
19 the owner of the public utility facility for the expense of
20 removal and relocation, including the cost of any necessary
21 land or rights in land;

22 F. "cost" or "cost of the project", or words of
23 similar import, means all, or any part designated by the
24 board, of the cost of any facilities, project or interest
25 therein being acquired and of all or any property, rights,

1 easements, privileges, agreements and franchises deemed by
2 the authority to be necessary or useful and convenient
3 therefor or in connection therewith, which cost, at the
4 option of the board, may include all or any part of the
5 incidental costs pertaining to the project, including without
6 limiting the generality of the foregoing, preliminary
7 expenses advanced by any municipality or other public body
8 from funds available for use therefor in the making of
9 surveys, preliminary plans, estimates of cost and other
10 preliminaries; for the costs of appraising and printing and
11 employing engineers, architects, fiscal agents, attorneys at
12 law, clerical help and other agents or employees; for the
13 costs of capitalizing interest or any discount on securities,
14 of inspection, of any administrative, operating and other
15 expenses of the authority prior to the levy and collection of
16 taxes and of reserves for working capital, operation,
17 maintenance or replacement expenses or for payment or
18 security of principal of or interest on any securities; for
19 the costs of making, publishing, posting, mailing and
20 otherwise giving any notice in connection with the project,
21 the taking of options, the issuance of securities, the filing
22 or recordation of instruments and the levy and collection of
23 taxes and installments thereof; for the costs of
24 reimbursements by the authority to any public body, the
25 federal government or any person of any money theretofore

1 expended for or in connection with any facility or project;
2 and for all other expenses necessary or desirable and
3 appertaining to any project, as estimated or otherwise
4 ascertained by the board;

5 G. "director" means a member of the board;

6 H. "disposal" or "dispose" means the sale,
7 destruction, razing, loan, lease, gift, grant, transfer,
8 assignment, mortgage, option to sell, other contract or other
9 disposition, or any combination thereof, of facilities, other
10 property or any project or an interest therein authorized by
11 the Eastern Sandoval County Arroyo Flood Control Act;

12 I. "engineer" means any engineer in the permanent
13 employ of the authority or any independent competent engineer
14 or firm of such engineers employed by the authority in
15 connection with any facility, property, project or power
16 authorized by the Eastern Sandoval County Arroyo Flood
17 Control Act;

18 J. "equipment" or "equip" means the furnishing of
19 all necessary or desirable, related or appurtenant
20 facilities, or any combination thereof, appertaining to any
21 facilities, property or project or interest therein
22 authorized by the Eastern Sandoval County Arroyo Flood
23 Control Act;

24 K. "facility" means any of the water facilities,
25 sewer facilities or other property appertaining to the flood

1 control system of the authority;

2 L. "federal government" means the United States or
3 any agency, instrumentality or corporation thereof;

4 M. "federal securities" means the bills,
5 certificates of indebtedness, notes or bonds that are direct
6 obligations of, or the principal and interest of which
7 obligations are unconditionally guaranteed by, the United
8 States;

9 N. "governing body" means the city council, city
10 commission, board of commissioners, board of trustees, board
11 of directors or other legislative body of the public body
12 proceeding under the Eastern Sandoval County Arroyo Flood
13 Control Act, in which body the legislative powers of the
14 public body are vested;

15 O. "improvement" or "improve" means the extension,
16 widening, lengthening, betterment, alteration,
17 reconstruction, repair or other improvement, or any
18 combination thereof, of facilities, other property or project
19 or any interest therein authorized by the Eastern Sandoval
20 County Arroyo Flood Control Act;

21 P. "mailed notice" or notice by "mail" means the
22 giving by the engineer, secretary or any deputy thereof, as
23 determined by the board, of any designated written or printed
24 notice addressed to the last known owner of each tract of
25 real property in question or other designated person at the

1 last known address, by deposit, at least ten days prior to
2 the designated hearing or other time or event, in the United
3 States mail, postage prepaid, as first-class mail. In the
4 absence of fraud, the failure to mail any such notice shall
5 not invalidate any proceedings under the Eastern Sandoval
6 County Arroyo Flood Control Act. The names and addresses of
7 those property owners shall be obtained from the records of
8 the county assessor or from such other source as the
9 secretary or the engineer deems reliable. Any list of such
10 names and addresses may be revised from time to time, but
11 such a list need not be revised more frequently than at
12 twelve-month intervals. Any mailing of any notice required
13 shall be verified by the affidavit or certificate of the
14 engineer, secretary, deputy or other person mailing the
15 notice, which verification shall be retained in the records
16 of the authority at least until all taxes and securities
17 appertaining thereto have been paid in full or any claim is
18 barred by a statute of limitations;

19 Q. "municipality" means any incorporated city, town
20 or village in the state, whether incorporated or governed
21 under a general act, special legislative act or special
22 charter of any type. "Municipal" pertains to municipality;

23 R. "person" means any human being, association,
24 partnership, firm or corporation, excluding a public body and
25 excluding the federal government;

1 S. "president" means the president of the authority
2 and the chair of the board;

3 T. "project" means any structure, facility,
4 undertaking or system that the authority is authorized to
5 acquire, improve, equip, maintain or operate. A project may
6 consist of all kinds of personal and real property. A
7 project shall appertain to the flood control system that the
8 authority is authorized and directed to provide within and
9 without the authority's boundaries;

10 U. "property" means real property and personal
11 property;

12 V. "publication" or "publish" means publication in
13 at least the one newspaper designated as the authority's
14 official newspaper and published in the authority in the
15 English language at least once a week and of general
16 circulation in the authority. Except as otherwise
17 specifically provided or necessarily implied, "publication"
18 or "publish" also means publication for at least once a week
19 for three consecutive weeks by three weekly insertions, the
20 first publication being at least fifteen days prior to the
21 designated time or event, unless otherwise so stated. It is
22 not necessary that publication be made on the same day of the
23 week in each of the three calendar weeks, but not less than
24 fourteen days shall intervene between the first publication
25 and the last publication, and publication shall be complete

1 on the day of the last publication. Any publication required
2 shall be verified by the affidavit of the publisher and filed
3 with the secretary;

4 W. "public body" means the state or any agency,
5 instrumentality or corporation thereof or any municipality,
6 school district or other type of district or any other
7 political subdivision of the state, excluding the authority
8 and excluding the federal government;

9 X. "qualified elector" means a person qualified and
10 registered to vote in general elections in the state, who is
11 a resident of the authority at the time of any election held
12 under the provisions of the Eastern Sandoval County Arroyo
13 Flood Control Act or at any other time in reference to which
14 the term "qualified elector" is used;

15 Y. "real property" means:

16 (1) land, including land under water;

17 (2) buildings, structures, fixtures and
18 improvements on land;

19 (3) any property appurtenant to or used in
20 connection with land; and

21 (4) every estate, interest, privilege,
22 easement, franchise and right in land, legal or equitable,
23 including without limiting the generality of the foregoing,
24 rights of way, terms for years and liens, charges or
25 encumbrances by way of judgment, mortgage or otherwise and

1 the indebtedness secured by such liens;

2 Z. "secretary" means the secretary of the
3 authority;

4 AA. "secretary of state" means the secretary of
5 state of New Mexico;

6 BB. "securities" means any notes, warrants, bonds,
7 temporary bonds or interim debentures or other obligations of
8 the authority or any public body appertaining to any project
9 or interest therein authorized by the Eastern Sandoval County
10 Arroyo Flood Control Act;

11 CC. "sewer facilities" means any one or more of the
12 various devices used in the collection, channeling,
13 impounding or disposition of storm, flood or surface drainage
14 waters, including all inlets, collection, drainage or
15 disposal lines, canals, intercepting sewers, outfall sewers,
16 all pumping, power and other equipment and appurtenances, all
17 extensions, improvements, remodeling, additions and
18 alterations thereof and any rights or interest in such sewer
19 facilities;

20 DD. "sewer improvement" or "improve any sewer"
21 means the acquisition, reacquisition, improvement,
22 reimprovement or repair of any storm sewer or combination
23 storm and sanitary sewer, including collecting and
24 intercepting sewer lines or mains, submains, trunks,
25 laterals, outlets, ditches, ventilation stations, pumping

1 facilities, ejector stations and all other appurtenances and
2 machinery necessary, useful or convenient for the collection,
3 transportation and disposal of storm water;

4 EE. "state" means the state of New Mexico or any
5 agency, instrumentality or corporation thereof;

6 FF. "street" means any street, avenue, boulevard,
7 alley, highway or other public right of way used for any
8 vehicular traffic;

9 GG. "taxes" means general (ad valorem) taxes
10 pertaining to any project authorized by the Eastern Sandoval
11 County Arroyo Flood Control Act; and

12 HH. "treasurer" means the treasurer of the
13 authority."

14 **SECTION 134.** Section 72-20-8 NMSA 1978 (being Laws
15 2007, Chapter 99, Section 8, as amended) is amended to read:

16 "72-20-8. BOARD OF DIRECTORS.--

17 A. The governing body of the authority is a board
18 of directors consisting of three registered qualified
19 electors of the authority; provided that, after single-member
20 districts are created pursuant to Subsection B of Section
21 72-20-10 NMSA 1978 and after the expiration of the terms of
22 any directors-at-large who are serving at the time that
23 single-member districts are created:

24 (1) each director shall reside within and
25 represent a specified district; and

1 (2) if a director no longer resides within the
2 district that the director represents, the director's
3 position shall be deemed vacant and a successor shall be
4 appointed to serve the unexpired term pursuant to Section
5 72-20-12 NMSA 1978.

6 B. All powers, rights, privileges and duties vested
7 in or imposed upon the authority are exercised and performed
8 by and through the board of directors; provided that the
9 exercise of any executive, administrative and ministerial
10 powers may be, by the board, delegated and redelegated to
11 officers and employees of the authority or to any officer or
12 employee contracted by agreement to manage and administer the
13 operations of the authority. Except for the first directors
14 appointed as provided for in Section 72-20-9 NMSA 1978 or
15 elected as provided in Section 72-20-10 NMSA 1978 and except
16 for any director chosen to fill an unexpired term, and except
17 for the first directors serving after the authority is
18 divided into single-member districts, the term of each
19 director runs for six years. Each director, subject to such
20 exceptions, shall serve a six-year term, and each director
21 shall serve until a successor has been duly chosen and
22 qualified."

23 **SECTION 135.** Section 72-20-10 NMSA 1978 (being Laws
24 2007, Chapter 99, Section 10, as amended) is amended to read:

25 "72-20-10. ELECTION OF DIRECTORS--SINGLE-MEMBER

1 DISTRICTS.--

2 A. At the time that a proposal to incur debt is
3 first submitted to the qualified electors, the qualified
4 electors of the authority shall elect five qualified
5 directors, two to serve a term ending January 1, 2011, two to
6 serve a term ending January 1, 2013 and one to serve a term
7 ending January 1, 2015. At the first election, the five
8 candidates receiving the highest number of votes shall be
9 elected as directors. The terms of the directors shall be
10 determined by lot at their organizational meeting.

11 B. Upon the exclusion of land pursuant to
12 Subsection C of Section 72-20-6 NMSA 1978, the two directors
13 elected in the 2010 general election shall be deemed to have
14 resigned, and, notwithstanding the provisions of Section
15 72-20-12 NMSA 1978, their positions shall not be filled.
16 Thereafter, the board shall consist of three directors. The
17 board shall divide the authority into three single-member
18 districts. The following provisions shall govern the
19 procedure for converting to single-member districts:

20 (1) the districts shall be as contiguous,
21 compact and as equal in population as is practicable;

22 (2) remaining terms for the three incumbent
23 directors shall be chosen by lot so that one term expires on
24 January 1, 2013, one term expires on January 1, 2015 and one
25 term expires on January 1, 2017;

1 (3) if, as a result of the division of the
2 authority into districts, two or more incumbent directors
3 reside within the same district, the board shall determine,
4 by lot, one of the directors to represent the district, and
5 the other directors residing within that district shall
6 represent the authority at large until their terms expire;

7 (4) if, as a result of the exclusion of land
8 pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or
9 more incumbent directors reside outside of any district, the
10 directors shall represent the authority at large until their
11 terms expire; and

12 (5) if more than one director represents the
13 authority at large pursuant to Paragraph (3) or (4) of this
14 subsection, the board shall determine by lot the district
15 that will elect a resident to succeed a director-at-large as
16 the term of each director-at-large expires.

17 C. A director who is a qualified elector and a
18 resident of the district shall be elected by the qualified
19 electors who are residents of that district to serve a six-
20 year term. Elections for directors shall be held pursuant to
21 the Local Election Act.

22 D. Nothing in this section shall be construed as
23 preventing qualified electors of the authority from being
24 elected or reelected as directors to succeed themselves;
25 provided that they reside in the district from which they are

1 elected.

2 E. As soon as feasible after each federal decennial
3 census, the board shall assess the existing districts to
4 determine if the districts remain as equal in population as
5 is practicable and, if necessary, shall redistrict the
6 authority into districts that remain contiguous, compact and
7 as equal in population as is practicable; provided that:

8 (1) a redistricting shall be effective at the
9 next following local election;

10 (2) an incumbent director whose residence is
11 redistricted out of the district represented by the director
12 shall serve until the next local election, at which a
13 qualified elector who resides within the district shall be
14 elected to fill the unexpired term; and

15 (3) the board shall notify the county clerk of
16 the new district boundaries."

17 **SECTION 136.** Section 72-20-11 NMSA 1978 (being Laws
18 2007, Chapter 99, Section 11, as amended) is amended to read:

19 "72-20-11. NOMINATION OF DIRECTORS.--Written
20 nominations of any candidate as director may be filed with
21 the proper filing officer in accordance with the provisions
22 of the Local Election Act. Each nomination of any candidate
23 shall be signed by not less than fifty qualified electors,
24 regardless of whether or not nominated, shall designate the
25 name of the candidates nominated and shall recite that the

1 subscribers are qualified electors and that the candidates
2 designated are qualified electors of the authority. No
3 written nomination may designate more qualified electors as
4 candidates than there are vacancies. No qualified elector
5 may nominate more than one candidate for any vacancy."

6 **SECTION 137.** Section 72-20-13 NMSA 1978 (being Laws
7 2007, Chapter 99, Section 13) is amended to read:

8 "72-20-13. ORGANIZATIONAL MEETINGS.--Except for the
9 first board, each board shall meet on the first business day
10 next following the first day of the month that the term of
11 office begins for members elected in the immediately
12 preceding election, at the office of the board within the
13 authority. Each member of the board, before entering upon
14 the member's official duties, shall take and subscribe on
15 oath that the member will support the constitution of the
16 United States and the constitution and laws of New Mexico and
17 that the member will faithfully and impartially discharge the
18 duties of the office to the best of the member's ability,
19 which oath shall be filed in the office of the secretary of
20 state. Each director shall, before entering upon the
21 director's official duties, give a bond to the authority in
22 the sum of ten thousand dollars (\$10,000) with good and
23 sufficient surety, conditioned for the faithful performance
24 of all of the duties of the director's office, without fraud,
25 deceit or oppression, and the accounting for all money and

1 property coming into the director's hands and the prompt and
2 faithful payment of all money and the delivering of all
3 property coming into the director's custody or control
4 belonging to the authority to the director's successors in
5 office. Premiums on all bonds provided for in this section
6 shall be paid by the authority, and all such bonds shall be
7 kept on file in the office of the secretary of state."

8 **SECTION 138.** Section 72-20-28 NMSA 1978 (being Laws
9 2007, Chapter 99, Section 28) is amended to read:

10 "72-20-28. ELECTIONS.--Each biennial election of
11 directors and any other election of the authority, including
12 an election to seek approval for the issuance of bonds, shall
13 be conducted pursuant to the Local Election Act."

14 **SECTION 139.** Section 73-14-20 NMSA 1978 (being Laws
15 1975, Chapter 262, Section 3, as amended) is amended to read:

16 "73-14-20. DEFINITIONS.--As used in Sections 73-14-18
17 through 73-14-30 NMSA 1978:

18 A. "benefited area" means that area described by a
19 property appraisal that receives a benefit as a result of the
20 creation of a district for any of the purposes specified in
21 Section 73-14-4 NMSA 1978;

22 B. "list compiler" means a contractor approved by
23 the board of directors to compile and produce a qualified
24 elector list for a conservancy district;

25 C. "qualified elector" means an individual who owns

1 real property within the benefited area of the conservancy
2 district and who has provided proof of an ownership interest
3 to one of the sources specified in Subsection B of Section
4 73-14-20.1 NMSA 1978 within the required time period, or who
5 resides on and owns legal or equitable title in tribal lands
6 and who is over the age of majority;

7 D. "qualified elector's list" means the list
8 compiled before each election that contains the individual
9 names of all qualified electors; and

10 E. "residence" means a dwelling that lies partially
11 or completely within the benefited area."

12 **SECTION 140.** Section 73-14-20.1 NMSA 1978 (being Laws
13 1990, Chapter 48, Section 1, as amended) is amended to read:

14 "73-14-20.1. QUALIFIED ELECTOR LIST.--

15 A. The board of directors of the conservancy
16 district may contract for a list compiler before each
17 election to compile and produce a qualified elector's list
18 for the district. The list compiler shall deliver the
19 completed list to the appropriate county clerk no later than
20 one hundred eighty days prior to a district election and
21 update the list every thirty days until ninety days before
22 the election, which list the county clerk shall use for the
23 election. An individual who purchases property ninety days
24 prior to an election and whose name does not appear on the
25 qualified elector's list shall not vote in that election.

1 The individual may become certified to vote in a future
2 election by filing a deed of title with the appropriate
3 county clerk at least ninety days before the next conservancy
4 district election.

5 B. Names of qualified electors shall be obtained
6 from the records of the county clerk of the appropriate
7 county, the appropriate county assessor of the appropriate
8 county, records of the conservancy district or from the
9 census bureau and enrollment records provided by the pueblos.
10 The county assessor of the appropriate county, the county
11 clerk of the appropriate county and the tribal
12 representatives of the appropriate pueblos shall deliver to
13 the list compiler all records regarding qualified electors of
14 the benefited area no later than the last day of each March
15 before a district election.

16 C. Updating the qualified elector's list shall
17 consist of adding, for any new qualified elector who has
18 purchased property in the district, the name, address and
19 description of all property owned by the qualified elector in
20 the benefited area and removing the name of any elector who
21 is deceased or who no longer owns property within the
22 benefited area.

23 D. Proof of ownership of land within the benefited
24 area requires one of the following:

- 25 (1) a recorded deed or real estate contract

1 indicating current ownership of land within the benefited
2 area;

3 (2) an individual's name on county clerk
4 records indicating a description of property the individual
5 owns within the benefited area;

6 (3) an individual's name on a list compiled by
7 the governing body of a pueblo within the benefited area
8 indicating that the individual named is residing on and has
9 legal or equitable title in the pueblo; or

10 (4) a current property tax bill indicating
11 ownership of land within the benefited area.

12 E. The appropriate county clerk shall distribute
13 to each polling place a current qualified elector's list for
14 the appropriate county. The appropriate county clerk shall
15 distribute the qualified elector's list to each polling place
16 within a pueblo located within the benefited area. A
17 qualified elector may vote at any one polling place in the
18 pueblo or county where the elector owns land. An individual
19 who seeks to cast a vote but whose name is not on the
20 qualified elector's list shall not be allowed to vote in that
21 election."

22 **SECTION 141.** Section 73-14-24 NMSA 1978 (being Laws
23 1975, Chapter 262, Section 7, as amended) is amended to read:

24 "73-14-24. TIME AND PROCEDURE FOR ELECTION.--

25 A. The members of the boards of directors created

1 pursuant to the provisions of Sections 73-14-18 through
2 73-14-30 NMSA 1978 shall be elected pursuant to the Local
3 Election Act.

4 B. The elections for the members of the board of
5 directors of the conservancy district shall be conducted,
6 counted and canvassed as provided in the Local Election Act."

7 **SECTION 142.** Section 73-14-25 NMSA 1978 (being Laws
8 1975, Chapter 262, Section 8, as amended) is amended to read:

9 "73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF
10 ELECTORS.--

11 A. A person who desires to become a candidate for
12 election as a member of the conservancy district board of
13 directors shall file a written declaration of candidacy with
14 the proper filing officer in accordance with the provisions
15 of the Local Election Act.

16 B. The declaration of candidacy shall be
17 accompanied by:

18 (1) if a candidate for a position representing
19 a county in the conservancy district, a petition signed by at
20 least seventy-five qualified electors of the district who
21 reside in that county; or

22 (2) if a candidate for the position at large
23 in the conservancy district, a petition signed by at least
24 one hundred twenty-five qualified electors."

25 **SECTION 143.** Section 73-14-28.1 NMSA 1978 (being Laws

1 1996, Chapter 42, Section 12) is amended to read:

2 "73-14-28.1. ELECTION.--Elections shall be conducted
3 pursuant to Sections 73-14-18 through 73-14-30 NMSA 1978 and
4 the Local Election Act."

5 **SECTION 144.** Section 73-14-55 NMSA 1978 (being Laws
6 1943, Chapter 126, Section 2) is amended to read:

7 "73-14-55. BOARDS OF DIRECTORS--MEMBERSHIP--
8 QUALIFICATIONS.--The boards of directors created in Sections
9 73-14-54 through 73-14-69 NMSA 1978 shall consist of five
10 directors, each of whom must own real property within the
11 conservancy district that is subject to conservancy district
12 appraisals, assessments, levies and taxes, and each of whom
13 must actually reside within the conservancy district and also
14 within the county from which the director is elected."

15 **SECTION 145.** Section 73-14-57 NMSA 1978 (being Laws
16 1943, Chapter 126, Section 4, as amended) is amended to read:

17 "73-14-57. DEFINITION OF "QUALIFIED ELECTORS"--
18 QUALIFIED ELECTOR LIST.--

19 A. The term "qualified electors", as used in
20 Sections 73-14-54 through 73-14-69 NMSA 1978, means only
21 those persons who have reached the age of majority and, for
22 at least six months prior to the election, have owned, during
23 the entire six-month period, real property situated within
24 the district that is subject to conservancy district
25 appraisals, assessments, levies and taxes.

1 B. The conservancy district shall compile and
2 deliver a qualified elector list to the appropriate county
3 clerk no later than one hundred eighty days before an
4 election, and update the list every thirty days until ninety
5 days before the election, which list the county clerk shall
6 use for that election."

7 **SECTION 146.** Section 73-14-58 NMSA 1978 (being Laws
8 1943, Chapter 126, Section 5) is amended to read:

9 "73-14-58. TERMS--VACANCIES.--Each director shall be
10 elected for a term of six years from and after the date of
11 election and, unless removed from office as provided in
12 Section 73-14-59 NMSA 1978, shall serve until a successor is
13 duly elected and has qualified; provided that at the first
14 election, one director shall be elected for a term of two
15 years, two for a term of four years and two for a term of six
16 years, to be determined according to counties if there is
17 land in any district in more than one county, by the board
18 calling the election. Appointments to fill vacancies shall
19 be for the unexpired term of the director whose office
20 becomes vacant."

21 **SECTION 147.** Section 73-14-61 NMSA 1978 (being Laws
22 1943, Chapter 126, Section 8, as amended) is amended to read:

23 "73-14-61. NOTICE OF CANDIDACY--SIGNATURES OF
24 ELECTORS.--Any qualified elector who desires to become a
25 candidate for election as a director shall file with the

1 proper filing officer in accordance with the provisions of
2 the Local Election Act a written notice of candidacy, which
3 shall state the candidate's name and residence within the
4 conservancy district. If the candidate is a candidate at
5 large, the candidate's notice of candidacy shall be signed by
6 twenty qualified electors resident within the district. If
7 the candidate is a candidate only from that portion of the
8 district that lies within one county, the candidate's notice
9 of candidacy shall be signed by ten qualified electors who
10 reside within that particular portion of the district and
11 county from which the candidate seeks to be elected."

12 **SECTION 148.** Section 73-14-62 NMSA 1978 (being Laws
13 1943, Chapter 126, Section 9, as amended) is amended to read:

14 "73-14-62. TIME, PLACE AND PROCEDURE FOR ELECTION.--
15 The five director-members of the board of directors created
16 by Sections 73-14-54 through 73-14-69 NMSA 1978 shall be
17 elected in accordance with the provisions of the Local
18 Election Act."

19 **SECTION 149.** Section 73-14-71 NMSA 1978 (being Laws
20 1961, Chapter 67, Section 3, as amended) is amended to read:

21 "73-14-71. DEFINITION OF "QUALIFIED ELECTOR"--QUALIFIED
22 ELECTOR LIST.--

23 A. As used in the provisions of Sections 73-14-70
24 through 73-14-88 NMSA 1978, "qualified elector" means a
25 natural person who has reached the age of majority and who,

1 for at least six months prior to the election, has owned,
2 either in community or separately, real property located
3 within the district and subject to conservancy district
4 appraisals, assessments, levies and taxes.

5 B. The conservancy district shall compile and
6 deliver a qualified elector list to the appropriate county
7 clerk no later than one hundred eighty days before an
8 election, and update the list every thirty days until ninety
9 days before the election, which list the county clerk shall
10 use for that election."

11 **SECTION 150.** Section 73-14-73 NMSA 1978 (being Laws
12 1961, Chapter 67, Section 5) is amended to read:

13 "73-14-73. ELECTIONS.--Elections shall be held pursuant
14 to the Local Election Act. Conservancy districts formed
15 after July 1, 1961 shall hold their first election as
16 provided in Section 73-14-74 NMSA 1978."

17 **SECTION 151.** Section 73-14-74 NMSA 1978 (being Laws
18 1961, Chapter 67, Section 6, as amended) is amended to read:

19 "73-14-74. ELIGIBILITY OF DISTRICT TO HOLD ELECTION.--

20 A. No election shall be held in an existing
21 conservancy district until the main canals in that district
22 are in such a condition that water can be delivered from them
23 for irrigation on the lands within the district.

24 B. The first election in any district formed after
25 July 1, 1961 shall be held with the first regular local

1 election occurring after the requirements of Subsection A of
2 this section are fulfilled."

3 **SECTION 152.** Section 73-14-78 NMSA 1978 (being Laws
4 1961, Chapter 67, Section 10) is amended to read:

5 "73-14-78. NOTICE OF CANDIDACY--SIGNATURES OF
6 ELECTORS.--Any qualified elector who desires to become a
7 candidate for election as a member of a conservancy district
8 board of directors shall file a written notice of candidacy
9 with the proper filing officer in accordance with the
10 provisions of the Local Election Act. In addition, a notice
11 for candidacy shall be signed by at least ten qualified
12 electors within the conservancy district."

13 **SECTION 153.** Section 73-18-27 NMSA 1978 (being Laws
14 1955, Chapter 281, Section 3, as amended) is amended to read:

15 "73-18-27. ELECTIONS.--In each odd-numbered year after
16 1955, elections shall be called and conducted pursuant to the
17 Local Election Act for the election of directors to succeed
18 any directors whose terms expire in that year."

19 **SECTION 154.** Section 73-18-28 NMSA 1978 (being Laws
20 1955, Chapter 281, Section 4) is amended to read:

21 "73-18-28. DIRECTOR-AT-LARGE AND MUNICIPAL DIRECTOR--
22 QUALIFIED ELECTOR LIST.--

23 A. The director to represent the municipality and
24 the director-at-large for the period from October 1955 to
25 October 1957 shall be selected at the September 1955 meeting

1 by the board of directors of the conservancy district as it
2 exists prior to the election. The members shall be elected
3 from the membership of the previously existing board if there
4 are qualified members of the board willing to serve for the
5 additional two years. If there are no members of the
6 existing board willing to serve for the additional period of
7 two years or if there is only one, the existing board may
8 select one or both of the directors from qualified electors
9 of the district for the position or positions.

10 B. In the election to be held in October 1957, a
11 director to represent the municipal voting precinct shall be
12 elected from the qualified electors of the municipality, and
13 a director-at-large shall be elected from the qualified
14 electors of the district.

15 C. Every resident, otherwise qualified, owning real
16 estate of any character within the district shall have one
17 vote for director-at-large. Each elector resident of the
18 municipal voting precinct shall have one vote for municipal
19 director. The right of a voter to vote for municipal
20 director shall not be affected by the elector voting in any
21 other election precinct in which the elector may own class
22 "A" land.

23 D. The conservancy district shall compile and
24 deliver a qualified elector list to the appropriate county
25 clerk no later than one hundred eighty days before an

1 election, and update the list every thirty days until ninety
2 days before the election, which list the county clerk shall
3 use for that election."

4 **SECTION 155.** Section 73-18-33 NMSA 1978 (being Laws
5 1955, Chapter 281, Section 9, as amended) is amended to read:

6 "73-18-33. QUALIFICATIONS OF DIRECTORS.--The director-
7 at-large shall be the owner of class "A" land within the
8 district and shall be a resident of the district. The
9 director for the municipal election precinct shall be a
10 resident and shall be the owner of real estate within the
11 district boundaries of the municipality. A director
12 representing a district election precinct outside the
13 municipality shall be a resident of the district and the
14 owner of irrigable land within the voting precinct for which
15 the director is a director."

16 **SECTION 156.** Section 73-18-34 NMSA 1978 (being Laws
17 1955, Chapter 281, Section 10, as amended) is amended to
18 read:

19 "73-18-34. BECOMING A CANDIDATE FOR DIRECTOR.--Any
20 person wishing to become a candidate for the office of
21 director in any district shall file a declaration of
22 candidacy pursuant to the provisions of the Local Election
23 Act, stating the election precinct for which the person is a
24 candidate, accompanied by a petition signed by not less than
25 ten qualified electors of the election precinct for which the

1 person is a candidate to represent. No declaration of
2 candidacy shall be accepted unless accompanied by such
3 petition, signed by electors."

4 **SECTION 157.** Section 73-18-35 NMSA 1978 (being Laws
5 1955, Chapter 281, Section 11) is amended to read:

6 "73-18-35. TERM OF OFFICE FOR DIRECTOR.--The regular
7 term of office for a director is four years, and the director
8 shall serve until a successor has been chosen and has
9 qualified. A director shall qualify by taking an oath of
10 office. Newly elected directors shall take office on the
11 date that their terms of office begin following the election
12 of the director."

13 **SECTION 158.** Section 73-18-41 NMSA 1978 (being Laws
14 1955, Chapter 281, Section 17) is amended to read:

15 "73-18-41. APPLICATION OF LOCAL ELECTION ACT.--In any
16 election held under Sections 73-18-25 through 73-18-43 NMSA
17 1978, the Local Election Act shall be applicable except as to
18 the requirement for registration and residence in state,
19 county or precinct as a qualification of an elector in
20 offering to vote."

21 **SECTION 159.** Section 73-20-1 NMSA 1978 (being Laws
22 1957, Chapter 210, Section 1) is amended to read:

23 "73-20-1. SHORT TITLE.--Sections 73-20-1 through
24 73-20-24 NMSA 1978 may be cited as the "Watershed District
25 Act"."

1 **SECTION 160.** Section 73-20-9 NMSA 1978 (being Laws
2 1957, Chapter 210, Section 9, as amended) is amended to read:

3 "73-20-9. REFERENDUM.--After the board of supervisors
4 has made and recorded a determination that there is need, in
5 the interest of the public health, safety and welfare, for
6 creation of the proposed watershed district, it shall
7 consider the question whether the operation of a district
8 within the proposed boundaries with the powers conferred upon
9 such districts in Section 73-20-13 NMSA 1978 is
10 administratively practicable and feasible. To assist the
11 board of supervisors in this determination, the board shall,
12 within a reasonable time after entry of the finding that
13 there is need for the organization of the district and the
14 determination of the boundaries of the district, hold a
15 referendum within the proposed district upon the proposition
16 of the creation of the district. Due notice of the
17 referendum shall be given as provided in the Local Election
18 Act, except that notice sent to absentee landowners shall
19 also inform them of their right to request a ballot. Ballots
20 shall be sent to all absentee landowners upon request and
21 they may vote by return ballot by first class mail."

22 **SECTION 161.** Section 73-20-10 NMSA 1978 (being Laws
23 1957, Chapter 210, Section 10, as amended) is amended to
24 read:

25 "73-20-10. QUALIFIED ELECTOR LIST.--Only owners of

1 lands lying within the boundaries of the territory, as
2 determined by the board, shall be eligible to vote in the
3 referendum or in elections following formation of the
4 district. The board shall compile and deliver to the
5 appropriate county clerks a list of qualified electors one
6 hundred eighty days prior to a district election, and update
7 the list every thirty days until ninety days before an
8 election, which list the county clerk shall use for the
9 election."

10 **SECTION 162.** Section 73-20-11 NMSA 1978 (being Laws
11 1957, Chapter 210, Section 11, as amended) is amended to
12 read:

13 "73-20-11. VOTES--RESULTS.--The votes shall be counted
14 in accordance with the provisions of the Local Election Act.
15 If a majority of the votes cast favors creation of the
16 district, the county canvassing board shall certify the
17 results to the county clerk in the county involved. Upon
18 proper recording of the action, the watershed district shall
19 be duly created. After recording, the certification shall be
20 filed with the New Mexico department of agriculture."

21 **SECTION 163.** Section 73-20-12 NMSA 1978 (being Laws
22 1957, Chapter 210, Section 12, as amended) is amended to
23 read:

24 "73-20-12. DIRECTORS--ELECTION.--

25 A. At the next regular local election held pursuant HLELC/HB 98
Page 249

1 to the Local Election Act after a watershed district is
2 created, the board of supervisors of the soil and water
3 conservation district involved shall cause an election to be
4 held for the election of a board of directors of the
5 watershed district. The board shall consist of five members.
6 The first board shall determine by lot from among its
7 membership two members to serve terms of two years, two
8 members to serve terms of three years and one member to serve
9 a term of four years. Thereafter, as these initial terms
10 expire, their replacements shall be elected for terms of four
11 years. Vacancies occurring before the expiration of a term
12 shall be filled by the remaining members of the board for the
13 unexpired term. Two or more vacancies occurring
14 simultaneously shall be filled by appointment by the board of
15 supervisors. The board of directors shall, under the
16 supervision of the board of supervisors, be the governing
17 body of the watershed district.

18 B. If the territory embraced within a watershed
19 district lies within more than one soil and water
20 conservation district, each additional soil and water
21 conservation district having a minority of the land involved
22 in the watershed shall be entitled to elect three additional
23 directors. These additional directors after their election
24 shall determine by lot one of their number to serve a term of
25 two years, one a term of three years and one a term of four

1 years. Thereafter, their successors shall be elected for
2 terms of four years. The representatives of each of these
3 minority districts shall fill vacancies in the district's
4 membership for the unexpired term.

5 C. The board of directors shall annually elect from
6 its membership a chair, secretary and treasurer. The
7 treasurer shall execute an official bond for the faithful
8 performance of the duties of office to be approved by the
9 board of directors. The bond shall be executed with at least
10 three solvent personal sureties whose solvency shall exceed
11 the amount of the bond, or by a surety company authorized to
12 do business in this state, and shall be in an amount
13 determined by the board of directors. If the treasurer is
14 required to execute a surety company bond, the premium of the
15 bond shall be paid by the board of directors.

16 D. The board of directors shall prepare and submit
17 to the department of finance and administration such reports
18 as it may require from among those required to be submitted
19 by other political subdivisions.

20 E. Each person desiring to be a director of a
21 watershed district shall file a nominating petition with the
22 proper filing officer in accordance with the provisions of
23 the Local Election Act, signed by ten or more landowners
24 within the watershed districts of the county involved, or, if
25 less than fifty landowners are involved, a majority of such

1 landowners. If the candidates nominated do not exceed the
2 positions available, they shall be declared elected. A
3 person shall not be eligible to be a director of a watershed
4 district if the person is not a landowner in the district in
5 which the person seeks election."

6 **SECTION 164.** Section 73-20-14 NMSA 1978 (being Laws
7 1957, Chapter 210, Section 14, as amended) is amended to
8 read:

9 "73-20-14. BONDS.--

10 A. Bonds authorized by Section 73-20-13 NMSA 1978
11 shall not be issued until proposed by order or resolution of
12 the board of directors, specifying the purpose for which the
13 funds are to be used, and the proposed undertaking, the
14 amount of bonds to be issued, the rate of interest they are
15 to bear and the amount of any necessary assessment levy in
16 excess of the maximum authorized in Section 73-20-17 NMSA
17 1978 to establish a sinking fund for the liquidation of bonds
18 as provided in Section 73-20-17 NMSA 1978. A copy of the
19 order or resolution shall be certified to the board of
20 supervisors.

21 B. The board of supervisors shall conduct a hearing
22 on the proposal after notice given pursuant to Section
23 73-20-8 NMSA 1978. If it appears that the proposal is within
24 the scope and purpose of the Watershed District Act and meets
25 all other requirements of the law, the proposal shall be

1 submitted to the landowners of the district at an election
2 held pursuant to the Local Election Act.

3 C. If two-thirds of the landowners voting favor the
4 proposal, the bonds may be issued."

5 **SECTION 165.** Section 73-20-21 NMSA 1978 (being Laws
6 1957, Chapter 210, Section 20, as amended) is amended to
7 read:

8 "73-20-21. ADDITION OF LAND.--

9 A. Any one or more owners of land may petition the
10 board of supervisors to have their lands added to a watershed
11 district. The petition shall define the boundaries of the
12 land desired to be annexed, the number of acres of land
13 involved and other information pertinent to the proposal.
14 When the boundary described embraces lands of others than the
15 petitioners, the petition shall so state and shall be signed
16 by twenty-five or more of the landowners in the territory
17 described, if fifty or more such owners are involved, or by a
18 majority if less than fifty landowners are involved.

19 B. Within thirty days after the petition is filed,
20 the board shall cause due notice to be given as provided in
21 Section 73-20-8 NMSA 1978 of a hearing on the petition. All
22 interested parties shall have a right to attend the hearing
23 and be heard. The board shall determine whether the lands
24 described in the petition or any portion of them shall be
25 included in the district. If all the landowners in the

1 territory involved are not petitioners, a referendum shall be
2 held within the territory in accordance with the Local
3 Election Act before making a final determination. If it is
4 determined that the land should be added, this fact shall be
5 certified by the board of supervisors to the county clerk in
6 the county involved. After recording, the certification
7 shall be filed with the New Mexico department of
8 agriculture."

9 SECTION 166. Section 73-20-23 NMSA 1978 (being Laws
10 1957, Chapter 210, Section 22, as amended by Laws 2013,
11 Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section
12 2) is amended to read:

13 "73-20-23. DISCONTINUANCE OF DISTRICTS.--

14 A. At any time after five years from the
15 organization of a watershed district, a majority of the
16 landowners in the district may file a petition with the board
17 of supervisors and the board of directors requesting that the
18 existence of the district be discontinued if all obligations
19 of the district have been met. The petition shall state the
20 reasons for discontinuance and demonstrate that all
21 obligations of the district have been met.

22 B. After giving notice as defined in Section
23 73-20-8 NMSA 1978, the board of supervisors may conduct
24 hearings on the petition as may be necessary to assist it in
25 making a determination.

1 C. Within sixty days after petition is filed, a
2 referendum shall be held pursuant to the provisions of the
3 Local Election Act.

4 D. If a majority of the votes cast in the
5 referendum favors the discontinuance of the district and it
6 is found that all obligations have been met, the board of
7 supervisors shall make a determination that the watershed
8 district shall be discontinued. A copy of the determination
9 shall be certified by the clerk of the county involved for
10 recording. After recording, the certification shall be filed
11 with the New Mexico department of agriculture."

12 SECTION 167. Section 73-20-37 NMSA 1978 (being Laws
13 1965, Chapter 137, Section 11, as amended) is amended to
14 read:

15 "73-20-37. DISTRICT SUPERVISORS--ELECTION AND
16 APPOINTMENT--NEW DISTRICTS.--

17 A. The governing body of a district shall be
18 composed of five supervisors who shall be residents of the
19 district and shall be elected pursuant to the provisions of
20 the Local Election Act; provided, however, that two
21 additional supervisors may be appointed to the governing body
22 of each district by the commission in accordance with the
23 provisions of the Soil and Water Conservation District Act.
24 Four elected supervisor positions of each district shall be
25 filled by landowners within the defined geographical area of

1 their district. One elected supervisor position shall be
2 designated supervisor-at-large, and the supervisor filling
3 that position may serve the district without landowner
4 qualification.

5 B. In the first election of supervisors to serve a
6 newly organized district, two supervisors shall be elected
7 for terms of four years and three supervisors shall be
8 elected for terms of two years. Thereafter, each elected
9 supervisor shall serve a term of four years and shall
10 continue in office until a successor has been elected or
11 appointed and has completed an oath of office. A vacant
12 unexpired term of the office of an elected supervisor shall
13 be filled by appointment by the remaining supervisors of the
14 district. Two or more vacant unexpired terms occurring
15 simultaneously in the same district shall be filled by
16 appointment by the commission.

17 C. Appointed interim supervisors may continue to
18 serve as appointed supervisors until their successors are
19 elected at the next local election pursuant to the Local
20 Election Act."

21 SECTION 168. Section 73-20-38 NMSA 1978 (being Laws
22 1965, Chapter 137, Section 12, as amended) is amended to
23 read:

24 "73-20-38. DISTRICT SUPERVISORS--ELECTION AND
25 APPOINTMENT--ORGANIZED DISTRICTS.--

1 A. Successors to supervisors whose terms end in a
2 calendar year shall be elected pursuant to the Local Election
3 Act. Elections shall be called, conducted and canvassed in
4 accordance with the Local Election Act.

5 B. By June 15 of each year, the district
6 supervisors may submit to the commission a list of persons
7 interested in the district and who by experience or training
8 are qualified to serve as supervisors. The commission may
9 appoint from the list submitted two persons to serve as
10 supervisors if it is the determination of the commission that
11 the appointments are necessary or desirable and would benefit
12 or facilitate the work and functions of the district. In the
13 event a list is not submitted to the commission by the
14 supervisors by June 15, the commission may appoint two
15 supervisors qualified to serve by training or experience.
16 Appointed supervisors shall serve a term of one year and
17 shall have the same powers and perform the same duties as
18 elected supervisors. Successors to appointed supervisors, or
19 replacement-appointed supervisors in the event of vacancy,
20 shall be appointed by the commission from a list of
21 candidates in accordance with the provisions of this
22 subsection."

23 **SECTION 169.** Section 73-20-46 NMSA 1978 (being Laws
24 1965, Chapter 137, Section 20, as amended) is amended to
25 read:

1 "73-20-46. DISTRICT ASSESSMENTS.--

2 A. In the event a district is unable to meet or
3 bear the expense of the duties imposed upon it by the Soil
4 and Water Conservation District Act, the supervisors may
5 adopt a resolution that, to be effective, shall be approved
6 by referendum in the district and that shall provide for an
7 annual levy in a stated amount not exceeding five dollars
8 (\$5.00) on each one thousand dollars (\$1,000) of net taxable
9 value, as that term is defined in the Property Tax Code, of
10 real property within the district, except that real property
11 within incorporated cities and towns in the district may be
12 excluded. The referendum held to approve or reject the
13 resolution of the supervisors shall be conducted pursuant to
14 the Local Election Act. After the initial authorization is
15 approved by referendum, the supervisors shall adopt a
16 resolution in each following year authorizing the levy.

17 B. A resolution authorized under Subsection A of
18 this section shall not be effective, and neither a referendum
19 nor a levy is authorized, unless the resolution is submitted
20 to and approved in writing by the commission.

21 C. In the event a resolution of the supervisors is
22 adopted and approved in accordance with the provisions of
23 Subsection A of this section, the supervisors of the district
24 shall certify by the fifteenth of July of each year to the
25 county assessor of each county in which there is situate land

1 subject to the district assessment:

2 (1) a copy of the resolution of the
3 supervisors;

4 (2) the results of any referendum held in the
5 year the certification is made; and

6 (3) a list of landowners of the district and a
7 description of the land owned by each that is subject to
8 assessment.

9 D. A county assessor shall indicate the information
10 on the tax schedules, compute the assessment and present the
11 district assessment by regular tax bill.

12 E. The district assessment shall be collected by
13 the county treasurer of each county in which taxable district
14 land is situate in the same manner and at the same time that
15 county ad valorem taxes are levied. The conditions,
16 penalties and rates of interest applicable to county ad
17 valorem taxation apply to the levy and collection of district
18 assessments. A county treasurer shall be entitled to a
19 collection fee equal to the actual costs of collection or
20 four percent of the money collected from the levy of the
21 district assessment, whichever is the lesser.

22 F. District funds, regardless of origin, shall be
23 transferred to and held by the supervisors and shall be
24 expended for district obligations and functions. The
25 supervisors shall prepare an annual budget and submit it for

1 approval to the commission and to the local government
2 division of the department of finance and administration.
3 All district funds shall be expended in accordance with the
4 approved budgets.

5 G. In the event the supervisors of a district
6 determine that there are or will be sufficient funds
7 available for the operation of the district for any year for
8 which an assessment is to be levied, they shall, by
9 resolution, direct the assessor of each county in which
10 taxable district land is situate, by July 15 of each year, to
11 decrease the district assessment or to delete the district
12 assessment reflected on the tax schedules.

13 H. Any levy authorized by the Soil and Water
14 Conservation District Act, and any loan or other indebtedness
15 authorized by that act that will require a levy, shall be
16 based exclusively on or levied exclusively on the real
17 property in the district, except that real property within
18 incorporated cities and towns may be excluded."

19 **SECTION 170.** Section 73-21-14 NMSA 1978 (being Laws
20 1943, Chapter 80, Section 13, as amended) is amended to read:

21 "73-21-14. ELECTIONS.--

22 A. In any district, except a district created
23 pursuant to a petition signed by the chair of the board of
24 county commissioners of a county, in accordance with the
25 Local Election Act there shall be elected by the qualified

1 electors of the district one member of the board to serve for
2 a term of six years, except that if the district elects to
3 adopt four-year terms, the member shall serve for a term of
4 four years.

5 B. In any district created pursuant to a petition
6 signed by the chair of the board of county commissioners of a
7 county, in the odd-numbered year after the organization of
8 the district and every second year thereafter, there shall be
9 elected by the qualified electors of the district at least
10 two, but no more than three, members of the board to serve
11 for a term of two years. The election shall be held in
12 accordance with the provisions of the Local Election Act.

13 C. Nominations may be filed with the proper filing
14 officer in accordance with the provisions of the Local
15 Election Act. If within ninety days prior to a board
16 election the district publishes materials that describe the
17 qualifications, experience and accomplishments of incumbents,
18 equal space shall be made available without charge for
19 similar information provided by opponents seeking a position
20 on the board."

21 **SECTION 171.** Section 73-21-28 NMSA 1978 (being Laws
22 1943, Chapter 80, Section 25, as amended) is amended to read:

23 "73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--
24 Whenever the board shall, by resolution, determine that the
25 interest of the district and the public interest or necessity

1 demand the acquisition, construction, installation or
2 completion of any works or other improvements or facilities,
3 or the making of any contract with the United States or other
4 persons or corporations, to carry out the objects or purposes
5 of the district, requiring the creation of a general
6 obligation indebtedness of five thousand dollars (\$5,000) or
7 more, secured by property tax revenue from within the
8 district, the board shall order the submission of the
9 proposition of issuing the obligations or bonds or creating
10 other indebtedness to the qualified electors of the district
11 at a district election held in accordance with the provisions
12 of the Local Election Act. The declaration of public
13 interest or necessity required in this section and the
14 provision for the holding of the election may be included
15 within one and the same resolution. The resolution, in
16 addition to the declaration of public interest or necessity,
17 shall recite the objects and purposes for which the
18 indebtedness is proposed to be incurred, the estimated cost
19 of the works or improvements, as the case may be, the amount
20 of principal of the indebtedness to be incurred and the
21 maximum rate of interest to be paid on the indebtedness. The
22 resolution shall also announce the date upon which the
23 election shall be held; provided that the date is not in
24 conflict with the provisions of Section 1-12-71 NMSA 1978."

25 SECTION 172. TEMPORARY PROVISION.--

1 A. The term of an elected local government officer
2 that was set to expire on or before June 30, 2020 pursuant to
3 the governing statutes of that local government in effect
4 before the effective date of this act shall expire on
5 December 31, 2019, and that officer's successor shall be
6 elected in the regular local election held on the first
7 Tuesday after the first Monday of November 2019 for a term
8 beginning on January 1, 2020.

9 B. The term of an elected local government officer
10 that was set to expire on or after July 1, 2020 but on or
11 before June 30, 2022 pursuant to the governing statutes of
12 that local government in effect before the effective date of
13 this act shall expire on December 31, 2021, and that
14 officer's successor shall be elected in the regular local
15 election held on the first Tuesday after the first Monday of
16 November 2021 for a term beginning on January 1, 2022.

17 C. The term of an elected local government officer
18 that was set to expire on or after July 1, 2022 pursuant to
19 the governing statutes of that local government in effect
20 before the effective date of this act shall expire on
21 December 31, 2023, and that officer's successor shall be
22 elected in the regular local election held on the first
23 Tuesday after the first Monday of November 2023 for a term
24 beginning on January 1, 2024.

25 D. The provisions of this section do not apply to

1 the elections for municipal officers, the lengthening or
2 shortening of terms of which shall be determined by ordinance
3 of the municipality opting into having its municipal officers
4 elected at the regular local election.

5 E. The provisions of this section only apply to
6 local government officers whose elections are subject to the
7 provisions of the Local Election Act but do not apply to
8 conservancy district or watershed district elections, which
9 are subject to the provisions of Section 173 of this act.

10 **SECTION 173. TEMPORARY PROVISION.--**

11 A. The term of a conservancy district or watershed
12 district board member that was set to expire on or before
13 June 30, 2024 pursuant to the governing statutes of that
14 district in effect before July 1, 2022 shall expire on
15 December 31, 2023, and that member's successor shall be
16 elected in the local election held on the first Tuesday after
17 the first Monday of November 2023 for a term beginning on
18 January 1, 2024.

19 B. The term of a conservancy district or watershed
20 district board member that was set to expire on or after July
21 1, 2024 but on or before June 30, 2026 pursuant to the
22 governing statutes of that district in effect before July 1,
23 2022 shall expire on December 31, 2025, and that member's
24 successor shall be elected in the local election held on the
25 first Tuesday after the first Monday of November 2025 for a

1 term beginning on January 1, 2026.

2 C. The term of a conservancy district or watershed
3 district board member that was set to expire on or after July
4 1, 2026 pursuant to the governing statutes of that district
5 in effect before July 1, 2022 shall expire on December 31,
6 2027, and that member's successor shall be elected in the
7 local election held on the first Tuesday after the first
8 Monday of November 2027 for a term beginning on January 1,
9 2028.

10 **SECTION 174. TEMPORARY PROVISION.--**References in law to
11 the Municipal Election Code and to the School Election Law
12 shall be deemed to be references to the Local Election Act.

13 **SECTION 175. REPEAL.--**

14 A. Sections 1-6-19, 1-22-5, 1-22-6, 1-22-12,
15 1-22-14, 1-23-1 through 1-23-7, 21-13-18.1, 21-13-18.2,
16 21-16-21, 21-16-22, 72-16-29 through 72-16-34, 72-17-29
17 through 72-17-34, 72-18-36 through 72-18-41, 72-19-29 through
18 72-19-34, 72-20-29 through 72-20-34, 73-21-29 and 73-21-30
19 NMSA 1978 (being Laws 1969, Chapter 54, Section 1, Laws 1985,
20 Chapter 168, Sections 7, 8, 14 and 16, Laws 1987, Chapter
21 160, Sections 1 through 6, Laws 1991, Chapter 105, Section
22 43, Laws 1987, Chapter 160, Section 7, Laws 1993, Chapter 75,
23 Sections 3 and 4, Laws 1964 (1st S.S.), Chapter 12, Sections
24 6 and 7, Laws 1963, Chapter 311, Sections 29 through 34, Laws
25 1967, Chapter 156, Sections 29 through 34, Laws 1981, Chapter

1 377, Sections 36 through 41, Laws 1990, Chapter 14, Sections
2 29 through 34, Laws 2007, Chapter 99, Sections 29 through 34
3 and Laws 1943, Chapter 80, Sections 26 and 27, as amended)
4 are repealed.

5 B. Sections 3-8-1 through 3-8-14, 3-8-16, 3-8-17,
6 3-8-18 through 3-8-40, 3-8-41, 3-8-43 through 3-8-80, 3-9-1,
7 3-9-3 through 3-9-13.1, 3-9-15, 3-9-16 and 3-14-7 NMSA 1978
8 (being Laws 1985, Chapter 208, Sections 9 through 14, Laws
9 1991, Chapter 123, Section 2, Laws 1965, Chapter 300, Section
10 14-8-5, Laws 1985, Chapter 208, Sections 16 through 22 and 24
11 through 26, Laws 1971, Chapter 306, Sections 8 and 9, Laws
12 1985, Chapter 208, Sections 29 through 32, Laws 1965, Chapter
13 300, Sections 14-8-3, 14-8-4, 14-8-8 and 14-8-6, Laws 1985,
14 Chapter 208, Section 37, Laws 1965, Chapter 300, Section
15 14-8-9, Laws 1971, Chapter 306, Section 10, Laws 1965,
16 Chapter 300, Section 14-8-13, Laws 1985, Chapter 208,
17 Sections 41 and 42, Laws 1965, Chapter 300, Section 14-8-2,
18 Laws 1985, Chapter 208, Sections 44 and 45, Laws 2009,
19 Chapter 278, Section 31, Laws 1985, Chapter 208, Sections 46
20 through 49 and 51 through 60, Laws 1965, Chapter 300, Section
21 14-8-14, Laws 1985, Chapter 208, Sections 62 through 69, Laws
22 1965, Chapter 300, Section 14-8-16, Laws 1985, Chapter 208,
23 Sections 71 through 88, Laws 1973, Chapter 375, Sections 2,
24 1, 3 and 6 through 10, Laws 1985, Chapter 208, Sections 98
25 through 100, Laws 1973, Chapter 375, Section 11, Laws 2003,

1 Chapter 244, Section 19, Laws 1973, Chapter 375, Sections 13
2 and 14 and Laws 1965, Chapter 300, Section 14-13-7, as
3 amended) are repealed.

4 **SECTION 176. DELAYED REPEAL.**--Sections 73-14-27,
5 73-14-28, 73-14-29, 73-14-31 through 73-14-31.3, 73-14-63
6 through 73-14-65, 73-14-80 through 73-14-86 and 73-18-37
7 through 73-18-40 NMSA 1978 (being Laws 1975, Chapter 262,
8 Sections 10 through 12 and 14, Laws 1996, Chapter 42,
9 Sections 15 and 16, Laws 1999, Chapter 168, Section 8, Laws
10 1943, Chapter 126, Sections 10 through 12, Laws 1961, Chapter
11 67, Sections 12 through 17, Laws 1996, Chapter 42, Section
12 17, Laws 1961, Chapter 67, Section 18 and Laws 1955, Chapter
13 281, Sections 13 through 16, as amended) are repealed
14 effective July 1, 2022.

15 **SECTION 177. EFFECTIVE DATE.**--

16 A. The effective date of the provisions of Sections
17 1 through 138 and 167 through 176 of this act is July 1,
18 2018.

19 B. The effective date of the provisions of Sections
20 139 through 166 of this act is July 1, 2022._____

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